



**Newsletter on the bill from the Government of Ontario:
*Protecting Public Services Act, 2012***

Context

As mentioned at the last APUO General Assembly, the Government of Ontario made public a bill announcing measures to eliminate the provincial deficit. Even though it is only a bill, and as such has no legal consequences for now, it nevertheless make clear the government's intentions regarding our future compensation, which will be negotiated in the next round of collective bargaining.

The bill grants the Ontario government the powers to influence, interfere, and if needed, force conclusion to ongoing collective bargaining efforts, once it becomes law. Ironically called Respecting Collective Bargaining Act (Public Sector) 2012, schedule 2 of the bill announces that signed agreements will not be re-opened, but that future agreements will have to be "consistent with the Province's goals to eliminate the deficit and protect the delivery of public services." The government even gives employers the explicit mandate to conduct collective bargaining in a way conducive to this goal.

Unlike Schedule 1 of the bill which addresses non-unionized public sector employees, Schedule 2, which applies to unionized staff, does not spell out specific financial objectives or budgetary measures to be met. Instead, the government has chosen to maintain the uncertainty and ambiguity introduced in its 2012 Budget. To that extent, the bill provides for a possible clarification of objectives and measures by way of future mandates (but without indicating when they might be adopted) from the Management Board of Cabinet.

Key points to remember

Even though the bill will likely be modified during the legislative process in order to get the support needed for its enactment (the Liberal government being a minority government), it is of fundamental importance to properly understand its current magnitude. The key aspects of the bill that will directly affect the round of collective bargaining to begin shortly are the following:

1. No compensation freeze is explicitly forced on APUO members;
2. No provision indicates that progress through rank (PTR) is forbidden for the period targeted by the bill (2 years);
3. Settlements will have to be consistent with the Province's goals to eliminate the deficit and protect the delivery of public services;
4. No settlements will come into effect prior to obtaining approval from the Government of Ontario. The government will therefore be able to reject a settlement and send it back to the parties for modification. In the event that the parties are unable to agree on a revised version deemed acceptable to the Government, the Government can unilaterally enforce a new settlement on both parties;

5. Until mandates from the Management Board are made public so as to clarify the specific goals to attain and the measures to implement, the main issue for APUO is to rigorously and fairly interpret the ambiguity inherent to point 3;
6. Schedule 1 of the bill for non-unionized public sector employees is much clearer than Schedule 2. In Schedule 1, there is a clear two-year compensation freeze, just as there is a provision for an exception allowing that a benefit or perquisite may be increased, or an additional benefit or perquisite provided, to an employee or office holder during the restraint period in recognition of his or her length of time in employment or in office. This provision holds true only if it is authorized under the compensation plan as it existed before the law comes into force. Progress through rank (PTR), as found in the 2011-2012 collective agreement, meets all of these conditions;
7. Since the specific measures in Schedule 1 are clearly “consistent with the Province’s goals to eliminate the deficit and protect the delivery of public services,” identical measures for unionized employees, like members of APUO, are also entirely consistent with these objectives;
8. Consequently, last Friday (28 September 2012) APUO has formally requested that the employer pay every APUO member his or her progress through rank for the year 2012-2013, which should have been available 1 May 2012;
9. Our salary and benefits proposals for the upcoming round of collective bargaining will rest on this interpretation of the bill;
10. APUO has already begun its preparation for the next round of collective bargaining and, to this end, will soon call for a General Assembly.

Finally, all of Ontario universities, at the initiative of the Ontario Confederation of University Faculty Associations (OCUFA), are working together to fight this legislation, including the possibility of challenging its constitutionality before the courts.

As always, your comments, suggestions, and feedback are greatly appreciated. Furthermore, we will keep you posted on any development regarding this bill.

Sincerely,

The APUO Executive Committee