

Unified Bargaining Bulletin

Getting the scoop on Bill 124



November 2021

Message from the President and First Vice-President/Treasurer

Fighting an unlawful law

We have no doubt Bill 124 violates public sector workers' right to bargaining collectively. That's why we filed a Charter challenge when the Ontario government passed Bill 124 in 2019.

This bad legislation imposes a three-year wage moderation period without factoring in inflation and the cost of living. That means the workers it hits will have their buying power slashed in each of those three years, since inflation is running at four times the maximum annual increase.

It's a slap in the face after the sacrifices and devotion to duty you demonstrated during the pandemic.

We've asked the courts to declare Bill 124 unconstitutional and to make the government cover every cent in wages that public sector workers have lost due to this legislation. Is this unrealistic? Not in the least.

In 2012, we took the government to court when it violated teachers' right to bargain collectively with Bill 115, the so-called Putting Students First Act. It took a while but in 2016, the Ontario Superior Court ruled that Bill 115 violated the Canadian Charter of Rights and Freedoms.

Settlements with the various affected school boards resulted in many tens of millions of dollars in reparations for lost wages.

We're confident we can win again because the law is on our side, but it's going to take time so we all must be patient.

You can count on OPSEU/SEFPO to back your bargaining team up with every resource we can provide to ensure the best collective agreement possible.

In solidarity,




Warren (Smokey) Thomas
OPSEU/SEFPO President


Eduardo (Eddy) Almeida
OPSEU/SEFPO
First Vice-President/Treasurer



Q&A on Bill 124

Collective bargaining is challenging at the best of times. Bargaining with an employer who can change the rules of the game whenever they choose makes it even more so. But that's exactly what the Ford Conservatives did.

In 2019, they passed Bill 124, the *Protecting a Sustainable Public Sector for Future Generations Act, 2019*. The intent of the legislation is to limit total compensation increases in the public sector to one per cent or less. The legislation essentially imposes a three-year “moderation period”. During this period, increases to salaries and total compensation are capped at one per cent per year, subject to certain exceptions.

The following are questions and answers many members may have regarding Bill 124.

What is a moderation period?

The legislation uses the term “moderation period” as the time period during which there is a wage restraint or cap. This moderation period is in place for three years. Based on the legislation, the moderation period begins January 1, 2022, and ends December 31, 2024.

Who is covered by Bill 124?

- Ontario Public Service
- every board of education in Ontario
- every university, every college of applied arts and technology and other postsecondary institutions in Ontario
- every Ontario hospital within the meaning of the Public Hospitals Act
- every Ontario licensee under the Long-Term Care Homes Act
- Ornge
- children's aid societies

This act does not apply to the following employers:

- municipalities
- police services
- designated executives within the broader public sector
- judges, deputy judges, justices of the peace and case-management masters

What happens after year three?

Starting in year four, collective bargaining returns to normal, that is, the provisions of Bill 124 no longer apply. The legislation prohibits employers from providing larger compensation increases before or after the moderation period, specifically to make up for wage restraints. Regardless of how long the term of our collective agreement is, the moderation period remains three years.

What does total compensation mean?

Compensation is the total cost of the collective agreement to the employer. Bill 124 is broken down so that the total compensation cannot be more than one per cent.

The straight-time wages refers to the regular wage rate for our bargaining unit. This is capped at one per cent for three years. The wage-related portion refers to any cost that automatically goes up when the wage rate goes up, such as overtime, fixed-term vacation pay and pensions. The non-wage-related portion refers to any benefit in our collective agreement that does not automatically rise with a wage increase, such as health benefits, shift premiums, on-call pay and allowances. The act prohibits taking extra savings from elsewhere to provide for more than a one per cent wage increase.

What does this mean for increases?

According to the legislation, no collective agreement or arbitration award can provide incremental increases to compensation of more than one per cent for each of the 12 months in the moderation period. In other words, total compensation increases are limited to one per cent each year for three years, including all wages and benefit increases.

Are there any exceptions to monetary increases?

The following exceptions allow a salary rate to increase in recognition of the following matters, if provided for in the collective agreement:

- the employee's length of time in employment (e.g., merit increases and movement through the wage grid in an existing collective agreement);
- assessment of performance of the employee; and
- successful completion of a program or course of professional or technical education.

Does the recent announcement about the minimum wage going to \$15 affect our wages? Do our wage go up automatically?

The only workers who will have their wage rate changed will be those who were being paid at the minimum wage rate.

Can a collective agreement be exempt from Bill 124?

Yes, Bill 124 contains a provision whereby a request for exemption can be made, and the minister may, by regulation, exempt a collective agreement from the application of the act.

Is the Unified bargaining team going to submit a request for an exemption?

Yes.

Have other unions or groups submitted a request for Bill 124 exemption? If so, what was the outcome?

Yes, several bargaining agents have submitted requests for exemptions from Bill 124. Treasury Board Secretariat has denied all exemption requests. However, one collective agreement that was already ratified was exempted by regulation for the current term, 2021-24. No collective agreements have exceeded the one per cent cap.

Has OPSEU/ SEFPO filed a Charter challenge?

Yes, OPSEU/SEFPO, along with many other bargaining agents has filed a Charter challenge. The challenge is scheduled to begin hearings in the fall of 2022.

What can members do to help with our request for a Bill 124 exemption?

We need your support!

- Contact your local president to offer your help.
- Tell your manager that Bill 124 is unfair.
- Tell your MPP that your work is worth more than one per cent.
- Tell Doug Ford to repeal Bill 124

Premier Doug Ford and his Conservative government continue to ignore the Canadian Charter of Rights and Freedoms by enacting this unfair legislation and restricting our right to collective bargaining. The Premier counted on our members to keep the province open and safe, and its revenues flowing. He alone has the ability to repeal Bill 124 and respect our members.

Despite the Conservative government's actions, the Unified bargaining team remains committed to making improvements to our collective agreement.

Authorized for distribution by:

A handwritten signature in black ink, appearing to read 'Warren Thomas', is placed within a white rectangular box.

Warren (Smokey) Thomas,
OPSEU/SEFPO President