THE FLIP SIDE OF “FAIR”

Adding Up Bill 148’s Unintended Consequences

Keep Ontario Working

ABOUT KEEP ONTARIO WORKING

Over the past year, Ontario's leading industry and sector associations have worked together through the Keep Ontario Working initiative to motivate employers and employees alike to take a more active interest in the Changing Workplaces Review and ensure that we are improving legislation to support workers' rights and a prosperous economy. The Keep Ontario Working initiative is comprised of the province's leading employer bodies, including:

- Association of Canadian Search, Employment and Staffing Services
- Canadian Franchise Association
- Food & Beverage Ontario
- Food and Consumer Products of Canada
- National Association of Canadian Consulting Businesses
- Ontario Chamber of Commerce
- Ontario Forest Industries Association
- Ontario Restaurant, Hotel & Motel Association
- Restaurants Canada
- Retail Council of Canada
- Tourism Industry Association of Ontario
- Other employers and employer groups

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ISBN: 978-1-928052-46-3

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INTRODUCTION

Since the introduction of Bill 148, the *Fair Workplaces Better Jobs Act*, Ontarians have begun to engage in a robust debate about the economic landscape of the province, and how best to achieve a fair and prosperous society.

In her speech announcing Bill 148, Premier Wynne outlined four pillars that underpin the government's approach to improving circumstances for working Ontarians:

1. Eliminating the deficit
2. Economic growth
3. Supporting new jobs
4. Investing where it has the most impact (health, education and infrastructure)

There is no question most Ontarians support the spirit of these pillars, which can promote a rising standard of living and increased prosperity for all.

Ontario's private sector employers share these beliefs, but are concerned with the means and timing by which the Ontario government has sought to act on their goals. If we are to foster a truly fair and prosperous society, progress must be sustainable and achieved through policy approaches that are informed by consultation and based on thoughtful impact analyses. Without these considerations, the potential for unintended consequences are tremendous.

The proposed changes to the *Employment Standards Act*, the *Labour Relations Act* and the minimum wage contained within Bill 148 not only come with massive cost implications, but are unlikely to help the government realize its goals of a rising standard of living, economic growth and new jobs.

To fully understand the economic impacts of Bill 148 and enable an informed debate, the Keep Ontario Working (KOW) Coalition commissioned an independent analysis of the legislation by the Canadian Centre for Economic Analysis (CANCEA).

Having performed similar analysis for the Ontario Ministries of Finance, Infrastructure, Community & Social Services and the Treasury Board, CANCEA is an informed and trusted stakeholder.

In their report ***Measuring the Potential Economic . Impacts of the Fair Workplaces, Better Jobs Act, 2017 A risk assessment for Ontarians*** [1] CANCEA calculated the total cost of Bill 148 to Ontario employers at an estimated $23 billion over two years.[1] While this legislation is suggested to have an $11 billion stimulative impact, that leaves a $12 billion cost that will be imposed on employers. As if this is not challenge enough, the absurdly short runway granted to employers before most of the proposed changes come into effect ensure that few businesses will be able to adequately plan or adapt to a major increase in their labour expenses. The result is that industry will be forced to eliminate jobs, raise prices, or shut their doors – actions that will harm the very people the Government of Ontario claims to be helping: low wage workers, young people, the underemployed, working families and seniors.

CANCEA concludes that small businesses are five times more likely to be impacted than large businesses. Simultaneously, the Government of Canada is moving forward with a tax reform plan that will disproportionately impact small businesses. Government action at this speed and magnitude is not fair to those who invest in Ontario, create jobs in Ontario, and build communities in Ontario.

Simply put, this is too much, too fast.

Given that the government announced Bill 148 before developing plans for potential offsets or consulting with industry, the private sector has been forced to move forward on the presumption that there is no offset. Business planning for the drastic labour cost increases of 2018 is already underway and, at this point in the calendar, likely complete.

1 "Measuring the Potential Economic Impacts of the *Fair Workplaces, Better Jobs Act*, 2017: A risk assessment for Ontarians." Canadian Centre for Economic Analysis, September 2017. Note that all referenced data, unless otherwise cited, is found in this report.

In contrast, when the private sector is able to operate within a stable policy framework, and is properly consulted on proposed reforms, businesses are able to develop capital investment plans that drive growth, create jobs and raise wages.

Unfortunately, Bill 148 was introduced without the benefit of a comprehensive, public economic impact analysis or meaningful consultations with the private sector. It also ignores, or directly contradicts, many of the recommendations of the Changing Workplaces Review on which it is based.

As the Government of Ontario failed to substantively engage stakeholders in the development of this bill, they were unable to hear the important voices of those on the front lines of the Ontario economy. The KOW Coalition has commissioned this report in an effort to correct this oversight, presenting the testimonials of employers across the province who had no input into Bill 148, but on whom this legislation will have a deleterious impact.

We believe that the intentions of the Government of Ontario, as they hope to realize through Bill 148, are admirable. However, in the pursuit of supporting both Ontario businesses and the workers they employ, we all have a shared obligation to ensure that government pursues public policy in a way that inclusive and evidence-based.

In this report, the Keep Ontario Working Coalition will illustrate exactly how Bill 148 will undermine the government's economic objectives. Without adjusting the timeline for implementation, amending the legislation and/or offering significant offsets, Bill 148 will jeopardize Ontario's collective future prosperity.

SECTION 1

Bill 148 Will Harm Ontario's Most Vulnerable

A STRONG AND GROWING ECONOMY IS THE FOUNDATION FOR PROSPERITY. When the economy is growing, employees benefit from higher wages and improved benefits. Immigrants and young people have more opportunities to find work and gain experience. Those who are unable to work benefit from public investments in social services, schools, health care and transit made without borrowing against future generations. Families have fewer cost of living increases to manage. In short, when the economy is allowed to thrive, Ontarians benefit. Unfortunately, the unintended economic consequences of Bill 148 will harm these groups the most.

CANCEA estimates that Bill 148 will result in a 50 percent increase to inflation this year, and annually for the foreseeable future. Consumer prices are expected to rise by an additional 0.7 percent on average, in addition to an anticipated annual growth rate of 2 percent in the 2017-18 Ontario Budget, calculated before the impact of Bill 148 was considered.

CANCEA also found that the cost of everyday consumer goods and services may rise by as much as $1,300 per household each year, over and above the cost of living increases anticipated in the 2017-18 Budget.

With no equivalent increase to government support programs thus far announced, Bill 148 will place an enormous burden on those living on a fixed income. Those who rely on CPP, WSIB and EI benefits (seniors, the disabled and those looking for work, respectively) will face a serious financial challenge. Additionally, the proposed changes will place an even greater burden on young families and working parents who are already struggling to find affordable childcare.

Women represent a larger share of the workforce in sectors that are more likely to be impacted by Bill 148 – retail and food service, especially. This means that women will be disproportionately affected by the jobs put at risk by this legislation; CANCEA estimates that 96,000 jobs currently held by women are at risk.

“For 2018, the increase in minimum wage to $14 will have a 12 percent increase for us in our wage costs. Moving to three weeks’ vacation represents an additional 1.7 percent increase. (all numbers include employer taxes).

We all know this has a compounding effect on our costs as our suppliers could be expected to incur a similar increase in their wages for 2018: Costs such as food, supplies, maintenance, basically anything and everything that is used to function in our industry (except for a few items, namely our lease rate). These increases could potentially account for another three percent increase, when compared to wages.

In addition to the items noted above, we are now expected to have additional coverage before and after core hours. This requirement is part of the Child Care and Early Years Act for 2018. This impact represents another 6.5 percent increase to our salaries. It is assumed we will need to add two FTEs.

The last increase for 2018 is our standard increase to allow us to cover unforeseen costs, such as maintenance, marketing, new supplies, etc. Again, we are a large centre that is constantly requiring upgrades, employee training, etc. This has always been a standard three percent increase for us.

In total, the above noted items for 2018 could result in a 28.4 percent increase in costs for our centre. We cannot absorb these costs and remain a viable business. These costs will need to be passed on to the parents through a substantial fee increase for January 1, 2018. This will represent a 12.7 percent increase in fees for 2018.

For 2019, we can assume the same parameters as 2018, however the increase in fees would be 6.5 percent.”

—Daycare owner, Peel Region

It is not merely the individual Ontario resident who will experience a shock to their pocketbook: CANCEA predicts that new costs for municipal governments associated with higher wages, as well as the proposed changes to scheduling and paid benefits, will be in the neighbourhood of $500 million. As a result, municipal governments are likely to have to return to their budgets, cutting services or raising taxes in order to account for the results of Bill 148.

Ontario municipalities, particularly smaller rural and northern communities, are already facing serious fiscal challenges related to labour and infrastructure costs. Revenue shortfalls for municipalities are currently such a critical concern that at a recent Association of Municipalities of Ontario (AMO) conference, municipal leaders called on the Ontario government to increase the HST from 13 percent to 14 percent to generate an additional $2.5 billion in revenue for municipalities.

SECTION 2

Bill 148 Will Harm Ontario's Competitiveness

WHAT IS LOST IN THE GOVERNMENT'S DEFENSE OF BILL 148 are the consequences to Ontario's economic growth, job creation and increases in public borrowing that will result from the legislation. Industry in Ontario has experienced significant pressure to its competitiveness in recent years, due to factors such as rising electricity prices, operating in an overregulated economy, and the recent introduction of carbon pricing.

In her speech announcing Bill 148, the Premier noted,

> "Our budget is balanced. Ontario is outperforming most of our neighbours in Canada and the United States. That's encouraging."

At a surface level, Ontario's current economic outlook is indeed encouraging; however, a rosy future is by no means guaranteed. A strong provincial economy can be undermined if changes to legislation are introduced without warning, without a comprehensive impact analysis, and without a reasonable implementation period.

In the Government of Ontario's post-2008 recovery strategy, they acknowledged the need to treat fairly those who take a chance investing in Ontario and its people. As part of this strategy, the government followed a recommendation by its Minimum Wage Advisory Panel in 2014 to tie minimum wage increases to Ontario's Consumer Price Index (CPI).

Ontario's Minister of Labour Kevin Flynn emphasized the wisdom of this approach as recently as March 2017 explaining:

> "By ensuring that our province follows a consistent, predictable and impartial process of increasing the minimum wage, we are providing a more stable environment for businesses and more money in the pockets of our workers."

By announcing a 32 percent increase to the minimum wage in just 18 months with no economic impact analysis, the Premier is putting the hard-earned economic progress Ontario has achieved since the 2008 recession at substantial risk.

Ontario's employers are equally concerned about other provisions in the legislation, including equal pay provisions regardless of employment status, 10 paid and unpaid sick days after just one week of employment, severe restrictions on scheduling and the elimination of secret ballot certification for unionization in some sectors, with a provision to allow this change to be extended to all sectors by regulation and not legislation.

In addition to the cost implications, these provisions will fundamentally change how temporary, part-time and shift work can be contracted and scheduled in Ontario. Understanding how these proposed changes will be implemented is of great importance for businesses that rely on these categories of workers. However, the government has yet to provide direction or clarification to employers.

Looking at the proposed changes under Bill 148, it is clear that the harm to Ontario's competitiveness will be much greater than is currently being acknowledged by the government.

“I don’t have minimum wage workers, however inflationary factors and work place legislation does impact our ability to exist and thrive. We started in 2010 with an expanded workforce of 10 people and now in 2017 we are at 36.

What the [government] does not appreciate is the amount of expense associated with each employee not seen on a paycheck. Employee tax, Healthcare, WSIB, CPP and private benefit packages are all expectations but not accounted for in one’s compensation package. On top of this we now spend over $50,000 per year in workplace training.

I am proud of the risk my partner and I took to invest in such a venture at a time when the economy was not doing well.

I am proud that we now have 33 people making nice wages (On average – $70,000 + benefits) who support their families and put their kids through school. However, if you were to ask me today if I feel this was my best choice based on everything that is now going on in Ontario I would have to say no.

No one thanks the business owner for his investment, his risk and his contribution to the community.”

—Co-founder, medium-sized automation technology company

“I am an owner of three automotive oil change service stations, which I purchased for a significant amount.

I employ 29 employees at my three stores. All are hardworking and live in the communities we serve.

We were on track to grow locations and further invest but for many reasons this new proposed legislation has put a stop to our plans. At our average wage, our labour percentage to sales is 32 percent. With the proposed changes, we would see this rise to 40 percent of sales.

This is just not feasible to absorb. That leaves us with no option but to raise prices to adjust to the increase. The 16% increase in just basic wages means our prices will need to increase by at least 22% to manage this proposal properly.

My wife and I purchased the business on a set of income statements that had labour at a certain percent. Now that labour will jump, my business valuation will be reduced by 4 times that amount. Overnight, the government has de-valued my business.

Bill 148 will impact financing thresholds and deter new entrepreneurs from purchasing existing businesses.

The Ontario government cannot pawn off the high prices of real estate, hydro, gas, and taxes (that they alone have created) on the backs of small businesses. This will drive away the best economic engine left in Ontario... and that is a sad reality.”

—Owner, three automotive oil change service stations

SECTION 3

Bill 148 Will Harm Ontario’s Job Market

AS THE GOVERNMENT INDICATED IN THE 2017-18 BUDGET, the private sector plays a significant role in growing the Ontario economy and creating good opportunities for workers. Of all new jobs created in Ontario since the 2008 recession, 98 percent have been full time, with 78 percent in above-average wage industries.

Businesses have worked hard to contribute to Ontario's recovery and create new opportunities for Ontario's workforce. The private sector took risks and invested in the province at a time of significant uncertainty. By announcing Bill 148 without an economic impact assessment or a thoughtful strategy to mitigate and offset the harmful consequences of the proposed changes, the government is threatening good employment opportunities for workers for the foreseeable future.

The proposed changes will place further pressures on Ontario's private sector by increasing the costs and risks associated with new staff. This will limit flexibility and impact a business' ability to grow and invest. No consideration to support business was given before the proposed changes were announced and, businesses are making plans now for 2018 under the assumption that no offsets are coming.

As a result, Bill 148 is already causing harm to Ontario's economy before it has even been implemented. The uncertainty created by the government's announcement of the legislation is also making Ontario less attractive as a jurisdiction for capital investment.

CASE STUDY: THE HOSPITALITY SECTOR

The changes proposed in Bill 148 will mean real difficulties for Ontario's hospitality sector. From hotels and restaurants to recreational facilities, the impacts will be significant. Changes to scheduling rules, increased sick leave and a rapidly increasing minimum wage all expose the hospitality sector to significant difficulty with little support available. For many young people and students, this sector is their introduction to the workforce. In more than 40 town hall meetings held in communities across the province, the KOW Coalition heard first-hand from businesses throughout the hospitality sector that a hiring freeze, increased costs to consumers and even layoffs will be the only remedy. CANCEA's analysis supports this conclusion: close to four percent of jobs in the food and hospitality sector will be put at risk by Bill 148. In real numbers, that is over 17,000 positions in the first two years alone.

“We will be forced to hire fewer people. Dagmar is a family business strongly committed to giving our customers a wonderful winter experience with exceptional customer service. We are a seasonal, weather dependent business. Dagmar Ski Resort employs approximately 300 seasonal staff. Most are high school students just starting in the workforce.

The logistics of increasing everyone’s wage by 22 percent is impossible. Dagmar will need to increase lift ticket rates to our customers by between 14 percent [and] 18 percent, possibly even more.

The restrictions of 48 hours’ notice to call off a shift is not an option with weather-related businesses. If, for example, there is an ice storm through the night, we must call off staff and close the resort for safety reasons.

The only option to continue will be cut to staff positions and close the resort for two, maybe three days a week.

With this monster increase we will need to close on Tuesdays, also, possibly even Wednesdays, cutting staff numbers drastically.”

—Caroline Owner/Operator, Dagmar Ski Resort

CASE STUDY: THE AGRICULTURE SECTOR

Bill 148 has the potential to significantly harm Ontario's agricultural sector and put locally grown food and food security at risk. The agriculture sector operates with some of the smallest margins of any industry in the Ontario economy; many segments have margins as narrow as 5 percent. As a result, agriculture businesses have a much greater challenge than other businesses responding to unanticipated costs like those expected from Bill 148.

Within this sector, labour is the largest input cost, with staffing accounting for over 60 percent of total expenses. The increase in the minimum wage represents a more than 30 percent surge in labour costs for the Ontario agriculture sector. As a result, businesses will be forced to re-evaluate their seasonal operations and employment levels.

Agriculture is also an industry completely dependent upon the weather. Too much or too little rainfall each season can have a significant impact on production and demand for labour.

The lack of meaningful consultation with this sector on the proposed scheduling changes is apparent in the new, severely restrictive provisions of Bill 148. The government clearly did not take agriculture into account in drafting this legislation.

Unless the government introduces amendments that specifically address the unique challenges faced by the sector, the continued existence of Ontario's farms could ultimately be put at risk.

> *"Businesses who were on the fence about staying open this winter have had their decision made for them with this wage increase, which happens to occur in January 2018 and 2019. It's a big step backward in the fight against seasonality in the County and the availability of year-round income and year-round jobs."*
>
> **—Farm owner**

CASE STUDY: THE MANUFACTURING SECTOR

For Ontario's manufacturing sector, the effects of Bill 148 will be stark. The industry has already been hurt by outsourcing, rising electricity rates and a fluctuating dollar. Not only will manufacturers need to limit or cancel new investments and new hiring, job losses and even facility closures are also a possibility.

A major impact for the manufacturing sector will be a loss of private capital investment. We know this legislation will result in a $12 billion hit to Ontario's businesses in the first two years. The government cannot simply remove such a sum of money from Ontario's economy and expect it to have no impact. It will mean billions less in investment dollars for Ontario's manufacturing economy, which is already stuggling. When businesses are no longer able to invest, and grow, overall economic growth is put in jeopardy.

It is estimated that over 2 percent, or 17,000 jobs in the manufacturing sector will be at risk if Bill 148 passes without adequate amendments.

Had the government reached out to those most impacted by Bill 148, the private sector would have informed them that much of the lower end commodity manufacturing that remains in Ontario will be extremely sensitive to the variety of higher costs with this legislation.

Smaller commodity products can be easily transported and shipped from lower cost jurisdictions. Once outsourced to another location, it also becomes tempting to perform the next stages of production and assembly there as well, instead of incurring the transportation cost to ship back to Ontario – resulting in a loss of production and jobs.

“This Bill is forcing businesses to automate where possible, reduce labour/staffing, absorb part of the costs, and pass along a price increase to the customers (consumers) where possible.

For our business, the price increase will be the last recourse available as our largest competitor is sitting in the US (New Jersey) where the minimum wage is US$8.44. A highly-contested Bill to increase minimum wage to $15 per hour by 2021 has divided the state. In New York State, the minimum wage is currently $9.70 – it is increasing at approximately 7 percent per year until December 31, 2020 when it will increase annually with the inflation rate until it reaches $15.00 per hour (perhaps in 2027).

The very people that you are purporting to help are the ones who are going to be hurt the most. This will be the inexperienced and/or unskilled in Ontario. As these jobs disappear, they will be pushed onto social assistance… and will remain in poverty.

We must consider that the cost of hydro, business/property taxes, corporate income tax, and now wages are all extremely lower [elsewhere] than in Ontario. The hardest hit will be the unskilled and inexperienced labour.”

— Guenther Huettlin, President and Owner at GH Manufacturing, Belleville, Ontario

CASE STUDY: THE RETAIL/SERVICE SECTORS

Bill 148 will mean significant hardship for Ontario's retail sector. CANCEA predicts this legislation could result in a 3 percent reduction in jobs within Ontario's retail sector: almost 15,000 jobs being placed at risk.

This is a sector that employs a significant portion of Ontario's workforce and is already struggling to survive as consumers choose to spend rather than save, and as online shopping re-makes the retail landscape.

Like the hospitality sector, retail is often where young people enter the workforce. CANCEA predicts that individuals under 25 years of age will be negatively affected by Bill 148 1.15 times more than those in older age categories. Many retails stores in Ontario are also small businesses, employing fewer than 20 individuals.

This legislation could have the effect of fundamentally changing the face of small communities. For many, this could mean the loss of a family run hardware store or local independent grocer and reduced hours at businesses consumers rely on every day. These impacts will be especially devastating for rural and remote towns.

"The proposal to hike the minimum wage is a challenge we cannot easily overcome. We have twelve incredible staff who we think of as family. All but our new summer student make well over the current minimum wage.

To be fair to our staff and maintain their deserved performance-based gap over minimum wage, we will have to raise our annual payroll costs by 32 percent in nineteen months (22 percent in just seven months). Payroll represents 55 percent of our total expenses. We can't cut hours or lay off staff without seriously jeopardizing customer service or negatively impacting sales. Our staff already works very hard and we are very efficient.

I have done the math. We will need to increase our sales by over 12 percent just to break even. Year-over-year we generally grow by three to five percent. Short of some miracle, we are not likely to be able to grow by 12 percent in seven months' time."

—Jackie Fraser, Fraberts Fresh Food, Fergus

CONCLUSION

The figures in CANCEA's analysis and the testimonials from Ontario business owners should speak for themselves: Bill 148 must be amended, delayed and offset.

While the government introduced the *Fair Workplaces Better Jobs Act* with the noble intention of improving circumstances for working people in Ontario, the unrealistic cost and scope of the changes it proposes over such a short period of time will cause uncontrollable harm to the very people it is intended to help.

Rather than support the four pillars of the government's approach to improving circumstances for working Ontarians, Bill 148 will directly undermine them. For example:

- **Growing the Deficit**
  By increasing the cost of labour, CANCEA estimates that the Ontario Government can expect an additional $455 million in unbudgeted costs. Overstretched municipal governments will also be hit with $500 million in unbudgeted costs.

  Given that the Financial Accountability Office has already determined that the government's projection for a balanced budget in 2018-19 "relies critically on an optimistic revenue forecast and, in particular, on very strong growth in tax revenues", the anticipated harm to Ontario's economic outlook from Bill 148 directly undermines this projection.

- **Undermining Economic Growth**
  Ontario's private sector already faces several challenges when competing with other North American jurisdictions. A less favourable exchange rate with the US dollar, high electricity rates, and the recent introduction of carbon pricing has damaged the ability of Ontario companies to compete in the global economy.

  By rapidly increasing the cost of labour to some of the highest levels in North America – while simultaneously introducing severe restrictions on flexibility in managing employees – Bill 148 will severely undermine the ability of Ontario businesses to grow and expand.

- **Eliminating New Jobs**
  CANCEA's analysis estimates that Bill 148 will put 185,000 jobs at risk.

  Those affected will disproportionately be those who can least afford a lack of employment opportunities. Thirty thousand of those individuals are youth, while 96,000 jobs at risk are held by women.

  Unskilled positions relied upon by immigrants with untapped skills and those just entering the workforce are also expected to be disproportionately represented in the jobs at risk.

- **Undermining the Government's Ability to Invest**
  The harm that Bill 148 is expected to cause to Ontario's economic outlook will directly threaten the government's ability to make new investments without borrowing against future generations.

  While Ontario is introducing policies through Bill 148 that will compromise the province's economic outlook, the Canadian economy is experiencing faster-than-expected growth. This will place upward pressure on the rate of inflation, driving up of the cost of goods and services.

  Credit rating agencies have been watching Ontario closely in recent years; carefully assessing whether the government is able to stick to budget plans. Bill 148 has the potential to further harm Ontario's reputation for fiscal responsibility and could contribute towards increased borrowing costs.

  These changes were not anticipated as part of the government's projections in Budget 2017-18 and will require an upward revision to the government's plans for anticipated costs in the years ahead.

Currently, the only responsible course of action for government is to slow the implementation of Bill 148, determine appropriate offsets, and work with Ontario employers to introduce common sense amendments that will avoid unintended consequences.

In order to demonstrate true fairness and respect for all Ontarians, the government must work with the private sector to ensure that we foster an economic environment that will create jobs and sustainably drive increased wages through economic growth.

This is the only approach that will guarantee Ontario's prosperity.

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