



Submission to the

Standing Committee on Justice Policy

Legislative Assembly of Ontario

RE: Bill 183 – An Act to revise and
modernize the law related to
apprenticeship training and trades
qualifications and to establish the Ontario
College of Trades

September 2009

Introduction

Ontario Public Service Employees Union (OPSEU) represents over 125,000 members in many areas of public service throughout the province of Ontario. Our members in the Broader Public Service (BPS), the Colleges of Applied Arts and Technology (CAAT), and the Ontario Public Service (OPS) play an integral part in the operation of the apprenticeship system in our province.

We represent workers employed in the Ministry of Training, Colleges and Universities (MTCU), who administer the apprenticeship system in Ontario, and in the Ministry of Labour (MOL), who are responsible for enforcing compliance with the apprenticeship acts and regulation. In the college sector, we represent both academic and support staff members in the 24 Colleges of Applied Arts and Technology (CAAT) who deliver the in-school portion of apprenticeship training. In addition, OPSEU represents many members who hold trade certifications or are current apprentices.

We anticipate that a considerable number of our members will be affected by Bill 183, and in light of that, we appreciate the opportunity to have us present our views pertaining to the Bill to the Standing Committee on Justice Policy of the Legislative Assembly of Ontario.

Ontario Public Service at the frontline

OPSEU strongly supports public services and is opposed to any downloading of current Ministry functions to the proposed “College of Trades”. OPSEU is convinced that the government has to continue to be an active and visible partner in the apprenticeship system. In particular, the government, through the MTCU, should maintain its responsibility for promoting apprenticeships, setting training and certification standards, enforcing training standards, and certifying and licensing apprentices.

One of the most efficient ways to achieve the government's goal of enhancing the quality of apprenticeship training and expanding the system would be to re-establish the Apprenticeship Branch of the MTCU. A revitalized Apprenticeship Branch with a renewed mandate would be able to focus on ensuring that Ontario's apprenticeship system would be a leading example of quality and accountability.

For example, the experienced and trained consultants from the MTCU are in the best position to promote apprenticeship. Recently the MTCU has been allowing Ontario Youth Apprenticeship Coordinators and others to do presentations on apprenticeship in high schools but often the presenters are not familiar enough with apprenticeship to answer students' questions. MTCU staff should be doing the promotion in the schools because they know the system and can effectively respond to students' questions.

To be relevant, the College of Trades must represent an increase in the resources available to the apprenticeship system. The current role of the MTCU and work of any other relevant ministries in the system should not be devolved to or downloaded to the new College of Trades.

It is vital to take into account the knowledge of the frontline employees who work every day to promote and run the apprenticeship system in Ontario. In the last few years, the MTCU has gone through significant changes. The MTCU staff members who work as apprenticeship consultants and in the development of apprenticeship programs have had lengthy experience in administering the apprenticeship process. They have a substantial contribution to make to have a properly functioning College of Trades.

OPSEU is a strong advocate for public services and accountability in public institutions. If the College of Trades is to succeed it must remain closely integrated with the government. The College of Trades must work closely with the MTCU and other Ministries involved in apprenticeship. The College of Trades must have a clear relationship to the Minister so that any recommendations that it makes are received at the highest levels of the government.

Successor Rights

OPSEU strongly recommends that, given the fact that Bill 183 (Section 64) retains Ministerial responsibility for apprenticeship, that there be no reduction in either the current number of positions, or hours worked to administer and enforce apprenticeship agreements and training requirements. We further recommend that all employees hired under Bill 183 as employees of a trades governance structure be considered OPS members with full successor rights, seniority, and pension benefits as those currently working on apprenticeship and other relevant departments within the Ministry of Training, Colleges and Universities.

Finally, with respect to Apprenticeship—a responsibility retained by the Ministry of Training, Colleges and Universities under Bill 183 (Section 64)—we strongly recommend that the Minister, i.e. MTCU, clearly and unambiguously be mandated to enforce all aspects of apprenticeship program, including training agreements, standards, and training delivery agents. Unfortunately, as Section 70 is currently worded, this function is only left to the discretion of the Minister. Bill 183, Section 70, sub-section 1, p. 40 currently reads: “The Minister may appoint inspectors for the purposes of determining...” OPSEU strongly recommends that the word “may” be replaced with the word “shall”.

The Significance of Quality Public Education

OPSEU maintains that the public post-secondary education system and particularly the community colleges represent the best avenue for the delivery of the in school portion of apprenticeship training. For many people, their only exposure to post-secondary education will be through the apprenticeship system. The skills needed by industry and society are not only technical but also encompass communications, teamwork and management competencies. The faculty members that teach in the community colleges

are professional in their field of expertise and they are also professional educators. Along with the experienced and well qualified staff in the public colleges of Ontario, they are able to provide the type of education that will produce well trained trades workers with a broad array of skills to succeed in industry and society.

In addition, a “laddered” apprenticeship system that integrates apprenticeship certification into more advanced degrees increases the status of apprenticeship and will encourage high quality students to enter into the trades. The public college system is in a unique position to be able to remove barriers between forms of post-secondary education and allow ambitious students to match their skills to education without sacrificing higher education options.

OPSEU believes that Bill 183 should clearly articulate the importance of quality public education in the context of the in school portion of the apprenticeship training.

Membership of the College of Trades

OPSEU believes that the membership of the College of Trades should be certified journeypersons and registered apprentices, only in the compulsory trades. Voluntary and unrestricted trades ought to be exempted from the College of Trades. A current non-compulsory professional body can always decide to move and become a compulsory trade if that is what it chooses, and thus be part of the College of Trades. Also, given that there are already certain existing governing colleges for certain voluntary and unrestricted trades (e.g. College of Early Childhood Educators); another regulatory body like College of Trades will only make the situation confusing, and has the fear of creating a two-tier system. If required, professional bodies that currently don't have their own governing college, may pursue to create their own in the future.

It should be noted, from a financial perspective, many non-profit and public sector agencies may find an additional set of mandatory fees too great a financial barrier.

In the voluntary and unrestricted trades, where there is no legal requirement for employers to engage highly skilled journeypersons and take on apprentices, there is a concern that even these limited prohibitions outlined in Part II (Bill 183, p. 5) will be a disincentive for employers in the voluntary sector to participate.

As noted above, employers may choose to refrain from membership when already many are members of employer associations where there are programs such as Accreditation Standards, that are usually peer reviewed structures with mandatory requirements that must be met to be accredited.

The Bill as it currently stands fails to reach its objective to incorporate all the unrestricted trades under its jurisdiction, and hence, should not be included under this Bill.

The much required shift from Discipline to Enforcement

There is a myriad of disciplinary procedures outlined in Bill 183. Indeed, the text and structure of Bill 183 is nearly identical to the professional colleges, designed to govern teachers, nurses, social workers, and early child hood educators. As such, Bill 183 creates conditions in which a written complaint from a member of the public is all that is required to trigger disciplinary procedures against College members.

As it is written, two-thirds of Bill 183 is devoted to disciplinary procedures while lacking the by-laws and regulations that could make the apprenticeship system better. Based on experience with the professional colleges upon which Bill 183 is modeled, OPSEU has considerable concern about the potential harassment of trades workers who will be subject not only to already existing laws, rules, codes, regulations, policies and contracts that govern worksites, but also to a new and broad array of “complaints” generated by “the public” alleging vaguely defined categories of “professional misconduct”, “incompetence” or “incapacity”.

It is worth noting that any unnecessary harassment of trades workers may very well discourage people from choosing a career in the trades, and thus undermine the stated objectives of Bill 183.

In his Review of Compulsory Trades, Tim Armstrong noted that far more scope is needed to ensure that employers, especially those in the compulsory trades, comply with a variety of rules, regulations, codes and standards. Most would agree there is a need for additional enforcement in the area of the underground economy and in the compulsory trades, and this is where we need financial and human resources to enforce existing regulations. Without adequate inspectoral staff, no regulation in the world can have meaning.

This is where Bill 183 should be focused, developing a unit that is adequately staffed, sufficiently authorized and appropriately empowered to create real consequences for employers—and workers—who are in violation of regulations and who put public and worker safety at risk.

To be effective, Armstrong argued that enhanced enforcement must:

...involve industry, labour and management in augmenting the enforcement role now performed solely by the Ministry of Labour inspectorate. The real knowledge of what is going on in the field lies with the industry participants. Their detailed and current day-to-day intelligence about field activities, effectively mobilized, could serve as an indispensable adjunct to the enforcement activities of the Ministry of Labour inspectorate. (Armstrong, p. 104)

This kind of enhanced enforcement unit—clearly mandated to enforce existing legal and regulatory requirements and endowed with genuine authority to create immediate consequences for those in violation—is precisely what appears to be weak or missing in the Bill 183.

Governance

OPSEU has considerable concern with the current governance structure of the College of Trades as outlined in the Bill.

There are a number of jurisdictional problems embedded in Bill 183 that, unless corrected, will obstruct the progress of any trades governance body. Of course, a number of these problems are rooted in the *Apprenticeship and Certification Act* and are a function of the confusion around occupations and authentic trades. Nevertheless, it is worth reviewing some specific issues.

The most obvious is the duplication of College membership embedded in Bill 183 by virtue of the existence of professional colleges for Early Childhood Educators, and Social Service Workers. We strongly oppose the mandatory imposition of a new governance structure on workers already enmeshed in existing Colleges. Ideally, we recommend that voluntary and unrestricted trades be exempt from the College of Trades.

Furthermore, the fees associated with Bill 183—for both employers and employees in these sectors—are especially worrisome as many agencies already struggle financially and the workers in these categories are not typically among the province's top income earners. These workers should not be obligated to pay twice for multiple governance structures.

Ultimately, there is no need to import the flawed structures of existing professional colleges, originally intended to address a much different classification of employees, into the skilled trades. Especially when there are already sufficient rules, codes, regulations, policy, contracts and collective agreements governing worksites. Indeed, there is a danger that any new governance structure will become immediately bogged down pursuing jurisdictional issues that ought to be outside the mandate of a trades governing structure.

Under Bill 183, in the Appointments Council (Part XI), the new governance structure is supposed to be an arms-length body and not an agent of the Crown. In the first instance, the Lieutenant Governor in Council, on the recommendation of government, appoints the Appointments Council. The Appointments Council then appoints most other key decision-making bodies within the structure, namely: the Board; the Divisional Boards; and the Trade Boards. Furthermore, the Appointments Council will appoint the Roster of Adjudicators that will dominate the Review Panels charged with making recommendations on Ratios and Compulsory vs. Voluntary trades (Part XI, Section 63 (9), p.37). There is little accountability built in to this process and apparently no mechanism for appealing the appointments. Moreover, the criteria assigned to these appointments do not give adequate importance to expertise in the skilled trades.

To be genuinely representative and accountable, the governing board (Section 13, p.7) should at least be comprised of those with demonstrated expertise in the skilled trades and positions designated for employees must clearly be defined as—and be selected by—organized labour. Furthermore, we have grave concerns that under Bill 183, the so-called representatives of “the public” are expressly prohibited from having a current level of expertise by virtue of Section 13, sub-section 2 (p.7), where the concept of expertise is most unfortunately misconstrued as “bias”.

The College of Trades should be governed by a board that consists of representatives of the participants in the apprenticeship system including employers, private and public sector unions, educators and the government. The representatives on the governing body should be selected by their constituent groups. The governing body should also include representatives from groups which are underrepresented in the current apprenticeship system, who could then lend their perspective to the deliberations.

It is important that the governing body of the College of Trades be made up of journeypersons and apprentices. If the College of Trades is to be an effective means of raising the status of the trades then it must recognize the value of apprenticeship training.

Its governing structure must be an exemplar of the status that the trades should enjoy in our society.

One model that could be used would be the Canadian Apprenticeship Forum - Forum canadien sur l'apprentissage (CAF-FCA), which includes representatives from business, labour and government, as well as educators, persons with disabilities, women, visible minorities and aboriginal persons. The CAF-FCA also uses a consensus based decision making model that ensures each constituent group is able to fully participate in the process.

Conclusion

In the late 1990s, the government of former Premier Mike Harris decimated the legislation that governed trades and apprenticeship training: *the Trades Qualification and Apprenticeship Act* (TQAA). The majority of trades were removed from the TQAA and placed under a new Act: *the Apprenticeship and Certification Act* (ACA) where they were fragmented into pieces, or skill sets.

Sadly, rather than correcting this situation, Bill 183 entrenches the ACA's fragmentation of authentic trades. By replacing both the *Trades Qualification and Apprenticeship Act* (TQAA) and the *Apprenticeship and Certification Act* (ACA) and combining the classifications that existed under the respective Acts, Bill 183 permanently reclassifies fragments of trades and niche skill sets as "trades" (Bill 183, Section 9, p.53). In fact, under Bill 183, what used to be designated as a restricted "skill set" (i.e. "Water Meter Installer") is now explicitly redefined under Bill 183 as a *bona fide* trade. Furthermore, whereas the TQAA clearly establishes that an apprenticeship program must be a minimum of two years, Bill 183 makes no such provision. As Bill 183 is presently written, any program can be classified as an apprenticeship program regardless of whether such a program takes six weeks or six years to complete and regardless of whether the program is primarily in-class or on-the-job.

Unfortunately, Bill 183 fails to address the Mike Harris legacy and offers a model that appears far too complicated to enhance the implementation of decisions and far too oriented on disciplining trades workers to be effective. We, at OPSEU, are concerned that the structures envisioned by Bill 183 as drafted will be top-heavy and top-down, unaccountable, lacking a sufficient degree of expertise in the skilled trades, immediately mired in jurisdictional disputes, and bogged down in bureaucracy. As a consequence, Bill 183, as it stands, will fail to establish an effective governance structure that could promote authentic trades and apprenticeship training in Ontario.