

**CHRIS BUCKLEY**  
*President*

**PATTY COATES**  
*Secretary-Treasurer*

**AHMAD GAIED**  
*Executive Vice-President*



**ONTARIO  
FEDERATION OF  
LABOUR**

## **Jeopardizing Our Health and Safety**

Amendments to Bill 66, Restoring Ontario's Competitiveness Act  
Submission to the Standing Committee on General Government  
March 2019

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FEDERATION OF  
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March 18, 2019

Standing Committee on General Government  
99 Wellesley Street West Room 1405,  
Whitney Block Queen's Park  
Toronto, ON M7A 1A2

Dear Committee Members,

Bill 66, *Restoring Ontario's Competitiveness Act*, replaces red tape with yellow caution tape.

Under the guise of creating jobs as well as removing regulations, the government has prioritized businesses over the welfare of Ontarians and their families.

Businesses need to find their competitive edge elsewhere – not at the expense of workers, families, and our planet.

It is important to understand that many of the existing regulations serve a useful purpose from ensuring workers know their rights to safeguarding their health at work and in their communities. These regulations protect Ontarians from exploitative practices, ensuring that drinking waters are not contaminated, controlling electricity prices for vulnerable families, and keeping children safe.

Regulations can save lives.

**The Ontario Federation of Labour (OFL), which represents one million workers across this province, strongly advocates that the government withdraw Bill 66.**

The stakes are too high: lives are on the line. This legislation jeopardizes the health and safety of our workplaces, our communities, and our children.

It is time that the Ford government prioritize the people of this province.

Sincerely,

**BUCKLEY CHRIS**  
President

**PATTY COATES**  
Secretary-Treasurer

**AHMAD GAIED**  
Executive Vice-President

## The Health and Safety of our Workplaces

### Labour Relations Act

#### **Removing Construction Bargaining Rights for Public Entities**

We know that unionized construction trades are leaders in health and safety as well as decent work.

In Ontario, unionized construction workers report nearly 25 per cent fewer injuries requiring time off work, a more than 15 per cent lower rate of musculoskeletal injuries, and an almost 30 per cent lower rate of significant injuries than non-unionized construction workers.<sup>i</sup> The reality is that unionized workplaces provide workers with a voice and the power to influence decisions affecting their health and safety as well as to report unsafe working conditions without the fear of repercussions. Additionally, unions provide their members with health and safety training to ensure that they are equipped to identify and address hazardous conditions. It must also be highlighted that unionized construction workers are in a better position to refuse to cut corners that ultimately threaten public safety.

Unionized workers also fare better in terms of wages, protections, and working conditions. In fact, they earn an average hourly wage that is 33 per cent more than non-unionized workers and have nearly a year more of employment stability. Further, non-unionized workers are likely to do four times more unpaid work than their unionized counterparts.<sup>ii</sup> By creating decent jobs in an industry that is inherently casual, unions encourage lower rates of turnover. Given that experience and age contribute to better health and safety outcomes, decent working conditions reinforce safe working conditions.

**The Ford government, however, is jeopardizing the health and safety of workers by trampling on collective agreement rights and putting public safety at risk.**

Bill 66 deems public entities like municipalities, hospitals, universities, and schools as “non-construction employers”. This means that unions with construction bargaining rights for public entities will no longer represent those workers in the construction industry. Any collective agreements that unions have with those entities that covers work in the construction industry will no longer apply. It must be understood that this is a violation of workers’ fundamental freedom to associate meaningfully in pursuit of collective workplace goals. It is also important to acknowledge that the *Labour Relations Act* provides those not directly serving as construction trade employers with an avenue to opt out of their agreement. To date, the majority have chosen not to do so. Furthermore, this change will allow non-unionized companies in the construction trades to bid on and build public infrastructure projects. It further incentivizes companies to engage in a race to the bottom, where they will cut corners, pay workers less, and place them in unsafe working conditions in an effort to be competitive.

**Withdraw Bill 66.**

## **Removing ESA Posters in the Workplace**

The *Employment Standards Act* (ESA) outlines the basic rights and protections of workers in Ontario workplaces. The ESA alone, however, does not protect workers; enforcement of the Act is required. Workers, for instance, must be aware of the law to ensure that their rights are being upheld by their employers.

To increase workers' knowledge about the ESA, the Minister of Labour must prepare and publish a poster providing information about the Act and its regulations. Currently, the employer must provide each employee with a copy of this poster as well as post it in a visible place where workers will likely see it.

**The Ford government, however, is jeopardizing the health and safety of workers, leaving them vulnerable to further exploitation.**

Bill 66 removes the requirement that employers display the poster in the workplace – an important avenue for workers to learn and enforce their rights.

**Withdraw Bill 66.**

## **Removing Approval for Excessive Hours and Overtime Averaging Agreements**

Without access to union protection, there is an inherent power imbalance within the employee-employer relationship. It is difficult for non-unionized workers to speak up against injustices in the workplaces without the risk of negative consequences.

The government is responsible for ensuring that the minimum standards outlined in the ESA protect workers and rebalance the power in the employment relationship.

Currently, the ESA prohibits employers from requiring employees to work more than 48 hours in a week, unless the Ministry of Labour's Director of Employment Standards approves an agreement between an employee and employer to increase the weekly limit. Given that workers often feel compelled to enter into such agreements to maintain their employment, it is the duty of the Director to ensure that such agreements are in the worker's interest. They consider many factors, including whether the employer has violated the ESA as well as the health and safety of the worker.

The ESA also presently dictates that employers must pay workers premium pay for working overtime (i.e., more than 44 hours per week). The employee and the employer can agree to average hours of work over two or more consecutive weeks – provided the Director approves. As mentioned above, several factors are considered by the Director before granting approval, including previous ESA contraventions as well as the health and safety of workers.

**The Ford government, however, is jeopardizing the health and safety of workers, leaving them vulnerable to further exploitation.**

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<sup>1</sup> The OFL endorses the recommendations of the Workers' Action Centre & Parkdale Community Legal Services.

Bill 66 removes the requirement to obtain the Director’s approval for excessive weekly hours agreements, placing workers in a position where they are likely to work more than 48 hours per week. Similarly, Bill 66 no longer requires the Director’s approval for overtime averaging agreements. Instead, the only stipulation is that overtime agreements not exceed four weeks. This means that employers will be more likely to manipulate workers’ schedules to avoid or minimize paying an overtime premium.<sup>iii</sup>

### **Withdraw Bill 66.**

## **The Health and Safety of our Communities<sup>2</sup>**

### **Removing Drinking Water Protections**

Water is life.

It needs to be regulated. Because of the protections under the *Clean Water Act* (CWA), Ontario’s drinking water has become among the cleanest in the world – but only for some.

Mercury contamination has plagued the English-Wabigoon River system in northwestern Ontario for half a century, since a paper mill in Dryden dumped thousands of kilograms of the substance into the river systems in the 1960s and early 1970s. In 2017, it was publicly revealed that the government was aware of this problem nearly 30 years ago. Because of decades of inaction, researchers now report that more than 90 per cent of the people in the nearby Grassy Narrows and Wabaseemoong First Nation show signs of mercury poisoning.

The government should be cleaning up mercury in Grassy Narrows and strengthening protections around drinking water.

### **The Ford government, however, is jeopardizing the health and safety of our communities.**

Bill 66 allows industry to bypass drinking water source protections under the CWA. The reality is that these by-laws can permit development in areas that may pollute surface water and groundwater used by municipal drinking water systems, which serve 80 per cent of Ontarians. This will undermine and weaken critical protections that were passed in response to the 2000 Walkerton tragedy – where contaminated drinking water killed seven people and made thousands of people ill.<sup>iv</sup>

### **Withdraw Bill 66.**

### **Removing Protections Against Toxic Substances**

Ontario’s toxic emissions to air, land, and water are some of the highest in North America.<sup>v</sup>

The *Toxics Reduction Act* (TRA) is meant to prevent pollution; to protect our health and our environment by reducing the use and production of toxic substances; and to increase awareness about toxic substances.

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<sup>2</sup> The OFL endorses the recommendations of the Canadian Environmental Law Association.

The solution is to strengthen regulations around toxic chemicals – not remove protections. We all stand to benefit from fewer public health risks as well as cleaner communities and workplaces.

**The Ford government, however, is jeopardizing the health and safety of our communities.**

Bill 66 repeals the TRA, eliminating, for instance, obligations for businesses to publicly report on their use of toxic substances and to identify options that reduce those substances through toxic reduction plans. It is also important to understand that the TRA serves a distinct purpose, acting complementary – not in duplicate – to the federal law, despite contrary comments from the government<sup>vi</sup>. The *Canadian Environmental Protection Act* allows most existing chemicals to remain in industry – with restrictions. The TRA goes further by requiring that companies use less of – or not produce at all – potentially problematic chemicals that the federal act allows to remain in commerce.<sup>vii</sup>

Time is running out to take steps to keep the planet inhabitable.

**Withdraw Bill 66.**

## The Health and Safety of our Children<sup>3</sup>

### **Removing Protections for Home Child Care & Before and After School Programs**

It must not be forgotten that over a seven-month period from 2013 to 2014, four children died in unlicensed home child care settings within the Greater Toronto Area. After launching an investigation, Ontario’s ombudsperson found that unlicensed child care providers in Ontario operate under lax and loosely enforced rules in a system filled with legal loopholes.<sup>viii</sup>

Regulations have been put in place for home child care settings to prevent further deaths of our most vulnerable in society – our children.

**The Ford government, however, is jeopardizing the health and safety of our children.**

Bill 66 allows home child care providers – both regulated and unregulated – to increase the number of children that one individual can care for in such settings. Specifically, these providers will be able to care for three children under the age of two – in addition to the allowable number of children age two and above – for a total of five children in unregulated settings and six children in regulated settings. Furthermore, home child care operators will be able to care for any number of their own children who are over the age of four – in addition to those children who are looked after for pay. This means that there will no longer be a legislated maximum on the total number of children that can be cared for – at any given time – by a single adult in a home.

Bill 66 also lowers the entry age for authorized recreation programs in effort to create child care spaces. This will not address the larger problem: Ontario needs more before and after school child care programs. Every child deserves access to a universal, publicly funded, high-quality, fully inclusive, and affordable child care system. Further, Bill 66 removes the requirement for third party operators providing before and after school care for school boards to have registered early childhood educators (RECEs) lead their programs. We know that high-quality early childhood education and care is directly linked to

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<sup>3</sup> The OFL endorses the recommendations of the Ontario Coalition for Better Child Care.

well-educated and qualified ECEs.<sup>ix</sup> That is why it is also important that teachers and ECEs remain a part of the full-day kindergarten program.

It is undeniable that Bill 66 will change the manner in which care is provided, failing to create a responsive and an enriching environment for children. More importantly, it will place the safety and security of young children and their future at risk.

### **Withdraw Bill 66.**

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<sup>i</sup> 2015. Amick III, Benjamin; Hogg-Johnson, Sheilah; Latour-Villamil, Desiree; and Saunders, Ron. *Protecting Construction Worker Health and Safety in Ontario, Canada: Identifying a Union Safety Effect.*

<sup>ii</sup> 2019. Dobrusin, Bruno and Tranjan, Ricardo. *Good, Safe Jobs in Ontario's Construction Industry Under Threat.* Canadian Centre for Policy Alternatives.

<sup>iii</sup> 2019. Newell, Ryan. *Bill 66: Ontario's Omnibus Offensive.* Goldblatt Partners.

<sup>iv</sup> 2018. McClenaghan, Theresa and Lindgren, Richard D. "Open-For-Business" Planning By-Laws, Drinking Water Safety, and the Lessons of the Walkerton Tragedy: Legal Analysis of Schedule 10 of Ontario Bill 66. Canadian Environmental Law Association.

<sup>v</sup> 2019. Canadian Environmental Law Association. *Submissions on Bill 66 – Restoring Ontario's Competitiveness Act, 2018, Schedule 5: "Repeal of the Toxics Reduction Act, 2009.*

<sup>vi</sup> 2019. Government of Ontario. *Toxic Reduction Program.*

<sup>vii</sup> Ibid.

<sup>viii</sup> 2014. Marin, Andre. *Careless about Child Care.* Office of the Ontario Ombudsman.

<sup>ix</sup> 2016. Association of Early Childhood Educators Ontario. *Regulated Child Care.*

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