

Bill 66: another step backwards for the people of Ontario

A submission of the Ontario Public Service Employees Union (OPSEU) to the Standing Committee on General Government on Bill 66, the *Restoring Ontario's Competitiveness Act*.

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Summary of OPSEU recommendations

- 1) Maintain the current ratio of adults to children under the age of two, in home child care settings.
- 2) Develop a universal, public child care program in Ontario to increase the options and availability of child care, and ensure equitable access to care for all.
- 3) Maintain and strengthen the oversight and regulation of electricity pricing for sub-metered units in multi-unit residential buildings.
- 4) Maintain the requirement for public consultations for the issuance of long-term care home licenses or expansions.
- 5) Invest in high-quality, publicly funded and operated long-term care homes to tackle the large and long-standing waitlist.
- 6) Strengthen and enforce minimum standards of care in all long-term care facilities, particularly those that are privately owned and managed.
- 7) Continue to require employers to post the *Employment Standards Act* poster prominently in the workplace.
- 8) Maintain the oversight requirements regarding excessive weekly hours worked and overtime averaging, as these protect Ontario's workers.
- 9) Do not amend the *Ontario Labour Relations Act* to deem municipalities, school boards, colleges, universities, and public bodies as non-construction employers. This proposed change would have a significant negative impact on workers currently protected by collective agreements in those sectors, and would put downward pressure on wages and benefits in the construction sector.
- 10) Remove Schedule 11 from Bill 66.
- 11) Introduce further regulation and oversight of Ontario's private colleges to protect the interests and rights of students who attend them.
- 12) Invest in Ontario's public colleges, which provide world-class education and training to Ontario's post-secondary students.

About the Ontario Public Service Employees Union

The Ontario Public Service Employees Union represents more than 155,000 workers in the Ontario Public Service, the Broader Public Service and the Colleges sector. Our members work in the public sector both provincially and municipally, for private contractors performing work for public entities, for the Ontario College of Trades, the College of Applied Arts and Technology, in public agencies like the Liquor Control Board of Ontario and the Municipal Property Assessment Corporation, in hospitals and at other health care providers, at universities and school boards, and in a wide range of social services.

Introduction

As an omnibus bill, the *Restoring Ontario's Competitiveness Act* presents wide-ranging deregulation that would undermine the health and safety of workers and the communities where they live, work and raise their families, if passed.

Bill 66 isn't just part of a war on "red tape," it is part of the government's attack on workers and it is a step backwards for the people of Ontario. Following immediately on the heels of Bill 47 and its full-out assault on workers' rights, this legislation represents the next step in the Ford government's anti-worker agenda.

Ontario is thriving because of strong regulations, not in spite of them. We've progressed by learning from our past and committing to our principles. We believe in taking care of one another, and that people come before profits. But rather than strengthening the environmental regulations and labour laws that keep our communities safe, Bill 66 would undo decades of legislative progress and it would compromise the health and safety of all Ontarians.

Our economy is growing and our province has more wealth than ever before. Yet, the Ford government has repeatedly put business interests before the people. If this government were "for the people," there would be a war on precarious work, not red tape. It would take action against low-wages, and a lack of protections for working people. It would acknowledge that the dynamic of work has changed, and it would focus on protecting workers, not moving backwards like the current administration.

With the introduction of Bill 66, the government has once again shown how little it values the people. With fewer regulations, big business will cut corners to increase their profits, and at a steep cost to the rest of us.

Ontarians understand this; they know that when it comes to health and safety, strong regulations make us, and our communities safer. Ontarians haven't forgotten the important lessons from Walkerton. Thousands fell ill, and seven people died in the worst health crisis in the province's history. The *Clean*

Water Act was introduced to protect the health of Ontarians and ensure another Walkerton never happened again.

But now, nearly 20 years later, the Ontario government wants to step back to a darker time; to give commercial developers the option to bypass important laws like the *Clean Water Act* at great risk to the people of this province.

When it comes to the proposed changes to the *Employment Standards Act*, Bill 66 would only increase precarious employment – not good, stable jobs that improve our standard of living and help to fuel our growing economy.

OPSEU’s proposal highlights key concerns and recommendations regarding Bill 66’s changes to the *Child Care and Early Years Act*, the *Education Act*, the *Ontario Energy Board Act*, the *Long-Term Care Homes Act*, the *Employment Standards Act*, and the *Ontario Labour Relations Act*. OPSEU strongly recommends that the government abandon its pro-profit, anti-worker agenda, and focus instead on protecting the health and wellbeing of people and communities.

Protect children

Recommendation #1: *Maintain the current ratio of adults to children under the age of two, in home child care settings.*

Recommendation #2: *Develop a universal, public child care program in Ontario to increase the options and availability of child care, and ensure equitable access to care for all.*

Our children deserve protection, and their families deserve peace of mind. The *Child Care and Early Years Act* was implemented in 2014 after numerous incidents were reported and a number of high profile deaths in daycare facilities gained significant attention.

In her 2014 report, the Auditor General noted that, “more than 29,000 serious occurrences (ranging broadly in severity) were reported to the Ministry by licensed child care operators and private-home daycare agencies between January 1, 2009 and May 31, 2014.”¹

The *Child Care and Early Years Act* implemented ratios for the number of adults to children under the age of two, in home child care settings to ensure the safety of all children in care.

Bill 66, Schedule 3 would amend the *Child Care and Early Years Act* and the *Education Act* to increase that ratio for in-home daycares, thereby loosening the rules, and increasing the number of children that

¹ http://www.auditor.on.ca/en/content/annualreports/arreports/en14/2014AR_en_web.pdf, p. 96

can be supervised. This is a recipe for disaster, and OPSEU is deeply concerned about the increased risk for serious incidents, including child deaths that would result from these legislative changes.

There is a growing need for affordable child care options, and it's time for the provincial government to take action by investing in a universal, public child care program for Ontario. When people have affordable and safe options for child care, they are able to return to work sooner. That's why a universal, public child care program is an economy booster. It's based on the principles of fairness, equity and accessibility and it would make life more affordable in ways that matter to Ontarians.

Protect Ontarians from energy price gouging

Recommendation #3: *Maintain and strengthen the oversight and regulation of electricity pricing for sub-metered units in multi-unit residential buildings.*

Our economy is growing, but the benefits are not being shared equitably. While the select few are reaping huge profits, life is getting harder and less affordable for working people. Wages have stagnated as the cost of living rises. Deregulating electricity pricing would only make this worse.

Currently, the Ontario Energy Board (OEB) oversees and sets electricity rates for sub-metered units in multi-unit residential buildings, as per its authority granted by the *Ontario Energy Board Act* to regulate electricity pricing in Ontario. Electricity is an essential cost of living, and no one should ever be forced to choose between paying their electricity bill and putting food on the table. For far too many, this is already a reality.

Bill 66, Schedule 4 would amend the *Ontario Energy Board Act* to remove the OEB's authority to regulate electricity pricing for sub-metered units. If passed, sub-metering providers would be able to increase electricity prices in Ontario without any real oversight.

OPSEU is concerned about the affordability of electricity and the impact this legislative change would have on working Ontarians, who should be protected from any unwarranted costs that these providers might charge. Combined with the rising costs of rent and other living expenses, and stagnant wages, this is yet another hit to Ontarians. The fallout of this legislative change will have a disproportionately negative impact on low-income Ontarians.² As Ontarians struggle with rising costs, social inclusion and engagement will also suffer.

The provincial government should focus on policies that make life more affordable for the people, including maintaining and strengthening the oversight and regulation of electricity pricing for sub-metered units.

² <https://globalnews.ca/news/4871939/changes-by-doug-ford-could-mean-ontarians-paying-more-for-electricity/>

Protect long-term care residents

Recommendation #4: *Maintain the requirement for public consultations for the issuance of long-term care home licenses or expansions.*

Recommendation #5: *Invest in high-quality, publicly funded and operated long-term care homes to tackle the large and long-standing waitlist.*

Recommendation #6: *Strengthen and enforce minimum standards of care in all long-term care facilities, particularly those that are privately owned and managed.*

Ontario's long-term care sector is the wild west of health care. Ontario has the lowest standards in all of Canada, and among the lowest care levels among comparable jurisdictions, even though patient acuity and the complexity of care is growing. This is unacceptable.

The sick, frail and elderly who reside in Ontario's long-term care facilities deserve better. They've paid their dues to society, and the government must ensure that they can access high-quality care and that they're treated in a respectful and dignified way.

The proliferation of privately operated homes means that residents are increasingly forced to pay massive out-of-pocket costs or face an impenetrable wait list for publicly-funded long-term care.

If passed, Bill 66, Schedule 8 would only make these problems worse. The proposed Schedule 8 would amend the *Long-Term Care Homes Act* to significantly reduce the oversight requirements for long-term care homes in Ontario. All existing requirements to hold public consultations prior to the issuance of long-term care home licenses or expansions is now removed.

Instead, the Ministry can decide whether a consultation is necessary, and how it will take place. In effect, "a person or corporation with no track record could be granted a license to run a long-term care home without any public consultation, and could apply annually for the license to be re-issued – again, with no public consultation".³ This potential lack of oversight is extremely unsettling, especially considering the vulnerabilities that long-term care residents already face. Schedule 8 strips people and their communities of the power to provide meaningful input and oversight.

OPSEU is also deeply concerned that Schedule 8 would be used to open the floodgate for the proliferation of privately operated homes, where quality is low and costs are high. This legislative amendment is about creating more opportunities to profit off the sick, frail and elderly, not improving the safety or quality of care in Ontario's long-term care homes.

³ <https://theonn.ca/wp-content/uploads/2018/12/What-happened-in-the-legislature-December-2018.pdf>

The provincial government should maintain the requirement for public consultations and oversight, focus on investing in high-quality, publicly funded and operated long-term care homes to tackle the large and long-standing waitlist, and strengthen and enforce minimum standards of care for all long-term care facilities, particularly those that are privately owned and managed.

Protect workers

Recommendations #7: *Continue to require employers to post the Employment Standards Act poster prominently in the workplace.*

Recommendation #8: *Maintain the oversight requirements regarding excessive weekly hours worked and overtime averaging, as these protect Ontario's workers.*

Recommendation #9: *Do not amend the Ontario Labour Relations Act to deem municipalities, school boards, colleges, universities, and public bodies as non-construction employers. This proposed change would have a significant negative impact on workers currently protected by collective agreements in those sectors, and would put downward pressure on wages and benefits in the construction sector.*

The *Employment Standards Act* (ESA) and the *Ontario Labour Relations Act* (OLRA) not only provide the basic standards for Ontario's workplaces, they reflect how our society values workers; the workers who generate all of our province's wealth. Times have changed; it's time for our province's labour laws to catch-up.

The dynamic of work has changed dramatically, and the rise of precarious work is not just symptomatic of this shift, it is inextricably tied to the devaluation of labour and the rise of wealth inequality. It's time for legislation to match our modern reality, not step backwards into darker times. Workers achieved significant gains when Bill 148 was passed. These important gains were then erased with Bill 47, which is a hostile, shameful and anti-worker piece of legislation.

Bill 47's changes to the ESA and OLRA have already made life more difficult for working Ontarians. Bill 66 represents the next step in the Ford government's anti-worker agenda. These are regressive changes that put the priorities of big business and the relentless desire for profits, before the people.

Bill 66, Schedule 9 would amend the ESA and OLRA in several ways. But contrary to the notion that the Bill will allow businesses to create good jobs, the proposed amendments would intensify precarious employment and eliminate protections for thousands of Ontario workers.⁴

⁴ Goldblatt Partners, <https://goldblattpartners.com/wp-content/uploads/Bill-66-analysis-2.pdf>

ESA posters in the workplace

Currently, employers must post the ESA poster prominently in the workplace. This one-page document outlines workers' basic rights at work and directs them to where they can find more information. Bill 66, Schedule 9, would remove this rudimentary employer obligation.

But the only way that this change would make businesses more competitive is by making it more difficult for employees to know their own rights, so that they are less likely to report their employers for employment standards violations.

Furthermore, "the allegation that pinning a poster to a wall or corkboard in the workplace amounts to a 'burdensome' regulation which undermines the ability of Ontario businesses to compete in the global marketplace is perplexing, to say the least."⁵ The risks to worker health and safety absolutely do not outweigh the "costs" of pinning a poster to a wall.

ESA and excessive weekly work hours

Currently, the ESA prohibits employers from requiring employees to work more than 48 hours in a week, unless approved by the Ministry of Labour's Director of Employment Standards (Director). Bill 66 would remove this requirement - a piece of regulatory oversight that has been part of the Ontario employment law landscape for nearly three quarters of a century and which recognizes the power imbalance ingrained in the relationship between employers and employees.⁶ Bill 66 is about tipping that balance in favour of employers at the cost of employees.

According to the Ministry of Labour, violations regarding excessive hours of work was one of the top five violations found in proactive inspections conducted between 2013 and 2018.⁷ Workers are already being exploited in the workplace, and removing the hours of work regulation will only make them more susceptible to abuse by their employers.

ESA and overtime averaging

The other major change to the *Employment Standards Act* concerns oversight for overtime averaging. Currently, the ESA requires employers to pay an overtime premium for hours worked in excess of 44 hours per week. This overtime can be averaged over two or more weeks if agreed upon by the employer and employee, with approval from the Director.

⁵ Ibid.

⁶ Ibid.

⁷ <https://www.labour.gov.on.ca/english/es/pubs/enforcement/investigations.php>

Under Bill 66, employers would no longer need approval from the Director to average their employees' hours for overtime pay, as long as employees agree and the averaging period does not exceed four weeks.

According to the Ministry of Labour, issues related to overtime pay were included in the top five violations found during claims investigations.⁸ Again, this legislative change would mean workers are even more susceptible to abuse by their employers, with whom they do not share equal bargaining power.

The Ontario Labour Relations Act (OLRA)

Bill 66, Schedule 9 would also amend the OLRA so that municipalities, local boards, school boards, colleges, universities and public entities would be deemed "non-construction employers." This change effectively means that, "trade unions that hold construction bargaining rights for those entities would cease to represent their employees in the construction industry."⁹ These entities would no longer have to subcontract according to the collective agreements to which they are currently bound, and they could use non-union or open shops for construction work.

This legislative amendment is a direct attack on unions in the construction sector. This places a downward pressure on wages and benefits in the construction sector, and represents a cost-cutting endeavour that would threaten public health and safety. It also interferes with workers' freedom of association guaranteed by the *Canadian Charter of Rights and Freedoms*.

Trade unions have a long history of improving the standard of living for workers, and society as a whole. To support good jobs with decent pay and working conditions, the provincial government should support unionized jobs in all sectors.

Protect students

Recommendations #10: Remove Schedule 11 from Bill 66.

Recommendation #11: Introduce further regulation and oversight of Ontario's private colleges to protect the interests and rights of students who attend them.

Recommendation #12: Invest in Ontario's public colleges, which provide world-class education and training to Ontario's post-secondary students.

⁸ <https://www.labour.gov.on.ca/english/es/pubs/enforcement/investigations.php>

⁹ Goldblatt Partners, <https://goldblattpartners.com/wp-content/uploads/Bill-66-analysis-2.pdf> pp. 4-5

Ontario's public colleges provide world-class education and training, but we need to invest in them. Instead, the provincial government is focused on reducing "administrative burdens" for private colleges operating in Ontario.¹⁰ These private colleges have been plagued with problems, including overcharging, failing to fulfil promises to students, and most disturbingly, providing inferior education.

Bill 66, Schedule 11 would reduce the regulation and oversight of Ontario's private colleges. But if these private colleges are expected to provide the same level of high-quality education and training as public colleges, they would require even more oversight, not less.

The provincial government should focus on making smart investments in Ontario's world-class public college system and its students.

Conclusion

OPSEU strongly recommends that the government abandon its pro-profit, anti-worker agenda, and focus instead on protecting the people; the children, consumers, long-term care residents, workers and students that call Ontario home.

This government's war on red tape is actually a war on workers. Bill 66 is part of an all-out offensive on workers and it is a major step backwards for Ontario. Ontarians know that strong regulations make us, and our communities, healthier and safer. But Bill 66 isn't about people, it's about creating more opportunities for business to rake in even bigger profits, and at a steep cost to the rest of us.

It's time for legislation that reflects our modern reality and protects the health and safety of people and communities. It's time to move forward, not backwards to darker times.

¹⁰ <https://news.ontario.ca/medg/en/2018/12/proposed-changes-to-create-jobs-and-reduce-regulatory-burden-in-specific-sectors.html>