

FOURTH SESSION - TWENTY-SEVENTH LEGISLATURE

of the

Legislative Assembly of Saskatchewan

DEBATES and PROCEEDINGS

(HANSARD) Published under the authority of The Honourable Dan D'Autremont Speaker

N.S. VOL. 57 NO. 75A WEDNESDAY, OCTOBER 28, 2015, 13:30

Bill No. 188 – *The Best Value in Procurement Act, 2015*

Mr. Forbes: Thank you very much. Thank you very much. And it's great to get an opportunity to speak again today, and I'll be pretty pithy with my remarks on *An Act to amend certain Acts respecting Awarding of Contracts*. And it's called, the short title is *The Best Value in Procurement Act, 2015*. And I don't know what it means when you have that, best. It's like an adjective. Does it mean it's the best Act ever? Or is it the best value? So here we have a bit of a dilemma. Because I really . . .

I am quite surprised. It's a very thin bill, very thin bill that really doesn't say an awful lot. It's kind of cold comfort, I know, to a lot of business people in this province who've been arguing that we should take a look at our procurement here in Saskatchewan and really think a little bit about how do we do business in Saskatchewan, make sure we have a sustainable, local business culture.

Because quite often . . . and we know that this government is one of the biggest contractors in the province, and rightfully so with the size of the civil service we have and the things that we do, and as well with the Crown corporations and we have for example SaskPower and the extent of their projects, and SaskEnergy and SaskTel. This is very important. This is very important.

So we were all a little surprised when we saw this bill. Now we know that the Minister of Justice, who is also the minister of the P3 [public-private partnership] projects, takes a lot of pride on doing things in a very economical way. And if he can do it on a shoestring, he's going to do it in the most economical or the cheapest way possible. And clearly today with this kind of legislation, we would have liked to have seen more work.

And I just have to say when I compare it to Bill No. 608, and this was done in our caucus by my colleague from Regina Rosemont, how much more thorough and thoughtful and practical, practical it is. It just makes common sense. And his bill's four pages, but a lot more thorough in terms of how we do business here in Saskatchewan.

Of course, my colleague's bill is called *An Act respecting Fairness for Saskatchewan Businesses in Government Procurement* and he goes through a lot of the conditions of what we should be thinking about. And here we have a situation here where it's pretty thin gruel, and we have a lot of questions about it. And of course the minister right off the bat takes a lot of credit and says, you know, this really started with the Premier, and he's responsible. We know a year earlier from that there was quite an uproar in the Saskatchewan steel industry about what was happening here with too many contracts, where we saw people from outside the province coming in for major local contracts and they weren't getting a fair shake here. They weren't getting a fair shake here.

You know, we've often talked about a level playing field, and we know in Canada, we know what's happening in Ontario and Quebec when they have a local, a buy local or a point system in their contracts, that clearly Saskatchewan producers and business people were at a disadvantage. And so they were looking for their advantage at home. At least at home would they get some sort of advantage.

And so when we see here this bill, which really talks about . . . And the key words are here. It amends section 55 of *The Highways and Transportation Act*, '97, and puts in:

“Awarding of contracts

55(1) Subject to subsection (2), the minister shall:

(a) obtain competitive prices for the construction of all public improvements through the public tender process mentioned in section 53; and

(b) award the contract to the bidder whose bid, in the opinion of the minister, offers the best value taking into consideration all or any of the factors described in the tender documents.

(2) The minister is not required to accept any tender”.

And then it goes on in the second part. I mean, I'm probably going to read the whole Act here, Mr. Speaker. And when we talk about amending:

The Public Works and Services Act is repealed and the following substituted:

“(3) Subject to subsection (4), the minister shall:

(a) obtain competitive prices for the construction or alteration of all public works through the public tender process mentioned in subsection (1); and

(b) award the contract to the bidder whose bid, in the opinion of the minister, offers the best value taking into consideration all or any of the factors described in the tender documents.

The minister is not required to accept any tender.

So you know, this is a little too late, but we're glad to see that there's something here so

that there can be some consideration of some other factors. Now unfortunately the legislation doesn't lay out the factors and doesn't lay out the process. And we are hopeful that the process then also includes that if a contract is not accepted that there is some record of that, that it's not just dismissed and then into some secretive file, and we don't hear why, but there is some record of why a contract may not be accepted.

And we know, Mr. Speaker, in recent news in fact and recent question periods, we've had questions about SaskPower and some of their tendering contracts and what's happening now. And in fact, Mr. Speaker, I read in the *Leader-Post* just yesterday and it talks about, "Carbon Capture: Will there be fallout?" in here and what this applies, and I'm wondering if this is going to apply to this legislation.

And I quote from page A2 of the *Leader-Post* from Wednesday, October 28th, and we were talking about, and I quote:

Nor did a September 2014 SaskPower carbon capture briefing note, obtained by the NDP, which says SNC "is more concerned about getting paid for the 6.5 million [dollars] than fixing the deficiencies of our plant." It goes on to note "very poor to no support from SNC Lavalin," and "serious design deficiencies" in the project.

But it goes on to say, "SaskPower CEO Mike Marsh says 'because there's a contract dispute (with SNC) on one job, doesn't mean we don't use them on another job.'"

So here you have kind of an odd situation, and I don't know what this means for this kind of bill here where we talk about best value and procurement Act, and yet you can have disputes with a company on a major, major project like the carbon-capture project and yet on another project they're still getting the contract, and that seems to be okay.

I think that we really need to take a look at this and say, hey, this doesn't make a lot of sense. This doesn't make a lot of sense. And this is what's so good about my colleague's bill when we talk about the different factors that you should be considering. And he talks about, the following factors should be taken into account for each procurement:

- (a) initial price;
- (b) quality of goods or service;
- (c) product history;
- (d) supplier experience;
- (e) warranty;
- (f) delivery service;
- (g) final total price;
- (h) local knowledge and/or local net benefit; and
- (i) previous performance on government contracts, as specified in any applicable performance review.

So here you have a situation with SNC not doing so well down at Boundary dam, and that's in . . . you know, they're doing their legal tussle over that, but yet they get another

contract, another contract. How can this be with this government who prides themselves in management? But how do you do that? How do you do that? You're in a legal tussle with them already, but yet you get it awarded, this other contract.

So, Mr. Speaker, I hope they take a look at my colleague's bill. It's really worthwhile because it sets out the criteria that everybody knows. Here with this, it's really left up to the minister, and we really don't know what that means and we don't know under what considerations it will be taken. And that will be of interest to people, to see what kind of track record happens. Because we know, we know, and we've seen examples of out-of-province companies coming in, swooping up a major local industry. And here they are, you know, killing local jobs, and this government has done nothing, nothing to remedy that.

And I'm thinking particularly of the laundry services in Prince Albert, the K-Bro Linens, and they're in Edmonton. Now they have a plant here, I understand. And there were questions raised at the SFL [Saskatchewan Federation of Labour], question about the quality of work they do. But if you read the *Prince Albert Daily Herald*, and I know the folks over there . . . about what the mayor said about April 4th, about April 4th. He's telling everyone to remember K-Bro laundry; remember that. And that's because it was a big hit.

Those were decent jobs for decent folk in the community. And I mean, we read the *Daily Herald* and we saw how people felt about that last day at work. And in fact the manager was so broken up he couldn't even come to the event, because he had given so much of his life and was so committed to the laundry facility he was broken-hearted. And you know, it was a sad, sad day.

And I think for the folks over there, if they think . . . And we know the former member from Prince Albert Northcote, who just sort of brushed it off and is no longer sitting in the House, in fact we have a vacancy in this House . . . This is an issue. This is a real issue for real people, and yet they brush it off.

And of course, we've been raising questions about the \$1.8 billion bypass to Paris-based Vinci. And I've raised the human rights questions there, this summer. This is the same company that's tied to some other building projects in other parts of the world where there have been allegations of human rights abuses and extremely poor working conditions where people are dying at a tragic rate — tragic rate — completing some major projects for this company.

We don't know what the outcome of that is, but we did raise the question for the government, again, what is their process when we're dealing with international companies like that where there have been charges laid against them in the public media? And we wait to see what happens with that. Of course the minister did come out and say they have some process but we don't know what that process is, said they were aware but still proceeded with using this company.

We also were very concerned about SaskPower and of course the whole issue about

outsourcing the meter installations, the Grid One trucks. And many, many folks saw Texas plates in our communities when they were doing the smart meter installations, and that was really questionable. And of course then we raised the issue of the contracting out of food services to our prisons here in Saskatchewan, and we have real problems with that.

Of course fishing and hunting licences, again, out to an American company, and the P3 school maintenance. And today I just had to say, I have to enjoy, it was like getting an award from your mom. "And the winner is." When the members opposite stood up in the member statements and gave themselves a pat on the back about their P3 schools that have yet to be built, you know, Mr. Speaker, that was really grand. That was really grand. It was like getting an award from my mom. "And the winner is." I mean, I'm going to see this, we're going to see the whole wall plastered with these, you know, photocopied awards. "And the winner is."

Yes, this is just a little bit much. We need to see those schools operating and seeing what the real result is. In 30 years, then we can start to see whether there's any value to see these schools. This is a little rich though, Mr. Speaker, to be standing up and patting ourselves on the backs before any of them are built or operational.

You know, Mr. Speaker, we've been in eight years waiting for schools here in Saskatchewan. And all of a sudden there's . . . just reach around their backs, patting themselves on the back for these schools. I cannot believe, this really took a lot of nerve today to stand up and give themselves an award or pat on the back for an award that they got from . . . I don't know what the company was, you know?

When I was a teacher, it was American awards for classrooms that you could get them out of, and that's what we often used for kids who had good attendance or had improved in math skills. That's the book we got our awards out of. I don't know where this award came from but, Mr. Speaker, I'll take a look. But it was quite something and we were interestingly surprised. But I've got to tell you, to get an award before we actually see, before one kid crosses the threshold into a school, that's something. Maybe we should just hold back on that.

And of course we see, you know, a P3 school maintenance handed out to a company from Milwaukee, and that's going to be interesting to see. We're going to see, you know, plates from the States around our schools and what they're going to do there. And the North Battleford hospital, I mean, this has been outsourced to a UK [United Kingdom]-based company called Carillion.

So, Mr. Speaker, I have to say that there's lots of questions about this bill and what's going to really happen. What's going to be the real applications here in Saskatchewan? Are we going to see maybe one or two a year when the lobbying gets really intense? Or are we going to see a real framework where people can have a sense of what they can expect on some of our major projects, that in fact Saskatchewan companies will get half a chance, half a chance to participate?

And I'm thinking that, you know, if they want to borrow some of the things from my colleagues, Bill No. 608, *An Act respecting Fairness for Saskatchewan Businesses in Government Procurement*, I think they'd be very happy. We'd be very happy to do that, and that would be local procurement, but I mean particularly, you know, determining factors.

And you know, it's interesting because these aren't things that we thought up by ourselves. It came from Manitoba, I believe, that the good work that my colleague from Regina Rosemont actually borrowed some of this work, because they've done work with P3s and thought, we've got to do something so we're open and transparent.

So these folks should take lessons, and they often do. I can remember eight years ago, I can remember eight years ago when we were talking about the essential services Act, where did they get their ideas from? [Inaudible] . . . well you know, Manitoba. Manitoba did it, so we're going to ram this bill through right away because Manitoba does it. Well take a look at what Manitoba does when it comes to local procurement. Take a look at that.

An. Hon. Member: Take a look at what they do in NHL [National Hockey League] hockey.

Mr. Forbes: Yes. Take a look, take a look. They have some good things happening in Manitoba. We're all behind some of the things in Manitoba like the Jets. We like the Jets. Unfortunately Montreal didn't do so well last night, but I digress, Mr. Speaker. That was a tough break. That was a tough break.

But, Mr. Speaker, let me get back to Bill 188 and how I think I recommend to this government, take a look at the good work that's been done before. It's there. And I know the Minister of Justice prides himself on running a shop on a shoestring. He has often told me that it will hardly cost anything to do anything in his office. In fact, you know, I know that makes the Minister of Finance really happy when he hears that his budget's hardly anything. You know, they can do anything on a shoestring.

And so, Mr. Speaker, here is the opportunity. Here is the opportunity for the Minister of Justice who is responsible for this to borrow. We would be very happy to lend him and let him keep it, the determining factors for making sure you have fair and open transparency when it comes to local procurement.

Everybody wants a level playing field, but everybody wants and needs to know what are the factors at play here, not a government that can, at its whim, decide to favour this company or favour that company or if you're out of the bad books. And it must take an awful lot to get out of the bad books with this company. SNC is not in the bad books of this company, even though apparently they should be because they seem to be in trouble with them on some of their projects. I would think, I would think that they should take a look. They should take a look, and especially in terms of their legislation they have now that if there's a poor performance, then maybe the company, that's a factor in awarding them a new contract.

So with that, Mr. Speaker, I mean this is a tough bill to . . . I mean I've read it all into the record, and I don't know whether they want me to read it again into the record, you know. And so we feel, we feel that this is something that the intent has been called for a long time. What the question will be in committee, what are the unintended consequences especially because the depth isn't there? And what are they going to do to make sure there's no unintended consequences but really gets to a level playing field, and especially that local companies can thrive because we've had, we've had in this economy some very good times over the last eight to ten years. We want to make sure that something is sustainable going in the years going ahead, forward.

So with that, Mr. Speaker, I would like to move adjournment of Bill No. 188, *An Act to amend certain Acts respecting Awarding of Contracts*. Thank you very much.