CFIB
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OF INDEPENDENT BUSINESS
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VIA EMAIL

November 18, 2021

Standing Committee on Social Policy
c/o Tanzima Khan, Committee Clerk
Legislative Assembly of Ontario, Procedural Services Branch
Room 1405, Whitney Block
Queen's Park
Toronto, Ontario
M7A 1A2

Re: Bill 27 (*Working for Workers Act, 2021*)

Dear Standing Committee Members and other MPPs considering Bill 27:

On behalf of our 38,000 small- and medium-sized business members in all sectors across Ontario, we welcome the opportunity to comment on Bill 27 (*Working for Workers Act, 2021*).

The changes under this legislation are coming at a time when many small firms are still struggling to get to the other side of the pandemic, and all are facing higher costs of doing business. As of November 9, 74% of small businesses are fully open, only 42% are at their usual staffing levels, and a mere 34% are at normal revenues. Additionally, in preliminary CFIB November survey results, 34% of the province's small firms say they are losing money every day they are open, and 54% say they are not back to previous staffing levels because they cannot get all the staffing they need.

The average COVID-19 debt for an Ontario small business is an alarming $190,000, **18.5% are *actively* considering bankruptcy**, and only one third consider their overall business health to be strong or very strong.

Right to disconnect

In May 2021, we asked our Ontario members to comment on the following statement: "Government should regulate how employers and employees communicate outside of regular business hours." A solid majority of 66% disagreed, while only 20% agreed. For 7%, the statement was not applicable, and another 7% said they didn't know/were unsure.

The pandemic has changed how some businesses operate. Many have been forced to pivot their operations to remote work. This shift will likely remain to a certain degree after the pandemic. Strict government standards could limit the flexibility of employers and employees to negotiate their work schedules, which are often affected by childcare responsibilities or other challenges of working from home.

This flexibility is a cornerstone of employer-employee relationships in many small businesses, because they do not operate within the traditional 9-to-5 workday. We are concerned that legislating a right to disconnect is out of step with the current realities of the unstructured workplace where a one-size-fits-all approach would just be an administrative hurdle, particularly for employers who require their workers to be on-call for certain periods.

Rules already exist around hours of work and overtime for employees. If employers are required to implement the proposed disconnecting from work policy, they should also be allowed to impose a policy that requires employees to only carry out duties related to their work and prohibit any personal activities or communications during work hours.

Some small business owners have told us that a right to disconnect would damage the flexible arrangements many employees now enjoy in the workplace. It could force small employers to prescribe rigid hours of work in a written document (red tape), and some have raised concerns around tracking “time theft” – i.e., monitoring time used in the workplace by employees for personal business.

We are also worried about how the government would enforce this legislation and its regulations, particularly as there would undoubtedly be exemptions for certain sectors or classes of employees, as well as provisions for emergencies.

In summary, a right to disconnect law would lead to more red tape and less flexibility for both the employee and employer, putting small businesses even further behind in the post-pandemic recovery period.

The 25-employee threshold should exempt most smaller businesses from the requirement to develop a written policy on disconnecting from work. However, we are concerned that once this policy is enacted, it will be expanded to include more businesses in future.

Workplace Safety and Insurance Board (WSIB) surpluses

CFIB has long advocated for the WSIB to return surplus funds to employers. Since the WSIB bases their funding level on *projections* of future claims payouts, it is understandable why the Board has been left with extra money since reaching a 100% funding level several years ago. By giving this money back to businesses, employers would end up paying an amount that reflects the WSIB’s *actual* claims expenditures.

Bill 27 proposes to allow the WSIB discretion on:

- Whether they should distribute excess funds if their funding level is equal to or greater than 115% and less than 125%.

- Timing, method, frequency, and value of disbursements.
- Schedule 1 recipients of the extra funds.

The fairest and most equitable way to implement this policy is by returning <u>all the extra funds to the employers that paid them in any year a surplus is realized</u> – i.e., surpluses should be returned <u>annually</u> <u>in full</u> to <u>affected businesses</u> by <u>direct payments</u>, rather than by WSIB account credits.

We recommend that the bill be amended to *mandate* the WSIB to return surplus funds as specified in the paragraph above.

<u>Non-compete agreements</u>

In a survey sent on November 4, we asked our Ontario members, "Should the Ontario government ban businesses from including non-compete agreements in employment contracts?" Preliminary survey results reveal that only 18% agree, a slim majority of 51% disagree, and 31% don't know/are unsure.

Some businesses have reached out to us to advise that there are unintended consequences to banning non-compete agreements. For example, it would intensify the labour shortage for small businesses: Poaching rates of smaller firms would increase, forcing them to start from ground zero on hiring. It could also drive some investment away from Ontario, as employers wouldn't want to lose their employees if they set up business here.

<u>Internationally trained workers and Canadian experience</u>

CFIB supports measures that help directly address the labour shortage, including the proposed changes to the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006* prohibiting a regulated profession and compulsory trade from including Canadian experience as a requirement for registration, unless an exemption is granted.

Making it easier for skilled immigrants to find work in their fields is a positive step forward and a strong leadership example for the rest of the country to follow.

When we surveyed our Ontario members before the pandemic in late February 2020, 79% told us they had experienced difficulties finding new employees during the past three years, and 50% said they had been affected by a labour and/or skills shortage during the past three years.

In preliminary results from CFIB's November survey, 62% of Ontario's small firms say that helping employers deal with labour/skills shortages should be a top small business priority for the provincial government. In the same survey, 34% of small businesses say they don't have all the staff they need for current operations due to labour shortages, and 21% say they cannot get the staff they need to expand or meet increased/new demand (i.e., they cannot take new contracts, serve more customers, or seize new opportunities).

According to our October 2021 Business Barometer® results, Ontario's small businesses say that shortage of skilled labour (37%) and shortage of unskilled labour (24%) are limiting their ability to increase sales and production.

Higher labour costs

In case the new minimum wage increases become part of this bill, we must remind elected representatives in this submission that **January 2022 is the wrong time to hit businesses with higher labour and other costs.**

Commercial insurance costs are skyrocketing, and some businesses are being dropped by their providers with little explanation. Supply chain pressure is inflating product costs. The largest Canada Pension Plan (CPP) hike to date under the federal government's CPP increase plan will take effect on January 1, 2022. Many businesses will lose their commercial eviction protection in mid-January and be asked to make up immediately for months of unpaid rent. Numerous small firms continue to face high electricity costs while waiting for the government to keep its 2018 election promise to cut hydro rates by 12 per cent.

We are concerned that the government chose to further increase the cost of doing business in Ontario with an up to 20% increase in the minimum wage for some of the hardest-hit sectors as they begin their post-pandemic recoveries. It is deeply troubling that the government made this decision without any consultation with the business owners who will be paying for the policy.

Higher labour costs will place many small firms in a tough spot, forcing them to make difficult decisions around employees, prices, and investment.

The government has made a point of communicating that costs have gone up for people, but this is also true for Ontario's small businesses. **Government needs to focus on addressing the other side of the rising costs issue: Lowering the costs that are going up. Otherwise, any gains in minimum wages will be offset by higher prices.**

Even small businesses without minimum wage positions will be impacted on January 1. As our members reported in 2017 – the last time a government raised the minimum wage beyond inflation – any time a minimum wage increase takes effect, it puts pressure on business owners to raise the wages of those already earning the new minimum wage or more, which further increases the pressure to raise prices.

The province needs a multi-faceted plan to tackle the fundamental challenge facing the current and future labour market: A lack of applicants.

We urge government to immediately delay all minimum wage increases until fulsome consultations have been held and an independent economic impact analysis has been conducted.

Thank you again for the opportunity to share CFIB's views on Bill 27. We look forward to our continued work with government and MPPs of all parties on labour measures that help Ontario's small businesses survive COVID-19, recover, and thrive.

Sincerely,

Original signed by

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