

OPSEU



SEFPO

It's time for the

*Respect the
Workers and
End the Housing
Crisis Act*

**A Brief to
the Committee on
the Administration of Justice
regarding**

**Bill 128
*Social Housing Reform Act***

Presented by:

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Monday November 20, 2000**

Introduction

The Minister of Municipal Affairs and Housing suggests that Bill 128 *the Social Housing Reform Act* is a simple administrative transfer.

Bill 128 is no administrative transfer. The Minister is seriously misleading the people of Ontario by suggesting this is a simple step in the download of housing from the province to the municipalities.

Bill 128 goes much further than a simple administrative transfer:

- it directly attacks our member's entitlements,
- it will mean reduced public housing in the province and
- it sets the stage for the privatization of one of our most important assets – public housing
- it attacks the low-income tenants' security of a home.

Who OPSEU Represents

OPSEU represents more than 1,000 members who work in social housing. Each day they labour to ensure low-income tenants in this province have decent and safe social housing.

OPSEU members provide professional, technical and administrative support at the Ministry of Municipal Affairs and Housing and assistance to the Ontario Housing Corporation. OPSEU represents the professional, administrative, clerical and security staff at the Metro Toronto Housing Authority. OPSEU members work in many non-profit housing providers in municipalities across the province.

OPSEU's Position on Bill 128

OPSEU's position is that Bill 128 should be withdrawn. The downloading of public housing in this province should be reversed. This government should upload the province's public and social housing stock back from the municipalities.

We are adding our voice to the many tenant and residents organizations, non-profit housing providers, and non-profit co-operative housing providers to say this government should make a real commitment to end of the housing crisis in this province. The province government needs to expand its role in social housing, not reduce it.

What has happened since Bill 152? The Housing Crisis Worsened!

Here is one example from the hundreds of stories available. An OPSEU member called our local union office a couple of months ago.

She recently had to leave an abusive relationship and was forced to leave her apartment. She was living in a shelter when she called our office. She works in a full-time job and has two children. She needed affordable housing. She found long waiting lists and nothing affordable in her neighbourhood. Her kids could not continue to go to their school. She spent 6 long months staying with friends trying to find a decent and affordable unit.

We hooked her up with the housing organizations. We represented her when her boss tried to discipline her because her concentration had been affected by the ordeal.

Her life was in turmoil thanks to the way this government deals with housing.

The government has abdicated its role in providing decent and affordable housing. It stopped building social housing in 1995. Then, it turned rent controls into the cash grab of the decade for landlords.

Next the download started with Bill 152. We said it in 1997, and we say it again today, downloading housing doesn't make sense. In 1997, OPSEU said that the financial download of social services, like housing, will mean the deterioration privatization of housing, deterioration in services, higher local taxes and more user fees. Bill 152 *the Social Improvement Act* that transferred housing costs to the municipalities was not the way to go.

Social and public housing should not depend on the local property tax base. The shift puts a huge financial strain on municipalities. This strain led directly to the threat of privatization of 5,400 units of public housing in Toronto in 1998. Housing services and programs like security, calls centres, and other support programs are being examined for privatization as we speak.

You called Bill 152 "The Act to Improve Services." We called it yet another gift to the private sector and a cutback on public housing.

OPSEU offices across Ontario are getting more calls from members every day who are searching for affordable housing. It's a growing phenomenon thanks to this government's approach to housing. More and more working people are homeless or living on the edge searching for affordable housing.

The Impact of Bill 128 on Housing

This government will repeat the mistakes of Bill 152 with Bill 128. Bill 128 is a housing policy headed in the wrong direction. Why do you create and exacerbate a housing crisis?

Bill 128 will mean less public housing in the province because cash-strapped municipalities cannot afford the liability for capital repairs and up-grades in the older housing stock. You have forced municipalities to look for ways to cut corners and save costs. You have provided no new money for social housing in this Bill. Municipalities simply can't afford to carry social housing.

OPSEU's position then and today is that social housing should not be a part of the local property tax bill. Local tax bases cannot respond effectively to business cycle fluctuations. Social services, like housing should be on the province income tax base.

Why Bill 128 is bad policy

Ontario is in the midst of a housing crisis today. Bill 128 will only further to deepen the housing crisis over the next 5 years and the longer term.

It will force municipalities to limit who gets into public housing. Municipalities will be able to set new rules on Rent-Geared-to-Income and the size of the units for low-income households. Bill 128 lets the Minister set targeting plans. Where is the protection that the new plans must be based on current levels?

Bill 128 is bad public policy. Bill 128 attacks the low-income tenants who rely on social housing for a roof over their head.

The Impact of Bill 128 on OPSEU Members – Section 51 rips up their Collective Agreement

The workers were promised a smooth and seamless transfer. The government suggests that it is business as usual for the front-line workers. The facts show otherwise.

1. Lay-offs

Bill 128 will mean lay-offs. As this government bails out of social housing, our members will be laid-off in the Ontario Public Service at the Ministry of Housing.

OPSEU members at public housing authorities will be laid off as the services they provide are cut back and privatized.

The Ministry claims Bill 128 S. 51 protects the terms and conditions of our members when they transfer to the new employer. That's just simply wrong.

In fact, Bill 128 says that new employers can change terms and conditions of employment as they see fit immediately following the transfer of the local housing authorities. Bill 128 **could** protect terms and conditions of work, but it doesn't. This government chose instead job instability and lower wages.

2. No Successor Rights

Under this law, our members lose their right to take their union with them. Bill 7 took away successor rights in CECBA and you have done it again with Bill 128.

This government treats OPSEU crown employees differently. Our members are consistently singled out and deny them the rights of other unionized workers enjoy. Other employees in other sectors get to carry their union with them. This government could have provided for successor rights in Bill 128 and it chose not to.

3. Unionized workers treated differently and unfairly

Bill 128 also tells our members that they have a supposed "choice". They can either quit or accept the transfer. In S. 51.8 unionized employees are treated differently and are hit just for being union employees.

First, if our members quit, Bill 128 denies them access to Employment Insurance, unlike non-union employees.

Second, Bill 128 overrides their collective agreement and denies them termination pay as they leave the Ontario Public Service.

Bill 128 should give our members a **real** choice in the midst of this massive upheaval. They should have the same choices as the non-union employees. They should have the choice to go with a severance package or to accept the transfer. The government should treat these loyal employees with the respect and professionalism they deserve.

Bill 128 claims to transfer our members' rights to severance pay under the Employment Standards Act. But at what rate of pay, when the new employer can change the terms and conditions of employment?

There are even more ways our members' rights are ripped up.

4. No grievance procedure, different benefits, personnel files transferred without consent

Bill 128 takes away their grievance procedure and ends any possible retroactive remedies on outstanding grievances. Their benefits plan is gone and transferred without negotiation. Their personnel files are transferred without consent.

5. Pension plans transferred with no negotiation to inferior plan

Their pensions are moved to a different plan with fewer benefits and entitlements without any discussion or negotiation. One of our members has a seriously ill wife who needs daily medical attention. He is 6 months short of his eligibility for retirement benefits under the OPSEU Pension Plan. But Bill 128 takes this away. He has paid for his benefits through his pension contributions. That's just plain stealing.

As Bill 128 is drafted, it overrides the Pension Benefits Act so that other members would not be able to claim access to their benefits in the OPSEU plan.

Final Comments – this government is making the wrong choices

The government has choices.

This government can do what is right. It can take action on housing policy to benefit all people (not just the rich with their tax cut).

With Bill 128, however, this government chose not to invest in new affordable housing.

This government could have consulted with front-line workers and tenants to develop a comprehensive approach to the housing crisis and to improve social housing. This government chose not to.

Each member in this legislature and on this committee must ask what will happen 2 or 3 years down the road. OPSEU believes the housing crisis will be worse because of Bill 128 and the provincial government's inaction.

In the short term, this legislation needs to be drastically amended. Minister Clement said he was holding public hearings to get it right. These amendments are urgently needed. Our detailed amendments are attached at the end of this brief.

Even better, you can withdraw Bill 128 and begin a new direction for housing in Ontario. This government can start to solve the province-wide housing crisis. You can start to build housing. This government can improve social housing programs. It can respect the workers' collective agreements.

The government should be introducing the Respect for Workers and End the Housing Crisis Act.

This government can give people real options and not simply a \$200 cheque.

OPSEU's Specific Amendments to Bill 128:

1. Retroactive Transfer dates

36 (2) Dealing with retroactive transfer dates

At issue: Government can make retroactive transfer orders they can prevent employees from filing grievances or from electing not to accept a job with the new employer. Also without that amendment, the transferor can use retro-activity to get out of liabilities to employees without transferring those liabilities to new employer.

Proposed Amendment:

"for the purposes of the transfer of employees, the effective date of the transfer order shall be the employee's last date of work for the local housing authority".

2. Consistent Treatment of Management, Unionized and non-unionized employees

S. 51.8.1 – Unionized and management employees deemed to have resigned

At issue: Unionized employees and management employees are deemed to resign from employment and not terminated if they do not transfer to the new employer. They are treated differently and unfairly from non-union employees. Only union and management employees are denied access to Employment Insurance. Non-Union employees are deemed to have been terminated and receive their ESA entitlements. Using the same language in paragraph 1 allows the unionized or management employees access to contract employment or collective agreement severance entitlements. Our proposed amendments ensure everyone is treated the same.

Proposed Amendment:

Replace "resigned from employment" with "deemed to have been terminated" in S. 51 (8).1

3. Protect the Severance Payment current severance entitlement for transferring employees

s. 51 (9). 3

At issue: S. 51 (9). 3 denies unionized employees their severance pay at the time of the transfer as they leave their employment with the crown. It overrides their collective agreement.

Proposed amendment:

Add new subpara b to S.51.(9).3 "all employees transferring to the service manager, transferee or local housing corporation shall receive severance payments no less than the amount they are entitled to in their collective agreement at the time of transfer.

4. Allow employees to file grievances after the transfer date

S. 51. (9).13 and 14 – Ability to file grievances

At issue: Employees cannot file grievances against the transferor if they do not get their entitlements under the collective agreement prior to the transfer date. For example, if the Government doesn't pay the employees or makes a mistake in their pay cheque or fires them on the transfer date, they have no recourse.

Why is the transferee liable for things the transferor has done?

Proposed Amendment:

In para. 13 subpara. (a) after the words "transferred employee" in the second last line and add the following subpara. (b) before (i) "or b) is filed after the effective date of the transfer and concerns the employee's rights or entitlements against the transferor"

S. 51.(9) para. 14 add "except as set out in para. 13 (b) above and 10 (d) below.

5. Trade Unions have grievance rights if certified under OLRA

S. 51 (10) – ability to file grievances

At issue: Para. 14 in 51.9 permanently forecloses grievances by a union that did not represents employees. For example, if OPSEU gets certification with a transferee, the Act should not prevent the union from filing grievances or proceedings against the new employee.

Proposed Amendment:

Add subsection to 51(10) a new subpara (d): **“on acquisition of bargaining rights under any Act, the trade union has all the rights, duties and obligations under that Act.”**

6. S. 51 (9).2 Act overrides Pension Benefits Act

S. 51.(9) 2 and S. 51 (11)

At issue: S. 51(9) overrides PBA S. 80

Proposed Amendment

Section 51(9) paragraph 2 be deleted.

Section 51(11) become 51(11)(a) and that the following be added as section 51(11)(b):

“For the purposes of subsection 51(11)(a), as of the effective date of the transfer, each transferred employee shall cease participation in and accruing benefits under the Public Service Pension Plan and the Ontario Public Service Employees' Union Pension Plan as the case may be and shall commence accruing benefits under the Ontario Municipal Employees Retirement System under the terms thereunder, provided that each transferred employee shall be entitled to credit in respect of the Ontario Municipal Employees Retirement System for the period of service with the transferor for the purposes of determining eligibility for membership in or entitlement to benefits under the Ontario Municipal Employees Retirement System”.

7. S. 56 Transfer of personnel files without consent

S. 56 regarding the transfer of employee files to transferee

At Issue: in other transfers from the crown, like the Ontario Property Assessment Corp.) employees were given the right to consent before the release of their personnel files to the new employer. Why should the government be able to transfer information in personnel files to the new employer without the employee's consent?

Proposed amendments:

Add subpara. S. 56 (d) "no provincial document concerning an employee of the transferor may be transferred to a service manager, transferee, or local housing corporation without the written consent of the employee."