



# ASSEMBLY OF FIRST NATIONS

## **Bill C-27: *First Nations Financial Transparency Act***

### **Overview of Act**

Bill C-27: First Nations Financial Transparency Act was introduced in the House of Commons on November 23, 2011 and is identified as an Act with the purpose to “enhance the financial accountability and transparency of First Nations.”

The bill requires the following of every First Nation to produce:

1. An audited annual consolidated financial statement;
2. A separate annual “schedule of remuneration” that details the remuneration (salaries, wages, commissions, bonuses, fees, honoraria, dividends and expenses – including transportation, accommodation, meals, hospitality and incidentals) paid by the First Nation and any entity controlled by the First Nation to its Chief and each of its Councillors in their professional and personal capacities.
3. An auditor’s written report respecting the consolidated financial statements; and
4. An auditor’s report respecting the schedule of remuneration.

For each of the four documents, the bill requires each First Nation to:

- Provide the document upon request to any of its members within 120 days;
- Publish the documents on the website of the First Nation and retain on its website for 10 years;

Furthermore, the Minister must publish the documents on the website of the Department of Aboriginal Affairs and Northern Development.

Failure of a First Nation to comply with the requirements of the bill enables:

- Any First Nation member to apply for a court order to the superior court;
- Any person, including the Minister, to apply for a court order to the superior court.
- The Minister to develop an appropriate action plan to remedy the breach;
- The Minister to withhold any funds to the First Nation; or
- The Minister to terminate any funding agreement with that First Nation.

## Preliminary Analysis

The Act as drafted applies standards to First Nation governments that surpass those for elected officials in many other jurisdictions and contains overly punitive remedies. In addition, the requirements do not take into account capacity or existing reporting burdens faced by First Nation governments.

For example, preliminary analysis shows:

- In Nova Scotia, summaries of expenses of Ministers are located at the Legislative Library for public viewing.
- The Government of NWT only publishes travel expenses of Ministers and does not require salary disclosure of elected officials or senior public servants. NWT has agreed to examine amendments to the GNWT Access to Information and Protection of Privacy Act to enable disclosure of salary ranges but not individuals' actual salaries.
- Neither Yukon nor Prince Edward Island disclose salaries of elected officials.

Implementing provisions in Bill C-27 could endanger the provision of key and core services to First Nation citizens if the information required is not provided. In addition, it does differentiate between First Nations with varying funding relationships or capacity, although it does exempt self-governing First Nations from its application.

The Act would enshrine requirements and practices in legislation that surpass those of current contribution agreements and does not take into account potential changes to the fiscal relationship between First Nations and Canada.

Also, the Act applies to all revenues of First Nation governments and compensation to elected officials from all sources controlled by the First Nation. The inclusion of reporting on own-source revenues under the provision of federal legislation is unprecedented. Practically speaking, the requirement to publish detailed consolidated financial statements for First Nation-controlled businesses may undermine their competitive abilities and financial success.

While the stated aims of Bill C-27 are to increase transparency to First Nation citizens, the requirement for public posting on a First Nation website, along with posting on the AANDC website and the allowance for any person – not just a member of a First Nation – to apply to a court for disclosure of financial statements and salary reports implies the broader scope of the Bill's implementation.

Bill C-27 would require the preparation and public disclosure of audited consolidated financial statements and of schedules for remuneration paid by a First Nation or any entity it controls to Chief and councillors – acting in any capacity.

As recipients of federal grants and contributions, every First Nation (alongside every other recipient of a federal grant or contribution) already prepares annual audited financial statements. Currently, these audits are submitted to AANDC and publicly available through AANDC's website.

However, the introduction of Bill C-27 further requires First Nations (but not other recipients of grants and contributions) to publicly disclose salaries, bonuses, travel expenses as they relate to these funds. Furthermore, First Nations (but not other recipients of grants and contributions) would be the only recipients to be penalized by withholding of funds if they do not comply with these requirements.

This new bill reinforces the need for a transformed fiscal relationship between First Nations and the Federal Government. Current funding arrangements through federal grants and contributions for basic services (education, housing, health,...) are subject to annual allocations, changing program parameters and reporting obligations as well as unilateral realignment, reductions and adjustments.

Moving forward, new and stable fiscal transfer arrangements are needed. This new relationship will ensure First Nations governments receive the financial support they need to serve their citizens and affirm First Nations governments as national leaders in accountability and successful administration.

### **Concluding Reflections**

First Nation leaders and their governments are committed to transparency to their citizens.

In its current form, Bill C-27 will not support First Nations' accountability, but instead will increase already onerous reporting requirements and could jeopardize funding for essential services in the event a First Nation does not have the internal capacity to comply.

First Nation governments are interested in advancing jointly designed plans based on our rights, jurisdiction and Treaties, and the principles of accountability, transparency and mutual standards, to achieve real accountability and efficiency of ALL governments.

The upcoming Crown-First Nations gathering will be an opportunity to further discussion on how to truly support First Nation governments and move forward on a new relationship.

AFN will continue to monitor progress and more fully analyse implications of the Bill.

## Provincial Disclosure Requirements

Jurisdiction	Instrument	Requirements	Non-compliance
<b>Nova Scotia</b>	Public Sector Compensation Act, December 2010	Must publish salaries of all officials earning \$100,000 or more  Currently Summaries of expenses of Ministers are located at the Legislative Library for public viewing.	The Minister may require that an amount not exceeding fifteen per cent of the amount of funding payable by Her Majesty in right of the Province to a public sector body be withheld until disclosure as required by this Act has been made. 2010, c. 43,
<b>PEI</b>		Unable to assess – newspaper article states that “PEI is probably the most secretive of all provinces with its salaries”, <a href="http://www.yukon-news.com/news/10932/">http://www.yukon-news.com/news/10932/</a>	
<b>NFLD</b>	House of Assembly Accountability, Integrity and Administration Act, 2007	Posts on-line salaries and expenses of elected officials.	
<b>New Brunswick</b>	Office of the Comptroller	Previously published total, actual salaries and allowances, however, now provides eligible ranges. T	
<b>Quebec</b>	Privacy Act -	Public-sector salaries are considered personal information, making it is illegal under the province’s access to information law to disclose pay figures.  Broad salary scales are provided.	
<b>Ontario</b>	Public Sector Salary Disclosure Act, 1996	Provincial ministries and organizations – including city and other local governments, universities and colleges, school boards, hospitals, and Crown agencies – must publish a compendium on public sector employees who were paid a salary of \$100,000 or more annually.  In addition, organizations that receive more than \$1M in public funding from the Province of Ontario, or those that receive \$120,000 - \$1M of funding and the percentage of funding from the	The Government of Ontario can withhold part or all of the transfer payment to an employer who did not disclose, however, the funds would be paid once the employer complies.  Employers who do not comply within one year are no longer entitled to the payment that was

		province is greater than 10% of the organization's budget are required to disclose the names, positions, salaries and taxable benefits of these employees	withheld.
<b>Manitoba</b>		All public sector salaries over \$50,000 must be made public. But for some reason, there's no requirement that they be posted on the web.	
<b>Saskatchewan</b>		<p>The Government of Saskatchewan publishes the Public Accounts, including a list of public sector salaries over \$50,000 (Volume 2). Public Accounts are available online dating back to 2005-06. Members of the Legislative Assembly of Saskatchewan prepare an annual report which is submitted on or before September 30th to the Speaker of the House.</p> <p>This report is transmitted to the Board of Internal Economy; and made available for examination by the public during normal business hours at the Clerk's Office and the Member's constituency office. The report is then tabled in the next following session of the Legislative Assembly.</p>	
<b>Alberta</b>		<p>Alberta Government Ministers' Office expenses have been posted online beginning with April 2007 expenses. The expenses include those of ministers, their executive assistants and their administrative support staff. They cover:</p> <ul style="list-style-type: none"> <li>• meals, accommodation and travel;</li> <li>• hosting and working sessions;</li> <li>• goods, supplies and services, and other expenses.</li> </ul> <p>Each month's expenses are posted by the end of the following month.</p>	
<b>BC</b>	<p>Public Sector Employers Act (PSEA)</p> <p>Financial Information Act</p>	Executive Compensation – Disclosure Statements are made available online (starting in 2008-09). Disclosure requirements apply to chief executive officers and the next four highest paid/ranking executives, where	

		these positions hold an annual base salary of \$125,000 or more. They must be proactively disclosed on the organization's website. This executive compensation disclosure is in addition to the more basic salary disclosures employers make under the Financial Information Act for employees earning \$75,000 or more.	
<b>NWT</b>		Ministers' travel expenditures are posted on the Government of the Northwest Territories website however salaries are not provided.	
<b>Yukon</b>		Unable to assess.	