
Submissions to Law Amendments - Bill 100

International Union of Operating Engineers, Local 721

The International Union of Operating Engineers, Local 721 represents employees at Acadia University and Mount St. Vincent University. These are the union's submissions on Bill 100.

1. Sections 6, 8, 12, and 13 should be deleted

These provisions are subject to constitutional challenge because they breach section 2(d) of the Charter of Rights and Freedoms. The Bill disrupts the level playing field between employers and unions by giving the unilateral right to the employer to invoke section 8, which removes the right to strike and suspends collective agreement provisions. It would be difficult to imagine a more grievous unbalancing of the constitutionally protected right to meaningful collective bargaining. The playing field is completely tipped in favour of the employer.

Section 12 of the Bill has the effect of interfering with collective agreement rights on academic freedom, a substantive and significant interference with collective agreement rights of faculty. Section 13 applies s. 8 to a receiving university in a merger. If s. 8 is unconstitutional, so is s. 13.

2. The Bill unfairly targets unions

Bill 100 unfairly targets unions if a university is struggling financially. Based on the Minister's comments in the Legislature on Monday, the intent of the Bill is to provide protection to financially struggling universities analogous to the protection afforded to an insolvent company in bankruptcy.

But this is an erroneous analogy. Unlike Bill 100, Bankruptcy legislation is not anti-worker. When a company files a notice under the *Bankruptcy and Insolvency Act*, a company is protected from all claims of its creditors that existed up to the date of the filing. Bill 100, however, only freezes the claims of workers under the collective agreement. Other creditors have unfettered right to pursue their unlimited creditor rights. Workers may be owed thousands of dollars in wages and can do nothing about it, while Costco can sue in court. Moreover, if the company continues in operation, as would a university, the Bankruptcy Act permits employees and third parties to sue for debts that arose subsequent to the date of notice of bankruptcy. In Bill 100, however, debts owed to workers cannot be claimed under penalty of fines.

3. The Erosion of University autonomy

In s. 12, the Bill makes continued funding dependent on the university meeting certain criteria relating to the functioning of the University. At present, universities have autonomy in academic matters such as degrees offered, curriculum, methods of teaching, scope of areas of research. They also enjoy autonomy in acquiring and spending funds, setting tuition fees, and

accumulating surpluses; they make contracts, and elect decision-making bodies such as senates that establish curricula and other academic matters in consultation with faculty; and they have staffing autonomy, to recruit and employ employees and set wages and promotions consistent with their collective agreements.

Section 12 will place restrictions on that autonomy, with widespread repercussions. It is the first time in Canada that a provincial government has dictated the direction and operation of a university. It is an unprecedented trampling on university autonomy.

Universities are “bottom up” rather than “top-down” institutions. Decision-making for day-to-day operations is diffuse, rather than centralized. Universities are based on fields of knowledge, organized by semi-autonomous departments, such as history, chemistry, or economics. Highly educated skilled academics and staff in each department carry out “the production” of the university. As has been said, “all teaching, research and student learning is localized... department by department”. The university is organized around and dependent upon a range of academic groups. If these workers don’t do their job, the university won’t run.

This unique decision-making requires significant collegial participation. Faculty is in charge of departmental decision-making, and faculty and departments have substantial input in the operations at the center of the university. This collegial decision-making is reflected in the faculty collective agreement.

S. 12 attempts to dictate to the university how it will run and what programs and courses will be offered. Not only does the government lack the expertise to direct how a university will operate, it is attempting to overturn its very institutional structure established through collective bargaining history..

All of which is respectfully submitted at Halifax, Nova Scotia, this 30th day of April, 2015.