

**INTERNATIONAL UNION OF OPERATING ENGINEERS
LOCAL 793 and the OPERATING ENGINEERS TRAINING
INSTITUTE OF ONTARIO**



**Joint Submission to the:
Standing Committee on Finance and Economic Affairs**

In respect of its study of:

***Bill 288, Building Opportunities in the Skilled Trades Act,
2021.***

INTRODUCTION

The International Union of Operating Engineers, Local 793 (IUOE Local 793) is a long-established construction trade union which received its original Charter in 1919. Today we proudly represent over 17,600 crane and heavy equipment operators working in all sectors of the construction industry, industrial and mining sectors across the province of Ontario and the territory of Nunavut. Members of Local 793 operate mobile cranes, tower cranes, concrete pumps, bulldozers, excavators, graders, tractor loader backhoes and many other types of heavy equipment.

IUOE Local 793 members play a critical role in the development of Ontario's infrastructure, and for more than 100 years we have built the roads and bridges you travel on, the subways you ride in, and the offices you work in. We also build pipelines, stadiums, refineries, subdivisions, and work in landfills, mines, and quarries.

The Operating Engineers Training Institute of Ontario (OETIO) is a progressive organization dedicated to the provision of quality training consistent with evolving industry needs and government standards in order to ensure a safe, efficient and effective construction industry.

The OETIO has been in operation since 1982 and is registered as a private career college under the Private Career Colleges Act, 2005. OETIO is a world-class training institute which offers Mobile and Tower Crane Operator, Concrete Pump Operator, Heavy Equipment Operator, and Construction Safety training programs in support of the construction industry. OETIO offers training through two campuses - one located in Oakville, Ontario and the other located in Morrisburg, Ontario.

OETIO is closely affiliated and supported by the IUOE, Local 793. Through its affiliation with the International Union of Operating Engineers headquartered in Washington, DC, OETIO is also able to facilitate training opportunities for members of Local 793 at the state of the art International Training and Education Centre based in Crosby, Texas.

IUOE Local 793 and OETIO fully support the skilled trades and apprentice system in Ontario and believe it is a vital element of a safe and successful construction industry in the province.

Through proper training, licensing, and enforcement a properly funded and well-designed skilled trades and apprenticeship system can serve a dual function. It can ensure a steady supply of skilled labour and it can protect the health and safety of workers and the public.

IUOE Local 793 and OETIO welcome the opportunity to comment on Bill 288 and to be involved in shaping Ontario's new skilled trades and apprenticeship system.

THREE KEY ISSUES

Today I will discuss three key concerns that Local 793 and OETIO have identified after reviewing Bill 288 and will recommend proposals to address these concerns. These three concerns are, 1) the absence of a purpose clause in the Act, 2) the absence of any reference to Trade Boards, and 3) the absence of a process and the absence of any criteria for making a prescribed trade compulsory.

1. Absence of a Purpose Clause in the Act

Among what we consider to be one of the most significant shortfalls of Bill 288 is the absence of a purpose clause.

It is, respectfully, simply a matter of common sense to include a statement of purpose to guide the interpretation and enforcement of a statute. It is inevitable that legitimate disputes will arise over the proper interpretation of the Act. In these instances, purpose clauses are an invaluable and necessary resource to resolve what otherwise may be two or more equally plausible interpretations. A purpose clause is a common feature of most regulatory statutes, including the Labour Relations Act, whose purpose is set out at section 2 of the Act and is routinely and regularly referred to by the Board when interpreting the statute.

A purpose clause is of particular importance with respect to Bill 288, because the legislation empowers the Ontario Labour Relations Board to adjudicate compliance and enforcement disputes.

In its past adjudications under the Ontario College of Trades and Apprenticeship Act, the Labour Relations Board adopted a consistent practice of downplaying the importance of occupational qualifications, training, and risk of harm in favour of giving priority to the types of labour relations considerations it customarily deals with. In fact, the Labour Board's treatment of compliance and enforcement issues under the Ontario College of Trades and Apprenticeship Act was a key issue that drove criticism of the regulatory system under the Ontario College of Trades.

This issue needs to be squarely addressed in Bill 288. We want to be clear that we are not proposing that yet another new tribunal be created to adjudicate compliance and enforcement issues. The Ontario Labour Relations Board is a sensible place to direct these disputes. However, the OLRB's expertise is in labour relations, not the regulation of trades. For this reason, it is critically important that Bill 288 contain a purpose clause and that the OLRB be directed to give deference to that purpose clause when adjudicating disputes arising under Bill 288. In order to assist in carrying out this proposal, we have prepared a draft purpose clause which we have attached to our written submissions at Appendix "A".

2. Absence of Any Reference to Trade Boards

The Ontario College of Trades and Apprenticeship Act provided for the establishment of Trade Boards. The Trade Boards were composed of an equal number of persons qualified in the particular trade in question and employers of persons in that trade. The Trade Boards had a mandate, which was set out in the statute, of providing advice and recommendations to the College with respect to the various issues touching on that trade. This was, in fact, a continuation of the role of the Provincial Advisory Committees that had operated under prior legislation (*Trades Qualification and Apprenticeship Act* – sec. 3). Trade Boards in some form have been an essential element of the regulation of skilled trades from the beginning.

The Trade Boards were where the boots hit the ground at the college of trades. Because the trade boards were composed of trade members and their employers, they were able to provide the most practical advice, reflective of conditions in the field, from those with the most intimate knowledge of the trade. The Trade Boards acted as the voice of the members that the College regulated.

Despite the foregoing, Bill 288 contains absolutely **no** reference to Trade Boards of any kind, and does not continue the Trade Boards that are currently in place and have been conducting valuable work for over a decade. In place of a statutorily recognized role, there is only a passing reference in sec. 42 that provides that the new Skilled Trades Ontario may establish committees and sec 45(4) empowering the chief executive officer to “establish industry advisory committees...” If Skilled Trades Ontario is going to be successful where the College of Trades failed, it will need the buy-in and support of industry stakeholders. The sharp and dramatic reduction in the role of industry stakeholders occasioned by disappearance of Trade Boards is not the way to achieve this. To remedy this, we propose that Bill 288 should be amended to give status to the existing Trade Boards and to recognize their essential role in providing informed advice to Skilled Trades Ontario.

3. Absence of Process and Criteria for Making a Prescribed Trade Compulsory

The term compulsory is incredibly meaningful to our organization.

It represents a commitment to workers’ safety and the delivery of the highest training standards possible for dangerous crane, concrete pump, and heavy equipment operation.

When a trade is deemed compulsory, a worker is required to be registered as an apprentice or to hold the status of a certified journeyperson in order to work within that trade.

Local 793 has been proactive in applying for compulsory status within our trades. While our OETIO training facilities provide training for three primary trades, Hoisting Engineer – Mobile

and Tower Crane, Heavy Equipment, and Concrete pump. Only Mobile and Tower cranes have achieved compulsory status and Heavy Equipment and Concrete Pump remain as voluntary trades.

Since the introduction of the Hoisting Engineer apprenticeships and compulsory certification under the Trades Qualification and Apprenticeship Act (TQAA) in 1979, the crane industry has seen an incredible reduction in the number of workplace accidents and fatalities as well as an overall improvement in the skill of workers on the jobsite.

In the years preceding compulsory certification, there were many crane related accidents. Between 1969 and 1978, crane and rigging fatalities accounted for 19.8% of all construction fatalities in Ontario. During that period, there were no training requirements for crane operators in the province. Since compulsory status was achieved, the rate of injury and fatality associated with crane and rigging has significantly decreased. The Statistics compiled by the Construction Safety Association of Ontario (CSAO) highlight that between 1979 and 2004, crane and rigging fatalities accounted for 8.8% of all construction deaths, which represents a 55.5% improvement from the years prior.

It is therefore not an exaggeration to say that compulsory certification has been a matter of life and death for our members.

Section 2 of Bill 288 empowers the Minister to determine whether a prescribed trade should be compulsory or voluntary. However, Bill 288 does not include any criteria that the Minister will take into account when determining whether a prescribed trade should be compulsory or not, and does not describe or provide any process for initiating a review of whether a prescribed trade should be compulsory.

Regulation 315/18 under the *Ontario College of Trades and Apprenticeship Act* sets out the criteria that guided a duly appointed and impartial Review Panel in deciding whether a trade should be compulsory or voluntary. Bill 288 eliminates this impartial review process and eliminates the criteria.

Given the importance of compulsory certification to the health and safety of trade members, construction workers, and the general public, Bill 288 should be amended to include criteria for classifying a trade as compulsory or voluntary, and also set out the process that will to be used to apply for compulsory status or review the status of a prescribed trade.

APPENDIX "A"

PURPOSE CLAUSE

The purposes of this Act are:

- 1) to meet the needs of the Ontario economy for skill labour by designating skilled trades and establishing apprenticeship programs to train workers in those trades;
- 2) to ensure that the administration of the trades and apprenticeship system is guided by industry;
- 3) to facilitate accessibility to apprenticeship training and to promote participation in the apprenticeship system;
- 4) to establish a framework for designating trades as compulsory and enforcing requirements for a trade qualification when this serves the public interest;
- 5) to enhance occupational and public safety in Ontario by ensuring skilled trades are practiced by qualified tradespeople;
- 6) to support and promote the value of a trade qualification, and
- 7) to affirm and strengthen Ontario's support for the Inter-Provincial Red Seal Program.