

# Report on Bill 148

## Background

The Provincial Government undertook a comprehensive combined review of the *Employment Standards Act, 2000* and *Labour Relations Act, 1995* which resulted in proposed amendments to both Acts. These changes are the result of two years of extensive consultation under the Changing Workplaces Review. The review was to consider issues brought about in part due to the growth of precarious employment and working conditions for many workers in Ontario. For example, there has been a shift from manufacturing to service jobs many of which pay low wages.

The Bill received second reading on September 12, 2017 and has recently been referred to Standing Committee on Finance and Economic Affairs. A number of changes were made after consultations and submissions in the summer. On October 18, 2017, the Ontario government announced that it would be conducting consultations on a range of exemptions under the *Employment Standards Act, 2000*, including key exemptions that apply to managers and supervisors and IT professionals. The deadline for submissions from stakeholders is December 1, 2017. It is unclear whether there will be further changes made before receiving final approval.

Many of the changes to the *Employment Standards Act* come into effect January 1, 2018 with the others to be implemented six (6) months following the passing of the Bill or at a later date.

This Report will provide a summary of the provisions that will impact CGS the most and outline the estimate of costs related to the changes to the minimum wage that are anticipated and have been incorporated into the Budget for 2018.

## Provisions in Budget 2018

### Minimum Wage

The minimum wage is currently \$11.60 per hour effective October 1, 2017. Bill 148 proposes to further increase the minimum wage to \$14.00 per hour on January 1, 2018 and to \$15.00 per hour on January 1, 2019. The student rate (under 18) will increase to \$13.15 effective January 1, 2018 and \$14.10 on January 1, 2019. The minimum wage increases will compress the internal wage schedules established for non-union employees only and for Groups 1 and 2 and the first step of Group 3 and 4 as those steps are under \$14.00. A new pay schedule has been created and maintains the compensation goals of internal equity and maintains the goal of performance/merit for movement through the steps in each pay grid.

The proposed minimum wage increases may impact non-compensation related costs of contracted services. The potential impact is difficult to quantify at this time due to the fact that pressures may materialize as contracts are updated and renegotiated in the future.

## **Vacation Pay**

The current vacation entitlement would increase to 3 weeks' vacation time or pay in lieu after 5 years of service with an employer. This provision would result in an increase from 4% to 6% vacation pay for those Part-Time employees with over 5 years of service with CGS.

## **Personal Emergency Leave**

Bill 148 maintains the 10-day entitlement for personal emergency leave, but requires that the first 2 days be paid leave and must be granted before the 8 unpaid days. Employers will no longer be able to require a medical note to substantiate any claim for personal emergency leave.

## **Holiday Pay**

A new formula is proposed for the calculation of "public holiday pay" designed to better ensure that the calculation reflects an employee's regular wages that they would have earned but for the holiday. The new calculation divides the wages earned in the pay period immediately preceding the public holiday by the number of days actually worked to earn those wages. This is very different from the current formula which effectively prorates holiday pay for employees who work less than 5 days per week.

## **Equal Pay for Part-Time, Casual, Temporary and Seasonal Employees**

There are current equal pay provisions within the *Employment Standards Act* and the *Pay Equity Act* and CGS is committed to the principle of equal pay for work provided. Bill 148 would extend the equal pay provisions to include employment status.

Specifically, there is a general rule that no employee may be paid less than what is paid to full-time employees of the same employer who perform the same job. The rule would apply to part-time, casual, temporary and seasonal employees, unless there are objective reasons to justify a differential wage rate, including systems that are based on seniority, merit, where earnings are measured by quantity or quality of production or on any other factor other than gender or employment status. These rules would come into effect on April 1, 2018. Staff needs to continue to review the potential impact of the provisions under this section before an estimate of the financial impact can be completed. One area being flagged for further review and clarification is Volunteer

Firefighters as it is not clear how equal pay for equal work will be determined considering the unique circumstances Volunteer Firefighters work within.

## **Scheduling and On-Call**

A number of scheduling/on-call changes are proposed and relate to employee empowerment and provision of more opportunity and more choice for employees.

The exact impact of the following changes on scheduling and on-call is not yet known as the current provisions within our collective agreements prevail, if:

- (1) the collective agreement is in effect on January 1, 2019; and
- (2) the provision ceases to apply upon the expiry of that agreement or January 1, 2020, whichever is earlier.

One of the new “on-call” rules will require payment for at least three (3) hours pay for employees who are on-call and who are employees that are not called in to work or who are called in but work less than three (3) hours. Currently there are two Collective Agreements that may be impacted as we are currently in bargaining with CLAC and CUPE, Local 148. However, at this time it is not clear if these new on-call rules will apply at all or in part to Volunteer Firefighters as generally they are considered to be on a “call-in” list and are not required to attend.

### **Scheduling changes include the following:**

- Any employee with at least 3 months service has a right to request schedule or work location changes without reprisal. Employers must discuss the request and notify the employee of their decision within a reasonable amount of time. If request is denied, the employer has to give reasons.
- New obligation to pay 3 hours wages at the regular rate where an employer cancels a scheduled work or on-call shift within 48 hours of its commencement. This obligation will not apply in certain cases beyond the employer’s control (e.g. fire, power failure, weather-related reasons).
- New on-call rule: a requirement to pay at least 3 hours pay for employees who are on-call and who are either not called in to work or who are called in but work less than 3 hours. In order to qualify for these payments, the employee must have been available to work for at least 3 hours at the relevant time.
- Right to refuse without reprisal: An employee will have the right to refuse a shift or being placed on-call, where the request is made within 96 hours (4 days) of the start of the shift. This will not apply where the work is to deal with an emergency or threat to public safety.

## **Pregnancy and Parental Leaves of Absence**

The changes for these leaves are the result of committee discussion and increase in Employment Insurance coverage. An increase is proposed for Parental Leave from 35 to 61 weeks (birth mother) and from 37 to 63 weeks (spouse or adoptive parents). In addition, an increase is proposed for Maternity Leave (in the event of still birth) from 6 weeks to 12 weeks. The total pregnancy/parental leave for birth mother is now 18 months (equal to total length of optional Employment Insurance compensation term). There is no financial impact to these provisions anticipated.

## **Other Leaves**

There are a number of new or revised unpaid leaves related to Domestic or Sexual Violence or the threat of such violence, Child Death Leave, Crime-Related Child Disappearance Leave and Family Medical Leave. As these are unpaid there is not financial impact for these leaves.

## **Temporary Help Agencies**

The critical change being proposed requires employees of temporary agencies to be paid equivalent to an employee working for CGS who is doing substantially the same kind of work, requires the same skill, effort and responsibility and work is being done under similar working conditions. There will be an upward pressure on fees associated with the use of temporary agencies and further analysis on the extent of the impact given temporary agency employees are not always performing all of the same work as CGS employees.

## **Summary of some of the proposed changes to the *Labour Relations Act***

The following is a summary of a number of changes recommended to the *Labour Relations Act* but do not impact CGS to any real extent and do not have a financial impact:

- Require employers to disclose employee contact information to union attempting to certify their location.
- Reduced "restrictions" on Ontario Labour Relations Board authority to order remedial ("automatic") certification due to unfair labour practice.
- Automatic first contract arbitration, unless the union bargains in bad faith.

- “Mediation intensive” model for resolution for first contract negotiations, including after remedial certification.
- Card-based certification for Temporary Help Agency industry.

## Conclusion

A number of the proposed items pose a concern for us from an operational perspective, particularly related to scheduling, on-call, personal emergency leave, equal pay for equal work, and temporary agencies. The impact of some of the provisions is difficult to estimate at this time, but may impact a number of areas related to scheduling and on-call pending the outcome of future collective bargaining negotiations. Staff will bring back these items to Council when considering the overall mandate for these future sets.

Staff will continue to monitor, assess and plan for the impact of Bill 148 and will bring back any other cost impacts to Council.

## References

Fair Workplaces, Better Jobs Act, 2017:

[http://www.ontla.on.ca/web/bills/bills\\_detail.do?locale=en&Intranet=&BillID=4963](http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&Intranet=&BillID=4963)

Employment Standards Act:

<https://www.ontario.ca/laws/statute/00e41>

Labour Relations Act:

<https://www.ontario.ca/laws/statute/95l01>