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## **BRIEFING NOTE**

## TO THE

## **Chiefs Committee on Housing and Infrastructure and Regional Water Coordinators**

FOR

**INFORMATION**

**SUBJECT:** Prioritizing the Royal Assent Bill C-61 First Nations Clean Drinking Water

**DATE:** December 19, 2024

**DIRECTOR:** Grace Martineau

**SECTOR:** Housing and Infrastructure

**SUMMARY**

* During Question Period on December 5, 2024, both a Liberal motion and a Conservative motion to refer **Bill C-61,** short title First Nations Clean Drinking Water Act, to the Senate were rejected.
* Parliament failed to refer Bill C-61 to the Senate Standing Committee on Indigenous Peoples (APPA) before Parliament adjourned for the holiday season.
* Risks that an early election or dissolution of government will affect the Royal Assent of Bill C-61.

**PURPOSE:**

* Inform the CCoHI and the RWC of the risks of delays affecting Bill C-61 due to partisanship and lack of prioritizing First Nations Human Right to Water and Wastewater Services should Bill C-61 fail to receive Royal Assent prior to a potential early election or dissolution of government.
* Information on the AFN parliamentary interventions with open letters to the Party Leaders and Parliamentarians, and direct interventions to parliamentarians.
* Provide information on the next steps in the legislative process.

**CURRENT STATUS:**

* On June 5, 2024, Second Reading was concluded. Bill C-61 was referred to Standing Committee on Indigenous and Northern Affairs (INAN).
* The AFN participated in the legislative process by providing a submission to INAN and appearing before the committee on October 10, 2024, to propose amendments aligned with the direction and mandates provided by the First Nations-in-Assembly. Clause-by-clause consideration of Bill C-61 concluded on November 26, 2024, with the Standing Committee on Indigenous and Northern Affairs (INAN) adopting the bill as amended and ordering it sent back to the House of Commons for third reading.
* During Question Period on December 5, 2024, both a Liberal motion and a Conservative motion to refer Bill C-61 to the Senate were rejected.
* On December 5, the AFN met with Senator PJ Prosper, who is sponsoring Bill C—61 in APPA. National Chief, Regional Chief Mitchell, Chief Lance Haymond, Grand Council Chief Linda Debassige and Phil Fontaine discussed next steps once Bill C-61 is referred to the Senate likely in early 2025.
* On December 13, the Chiefs Committee on Housing and Infrastructure were advised of the status of Bill C-61 and the outreach to Parliamentarians.
* Parliament has adjourned for the holidays and will only reconvene on January 27.

**CONSIDERATIONS:**

* The AFN must be adamant that no government can in good faith nor in the spirit of reconciliation allow Bill C-61 to die on the order table.
* On December 12, the National Chief sent an open letter to the Prime Minister, Party Leaders, Minister of Indigenous Services, and parliamentarians.
* Please see:
* **Attachment 1** - 24-12-12 Open Ltr to Members of Parliament re Bill C-61 [English](https://afn.ca/all-news/press-releases/open-letter-to-members-of-parliament-support-and-prioritize-the-advancement-of-bill-c-61-first-nations-clean-water-act-2/) and [French](https://afn.ca/fr/toutes-les-nouvelles/communiques-de-presse/lettre-ouverte-aux-deputes-appuyer-et-accorder-la-priorite-a-lavancement-du-projet-de-loi-c-61-loi-sur-leau-propre-des-premieres-nations-2/)
* **Attachment 2** – Press Release [English](https://afn.ca/all-news/press-releases/open-letter-to-members-of-parliament-support-and-prioritize-the-advancement-of-bill-c-61-first-nations-clean-water-act/) and [French](https://afn.ca/fr/toutes-les-nouvelles/communiques-de-presse/lettre-ouverte-aux-deputes-appuyer-et-accorder-la-priorite-a-lavancement-du-projet-de-loi-c-61-loi-sur-leau-propre-des-premieres-nations/)
* We fully expect the Government of Canada to ensure First Nations’ jurisdiction, rights, and self-determination are respected. We also call on Canada to ensure that partisan politics in the House do not further delay the passage of this legislation.

**RISKS OF PROROGATION AND AN EARLY ELECTION:**

* There is a risk that the legislative process may not be completed before a potential early election.
* Should the Government prorogue Parliament, this will terminate this session of parliament and halt all parliamentary work and bills that have not received Royal Assent before prorogation are terminated, though it is possible for a Bill to be reintroduced in a new session. However, prorogation may result in the dissolution of Parliament.
* Should the government be dissolved, the writ of election is dropped. All Parliamentarians and Senators are discharged from their meeting and attendance. All unfinished parliament business is terminated and Bills which have not received Royal Assent before the writ of election is dropped are entirely terminated and die on the Order Paper.
* Under the December 2021 final settlement with Canada in the national drinking water class action, Canada has met its commitment by repealing the 2013 *Safe Drinking Water for First Nations Act* on June 23, 2022. Canada agreed to make all reasonable efforts to develop and introduce a replacement law, in consultation with First Nations, by December 31, 2022. Canada breached this deadline.
* However, tabling a replacement law on December 11, 2023, discharges this obligation under the settlement agreement. There is no legal obligation for Canada to pass a law under parliamentary privilege.
* It is not assured that replacement legislation will be tabled by the next government.
* To that end, the AFN urges all parties to collaborate as Bill C-61 should not represent a political position. All political parties must remain independent, neutral, non-aligned, and unbiased.

**NEXT STEPS:**

* AFN to review the revised Bill C-61 as per INAN amendments.
* Once the Bill proceeds to the APPA, the AFN is prepared to continue advocating through submissions and appearances to strengthen the legislation and ensure it aligns with First Nations' rights and needs.
  + Explicitly protect water quality and quantity for economic development purposes; or
  + Remove the “best efforts” language regarding the commitments of the Minister and the Government of Canada.
  + Paramountcy of Laws and coordinating agreements for protection zones.
  + Canada has stated technical reasons for maintaining the "best efforts" language, claiming it is the highest standard that can be enshrined in the legislation. The AFN disagrees with this rationale, and this issue remains a subject for future advocacy.
* The AFN is planning an advocacy day to be held in early 2025, Date to be determined.

**KEY MESSAGES FOR PARLIAMENTARIAN OUTREACH:**

* National Chief, Executive Committee Members and CCoHI to reach out to their local MPs and parliamentarians to urge them to prioritize Bill C-61.

**Key Messages for Members of Parliament**

* + Bill C-61 is an important first step toward ensuring safe and clean drinking water for First Nations — a basic Human Right and an essential service.
  + A tremendous amount of work has gone into the draft legislation to provide the Human Right to Water to First Nations, including more than a decade of iterative engagement and co-development with First Nations and Canada.
  + First Nations are urging you for your support. Can a commitment to protecting First Nations’ health and safety be expected from you? The importance of this legislation cannot be overstated, 634 First Nations are depending on your leadership.
  + This legislation is critical for First Nations. All Parliamentarians are urged to ensure Bill C-61 is finalized and receives Royal Assent during this parliamentary session.

**AFN LINKAGES:**

* Legal
* Water
* Economic Development

**ATTACHMENTS:** None