

## **OSSTF/FEESO Submission to the Standing Committee on Social Policy for *Bill 160, Occupational Health and Safety Statute Law Amendment Act, 2011***

### **Introduction**

The Ontario Secondary School Teachers' Federation (OSSTF) welcomes the opportunity to provide our own comment on Bill 160, *Occupational health and Safety Statute Law Amendment Act, 2011*.

OSSTF/FEESO is a diverse union representing 60,000 educational workers from across the province of Ontario. Our union works to protect our membership which is represented in 140 bargaining units across Ontario. OSSTF bargaining units represent both English and French members in elementary and secondary school workplaces, private schools, consortia offering support services to school boards and universities.

OSSTF/FEESO also welcomes the introduction of this legislation as an important step forward in making workplaces safer in Ontario. This piece moves the bar higher but doesn't completely reflect the recommendations supplied by the Expert panel. Although, we fully acknowledge that the Minister of Labour in his letter to the Ontario Federation of Labour (OFL) President Sid Ryan on April 5<sup>th</sup>, 2011 tried to assuage some of labour's concerns.

OSSTF/FEESO embraces the willingness of the government to make significant changes to the *Occupational Health and Safety Act*.

### **Concerns**

OSSTF/FEESO would join others within the labour community in recognizing five key areas of concern with the legislation as written.

### **Politicization of the prevention system**

This relates to the apparent ceding of monumental powers into the hands of the Minister of Labour. All of the powers in section 4 of the Bill will be shifted to the Chief Prevention Officer (CPO). The Minister will retain final authority on sections 22.4; 22.5 and 22.6. These are the responsibilities dealing with funding, designating entities and appointment of an administrator. While the intent is to delegate these powers to the CPO the Minister has a fiduciary responsibility on these points and cannot completely surrender this power. The Minister will have to give 30 days notice and reasons for any changes to designating entities or significant changes to the prevention system. The exception would be in the case of embezzlement when 30 days is not appropriate. In this type of situation the notice would have to be in a timely manner. There is a recommendation that written agreements be developed between the stakeholders that would define what size of changes in funding or services that would be deemed "significant"; how the CPO consults on training standards; what constitutes timely notice where the 30 days is not appropriate.

### **Threatening the autonomy and labour governance of the WHSC and OHCOW**

It is our belief that labour must be allowed to reflect our core values and principles. Unfortunately, as the legislation is written there would appear to be restrictions inherent in the language that might impede the autonomy of both the Workers' Health and Safety Centre (WHSC) and Occupational Health Clinics for Ontario Workers (OHCOW). Both have provided exemplary services in the past and we would like to see their work continue with the same quality as has existed. We believe it is the intent of the government as per the letter of April 5, 2011 to maintain the same relationships with our labour based organizations but OSSTF/FEESO still maintains that the legislation is open ended in its ability to be interpreted otherwise. The labour unions of Ontario could never support behavior based safety models being taught in health and safety curriculum and we ask that the legislation be amended to allow for flexibility in this regard.

### **Undermining the legal authority of the inspectorate**

This relates to the legal power of a Director to write policy and the legal requirement that inspectors follow that policy. Currently there are many directors within the Ministry of Labour and as the bill is written there may be challenges given that specific directors are not identified. We fear that the bill will actually diminish the ability of inspectors to properly execute their duties. As well, there is potential double jeopardy for these inspectors as they are subject to discipline and legal action against them.

### **Lack of real worker reprisal protection**

This relates to an inspector not being able to give evidence and the Bill being silent about prosecutions. We have had clarification that the government intends to allow direct evidence from inspectors at a prosecution. While this is indeed encouraging, we hope that amendments would further empower inspectors to testify at proceedings.

### **Lack of real worker powers when IRS breaks down**

This relates to the ability of a co-chair to submit a recommendation when the employer members are blocking recommendations. Employer co-chairs on Joint Health and Safety Committees who do not share our vision of the internal responsibility system, often block workers' attempts to make recommendations to the employer. Time and again, within OSSTF/FEESO we have seen worker co-chairs frustrated and disillusioned with the process for communicating with the employer. Workers need the ability to have access to the employer even if the employer co-chair does not agree. The legislation should be amended to allow a worker co-chair the ability to forward recommendations to be considered by the employer in the requisite 21 days.

### **Conclusion**

OSSTF/FEESO believes that this legislation is an improvement in general practices. However it is our hope that changes be made that would more closely reflect the intentions of the Expert Panel.

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