

UNANSWERED QUESTIONS, UNINTENDED CONSEQUENCES

By Phil Gillies

The Government of Ontario's Bill 66 changes the rules surrounding the contract agreements between the province's construction unions and public sector employers. With the passage of this legislation, many public sector employers such as municipalities, school boards, hospitals, and universities are no longer bound to construction union contracts.

Bill 66, under Schedule 9, says that public bodies are now deemed to be "non-construction employers." The new arrangement, open shop tendering, would allow any (presumably qualified) contractor to bid on the construction of public buildings. Proponents of open shop say it will open bidding up to many more players and, as a result, project costs will drop.

In the last issue of ReNew Canada, procurement expert Stephen Bauld's article, *Opening Pandora's Box*, raised concerns about the government's approach in Bill 66. In particular, he was concerned that he had not seen any fact-based research showing tremendous savings related to implementing Schedule 9. Mr. Bauld went on to state, correctly in my view, that we need to continue to attract the high standard of qualified contractors we presently have, both union and non-union.

The Bill 66 Mr. Bauld wrote about has changed through an amendment in General Government Committee of the Legislature. So, what happened and what effect will the

new Bill 66, Schedule 9 have?

Bill 66 as introduced last fall would have simply ended the union contracts with the municipalities and other public bodies across the province and come into effect upon passing the Legislature.

When the Legislative Committee was reviewing Bill 66 on March 19, 2019, the government moved to amend it to allow for a 'local option' under which employers will be allowed to decide whether to stay under the umbrella of the collective agreements, or to opt out. Cities, hospitals, and boards would be given three months to decide after Bill 66 becomes law.

Is this an improvement over the previous version? I'm of two minds on this. The amended Bill doesn't tear up all the agreements across the province, at least not right away. The decision will now have to be made by each municipal council and board employer. There will be localized fights across the province. Toronto, Hamilton, Waterloo Region, and Sault Ste. Marie are thought to be the big battlegrounds.

What will happen across the province remains to be seen.

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There are two issues that readily come to mind that I don't think were top of mind at Queen's Park.

Many of the union members who work for the public sector bodies have their benefits

and pensions through the union—not the employer. The Carpenters Union, for example, manages these programs for hundreds of their members working for the City of Toronto, Toronto Community Housing, and the Canadian National Exhibition (CNE). What is to become of these benefits the day their contract is torn up? Does the employer step up and take on the responsibility? Or are the workers just out of luck?

Another looming problem—the Building Trades Council and the Carpenters Union both testified before the General Government Committee that they will take legal action to have Bill 66 struck down in the courts. Before Bill 66 was amended, this would have been a direct battle between the unions and the province. But with the amendment in place, the municipalities and other employers will be making the decision whether to stay under the collective agreements or not. Will they now become parties to the litigation? Might Bill 66 be exposing the cities, school boards, and hospitals to millions of dollars in legal fees?

These important questions need to be answered as Bill 66 becomes law. ♣



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