Legislative Assembly of Ontario

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

Bill 106
Pandemic and Emergency Preparedness Act, 2022
Summary of Recommendations*

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INTRODUCTION

This document is a summary of the recommendations presented to the Standing Committee on Finance and Economic Affairs during its public hearings on Bill 106, *Pandemic and Emergency Preparedness Act*, 2022, held in Toronto on April 5 and 6, 2022. It also summarizes written submissions received by the Committee Clerk as of 7:00 p.m. on April 6, 2022.

This summary is divided into two parts. The first summarizes the Minister's remarks and contains recommendations directed at specific sections of Bill 106. The second contains recommendations on other aspects of Bill 106.

This summary is intended as a working document to aid Members in their deliberations. It is not a complete historical record of all the evidence received by the Committee, or a comprehensive review of the arguments made by witnesses. Comments have been abbreviated and arguments summarized. Submissions expressing substantially the same point have been grouped together. For a full account of the evidence presented to the Committee, reference should be made to *Hansard*, and the briefs themselves.

Witness organizations are identified by abbreviations and individuals by their last names, which are listed in alphabetical order at the end of the summary.

MINISTER'S REMARKS

The Honourable Prabmeet Singh Sarkaria, President of the Treasury Board, appeared as the Committee's first witness. The Committee heard that the proposed legislation aims to ensure that Ontario is well-equipped to fight any future pandemic or threat to the lives and livelihoods of Ontarians, and is the first comprehensive post-pandemic preparedness plan in Canada.

The plan is built on three pillars: expanding Ontario's health workforce, building capacity for domestic production of critical supplies, and building more hospital beds. In addition, there are select initiatives and legislative pieces that complement the pillars of this plan and that are specifically designed to increase capacity in Ontario's health care system, strengthen government-wide coordination of emergency responses, and streamline policies that are necessary to safeguard Ontario for the future.

The first pillar is expanding Ontario's healthcare workforce. The Province is investing $763 million to provide Ontario nurses with a lump sum retention incentive of up to $5000 per nurse. A new Learn and Stay grant will provide financial support to postsecondary students who will work in underserved areas. An $81 million investment will expand the Community Commitment Program that will place nurse graduates in underserved communities. This support will help to stabilize the current nursing workforce as part of a stronger, more resilient health system.

Medical schools will be expanded over the next five years through the addition of 295 postgraduate seats and 160 more undergraduate seats. A new medical school will be built in the Greater Toronto Area. Barriers to practice for internationally-educated nurses will be lowered.

The second pillar is to build the capacity needed to produce personal protective equipment (PPE) and other critical supplies in Ontario. The Province invested $50 million to launch the Ontario Together Fund which supports businesses to develop solutions to controlling the spread of COVID-19 and retool to produce personal protective equipment. Amendments to the *Agriculture, Food and Rural Affairs Act* will stabilize and protect the Province's food supply, and build a resilient farm-to-table supply chain.

The third pillar is building more hospitals and hospital beds. The Province is investing $1.2 billion to help public hospitals recover from the financial pressures worsened by the pandemic. The government is adding 3,100 acute and post-acute hospital beds and is investing over $22 billion over the next 10 years in over 50 major healthcare infrastructure capital projects including 3,000 more new hospital beds.

SCHEDULE 1 (EMERGENCY MANAGEMENT AND CIVIL PROTECTION ACT)

Definition of "emergency plan" (Schedule 1, s. 1(1); EMCPA, s. 1)

Amend the definition to include "advance consideration of potential occupational health and safety issues with regard to the precautionary principle."

[ONA]

Same, provision upon request (Schedule 1, s. 2; EMCPA s. 5.1 (2.2))

Revise this section to read as follows:

> Every minister of the Crown and every designated agency, board, commission and other branch of government shall review the emergency management program annually to assess its responsiveness to the hazards and risks identified under subsection (2) and availability of the necessary goods, services and resources described in subsection (2.1) and provide such information on the status of its emergency program to the Chief, Emergency Management Ontario annually and at any other time requested by the Chief.

[ONA]

Commissioner operates under direction of Solicitor General (Schedule 1, s. 5; EMCPA, s. 6.1 (2))

Specify that the Commissioner is responsible for providing leadership and oversight for the implementation of the provincial emergency management plan and the responsibilities of the Chief, Emergency Management Ontario.

[ONA]

Provincial emergency management plan (Schedule 1, s. 4; EMCPA, s. 6.0.1)

Add “The Solicitor General shall further develop a multi-year progressive strategy to test the provincial emergency management plan.”

[ONA]

Add “The Commissioner shall be responsible for overseeing testing and implementation of the provincial emergency management plan, and coordinating among various levels of government and stakeholders engaged in the implementation of the provincial emergency management plan.”

[ONA]

Accountability and governance framework (Schedule 1, s.5; EMCPA, s. 6.1.1.)

Specify that the framework should be outlined in regulation.

[ONA]

SCHEDULE 2 (MINISTRY OF AGRICULTURE, FOOD AND RURAL AFFAIRS ACT)

General

Use this enabling legislation to harness policy actions that can eliminate obstacles to domestic food production, eliminate red tape and give growers the tools to contribute to the economy.

[OFVGA]

We welcome the proposed changes to give OMAFRA and the Food Terminal more tools to support the agriculture sector and to protect Ontario's food supply chain through future emergencies.

[OFVGA]

SCHEDULE 3 (ONTARIO FOOD TERMINAL ACT)

Contingency plan for emergency situations (Schedule 3, s. 1; OFTA, s. 4.1)

We strongly support this proposal to ensure a safe and stable food supply, and contingency planning, including the proposed measure allowing for a temporary location for the Ontario Food Terminal – we think this response is warranted.

[CFIG]

In many areas, an independent grocery store is the only food store in the community. Food security in these areas depends on an ability to access a fair supply at fair prices. Challenges to the supply chain are not always borne equally: we need to develop long-term solutions to system problems.

[CFIG]

The Ontario Food Terminal is critical for food security as it allows for the existence of independent grocers and independent farmers. With the help of our public health measures and contingency plans we were a leader in ensuring that the food supply could continue during the COVID-19 pandemic.

[OFTB]

SCHEDULE 4 (PERSONAL HEALTH INFORMATION PROTECTION ACT, 2004)

Format of records (Schedule 4, s. 1; PHIPA, s. 52(1.1))

Ensure that any regulations authorizing Ontario Health to specify electronic formats for access to records of personal health information, include a requirement for Ontario Health to consult with the Office of the Information and Privacy Commissioner of Ontario.

[IPCO]

Ensure that regulations require Ontario Health to consult the public by providing them with an opportunity to comment on the electronic formats under consideration for access to records of personal health information.

[IPCO]

Ensure that regulations made relating to Ontario Health's authority to specify electronic formats for access to records of personal health information require Ontario Health to make its specifications publicly available by posting the most up-to-date version of them on its website.

[IPCO]

Application (Schedule 4, s. 2; PHIPA, s. 73)

Exclude non-custodians from any new regulatory authorities for Ontario Health Teams (OHTs) to collect, use and disclose personal health information until we can be assured that non-custodians participating in Ontario Health Teams (OHTs) are subject to the same or equivalent privacy and security duties and obligations as custodians.

[IPCO]

Tailor new authorities so that Ontario Health Teams (OHTs) do not collect, use or disclose personal health information if other information will serve the purpose, and do not collect, use or disclose more personal health information than is reasonably necessary to meet the purpose.

[IPCO]

SCHEDULE 5 (PERSONAL PROTECTIVE EQUIPMENT SUPPLY AND PRODUCTION ACT, 2022)

Requirement to maintain supply of PPE and CSE (Schedule 5, s. 2(1))

Ontario's doctors look forward to working with the government to ensure an adequate supply of PPE is readily available to all sectors within the health-care system, including non-acute settings such as primary care, long-term care, home care, specialists' offices, and independent health facilities.

[OMA]

Prescribed requirements (Schedule 5, s. 2(2))

Add “(e) requirements for a plan of active management of supply to ensure its readiness to respond to an emergency.”

[ONA]

Supply chain management, government entities and public sector entities (s. 3(1))

Require the Minister of Government and Consumer Services to provide sufficient PPE and critical supplies and equipment (CSE) to all government and public sector entities to ensure workplace health and safety.

[ATUC]

Specify that the Minister may provide notice “upon declaration of an emergency under the *Emergency Management and Civil Protection Act*, or upon request of the entity.”

[ONA]

Supply chain management, individuals (Schedule 5, s. 5)

Add “and the Minister and the entity enter into an agreement with respect to supply chain management.”

[ONA]

Policies re prioritization (Schedule 5, s. 6(1))

Healthcare workers with direct patient care responsibilities should top the priority list for PPE. They must be provided reusable respirators such as elastomeric half-mask respirators for the remainder of the pandemic. Next on the priority list are people who work in non-healthcare high-risk settings like emergency services, meat packing, poultry, food processing, corrections, grocers, and warehousing. These are followed by workers in moderate-risk settings such as restaurants, retail, and transportation. Both sets of workers should be provided respirators by employers and fit-tested in the context of comprehensive respiratory programs.

[DSS]

General

Bill 106 will be transformative for our industry. We hope that this Act will support development of strong domestic PPE manufacturing. A domestic PPE industry is the right thing to protect our economy, our healthcare system, and our citizens and has widespread public support. We need to support our domestic PPE system now with centralized procurement.

[CAPM]

We need to have a well-stocked PPE stockpile at the ready, and we need to support domestic manufacturers of PPE so that we do not face the same problems in a future emergency.

[Smit]

Our two biggest failures to date have been the failure to support domestic manufacturers of PPE and the refusal to distribute elastomeric respirators to hospital workers.

[Smit]

This plan needs to address all the major problems of COVID-19 including long COVID.

[Smit]

Direct the Department of Health and Human Services or an appropriate federal agency to conduct a thorough assessment of domestic respirator manufacturing supply and needs for the immediate and long-term future.

[DSS]

Include a provision that Ontario companies producing PPE, that are able to provide a reasonable supply of products, meet all quality standards and expectations and are of fair market value, be given supplier priority, including where additional suppliers are required to meet full requirements, or that the procuring department provide adequate reason as to why supplier priority may not apply or be desired.

[Keating]

Include a provision that in order to assure the ongoing quality of the PPE products being procured, all products would be put through a province-wide central location where items are moved through on a first in, first out basis, ensuring that products will have an effective rollover to eliminate expiry. Also include a provision that emergency supply amounts be maintained by excess inventory as sufficient for a crisis, and care be taken to insure all items including low turnover items are not expired.

[Keating]

The current stockpile is for healthcare applications, not for the general public. If we get a new lethal virus, there's no stockpile for that.

[CAPM]

The supply chain of respirator manufacturing must be considered a national and economic security priority. There should be a robust domestic respirator manufacturing industry to ensure sufficient supply for healthcare and other high-risk settings, with capacity to ramp up production during respiratory emergencies such as another pandemic or surge.

[DSS]

Ensure this schedule requires the supply of PPE and critical supplies and equipment (CSE) to ensure the precautionary principle can be met and supported with specific planning and accountability measures.

[ONA]

SCHEDULE 6 (REGULATED HEALTH PROFESSIONS ACT, 1991)

Time limits (Schedule 6 s. 2(2); RHPA Clause 43 (1) (h.0.1))

Any time limit should begin after the applicant has provided all required information.

[CNO, RNAO]

Ensure that the Colleges are provided with up to 18 months to address backlogs in the internationally-educated nurses' registration processes.

[RNAO]

Canadian experience requirements (Schedule 6, s. 3; RHPA Schedule 2 s. 16.2)

We support changes to the Canadian experience requirement. It is not a requirement for registration as a nurse in Ontario for internationally-trained nurses to have Canadian experience.

[CNO, WeRPN]

Emergency classes of registration (Schedule 6, s. 3 (3); RHPA Schedule 2, s. 16.3)

We support mechanisms that facilitate registration during an emergency. During the pandemic, CNO registered nurses through the Emergency Assignment Class (EAC), as per existing regulations under the Nursing Act, 1991.

[CNO]

Extend the proposed emergency class of registration to internationally-educated nurses who are deemed safe to practice based on the CNO registration requirements.

[RNAO]

General

Make the Office of the Fairness Commissioner responsible for actively monitoring and addressing timeframe infractions, annually.

[RNAO]

Ensure consistency with the *Human Rights Code*.

[ONA]

SCHEDULE 7 (SUPPORTING RETENTION IN PUBLIC SERVICES ACT, 2022)

Compensation enhancement programs (s. 3(1))

We fully support making the temporary wage enhancement permanent for developmental service workers in Ontario.

[CLT, OASIS, WeRPN]

The implementation of a $3.00/hour wage increase will create costs for employers. The increase should account for mandatory costs such as pensions, etc. We need ongoing commitment to public sector workers that wages keep pace with inflation.

[CLT]

Extend the permanent $3.00/hour wage increase to include Registered Practical Nurses (RPNs). Without a wage increase it will be difficult to retain RPNs and attract new RPNs.

[WeRPN]

Change: "may provide for temporary or permanent compensation enhancements" to: "shall provide for permanent compensation enhancements."

[CLAC, TAIC]

Add a new subsection 3(1.1) that "the program must provide for enhancements for all frontline health care classifications as well as auxiliary classifications in health care in dietary, laundry and housekeeping, where the turnover in staff is greater than 10% in the previous calendar year."

[TAIC]

Add a new subsection 3(1.2) that "the enhancement shall not be less than was provided during the period April 24, 2020, and August 13, 2020, and not withstanding subsection 3(1.1), shall be provided at least to those classifications receiving the enhancement during that period."

[TAIC]

Add a new section that commits to providing sufficient funding to achieve a minimum annual healthcare wage increase. The method for calculating this wage-targeted funding increase would be the same as that used in the Employment Standards Act, Part IX, section 23.1 (4) (5).

[CLAC]

Commit to wage enhancements for all front-line healthcare classifications as well as auxiliary healthcare classifications in dietary, laundry, and housekeeping.

[CLAC, CUPE]

Direct or indirect funding (s. 3(2))

Add a new subsection Section 3(3) that "Health Care Employers shall comply with subsections 3(1.1) and Section 3(1.2) whether or not they receive funding under Section 2". This amendment will ensure that the enhancement will be payable to groups like staff of retirement homes which receive no provincial funding on a regular basis.

[TAIC]

Commit to a one-time funding adjustment, payable to all licensed retirement homes for all non-management employees working on site in licensed retirement homes, excluding hours directly paid for as extra care services that have been purchased privately.

[CLAC]

Rules re: labour matters (s. 5)

Remove this section. It overrides collective agreements and is therefore unconstitutional.

[CavLLP]

Complaints (s. 5 (1.2))

Remove this section and replace it with: "At the notification to the employer from the certified bargaining agent, the collective agreement is deemed amended to incorporate the enhancements mandated by Section 3 and the parties shall add to the collective agreement a revised wage schedule containing these rates". The wording as currently written may provide employers with an argument that arbitrators are prohibited from remedying any inappropriate wage gaps because some classifications are denied the statutory wage enhancement.

[TAIC]

Pay Equity Act—permanent compensation enhancement program (s. 6)

Remove this section.

[CavLLP, TAIC]

By designating this compensation enhancement as part of pay equity, this section overrides the *Pay Equity Act* as well as Charter rights regarding collective bargaining and collective agreements

[CavLLP, OEPC, ONA, TAIC]

Protecting a Sustainable Public Sector for Future Generations Act, 2019 (s. 7)

Repeal Bill 124.

[CavLLP, OEPC, ONA, SEIU, WeRPN]

Remove Schedule 7 and repeal Bill 124. Bill 106 does not guarantee wage enhancements being permanent for all types of healthcare workers. All essential care workers, who are mostly women and historically underpaid, deserve wage enhancements. Bill 106 will widen the gender pay gap. The best way to provide wage enhancements is to allow unions to freely negotiate and exercise free collective bargaining.

[CUPE]

No cause of action re: enactment of Act, etc. (s. 8)

Remove this section.

[CavLLP]

Change Section 8(1)(b) to "as a direct or indirect result of the making, or the improving of any provision of a regulation or of a compensation enhancement program incorporated by reference in a regulation; or". Workers shouldn’t be barred from challenging any reduction in this statutory enhancement.

[TAIC]

No deemed employment relationship (s. 9)

Change Section 9 to Section 9(1) and add new section 9(1.1) "Compensation under the enhancement plan is to be treated as wages for all purposes under the Employment Standards Act and collective agreements under the Labour Relations Act". If we seriously want to move towards economic and social justice for these workers, then the enhancements should be considered as wages for all purposes.

[CLAC, TAIC]

General

Remove this Schedule. It is unconstitutional because it overrides existing collective agreement language, denies a trade union the ability to file a grievance or unfair labour practice under the *Labour Relations Act* and undermines pay equity by wrongly treating enhanced compensation as remedies for achieving or maintaining pay equity.

[ATUC, OEPC, ONA]

In light of the constitutional infirmities of the Bill, it is recommended that this Committee and the Legislature request a legal analysis of the constitutionality of Schedule 7 from the Constitutional Law Branch of the Ministry of the Attorney General, prior to passing it.

[CavLLP]

Add the following non-derogation clause to the Schedule:

Non derogation

For greater certainty, nothing in this Act shall be construed as abrogating or derogating from the rights and requirements under the *Human Rights Code*, *Pay Equity Act*, *Labour Relations Act*, 1995, *Hospital Labour Disputes Arbitration Act*, *Crown Employees Collective Bargaining Act*, 1993, and the *Canadian Charter of Rights and Freedoms*.

[CavLLP]

We urge governments to commit to never again have wages for the developmental services and related sectors lag so far behind as to make the sector unsustainable.

[CLT]

Adopt measures to immediately raise the minimum wage of PSWs to at least $25 per hour and for it to be universally applied across all sectors of the health system.

[SEIU]

Raise the minimum wage of RPNs to at least $35 per hour to stop the loss of our frontline healthcare professionals.

[SEIU]

OTHER ISSUES

Bill 106 if passed in this format will deprive women, collectively, of millions of dollars of pay equity debt that they are owed by the government, and will continue to erode their pay equity rights and undermine their collective bargaining rights.

[CUPE, ONA, OPEC]

There will certainly be another pandemic and we must be better prepared with PPE, sustainable healthcare resources and a flexible system that adapts to the needs of our community. Despite the success of the Northern Ontario School of Medicine University, northern Ontario is dangerously short of physicians, lacks sufficient health human resources, and hospital emergency departments are hanging by a thread.

[NOSMU]

Medical residents are an integral part of the healthcare system. We want a greater variety of medical residency programs to keep our students in the north. The expansion of medical school seats is a major step in the right direction.

[NOSMU]

OMA supports measures contained in *A Plan to Stay Open* including those to recruit and retain more doctors, nurses, and PSWs and increase capacity of the hospital system.

[OMA]

To prepare for future pandemics:

- Require by legislation a provincial pandemic plan, including a mandatory review and update every five years to reflect changes in local public health practice, medical science and technology;
- Implement a standardized pandemic plan across public health units that is sufficiently flexible to account for differences and inequities across this diverse province;
- Sufficiently resource Public Health Ontario to be the central scientific and laboratory resource during a pandemic or public health emergency, including ensuring it has the complement of public health specialist physicians needed to meet its mandate during a public health emergency; and,
- Strengthen investments in public health.

[OMA]

We support Bill 106 because it will expand Ontario’s healthcare force and transform its healthcare system.

[RU]

Adopt sectoral bargaining in healthcare to bring stability to healthcare services and healthcare jobs.

[SEIU]

WITNESS LIST

Acronym	Witness	Date of Appearance
ATUC	Amalgamated Transit Union Canada	Written submission
CAPM	Canadian Association of PPE Manufacturers	April 5, 2022
CavLLP	Cavalluzzo LLP	April 5, 2022 and written submission
CFIG	Canadian Federation of Independent Grocers	April 5, 2022
CLAC	Christian Labour Association of Canada	Written submission
CLT	Community Living Toronto	April 5, 2022
CNO	College of Nurses of Ontario	Written submission
CUPE	Canadian Union of Public Employees Ontario	April 6, 2022
DSS	Dentec Safety Specialists	April 5, 2022 and written submission
IPCO	Information and Privacy Commissioner of Ontario	Written submission
Keating	Mark Keating	Written submission
NOSMU	Northern Ontario School of Medicine University	April 5, 2022
OASIS	Ontario Agencies Supporting Individuals with Special Needs	Written submission
OEPC	Ontario Equal Pay Coalition	April 5, 2022
OFTB	Ontario Food Terminal Board	April 6, 2022
OFVGA	Ontario Fruit and Vegetable Growers' Association	Written submission
OMA	Ontario Medical Association	Written submission

Acronym	Witness	Date of Appearance
ONA	Ontario Nurses' Association	April 6, 2022 and written submission
RNAO	Registered Nurses' Association of Ontario	Written submission
RU	Ryerson University	April 6, 2022
SEIU	SEIU Healthcare	April 6, 2022 and written submission
Smit	Nicolas Smit	April 5, 2022
TAIC	Toronto Area Interfaith Council	Written submission
WeRPN	Registered Practical Nurses Association of Ontario	April 5, 2022