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chamber of commerce
your voice in business

Standing Committee on Finance and Economic Affairs
Room 1405, Whitney Block
Queen's Park, Toronto, ON M7A 1A2

July 21st, 2017

Dear Committee members,

We are taking this opportunity to provide comment on the proposed Bill 148 ("Fair Workplaces, Better Jobs Act, 2017") on behalf of our 1,000 members that employ over 75,000 employees in the City of Hamilton.

Our diverse membership includes small retailers with a handful of employees, and large multinational corporations and public sector institutions employing several thousands of people. In addition to private businesses, we also proudly count among our membership many of Hamilton's most prominent not-for-profit organizations and job agencies and the wider community.

Through numerous initiatives, most prominently our membership on Hamilton Mayor Fred Eisenberger's Blue Ribbon Taskforce on Workforce Development, our organization is keenly aware of the importance of a functioning labour market to the prosperity of businesses and employers. We are participating in several ongoing efforts to narrow the skills gap, improve access to education and training opportunities and support progressive initiatives like the Universal Basic Income Pilot in Hamilton.

We firmly believe that a prosperous society requires the growth of high-quality jobs.

For its part, Ontario's businesses have made significant progress in this area; according to research compiled by the Ontario Chamber of Commerce (OCC), part-time jobs now account for a lower percentage of all jobs than they did a generation ago (18.8 per cent in 2015 versus 19.5 per cent in 1992). The average hourly wage in Ontario rose by 33.6 per cent, while the median wage is up 29.2 per cent. Of all jobs created since the 2008 recession in Ontario, 98 per cent have been full-time, and 78 per cent are in above-average-wage occupations. Clearly, Ontario's private sector is doing its part to create good, high-quality jobs, despite shouldering a cumulative regulatory burden that has led to a 69 percent increase in the cost of producing a unit of output versus a 28 per cent increase in the United States.

Changing Workplaces Review and Bill 148

In partnership with the Ontario Chamber of Commerce network, our organization played an active role in the Province's Changing Workplaces Review. While some of the discussions within the review were viewed with trepidation by the business community, as Chambers we participated in good faith, hoping to find a balance between the need for reform, modernization and enforcement of labour policies, and the abatement of costs for business. In 2014, we supported the business case for legislation that ties minimum wage increases to the consumer price index.

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However, Bill 148, as proposed after first reading, has come as a shock to our organization and elicited an immediate response of concern from our membership.

The proposals are extensive, unprecedented and not reflective of discussions your government had in good faith with employers as part of the Changing Workplaces Review that preceded this bill.

Cumulative Regulatory Burden

Input from the Ontario Chamber network and our members after the release of this bill was quite clear: the impacts of this legislation will create tremendous uncertainty for Ontario businesses, financial losses, employment stagnation and inflationary pressure on the economy. In addition to the prominent issue of a $15 minimum wage, our members have also shared concerns about the impact of proposals regarding the expansion of union certification, reducing flexibility for shift scheduling and equal pay within certain industries.

These proposals come at a time when costs for consumers and the government regulated costs of doing business in Ontario are rising. The government must consider the impact these changes would have on Ontario's workers and our overall competitiveness as a jurisdiction. On top of a proposed steep raise in the minimum wage, businesses in Hamilton are also dealing with the cumulative regulatory burden of rising electricity prices, unfair market practices by foreign competitors, real estate affordability, taxation and uncertainty emanating from the United States.

A business owner faced with the rising cost of an input such as labour has five options:
1) Absorb the added cost as an impact to her profit margin;
2) Raise prices on consumers;
3) Substitute (through automation) or reduce the use of labour;
4) Shut down, or;
5) In certain sectors, move to a different jurisdiction.

Simply put, it is getting more expensive and less desirable to operate a business in Ontario. Despite some indicators showing overall economic growth, profit margins for businesses in some industries are not nearly as large as many might think. In Ontario's hotel industry, the pre-tax profit margin is only 9.5%. Retailers in Ontario make 4.9 per cent, and full-service restaurants 2.1 per cent. Many businesses are forced to align their workforce with seasons, market conditions, contracts and orders – meaning a one-size-fits-all approach would create winners and losers.

We believe it is crucial that the Province demonstrate that it has completed a robust economic impact analysis for the cumulative breadth of these proposed changes and conduct more extensive, good-faith consultations to understand the differential impact on various sectors and communities.

Economic Impact Analysis

Ontario's small and medium size businesses are the lifeblood of our communities, creating local jobs and increasing economic growth around the province. Over the last month, we have received compelling stories from employers who believe that the impacts from Bill 148 will be profoundly negative and cause significant job loss and financial hardship. Many of these businesses have expressed concern that the planned implementation of such significant labour reforms does not give them the sufficient time to adjust.

Due to the lack of progress on a government led economic impact analysis, the Ontario Chamber network has commissioned an independent impact study that will be released in August 2017. We encourage the government to release its internal analysis to conclusively demonstrate its confidence behind these proposals and to directly address the concerns of employers.

Pace of Change

Many Ontario companies, especially small businesses, are now considering closing their business because they lack the capacity to successfully manage the proposed labour reforms. In the case of the minimum wage, for example, the business community was wholly aligned with the government's previous approach, which allowed for increases to be predictable and protected against arbitrary political decision-making. If the government is intent on this unanticipated change in government regulations, we ask that it proceed in a way that allows businesses to better prepare.

Since 2010, the minimum wage in Ontario has increased by 12 per cent. Under the proposed changes, employers would be required to increase the minimum wage by a further 23 per cent in six months, followed by another 11 per cent a year later. This represents a total increase of 32 per cent in over just 18 months.

Other jurisdictions that have introduced similar wage increases have done so over longer timelines. For example, the State of California is taking five years to increase its minimum wage by 50% for employers of less than 25 employees. Seattle has allowed for a four year implementation of its 36% wage increase.

However, even there, recent evidence by published the National Bureau of Economic Research has suggested that the costs of the Seattle minimum wage increases outweigh the benefits by 3:1. In that instance, low-wage workers are losing $125 per month due to fewer hours of work scheduled.

Given the high financial impact of these changes, especially at the currently proposed implementation schedule, many businesses predict that the cost of goods, utility and occupancy costs will also rise (such as leases and ownership), in addition to the uncertain impact on municipal taxes.

To plan effectively and protect jobs, employers need predictability and time to adjust the cost of other inputs. It is extremely burdensome to absorb and adjust to a 23% increase by January 2018, and a 32 per cent overall increase in less than 18 months. The often referenced policies from Seattle, California, and New York have all opted to phase in their minimum wage to $15 over 4 to 6 years. Many others had also arranged collective agreements under different negotiation assumptions.

In regard to the other proposals within the act:

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Scheduling Proposal: *The proposed legislation requires employers to pay their employees for three hours of work if a shift is canceled with less than 48 hours of notice, an employee is on-call and not brought into work, or if an employee is given less than three hours of work for their shift. Employees also can refuse shifts without repercussion if their employer asks them to work with less than four days' notice.*

Our Position: Scheduling cannot be the same for all employers throughout Ontario, and appropriate accommodations and flexibility are needed to ensure economic success. We also understand that no other jurisdiction in Canada currently has such prescriptive scheduling provisions. We believe that the government should look to sector-based exemptions to scheduling. For some sectors, factors such as business processes and weather (especially for restaurants, retail and seasonal attractions) play a large influence in business operations and scheduling. The government should work with employers and industry associations in various sectors to develop scheduling rules.

Equal Pay for Equal Work Proposal: *The legislation will require that casual, part-time, temporary and seasonal employees are paid equally to full-time employees when performing the same job for the same employer.*

Our Position: After consultation within the Ontario Chamber membership, we have heard quite strongly that "equal pay for equal work" provisions should not apply during the first six months for assignment workers, co-op and internship programs, and seasonal employees. Due to the challenges and costs associated with hiring, training, and transition, it should not be adjudicated that they are offering the same value as full-time employees.

Many employers recognize the value of stable full-time jobs and how they improve productivity, training and knowledge capital. However, while that is the ideal, it is not a feasible scenario in many workplaces due to financial constraints, market uncertainty and, more recently, changing trends pertaining the mobility of employees.

New and temporary workers often require considerable training, and we are concerned that these changes will prevent employers from hiring contract, trainee and seasonal employees due to the increased costs. Despite the introduction of several incentive programs for skills training (e.g: Canada Ontario Jobs Grant), many small and medium size employers find the current application and administration process onerous.

While growing full time employment is the preferred strategy in many industries, many other businesses believe that a blanket application of the legislation will lead to unintended consequences. Specifically, within the knowledge industries and entrepreneurial technology firms, workers prefer multiple part time engagements, contract and remote work.

As stated on page 205 of the Changing Workplaces Review Report, "we are attracted to the concept of a qualifying period, because it is an accepted practice in a jurisdiction which accepts the principle of equality, and because it broadly accords with notions of a starter or a probationary rate, which is quite common in workplaces generally".

Union Certification Proposal: *The proposed changes to the Labour Relations Act allow for establishing card-based certification for the temporary help agency industry, the building services sector, and home care and the community services industry. Additionally, unions will have the ability to access employee lists and the contact information of employees, provided the union can demonstrate support from 20 per cent of employees involved.*

Our Position: This proposal is contrary to stakeholder discussions during the government's Changing Workplaces Review. As stated on Page 144, "the secret ballot process for certification should be preserved for all sectors."

We believe that card-based certification will diminish employee rights and prevent workers from determining whether they wish to be a part of a union. Secret ballot voting removes external pressures and remains the standard to ensure expression of democratic outcomes without illegal employer or union conduct.

Our recommendation is that the certification process for union formation and access to employee lists should remain at 40 per cent of employees involved to ensure privacy and avoid unwarranted pressures toward unionization. We also recognize valid concerns that the release of employee lists creates a violation of employee privacy.

Unionized workplaces require sophisticated HR and labour relations infrastructures to manage, thereby driving up costs. As well, there are significant costs incurred through the union organizing process. The proposed amendments potentially expose employers to a perpetual cycle of union organizing activity.

Regulatory Burden Relief

We believe that the cumulative regulatory burden discussed earlier has created an ongoing lack of business confidence and investment in this jurisdiction. Should the government move forward with the full implementation of the proposals within Bill 148, we ask you to consider the implications for Ontario's economic performance.

Directly speaking, Ontario's optimistic budget scenarios for 2017-2020 were predicated on significant business investment growth, at a rate outpacing Gross Domestic Product and the Consumer Price Index. We find it difficult to believe that these scenarios will be realized unless businesses are offered regulatory relief. Surveys conducted by the Ontario Chamber of Commerce and Canadian Federation for Independent Businesses have demonstrated declining confidence and investment intentions.

We urge the Ontario government to follow the lead of Alberta and Manitoba in considering a combination of income and corporate taxation reductions for businesses, increased support for training and productivity (business education, youth employment and R&D), energy pricing relief and direct payroll subsidies (youth, health and pension benefits)

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We have previously communicated these proposals to representatives of the Minister Responsible for Small Business and welcome an invitation for further engagement with the Hamilton business community.

Conclusion

Ultimately, as an organization that represents businesses, we remain committed to the productivity, safety, and welfare of their employees. What we question is the highly prescriptive approach taken by the government in the proposed bill, as currently presented without the appropriate economic impact analysis and reasonable consultation. We agree with the provision of income stability as a societal objective, however, we urge you to reconsider the feasibility of allocating a disproportionate share on the backs of overextended job creators.

Notwithstanding the current lack of alignment between employers and the proposals set out in Bill 148, we remain committed to working cooperatively with your government to ensure that workers in this province can continue to prosper and are protected against job losses, increased costs to consumer goods, and economic hardship.

Sincerely,

Keanin Loomis
President & CEO, Hamilton Chamber of Commerce

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