Health Sector Lobby Kit

Proposed changes to:

Broader public sector bargaining

October 2012

CUPE SCFP Ontario

OCHU
ONTARIO COUNCIL OF HOSPITAL UNIONS

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Provincial government plan to cut health spending through unprecedented influence on collective bargaining

Background:

Since the March 2010 provincial budget Ontario's Liberal government – spurred on by the Ontario Progressive Conservatives (PCs) – has pursued an aggressive course to cut public sector spending. Severe funding cuts for hospitals, long-term care homes and health care services generally, are a key component of the government's plan to reduce provincial spending on public services.

In addition to significant health sector funding cuts, the Liberal government's plan to reduce spending includes, lowering the broader public sector (BPS) payroll through what it calls "compensation restraint" and media refer to as a "wage freeze" for public sector workers.

At the end of September 2012, the Liberals unveiled draft legislation cynically named the Respecting Collective Bargaining Act, 2012, (RCBA) that is far broader than a "compensation restraint" Bill. If passed unchanged, the proposed legislation would:

- give ministers extraordinary powers to seize control of public sector collective bargaining;
- set the stage, not only for wage freezes, but for compensation and benefit reductions;
- impose collective agreements;
- remove the right to strike for a class of workers;
- override collective agreement provision(s), regardless of how long they have been in place, and whether or not they are related to compensation;
- issue "mandates" that will affect service delivery, set criteria for saving targets that require employers to negotiate changes or the elimination of collective agreement protections such as job security, contracting out, and workload;
- prevent "mandates" from being challenged in the courts;
- make changes to interest arbitration that would affect the impartiality of the process;
- overturn arbitrators' decisions.

For their part, the opposition PCs have stated the draft Liberal legislation is too weak. They want legislation that breaks existing collective agreements, imposes an across-the-board wage freeze on public sector workers and completely alters the impartiality of interest arbitration.

Although Premier Dalton McGuinty, on October 15, 2012, announced his resignation and an end to the current legislative session – a process known as prorogation, he stressed that the Liberals would continue to pursue a public sector compensation freeze.

The Ontario Council of Hospital Unions (OCHU) and Canadian Union of Public Employees (CUPE) Ontario believe that essential health care workers who are already forbidden by law from striking, deserve a fair, neutral and credible arbitration process.

We encourage you to use the information provided in this health sector lobby kit to meet with your elected Member of the Provincial Parliament (MPP) and urge them to reject legislated changes that take away the right of health care workers to free collective bargaining and to an impartial arbitration process.

NOTE: This lobby kit is available as a PDF at: www.ochu.on.ca.

Key messages for the MPP lobby:

- In Ontario collective bargaining and interest arbitration are working well.

- Negotiated settlements free of government interference are the best way to resolve bargaining.

- The Liberal government is proposing legislation that we do not support, and if it is passed as drafted, it will go far beyond a "wage freeze" to:
    - give ministers extraordinary powers to seize control of public sector collective bargaining;
    - set the stage, not only for wage freezes, but for compensation and benefit reductions;
    - impose collective agreements;
    - remove the right to strike for a class of workers;
    - override collective agreement provision(s), regardless of how long they have been in place, and whether or not they are related to compensation;
    - to set ministerial mandates that will affect the delivery of public services.

- CUPE had an economist review freely negotiated collective agreements in both the private and public sector for the last 20 years. The findings show that compensation (wage) increases in the health sector are slightly below those that are freely negotiated in both the private and public sectors.

- In Ontario there are more than 200,000 essential health care workers who by law are forbidden from striking. In place of the right to strike they have been provided access to an impartial interest arbitration process under the Hospital Labour Disputes Arbitration Act (HLDAA).

- In both the hospital and long-term care sectors, arbitration is working well. It's not broken as some are claiming. Why change it?

- Arbitrated settlements in the health sector are less generous than for other essential service workers.

- The Supreme Court of Canada noted that…… *"If arbitrators are, or are perceived to be, a surrogate of either party or of government, or appointed to serve the interests of either party or of government, the system loses the trust and confidence of the parties, elements essential to industrial relations peace and stability.... A lack of confidence in arbitration would invite labour unrest and the disruption of services, the very problem impartial interest arbitration was designed to prevent."*

What to ask the MPP to do:

1. **If legislation that interferes with free collective bargaining in the public sector and changes interest arbitration making it less impartial, is introduced, we ask that you move to have those sections of the Bill removed in their entirety.**

2. **If legislation that makes changes to the arbitration process and interferes with free collective bargaining in the public sector is introduced, would you support province-wide legislative committee hearings on the proposed Bill?**

Effective MPP lobbying has five important parts:

1. A short explanation of what the issue is – in this case, potential changes to public sector collective bargaining and interest arbitration – and why you are meeting with them;

2. Strong key messages about the issue. (You will find these on page 3 of this lobby kit);

3. Using the key messages, provide the MPP with information specific to the local community and constituency he/she represents. Doing this makes it easier for the MPP to understand why the issue is important;

4. What you are asking the MPP to do. (See page 3 of this lobby kit);

5. Follow up within a few days of your meeting with a letter to the MPP giving a summary of the key issues you raised. If the MPP has asked you a question that you are not able to answer contact OCHU or CUPE Ontario and we will help you get the answer and respond to the MPP.
   (A letter template you can use is on page 5 of this lobby kit).

Lobby tips for meetings with MPPs:

Be specific and clear.

The key messages are the most important things we want the MPP to know (see page 3 of this lobby kit), said in the simplest way possible.

Don't feel that you need to rush through in order to make all the points listed in the key message section. Be comfortable in presenting the material and go at your own pace.

Give your lobby meeting a local feel by talking about and referencing what's going on in your community – the community and constituents the MPP represents.

Avoid being too broad or general (for example, "I need your support" is way too general).

An effective lobby also provides solutions. In this case a simple solution is to leave interest arbitration (HLDAA) and public sector collective bargaining as they are and not make any changes that would take away civil rights, like the right to bargain freely or make the arbitration system less fair and prone to government interference.

Remember to be courteous and respectful, regardless of the MPPs reaction to our point of view.

MPP Letter Template

(DATE)

Your Name
Your Address

(The Honourable) NAME OF MPP OR MINISTER
(NOTE: Honourable is only used to address Ministers)
Title (e.g., MPP or Minister of…)
Address

Dear MPP,

Thank you for taking the time to meet recently with a delegation **(your local area)** of health care workers. We are among the nearly 70,000 Canadian Union of Public Employees (CUPE) members in Ontario working in the hospital and long-term care sectors.

As you will no doubt recall our discussion on **(date of your meeting)** focused on potential legislative changes that would take away the right of health care workers to an impartial interest arbitration process and the majority of public sector workers' right to free collective bargaining.

We highlighted why it's important for health care workers in your riding (who for the most part female) who are forbidden under law from striking, to have access to unfettered collective bargaining and a fair and neutral arbitration process under the Hospital Labour Disputes Arbitration Act (HLDAA).

We want to reiterate that in the hospital and long-term care settings collective bargaining and interest arbitration are working well. They are not "broken" as some are claiming. Indeed in the hospital and long-term care sectors, arbitrated settlements are less generous than for other essential service workers and freely negotiated contracts mirror settlements in both private and public sectors.

(if the MPP has made a commitment to take some kind of action – include this paragraph) We also want to thank you for committing to **(add the action the MPP said he/she would follow through on)**.

Again health care workers in your riding are relying on you to not support legislation that takes away the right of health care workers to bargain freely and to access a fair interest arbitration process.

Thank you,

(Name of the sender and signature) on behalf of **(name the riding)** health care workers represented by CUPE and the Ontario Council of Hospital Unions (OCHU).

About the Hospital Labour Disputes Arbitration Act (HLDAA)

Ontario's interest arbitration system is the back up process available to hundreds of thousands of essential health care workers including registered practical nurses, personal support workers, dietary aides, skilled trades, cleaning and administrative workers whose bargaining rights fall under the Hospital Labour Disputes Arbitration Act (HLDAA) who are forbidden by law from striking.

Negotiated settlements between workers and employers, free of government interference are the best way to resolve bargaining. There is general agreement that it should be left up to workers and employers to design a process that they believe makes sense and works well for them to achieve a negotiated settlement.

While not perfect, employers, unions and arbitrators agree interest arbitration under HLDAA works to resolve issues when regular contract negotiations reach an impasse.

HLDAA requires health sector employers and the health care unions to bargain in good faith to reach a contract settlement.

Contrary to what some – including the Premier and many Liberal and Conservative MPPs – are claiming, arbitrated outcomes mirror wage and benefits in both the public and private sectors, which are freely negotiated. A ten year comparison of public sector wage settlements arrived at through interest arbitration shows they are virtually identical to those achieved for the same period through freely negotiated agreements.

In both the hospital and long-term care sectors arbitrated settlements are less generous than for other essential service workers.

The majority of heath sector employees whose bargaining rights fall under HLDAA are female. Ensuring the compensation rates of a predominantly female workforce keep pace with inflation is good public policy – one that benefits the provincial economy while helping to narrow the income gap between male and female workers.

In the hospital and long-term care sectors collective bargaining and interest arbitration is working well.

In 1996 the Mike Harris PC government made changes to the criteria under HLDAA that require arbitrators to consider the following in making their awards:

- Contract provisions for employees doing similar work;
- Impact on services;
- The employer's ability to pay;
- The ability of an employer to attract and retain qualified employees;
- The economic climate.

Under HLDAA arbitrators get to decide what factors they consider relevant and how much weight they give to any one aspect of the criteria. This is why the system is deemed independent and neutral.

Altering HLDAA by giving more weight to one criteria – for instance as in the employer's ability to pay – over another, would diminish the ability of arbitrators to make independent decisions because ultimately the ability of a public sector employer to pay is fully within the government's control since it is the funder.

Changes to HLDAA would seriously diminish health care workers' access to a neutral process:

- Where independent arbitrators are given adequate time to assess what is fair in awarding decisions on wages and benefits;
- That is in place because they do not under law have the right to strike;
- Free of government interference.

What we want MPPs to know about HLDAA

Key messages:

Ontario's interest arbitration system is the back up process available to hundreds of thousands of essential health care workers whose bargaining rights fall under the Hospital Labour Disputes Arbitration Act (HLDAA) who are forbidden by law from striking.

While not perfect, employers, unions and arbitrators generally agree that HLDAA offers health care workers, a credible and neutral model to resolve issues when collective bargaining reaches an impasse.

In both the hospital and long-term care sectors:

- ☐ Arbitration is working well. It's not broken as some are claiming. Why change it?
- ☐ Arbitrated settlements are less generous than for other essential service workers.

For the arbitration system to be seen as fair, credible and neutral arbitrators must be seen to be independent and free from any third party control – including the government – otherwise the integrity of the system is compromised. And health care workers will lose confidence in the arbitration system, creating turmoil and instability, similar to what is now happening in the school board sector.

In the health care sector, HLDAA allows for dispute resolution without labour instability largely because the system is perceived as balanced.

Under HLDAA arbitrators get to decide what factors they consider relevant and how much weight they give to any one aspect of the criteria. This is why the system is deemed independent and neutral.

Altering HLDAA by giving more weight to one criteria – for instance as in the employer's ability to pay, as the PCs are pushing – over another, would diminish arbitrators' ability to make independent decisions because ultimately the ability of a public sector employer to pay is fully within the government's control since it is the funder.

The majority of health sector employees whose bargaining rights fall under HLDAA are female. Ensuring the compensation rates of a predominantly female workforce keep pace with inflation is good public policy – one that benefits the provincial economy while helping to narrow the income gap between male and female workers.

Making changes to HLDAA:

- ☐ Will disproportionately affect women – who are the majority of health care workers;
- ☐ Is misguided and should not be used as a tactic in the government's effort to control the wages of public sector workers.