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(Hansard)**

Wednesday 1 April 2009

**Journal
des débats
(Hansard)**

Mercredi 1^{er} avril 2009

**Standing Committee on
the Legislative Assembly**

Employment Standards
Amendment Act
(Temporary Help Agencies), 2009

**Comité permanent de
l'Assemblée législative**

Loi de 2009 modifiant la Loi
sur les normes d'emploi
(agences de placement
temporaire)

Chair: Bas Balkissoon
Clerk: Tonia Grannum

Président : Bas Balkissoon
Greffière : Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY**

**COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE**

Wednesday 1 April 2009

Mercredi 1^{er} avril 2009

The committee met at 1231 in room 228.

**EMPLOYMENT STANDARDS
AMENDMENT ACT
(TEMPORARY HELP AGENCIES), 2009**

**LOI DE 2009 MODIFIANT LA LOI
SUR LES NORMES D'EMPLOI
(AGENCES DE PLACEMENT
TEMPORAIRE)**

Consideration of Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters / Projet de loi 139, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.

TEMP WORKERS RIGHTS ACTION GROUP

The Chair (Mr. Bas Balkissoon): We'll call the meeting of the Standing Committee on the Legislative Assembly to order. We're here to continue public delegations on Bill 139.

The first presenter is the Temp Workers Rights Action Group. Please come forward. Could you state your name for the record? You have 10 minutes. If there is any time left after your deputation, we will entertain questions from the three parties. Go ahead.

Ms. Michelle Hruschka: Good afternoon, ladies and gentlemen. My name is Michelle Hruschka and I am the chair of the Temp Workers Rights Action Group from Hamilton, Ontario. We are a grassroots group that is dedicated to advocating for changes to the Employment Standards Act to improve the lives of those workers who are trapped in a never-ending cycle of poverty and despair.

They say that one must walk a mile in another's shoes to truly understand their path, so we are here today to try to bring a human face to the policy of "elect to work" and how that policy has affected a worker's human and labour rights. It is an effective part of a poverty reduction strategy and this committee must give equal weight to the voices of the workers in this policy change initiative.

Where is the justice? Where is the protection? A worker accepted an assignment at a local temp company that was to cover a maternity leave with a subcontractor for the city of Hamilton. The city of Hamilton has a zero-

tolerance-for-violence policy which one would think would cover workplace bullying, but for the temp worker, there was no protection. It was the second call made to the temp company where the supervisor had ordered the worker to do a pay check, in violation of the collective bargaining contract. Not only was the worker terminated, but the temp company refused to send the worker out on any more job assignments. After six months and repeated requests, the worker was still fighting for the record of employment in order to access EI benefits.

It was at this point that the worker had to apply for Ontario Works. It is unacceptable policy that the onus is put on the worker to produce the record of employment, and not the temp company itself, which has violated federal statutes on the issuance of a record of employment. One can go to the HRDC website and find very clear language on this issue.

Another worker found themselves unemployed from a temp assignment. This time, the issue was training, which clearly wasn't the fault of the worker but of both the temp agency and the client company. But it was the worker who paid the consequences.

But what if the training issue was a health and safety issue? Under clause 9(2)(a) of the Occupational Health and Safety Act, workers are required to have a joint health and safety committee where the workplace has 20 or more full-time workers in the workplace. I think it is essential that there is clear language as to what the definition of a "full-time employee" is. Who has the responsibility? Is it the temp company or the client company, on issues of occupational health and safety?

Temp companies could have 20 or more people working in very long-term assignments and they could be deemed as full-time employees, thus being entitled to a joint health and safety committee. After researching public holiday policy under the act, I knew that a probation period was non-existent and that the type of work that I would be accessing would not be considered exempt from statutory holiday pay. I applied for a job posting at a temp company. I did not sign the line on the application where it stated that I would be denied statutory holiday pay, as they deemed it as a probation period. The temp company representative had questioned me about the fact that I had not signed that, and I replied that I wished to get a ruling from the Ministry of Labour on this issue. The temp company rep again stated that this was company policy and I replied back, "It may be company

policy, but under the act, there is no probation period and I am entitled to a ruling from the ministry.” Needless to say, I was not given any opportunity for this job posting, and given my experience, I have to wonder, how many other workers out there who try to stand up for their rights are essentially blacklisted from any job opportunities?

The need for reform: I think it is important to remember the many workers who have fought and died for fairness and justice in the workplace. They fought for health and safety, benefits, the number of hours worked, overtime, severance and termination pay, vacation days and sick days. It is very unfair that 37% of all workers today are denied access to many of the rights that workers fought and died for.

I have to ask myself, where is the fairness and justice when a temp company can charge a minimum-wage earner a \$20-a-day fee for transportation costs? A temp worker earning minimum wage at 40 hours a week would have take-home pay of approximately \$1,200 every four weeks. This \$400 transportation fee is very excessive and would bring the temp worker’s earnings down to \$800 for a four-week period, and that isn’t very much to live on when one has to consider looking for shelter, food and any other personal items.

I will leave you with this last story, and I hope that it does touch your hearts. A young worker in my community had worked at the same temp assignment for over a year. The worker went to work faithfully and diligently. One day, the worker had a family emergency. He called in to the temp agency and explained the situation. This worker was terminated, fired—no notice, no termination pay. The worker had to fight for EI benefits and was denied because the worker had no representation, no union or worker representative to appear with him at the board of referees’ hearings. The worker had to apply for Ontario Works, which, for a single person, is less than \$600 a month. Under Ontario Works, the worker now falls under workfare policies, which also deny workers their rights to employment standards. I’m asking, can somebody please explain what this worker did that was so wrong? Why was he thrown into abject poverty? Who is really standing up for their rights?

1240

I think it’s important that temp workers, under Bill 139, have the same rights to family emergency leave that other workers get. Temp workers need to be able to take family emergency leave without losing their income, their job or their dignity. Bill 139 needs improvements to ensure that all workers have the same protection and rights to termination pay and any other employment rights standards.

I look around me in Hamilton and people are losing their jobs. What do they have to look forward to? Temp work—low pay, no stability, no security. Bill 139 should make sure that we do not get stuck in temp work. We need to be able to access permanent jobs with protection. Agencies should not be allowed to put up barriers to permanent work.

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Ms. Michelle Hruschka: I urge that you think of all the workers who struggle as you deliberate this bill. Workers need protection and they need to be treated fairly. The government needs to be committed to ensuring that there are laws to protect those workers and that those laws will be enforced. Please take a bold step forward. Change the law to ensure that those workers who are the most marginalized have a voice in their battle to be treated fairly and with dignity. These workers deserve to have their voice heard. Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time to be with us.

THE EMPLOYMENT SOLUTION

The Chair (Mr. Bas Balkissoon): The next presenter is The Employment Solution. Can you please state your name for the record, and you have 10 minutes. If you don’t use your 10 minutes, then there will be an opportunity for questions from all three sides.

Mr. Frank Wilson: I’m Frank Wilson. I’m the president of TES, The Employment Solution. The lady to my right is Chris Lusignan, who is the VP of finance and administration. She’s been working with us for 25 years. I’ve been in this industry for over 40 years.

What we’re going to say is very important, so we really hope that you will give us your undivided attention with regards to this important matter, Bill 139. My company, our staff, truly believe that this government does not want to cause irreparable damage to our industry or to the Ontario economy.

TES is a privately owned Canadian company in the staff augmentation business. What we do is find engineering, technical and information technology personnel to fill specific needs for our clients. We have been doing this for over 33 years.

In a year, TES makes over 3,500 contract placements and over 250 permanent placements. What we don’t do is abuse our candidates and contract personnel, whether they are new arrivals to Canada, new grads or people with a long-term work history here. We don’t charge candidates fees for being placed or for any other aspect of our services. We don’t prevent them from being hired full-time by any employer. We don’t send our candidates to unsafe work environments. We don’t exploit them financially. And depending upon the sector, our contractors’ average wages are in the area of \$35 to \$60 per hour.

But what we do do is care about our contractors and temporary workers. We care about their safety. We inspect worksites. We participate in our clients’ health and safety committees. We provide WHMIS and health and safety training to our contractors. We have developed our own comprehensive health and safety training programs for a variety of environments.

We also do care about their careers. We offer free career counselling, resumé writing, consulting and inter-

view coaching. We offer subsidized skills upgrade training in a wide variety of technologies. We advocate for them with the employer, and we offer assistance in negotiating if they are indeed interested in being hired on for full-time staff.

We also do care about another issue, and that is trust. We practise full disclosure at TES. Both the client and the contractor can see our complete cost and profit breakdown. They know they're getting a fair deal because they see where every dollar goes. There are no secrets.

Why are we here today? Because this bill will kill research and development and project-based industries in the province of Ontario.

Why do our clients hire contract personnel? Because many of Canada's important industries work on a project-based model. It's their nature—not anything controlled or created by ourselves. Aircraft companies work on designing and building new aircraft. High-tech companies work on developing a new piece of software or hardware. Major service corporations plan and carry out a major overhaul of their delivery infrastructure. Energy and natural resource companies build new pipelines or new extraction operations. The list goes on and on.

During these times, they need specialized skills that they wouldn't need the rest of the time. That's where we come in. We recruit designers, planners, engineers, software designers, and many others too numerous to mention.

And why are these people willing to work on contract? Because they make better wages on their contract than they would as full-time employees, usually 30% to 35% better. As our profit numbers show, that money goes to them, not to us. Because they want exposure to as wide a variety of projects and technologies as they can get—the kind of exposure they cannot get as full-time employees of a single company. And because this kind of exposure makes them subject matter experts. They are one of Ontario's skill resources, and part of what draws these corporations to base their operations and their major projects right here in the province of Ontario.

If you use this bill to make our services unprofitable and unviable, you do not magically create full-time jobs. You create a situation where the decision for many of these companies is easy: Take the projects and the work elsewhere, to other provinces, other countries, anywhere else but Ontario, because nowhere else in the world is there a law like this one that's being proposed here in the province of Ontario.

We believe that our industry is being portrayed unfairly. We're being portrayed as uncaring parasites that exploit people and add no value to the relationship. But on the contrary, we do add tremendous value to the people that we engage and to the province of Ontario. We grow the same way any other business does. We invest in our sales and marketing teams and we secure and create jobs, which are not advertised and would never be advertised. This is a huge value-add to Ontario's economy and a great way to put people to work.

Ms. Chris Lusignan: We put a lot of effort to find the right people for each placement. Recruitment is not a

simple task. We have to meet with the clients, analyze the requirements of each assignment, locate and contact the candidates and interview them. Depending on the requirements of the role, we need to conduct background checks, security checks, education checks, drug checks, credit checks. All of these require time and money. We need to arrange interviews, take references, negotiate offer and start of work, provide WHMIS and health and safety training, orient the new hire, and so on.

For the clients who hire us, we are a portable HR department. Without us, they would need to do all these things, and those things require time and money, no matter who does them. And we do them well.

We also believe that our contractors are being portrayed in a way that's disrespectful and unfair. They aren't disadvantaged, they aren't ill-educated, and they are not unable to complain if they feel they are improperly treated. Any dissatisfied contractor can launch a complaint, which goes to our executive committee.

They are not trapped by contract work. On the contrary, they are, for the most part, using contract work to obtain something else they want, and to learn and to earn.

Some of our contractors use it as a route to acquiring their first Canadian work experience—and there are many; as a way to try out a potential employer or industry before signing on; to expand their resumé with new projects, industries and technologies; as a way to finance other pursuits; as a way to fill in gaps between other obligations or projects; as a way to make more money than they would as a full-time employee.

1250

I have here a collection of letters from TES contractors. There isn't time to read all of them, but here's a sample one:

"My name is Kate O'Donnell. I got my first full-time job when I graduated in 1989, and promptly lost it one year later when the early-nineties recession hit, and my company dumped all its junior staff.

"Staffing agencies picked me up and kept my career going along with contract work for the next 10 years. My agent helped me build my skills, and even used the flexibility of contract work to let me achieve my dream; for five years, I worked summers as a forest fire lookout; my agent filled the rest of the year with contract assignments....

"In 2001, when I had my daughter, I started my freelance writing business, using the experience I'd piled up working through staffing agencies, for high-profile clients including Bank of Montreal, IBM, Nortel and Bell Canada—places that never would have looked at me, as a layoff victim with only one year of experience. Now, thanks to my contract work experience, I run my own thriving business, and TES is one of my clients. I love the flexibility it gives me to work at home and be a stay-at-home mother to my two kids, one of whom has special needs."

That's one story, but there are many, many other ones that speak to very positive situations. There's copy in the brief as well.

I want to conclude by saying that TES supports the intent of Bill 139 to protect the interest of workers. All ACSESS members are committed to this goal, and we can't stress that enough. TES supports most of the clauses included in it. We already adhere to those professional practices requirements. But I urgently request that the committee revise the following two recommendations.

Under the recommendations for the continuance of employment while not working—

The Chair (Mr. Bas Balkissoon): You have 30 seconds.

Ms. Chris Lusignan: —delete clause (b) of subsection 74.4(2). The notion of implied continuance of employment is contrary to the well-established principles of employment law and existing provisions contained in regulation 288/01.

Secondly, remove 74.8, paragraph 8 of subsection (1), and exception (2).

These recommendations, as they currently stand, spell disaster for us, for our contractors and for the clients and industries we serve, and through them, for the province of Ontario. We have existing laws and employment standards to prevent mistreatment and exploitation of contract workers. We don't need more laws. We need better enforcement of the laws and standards we already have.

The Chair (Mr. Bas Balkissoon): Thank you very much. Thank you for taking the time to be here.

GOOD JOBS FOR ALL COALITION

The Chair (Mr. Bas Balkissoon): The next presenter is the Good Jobs for All Coalition. Please state your name for the record, and then you will have 10 minutes. If there is any time left, we will have questions.

Ms. Tam Goossen: Good afternoon, Mr. Chair and members of the committee. My name is Tam Goossen. I'm one of the two co-chairs of the Good Jobs for All Coalition. The other co-chair, Miss Winnie Ng, could not be here today, so I am speaking alone.

The Good Jobs for All Coalition is a coalition of more than 35 community, environmental, labour, social justice and youth groups in the Toronto region. The coalition came together last summer to begin a focused dialogue on how to improve living and working conditions in Canada's largest urban centre. We hosted a Good Jobs for All Summit on November 22, 2008, at the Metro Toronto Convention Centre. We expected 500 people, but much to our delight and surprise, 1,000 people showed up to participate enthusiastically in our discussions.

At the summit, we all signed on to a declaration with a shared vision: Decent work is central to our fulfilment and well-being. Decent work provides people with a livelihood, an identity and a sense of belonging to the community. We must ensure there are good jobs for everyone, today and for the next generation. We reject policies which undermine and erode decent work.

One of the key workshops at the summit was on precarious work. A common sentiment among participants, many of whom were temp agency workers, was the shock that an underclass of temp agency workers stripped of their basic labour rights has been allowed to exist for so long in a democratic society like Canada's.

Major issues faced by these temp agency workers include workers having to pay hundreds of dollars to temp agencies in order to get any work, as many companies are only hiring workers through those agencies; frequent disputes regarding fees, deposits, vacation pay, and other issues between workers and temp agencies who act as if the Employment Standards Act does not exist, allowing them to make their own rules to maximize their profits at the expense of the workers; and workers who are confused by the definition of terms like "temporary" and "self-employed" when they work side by side with "regular permanent" workers on company payroll with full benefits, an experience which leaves them feeling vulnerable, disposable and exploited.

In this context, we applaud the government for taking the first steps towards rectifying the miserable situation faced by many temp agency workers. Bill 139 is an important signal that the government wants to protect its workers and bring fairness to the workplace. However, there are serious loopholes in the current version of Bill 139 which, if uncorrected, would undermine the very intention of the bill:

(1) What is the definition, and who is left out? When the government first introduced Bill 139, it said it wanted to stop agencies from charging fees for work, because that was unfair. Unfortunately, however, Bill 139 as drafted will allow about one third of the employment and staffing industry the leeway to charge workers fees for work. That is because the government has chosen to narrow the scope of Bill 139 so that only temporary assignment arrangements will be regulated, not permanent work placements.

There are documented cases where workers are charged fees to register for job placement services for permanent or temporary work that may or may not materialize. These include security guard agencies, cleaning services and live-in caregiver agencies. This is akin to moving one step forward and two steps back, and is not at all in keeping with similar legislation in jurisdictions like BC, Alberta, Manitoba, Nova Scotia, Nunavut, Yukon and the Northwest Territories.

We highly recommend that the proposed definition of "temporary help agency" and the scope of section 74.1 be broadened to address these concerns.

(2) No six-month exception to the rule: Currently, temp agencies restrict client companies from directly hiring agency workers by imposing conditions through fees and contracts. Bill 139 explicitly prohibits this practice, yet there is a six-month exception to the rule. This means that temp agencies can come up with ways to trap the workers through a series of contracts lasting no longer than six months. Because of this exception to the rule, many temp agency workers will continue in a precarious work situation which gives them 40% less

pay, little work stability and almost no benefits. The very purpose of the bill—to better protect temp agency workers and place more responsibility on agencies and client companies—will thus be rendered almost meaningless.

We strongly recommend that this six-month exception to prohibitions on barriers to employment be removed.

(3) Termination and severance: In theory, temp agency workers are currently entitled to termination and severance payments like other workers, unless they're considered "elect to work." However, it has been a practice in the industry to misclassify all agency workers as "elect to work" to avoid paying termination and severance.

Under Bill 139, temp agency workers would get termination and severance pay only if they are terminated by the agency or have spent 35 weeks in a row without any work assignments. Essentially, this would require temp agency workers to be on call for assignments every day for 35 consecutive weeks without any right to be sick or have family emergencies. All the agency has to do, to avoid paying termination and severance, is offer a worker one day of work before the 35th week. Under Bill 139, nothing can be done to stop this unending and very vicious cycle.

We highly recommend that this "elect to work" exemption be removed by regulation, and no special rules set for termination and severance. Section 74.11 should be deleted.

Finally, I'd like to conclude by referring to the declaration mentioned earlier. With that declaration, we call on people from all walks of life:

- to demand an economy with good jobs for all;
- to build social solidarity in our communities, our workplaces, our organizations and public institutions;
- to insist on public policies from all orders of government that support the goals of a just, equitable and inclusive society;
- to require all with power in our society to exercise that power for the common good;
- to ensure that economic activities are sustainable, enabling future generations to meet their needs while living in harmony with our planet and with each other.

Thank you for the opportunity to share our views with you, and thank you for exercising your power for the common good.

The Chair (Mr. Bas Balkissoon): Thank you very much. We have time for questions, one minute each, and we'll start with Mr. Bailey.

Mr. Robert Bailey: Thank you, Chair. Under the part about the six-month exemption, by that, would you expect the employment agencies to offer their services for free? What incentive would there be for a temporary agency to place workers if they wouldn't be able to recover those?

Ms. Tam Goossen: I don't think we expect temp agencies to offer all their services for free. I think we expect the temp agencies to play by the rules. What we are worried about is that because of the practice currently in place, there could be a number of temp agencies that haven't been playing by the rules. They can use this as

another way of trapping the workers in another vicious cycle.

The Chair (Mr. Bas Balkissoon): Thank you. Mr. Rosario?

Mr. Rosario Marchese: Mr. Marchese, maybe.

The Chair (Mr. Bas Balkissoon): Oh, jeez, sorry.

Mr. Rosario Marchese: But it's all the same.

The Chair (Mr. Bas Balkissoon): My apologies.

1300

Mr. Rosario Marchese: Tam, a quick question: In Europe, legislation requires equal treatment in wages and working conditions for workers hired through employment agencies. If they can do it, why do you think we can't? Why can't we do the same?

Ms. Tam Goossen: If I may bring a little bit of personal information to this, when I first came to Canada in 1970, I had to go to an agency as well. But in those days, there were also government employment services that people could go to. I think a lot of people would be in a better position to look for work with full confidence in the delivery of the service if it was a fully regulated service either run by the government or, really, if the government did its job to make sure its own legislation on the books is fully enforced. Times have evolved since I came, but it's unfortunate that since the repeal of the Employment Agencies Act in 2000, I guess, the field became—dare I say—a no-man's land. At least that's our impression from talking to workers and personal experiences. I think this bill is meant to rectify the situation. That's why we're worried. We want to make sure you do the right thing.

The Chair (Mr. Bas Balkissoon): Thank you very much. We'll move to Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for appearing before us. Can you explain to us what your view is in terms of how enforcement should be done by the Ministry of Labour? What's your view on how we can enforce the rules and laws that we make?

Ms. Tam Goossen: This is just from my own very limited experience. I would think that you have inspectors. From some of the discussions that we've had with workers, they were amazed that all these infractions could happen at the workplace, yet they've never seen anybody from the government to find out what's happening. That's why there's a strong sense of cynicism, as if they were working without any employment standards. Most of the workers we talked to were amazed that there was such a thing as the Employment Standards Act. Obviously, somebody has to enforce that legislation, and I would think that your front-line enforcement officers would—

The Chair (Mr. Bas Balkissoon): Sorry, we've got to move on. Thank you very much for taking the time to be here.

Ms. Tam Goossen: Thank you.

LORRAINE FERNS

The Chair (Mr. Bas Balkissoon): Our next presenter is Lorraine Ferns. Please state your name for the record,

and you have 10 minutes. If there's any time left after your dissertation, we will have questions from the others.

Ms. Lorraine Ferns: Okay. Hi. My name is Lorraine Ferns. I'm here because my experience working with temp agencies in Ontario has been so disheartening and hard. I'm here to speak on the importance of improving protection for temp workers so that other temp workers will not have to go through what I have.

I am now at a point in my life where I have become depressed and hopeless about the whole job situation. I believe that if Bill 139 had been in place way before this, my experience might have been quite different, and I would be employed to this day. I have worked for about two years as a temp in Ontario. I worked as a temp worker in Alberta and Montreal, and I have to say that Ontario has been the worst experience. The attitude I find here is almost flippant towards temps, and it was very discouraging at times.

Bill 139 would be good because I think an employee should know more about the assignment they are going to. Let me give you an example. On one assignment, I was told that I would pack boxes at a food packaging place. They said it was an easy enough job, but when I got there, I found that the boxes weighed at least 30 pounds and had to be packed and stacked onto pallets up to five feet high. We had to do it fast, as the boxes were coming down a conveyor belt.

I was working with another woman from an agency who was struggling like me. She told me that she had just had surgery. She still had the stitches. She had told the agency she could not lift but they sent her to this job. I was horrified. One of the men at the food company also got really angry and quite arrogant towards us because we could not keep up. I just felt like crying that day. The other lady and I considered walking out because it was so hard, but we could not walk out because we knew we wouldn't be given another placement. I spent \$40 for work boots for that particular job, but couldn't go back there as the work was just way too heavy, and I wasted the money.

We need information about assignments, to protect our health. On another assignment I was sent to a huge dry cleaning place that stunk of dry cleaning fluids. They said it was clean, but I had a huge allergic reaction to the dust and fibres from the frame dusters that I had to fold.

Temp workers bear huge costs when work suddenly ends without notice. We need to know how long assignments are and get notice when the job is going to end before the contract is up. Otherwise it is the worker who is left in the lurch. I was assigned to work in a clothing store, along with five other temps. The store was busy and we were told there was plenty of work. They gave us the impression that we would work there for quite some time. But after only three weeks, I was told by another temp that we had no more work as of the next day: They were cutting our hours to nothing. I phoned the agency to find out what was going on. My supervisor at the agency got annoyed and said, "Somebody over there has a big mouth. And yes, your hours are cut." Her attitude was, "So deal with it."

I was so angry and disgusted at how we were treated. I had bills to pay, I lived on a budget, I had to buy food etc. The agency acted like, "Whatever." Temp workers need notice if we are going to be laid off, or pay in lieu of notice. We found out why we lost our work: The company wanted to hire younger people and students who were coming out of school. The company just used us to fill in. They no longer needed us. I believe our supervisor knew the work would be less than promised and kept it quiet so we wouldn't find other jobs and leave the agency in the lurch. If I had known we were to be dumped so easily, I would have spent more time looking for longer contracts somewhere else.

When you are on an assignment, you do not have time to look for another job. You also become comfortable and you start to get to know the people you work with. The clothing company often told me that I was an excellent worker. I enjoyed the job. I wanted to apply for a job there because they were hiring, but I couldn't, because the agency wouldn't let the company hire us. Bill 139 should not let agencies stop us from being hired by the company.

I finally found another placement in an office through a different agency. The placement was supposed to only last six weeks. I ended up there for 15 months as the assigned company felt I was a good worker. I stayed in the company that long because they said they would hire me on contract. I worked for \$11.76 an hour. I worked as hard as the other workers, yet they were getting way more than me. I found it very difficult at times and felt exploited, as I had no rights there. I was there for so long I could not join a union, so the union could not help me. I started there as a scanner and ended up working at reception, data entry on the in-house data system, and I started to upload documents onto their intranet website. I was given an assignment to do on my own, but that was quite a big project of weeding, filing and checking for missing documents. Over those 15 months, with increased job duties, I was never offered extra money. I had to ask for more money with the added job responsibility, and only then did the agency pay me 90 cents more per hour. There were also other temps who were waiting and hoping to be hired and who would sometimes, like myself, get discouraged.

Another aspect of just working in general, especially in an office, is you have to worry about your appearance. You must look neat and have certain office attire, which costs money. After I paid my bills, there was not much of my pay left over, so I found it very difficult to keep up. I had to struggle to buy new shoes etc. The people in the office in general got quite high pay and dressed quite well. In this kind of setting, how you look is an important part of ever trying to move forward. Appearance matters. Like I said, clothes cost money, so I was expected to wear and buy some clothing. Being paid less than your coworkers creates many barriers as a temp worker.

One thing, however, that I found confusing was how they went about my holiday pay. Sometimes they gave it to me and other times they didn't. Finally, I asked my

supervisor what was going on and she told me the agent didn't have to pay me holiday pay because I was an "elect to work" employee. I thought this strange, as they paid sometimes and not others, so I challenged them on this at the end of my employment. I ended up receiving \$600 in back pay. That's how much they owed me. That is a lot of money. I had to struggle with my money during my employment without that \$600. It was very hard to survive. I could not believe that after 15 months, they would not even have the decency to pay me the holiday pay. Well, I did get my \$600, but they never gave me another assignment: They got rid of me. So I guess I learned that if you stick up for yourself, you get punished. That is why this bill is so important.

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Another example: I had another position for three months and did not get any holiday pay, which came to a couple of hundred dollars due to about three different holidays during the three months I worked there, and because of this I could not get ahead and fell behind in my bills. I ended up having my electricity cut off about two weeks before Christmas. I think the guy who came to cut it off felt a bit disheartened for me also because it was just before Christmas.

Temp workers are quite often seen as second-class workers. For instance, I had a friend from Ireland who needed a job. She worked as a temp and told me her boss was so awful to her that he refused to use her name and right there in front of her referred to her quite gruffly as "the temp" and would not acknowledge she was in the room. I also went without pay one week because one of my companies took their time signing my pay stub. This happened just about every other week. I was sweating I would not pay my rent on time. I was freaking out.

I can tell you many stories of how temps are looked down on. As well as worrying about all the other obstacles, there is a huge emotional factor. Many temps would like to continue to work at their assigned place and really want to just have a steady job and a little bit of security. You also get to know the people you work with and hope you can stay on. That is why it is a shame there's such a barrier for people in not being able to apply for a job with a company within the first six months.

Bill 139 is very important. Right now it is disheartening, especially with a recession. I myself am now confused about how to get employment, depressed, and I'm very disheartened. Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much. We probably have time for one question each. We'll go to the member from the NDP, Mr. Marchese.

Mr. Rosario Marchese: Lorraine, you did have a chance to look at the bill, correct?

Ms. Lorraine Ferns: I know what the bill is.

Mr. Rosario Marchese: Are there any things in the bill that you would like to improve or are you just happy with what there is?

Ms. Lorraine Ferns: I think that everything's important. I think there are certain things—there is some-

thing I didn't mention in here about paying for finding a job. I don't agree with that because I did pay for one job, which was doing background work. You pay your money and then I had one time when nobody called me. I paid out this money and didn't get a call back, so I just didn't think that was right. I think that is definitely important.

I don't understand why people should ever have to pay to look for work, especially with the recession right now. I'm actually amazed that people have to—people want jobs. People want to work. There should not be any barriers for anybody for employment.

Mr. Rosario Marchese: I just want to thank you for bringing your story to us.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon?

Mr. Vic Dhillon: Ms. Ferns, I want to thank you for your courage and your time here. I can certainly tell you that what you've said is dead on in terms of what happens out there to people such as you who find work through temp agencies. Again, I really, really want to thank you for your story and for your presentation.

The Chair (Mr. Bas Balkissoon): Mr. Bailey?

Mr. Robert Bailey: Thank you, Ms. Ferns, for coming in today. Do you feel that with the economy we're in right now, it will be important that we have temporary agencies to provide employment as the economy recovers? With improvements like this bill, we'll still need temporary agencies—sorry.

Ms. Lorraine Ferns: I think there definitely should be an improvement for temp agencies. The bill is very important because I've noticed that it's almost like temp agencies are popping up just so they can make a buck. It's almost like, "Let's start a business. Let's slap 'temp agencies' on there." I feel like temp agencies are good in one way, but there definitely needs to be something in place to make sure they don't get out of hand. I mean, they're great in one way, but in another way it's kind of like—if I go to Monster.com for my kind of work, for data entry and filing, everything is a temp agency. There's that barrier. I have to go to a temp agency, and I feel like that's not fair.

The Chair (Mr. Bas Balkissoon): Thank you very much, and thank you for taking the time to be here with us.

RANDSTAD CANADA

The Chair (Mr. Bas Balkissoon): The next presenter is Randstad Canada. Can you please state your names for the record. You have 10 minutes, and if there's any time left after your presentation, we'll allow questions of all three parties. Please go ahead.

Mr. Christopher Drummond: My name is Christopher Drummond. I'm the vice-president of marketing and corporate development of the Randstad Group in Canada. I'm here with Daniel Plante and Sébastien Girard, who have accompanied me today. I want to thank you very much for the opportunity that we have to make this presentation, to make our case and our point of view known as far as this bill is concerned.

Randstad Canada is one of the largest staffing and placement agencies in the country. Since 1981, Randstad and its divisions have helped Canadians find work in areas as diverse as general and skilled labour, technology, finance, engineering and HR. Temporary workers play a big part in the success of our company.

In 2008, we engaged 35,000 temporary workers; over 16,000 of these were in Ontario alone. Our customers include Canada's top employers in both the public and private sector. In fact, we're proud to say that we count the province of Ontario among our many customers.

We have earned a number of awards for our business practices, and in the past we have been named one of Canada's 50 best-managed companies. We've received two CIPA awards for the innovative use of technology, and we consistently make the lists of Canada's top employers.

We are proud of the work that we do in this province. We're proud of the contribution that we make, and nowhere is this more important than in the tradition that we have which is, we think, particular to our organization of giving back to the community. Each year we raise hundreds of thousands of dollars through employee donations. To give just one example, we host a charity auction once a year in one of our branches. It's open only to employees, and each year we use this auction to raise over a quarter of a million dollars, which we then donate to charities. Among the charities that we support are Sky's the Limit and Pathways to Education. Through these organizations, we've put almost 1,000 computers in the hands of underprivileged youth who want to pursue careers and change the things they're doing. We also support local charities across the country. One such charity is the Jennifer Ashleigh Foundation. Through our work with this organization, we've helped over 600 families with disabled children gain access to additional health care and support services. We do all of these things because we care about our status in the community. We care about giving back to the community. We care about the people with whom we work.

It's interesting, because as I've sat here, I've listened to a lot of the harrowing experiences of the people who preceded me, and I would share their concerns about the things that have happened to them. I would also say that these are not practices that are practised by companies such as Randstad. We take great pride in treating people with respect and treating people as they need to be treated, and in giving them opportunities to further their careers, whichever way they would like to do that, whether it's in full-time, permanent positions or temporary positions or contract positions.

Temporary work is a flexible alternative to permanent, full-time employment and it helps people, as we see it, gain experience as well as new skills. It's also a way for many people to support other pursuits, particularly in education and the arts. I remember Mary, a new Canadian who came to our office last year. She was looking for administrative experience. We helped her with a number of temporary assignments. After a few months,

she was offered a full-time position. She sent us flowers that day. The next time we saw her, tears were welled up in her eyes and she couldn't thank us enough. Mary still keeps in contact with us and she regularly sends us candidate referrals.

There's another story of Patricia, who graduated with a medical diploma but couldn't find work. She came to us discouraged. We placed her in a temporary assignment and within eight weeks she was given the opportunity to take on a full-time position because she had impressed her employer so much. Like Mary, she was pleased. It's hard to describe the look on her face. In fact, it's hard to describe the look on anyone's face when they get an opportunity to pursue a career in the way that they'd like to.

These experiences are played out time and time again in our offices across the country. It's one of the things that makes our business so rewarding, and I would venture to say that most of the people in our business are attracted to work in it—certainly in Randstad—because of the joy and satisfaction they get through helping people pursue their careers.

This is why we applaud the efforts of the government to strengthen the protections offered to temporary workers. Bill 139 is a step in the right direction. However, we are concerned about two provisions of the bill, which we feel will be counter-productive and actually end up hurting the very temporary workers the bill hopes to protect. These are outlined in detail in our submission, and I won't go into all the technical details here. I will only say that they involve (1) the requirement of staffing firms to maintain the employment status of temporary workers even though they are not working, and (2) the banning of client fees after six months when a temporary worker is transferred to full-time employment. We're concerned about these two provisions, which we feel, though they're well intentioned, are most surely going to increase employer costs and make temporary workers less attractive in the province today. In the end, these provisions will reduce employment opportunities available at a time when we can least afford it.

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The requirement for staffing firms to maintain the employment status of temporary workers, even when they are not working, will create increased costs and liabilities for temporary staffing firms and our clients. This requirement also imposes a standard on temporary staffing firms that no other industry has been asked to assume. If it prevails, we expect to see a decline in employment opportunities for temporary workers.

As for the banning of client fees when a temporary worker is transferred after six months to full-time employment, again we understand the intent is to encourage the conversion of temporary workers to full-time status. This already happens, however. In our experience, conversion fees of the kind that we charge at Randstad are not a sufficient reason for most employers to not offer temporary workers full-time employment.

At the same time, these fees defray the costs associated with our services, which include significant adver-

tising, networking and recruitment, background screening, administrative work and so on. Therefore, we respectfully ask that the members of the committee review these sections. Specifically, we ask that you remove the section dealing with the continuance of employment to temporary workers when they are not working and that the section banning client fees when a temporary worker is transferred to full-time employment also be removed. The details of our requests are outlined in full in our formal submission.

The Chair (Mr. Bas Balkissoon): Thank you very much. We have time for questions, and it would be Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much. You mentioned that you do charge a temp-to-permanent fee.

Mr. Christopher Drummond: Yes, we do.

Mr. Vic Dhillon: On average, what percentage would that be?

Mr. Christopher Drummond: It changes; it's different. I can't give you one particular percentage. It changes according to the contract that we establish with the customers we're dealing with.

Mr. Sébastien Girard: Therefore, it's different.

Mr. Christopher Drummond: It's also different depending on the kinds of roles that we're talking about. There are temporary roles. There are also contract roles with independent contractors, and they're all different.

Interjection.

Mr. Christopher Drummond: Yes, it's also on a descending scale, so that the longer a temp worker works with a client, the less money is paid as a fee at the end.

Mr. Vic Dhillon: For example, say, an admin assistant, would you be able to provide some sort of data on approximately how much you would charge?

Mr. Christopher Drummond: An admin assistant who has been on-site for four months or so—

Mr. Sébastien Girard: Three months and a half.

Mr. Christopher Drummond: Three months and a half, then, does not require—there is no charge at that point.

Mr. Sébastien Girard: Yes.

Mr. Christopher Drummond: There are other instances, particularly with our IT contractors, for example, where it goes beyond six months. That's the area we're particularly concerned with. So no, temporary workers, after they've been on for a few months, do not have to worry about the fee.

The Chair (Mr. Bas Balkissoon): Thank you very much. Mr. Bailey?

Mr. Robert Bailey: Mr. Drummond, can you give me an example—we understand about the two amendments that you're concerned with. What opportunity would new Canadians, immigrants to Canada and Ontario, have to work through agencies like yours?

Mr. Christopher Drummond: One of the things we have some difficulty with in the country, as you know, is integrating new workers into the economy. Very often their qualifications are not as well recognized. Again, we support the recognition of these qualifications and work

hard with many groups to make this happen. What we believe temporary work does is give new Canadians an opportunity to gain the experience that they need to be able to move into the kind of roles that they want to. We see that happen time and time again.

Mr. Robert Bailey: Do I have time for one more?

The Chair (Mr. Bas Balkissoon): Yes. Go ahead.

Mr. Robert Bailey: If the bill's implemented as written—hopefully we'll make some changes, if we see improvements, all along the way—what impact at the end of the day do you feel there would be to your agency and to other agencies that are trying to provide employment and doing a good job? We know there are some that need improvement out there, but what would be the outcome at the end of the day if it's implemented as written?

Mr. Christopher Drummond: If it's implemented as written, we believe it will discourage employers from using temporary work as often as they do. It will also discourage temporary work agencies from engaging people who cannot be placed for long periods of time and therefore can contribute to the organization. People who can only work on a very part-time basis, a few days a week or so on, will not be as attractive to employment agencies. So we truly feel that it will harm those who are least advantaged and most in need of protection by this bill.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo.

Ms. Cheri DiNovo: I'm sorry, I missed the beginning of your deputation.

My first question is about the province of Ontario and its use of temporary workers. Do you have any idea what percentage of workers in the province of Ontario are temporary or hired through a temporary agency?

Mr. Sébastien Girard: That's a good question. I know the spending in the federal government, but I don't know the province of Ontario alone.

Mr. Christopher Drummond: I'm afraid we don't have that. We know how much, of course, is spent with us, but we don't know how much is spent altogether.

Ms. Cheri DiNovo: We've submitted a freedom of information request. That's the only way to find that out.

In terms of the temp-to-perm fee, have you ever had a client company refuse to pay that fee or give you a hard time about it?

Mr. Christopher Drummond: Refuse to pay that fee? No.

Ms. Cheri DiNovo: The reason I ask that is, I know that agencies in the past have engaged in practices—I was in the business myself—of some signing, for example, of non-competition clauses when you hire on a new staff in your own agency, that would not stand up against a charter challenge. My concern with the temp-to-perm is that it wouldn't stand up against a charter challenge either, being seen as a possible barrier for employment, even though it's routinely used. I'm just wondering if a client company has ever said, "Sue me."

Mr. Christopher Drummond: No. Again, this is worked into the contracts that we sign with our clients. They see this as a cost of doing business. They do not see this as an impediment to hiring people full-time. In fact,

we have many, many examples of people who work part-time who impress their employers very much and are then asked to come on. I think it's—

The Chair (Mr. Bas Balkissoon): I have to ask you to cut it short.

Mr. Christopher Drummond: Oh, my goodness. Okay.

The Chair (Mr. Bas Balkissoon): Sorry to be that way. The answers are too long.

Mr. Christopher Drummond: All right.

The Chair (Mr. Bas Balkissoon): Thank you for taking the time to be here.

KELLY SERVICES

The Chair (Mr. Bas Balkissoon): The next presenter is Kelly Services.

Please state your name for the record. You have 10 minutes.

Ms. Karin French: My name is Karin French. I represent Kelly Services (Canada) Ltd. Thank you for the opportunity to share my thoughts on Bill 139, An Act to amend the Employment Standards Act.

Thirty years ago, I started my career as a temporary worker. As a student, I wanted flexibility and variety because I was unsure about what career path I wanted to follow. In my various jobs, I learned how to fold engineering maps, I made ID cards, I assembled Easter baskets, I packaged test tubes, I helped a hospital process patients on the midnight shift, I made telemarketing calls for a charity, I did filing for a government office, and I answered phones for an oil company. Today, I'm the vice-president and general manager of Kelly Services (Canada).

Many of you have heard of Kelly Services, but for those of you who have not, Kelly Services is a pioneer in the staffing business and has been operating in Canada since 1968. Kelly works with temporary employees, client firms and our own recruiters to put thousands of Canadians to work each year. In 2008, Kelly employed over 25,000 Canadians.

Last week, when I was listening to these proceedings, I heard many people imply that temporary employment is not a real job. I can assure you it is a real job. We provide real jobs to Canadians in many different fields, from accountants to clerical workers to scientists and light industrial. The particular assignments may be temporary, but the employment relationship is not. We are the employer of record. We offer salaries above minimum wage, we pay vacation pay, and we pay statutory holidays, according to our legal obligations. When required, we also issue a record of employment.

We offer skills training, free of charge. We offer employment variety and flexibility, free of charge. We act as career counsellors, free of charge. We provide access to direct employment at many respected companies, again, free of charge to our employees.

Our temporary employees are an integral component of business in Ontario. Our clients represent manu-

facturing, financial institutions, technology, logistics, energy and, yes, government. We compete fairly in the marketplace every day for the best employees and the best client companies.

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Our temporary employees have many reasons for choosing to work for Kelly. In some cases, a temporary employee wants a flexible schedule or employment variety, and the only way to get that flexibility is through temporary employment.

Other temporary employees are new Canadians. These people are recent arrivals to Canada and, by working with Kelly, they have the opportunity to gain necessary experience and skills. I've overheard individuals on the subway recommending Kelly Services to their friends and family. In fact, over 70% of Kelly temporary employees are referred by other satisfied employees.

Still other temporary employees are those between jobs. This employee may have been let go from another job and is working as a temporary employee as a bridge to a new career. And, of course, many of our temporary employees are returning to the workforce. Some parents choose to stay home to raise a family; some individuals choose to stay home to care for an elderly loved one. These people often turn to Kelly to re-enter the workplace to gain the necessary confidence and skills before turning to a new career.

In each of these cases, Kelly is a valuable partner for the temporary employee. Employment with Kelly Services isn't for everyone, but neither is banking, manufacturing or, in my experience, I learned working in engineering was not for me. However, our industry should not be subject to laws that are different than for any other employer. In the current economic environment, Ontario should not do anything that lessens flexibility for its employees and tilts the balance against Ontario.

I'd like to share some quotes from some of our employees:

Brenda in southwest Ontario says: "I just want to express my sincere gratitude to you throughout my tenure with Kelly. You guys were really awesome... This is what I was looking for and even more. I am truly happy. Without you guys this wouldn't be possible. Once again a big thank you to you and the rest of the staff at Kelly Services. You guys are absolutely the best. Thanks a million. I really do appreciate it."

This example is from a new Canadian who was placed on an assignment in Mississauga: "Thank you for your help and encouragement. Now I am working with RBC as a fund accountant since August 2008. I am grateful to you for your help, guidance and support to reach here. I was taking stock of my past few days and sharing the talk with my family. We are thankful to you and Kelly Services for the entry into RBC itself as nobody was known to us in those days of 2005-06 ... Again, thank you so much."

While these words from our temporary employees speak volumes, our recruiters also have a special voice.

With over 300 full-time employees working in 40 locations throughout Canada, these are the people working closest with our temporary employees, working to find them employment, helping them to gain new skills and open the door to regular employment for many of them, if they choose.

I could tell you many stories from our recruiters, but this one stands out from our Brampton office. We had an employee named Ophelia. She was in an abusive relationship and one morning came running into the office and tried to hide from her boyfriend who was right behind her. He burst in and began kicking her. I removed him from the office, locked the doors and called security. I talked to Ophelia and told her Kelly Services would help her get work regardless of what province she was in. Ophelia pressed charges and her boyfriend went to jail.

Ophelia was sent to a western province where I helped her get in touch with the local Kelly office there. They found her work right away. I heard from Ophelia about a year later. She was going perm at one of her Kelly assignments. Ophelia was a different person. She was happy, whole and safe. And Kelly Services helped her with gainful employment so that was one thing she didn't have to worry about.

So, as you can see, Kelly Services places a high value on the partnership we have with our temporary employees.

In closing, I'd like to request that you support the changes to Bill 139 requested by ACSESS. These changes can be found in my written testimony and you have heard what those changes are. However, in the interest of time, I'll forgo reading those changes and, instead, answer any questions that you may have. Thank you.

The Chair (Mr. Bas Balkissoon): We have time for one each. Mr. Bailey.

Mr. Robert Bailey: Thank you for coming and making your presentation today, Ms. French.

I know I've asked this question before, but I'd like to get it on the record again. We understand what your suggestions are for changes. What would be the impact on your business and businesses like yours if this bill was put into effect the way it's written?

Ms. Karin French: I think there would be an impact on our business, because we would be unable to put more Canadians to work. I think that it would impact the flexibility that Ontario employers look to organizations like Kelly Services for. If we do not have the opportunities from our client companies, we're going to be unable to put more Canadians to work every single day.

So the impact would be large, not only to employers, who I think would lose their flexibility, but also to workers, because there would not be the availability of jobs for them.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo?

Ms. Cheri DiNovo: Thank you for your deputation. The government and those who are supporting Bill 139 in its present format would say that this is simply putting upon you the onus that is put on every other employer as well. What would you say to that?

Ms. Karin French: I believe that it does. I think there should be a level playing field. I think that all employers should be subject to the same types of regulations.

The two that have been listed in here that we are asking for changes to are not those that are put onto other employers. So, whether it is the continuation of employment while they are not working—that would not happen whether you were working for the government or whether you were working for Kelly Services.

Ms. Cheri DiNovo: And have you found, since you've been in business with Kelly Services—and you've obviously had a long record with them—that more and more companies are using temporary, and that temporary positions comprise more and more of their workforce?

Ms. Karin French: I think it goes in cycles, like anything in the economy. I think you'll find that there are some industries that go up and down, and there are some cycles in employment. I certainly think that it is a very viable resource for talent management that people use. The business is changing, so it varies every day.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much. Can you tell us what your markup is? I know it might not be one number across the board, but maybe you could give an example of different jobs and what the markups are at Kelly Services.

Ms. Karin French: It's hard to say that. The reason I say that is that the definition of "markup" is very, very different, and a lot of people use words differently in what it comes to mean. Is it a markup over a pay rate or a burden, or what comprises that?

As well, we enter into contractual agreements with customers that dictate what our rates are, and those are varying, depending on the size of the organization, how much they use, the types of skills, the types of jobs.

There really isn't a way to give a specific markup, because it is certainly varying across many, many different lines.

The Chair (Mr. Bas Balkissoon): Thank you very much, and thank you for taking the time to be here.

Ms. Karin French: Thank you.

CHINESE INTERAGENCY NETWORK OF GREATER TORONTO

The Chair (Mr. Bas Balkissoon): The next presenter is the Chinese Interagency Network. For the record, would you state your names, please. You have 10 minutes. If there's any time left after your presentation, we will allow questions from the various parties.

Ms. Karen Sun: Hi. My name is Karen Sun. I am the executive director of the Chinese Canadian National Council. This is Yiman Ng. She is a health promoter with Queen West Community Health Centre. We're both here today representing the Chinese Interagency Network labour committee.

The CIN labour committee is comprised of eight agencies, including the two I've just mentioned, as well as the

Centre for Information and Community Services, the Metro Toronto Chinese and Southeast Asian Legal Clinic, Injured Workers' Consultants, St. Stephen's Community House, Toronto Chinese Community Services Association, Woodgreen Community Services, and the Working Women Community Centre.

Our committee deals with a number of different labour-related issues, including providing submissions to different levels of government, providing public education around labour-related issues, and sharing resources, information and strategies around labour issues for the Chinese community in Toronto.

Ms. Yiman Ng: First of all, the CIN labour committee would like to commend the government of Ontario for putting forward Bill 139 to review and update policies to better protect workers as temp work becomes an increasingly common way for people to find employment.

Our economy is changing, and the types of jobs that are available to people are also changing. It is increasingly difficult for anyone to find full-time permanent employment, but even more so for those from racialized or marginalized communities. For many people, working for a temp work agency is the easiest way for them to enter the job market. Unfortunately, many of them find it difficult to exit temp work for the stable, full-time employment they really want.

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We believe that a healthy society has citizens who are able to plan for their families and their future. For this reason, we feel it is not in the best interests of Ontario to support a system that encourages employers to hire people on a temp basis. That said, we are pleased that the government has moved forward with this bill. However, we feel that changes are required to ensure that the bill truly protects the workers who are the most vulnerable in this situation.

Since the start of the economic meltdown in late 2008, it has become even more challenging for Chinese immigrant and refugee workers to find jobs. These workers are not only subjected to fierce competition in getting jobs, they are vulnerable to exploitation by their employers. Many employers are hiring workers increasingly through temp work agencies in order to cut costs. Even though temp workers may do the same tasks under the same instruction as permanent workers, they do not receive the same benefits or pay and are marginalized simply due to their temp status. Temp workers feel that they have no rights in the workplace or with temp work agencies and face multiple barriers in voicing their struggles.

The proposed Bill 139 addresses some of the issues faced by temp workers, such as mandatory provision of assignment information to workers and the prohibition in charging fees from the workers. However, the issues faced by temp workers are complex. The proposed Bill 139 still needs to be broadened in order to provide more comprehensive protection for these workers, especially those in racialized and marginalized groups, such as women and newcomers.

Based on our experiences in working with temp workers, we recommend that Bill 139 address these issues;

however, we would like to make some amendments to provide further protection to the workers.

On equal pay: Some temp workers continue to work full-time in the same workplace for six months to a year or more. When a job lasts that long, it is no longer temporary. In addition, they often work side by side with workers who are hired directly by the workplace employer. They do the same job and receive instructions from the same supervisor, but their status and pay are very different. Workers from temp work agencies are usually the underclass in the workplace. Their pay is below the pay range for the same work. This is because temp agencies continue to get their cut as long as these workers are still on the agency's payroll. These workers do not receive any benefits. They are the most vulnerable, exploitable and disposable employees because they only have temp status in the workplace.

Bill 139 prohibits temp agencies from charging fees from workers and requires them to provide assignment information, which includes the rate of pay. However, the temp agencies and client employers can still take advantage of temp workers by paying them less to do the same work as permanent workers. The workers may not know that their wages were being cut because the pay rate on the paper does not reflect the pay rate that permanent workers receive. Temp work agencies should be required to pay their workers within the same pay range as the permanent workers and this pay range should be clearly stated in the assignment information in order to ensure transparency and fairness.

On termination: Bill 139 states that workers require 35 weeks of non-assignment in order to get termination entitlement. This is very harsh on these workers, considering the sporadic nature of the jobs that they get, and the "excluded week" is not being counted as time laid off. In essence, these workers have to wait for a much longer time to get their entitlement in comparison to non-temp workers under the Employment Standards Act. In addition, discrimination in job assignments will further jeopardize racialized and marginalized groups in getting entitlement.

All workers under the ESA should be treated with fairness and equity. Therefore, temp workers with 13 weeks' layoff within a period of 20 consecutive weeks should be entitled to termination or severance pay. As well, "excluded week" should be included because of unforeseeable circumstances, such as sickness or family emergencies. We recommend that the "elect to work" exemption be removed for termination and severance pay, as it has been for public holiday pay. In addition, home care workers should be included under this provision immediately and not be treated as second-class workers until 2012.

On issues of record of employment, most workers get deductions for EI premiums in their paycheque from temp work agencies. There have been complaints from temp workers about getting their ROEs. Some temp work agencies tell workers that it is not their responsibility to issue ROEs. Workers are being shuttled between the

temp agencies and the workplace employers trying to get their ROEs. In another scenario, workers finish their assignments and want their ROE, but the temp agency, which is their payroll employer, will tell them that they have not been laid off. The workers are still on the agency's payroll and may still be referred to new assignments. In reality, it is a layoff. It can be a long time before the workers get their next assignment. They may miss their opportunity to apply for EI even when they are eligible for the benefits.

It is strongly recommended that Bill 139 specify that it is the responsibility of the temp work agency to issue ROEs. Not having a job puts tremendous stress and financial burden on temp workers, who mostly come from low-income, marginalized groups. Having access to the EI benefits that they have paid into will certainly help to ease their financial burden.

Ms. Karen Sun: The six-month restriction in hiring temporary workers by workplace employers is also a problem. We strongly object to any barriers to permanent employment, such as fees charged to client businesses or employees of agencies. We know that some agencies currently have provisions in their contracts with workers stating they were required to pay agencies \$500 if they successfully seek employment with the referred client employer by themselves. These workers are not the property of the agency. Workers in Ontario are free to terminate their jobs with any employer, even if this is a long-term employer, and find jobs with other employers.

Bill 139 allows temp work agencies to charge workplace employers a fee if they hire the workers within six months from the start of the assignment. But the temp work agencies have already charged a fee from the workplace employers at the outset for each assignment. This is double dipping. This extra fee will deter workplace employers from hiring temp workers on a permanent basis, even though it may be to their benefit, as these workers are already trained to do the work.

We strongly object to this clause, because it is a violation of workers' rights to gain permanent employment. This will only set up a structural trap for our most vulnerable workers by further victimizing them from getting decent employment opportunities. Workers are not the property of temp work agencies. Any worker should be able to terminate their job with any employer and find jobs with others.

Enforcement is another issue. There's currently a triangular relationship between the workers—

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Ms. Karen Sun: —the temp work agency and the workplace employer. When a dispute occurs, the two employers will usually place the responsibility on the other party, so we highly support joint liability for the temp work agency and the workplace employer for any violations under the ESA.

In summary, we at the Chinese Interagency Network labour committee would like to recommend that Bill 139 be passed, but ensure that changes are made to address

the following: Temp work agencies should be required to pay their workers within the same pay range as permanent workers, and this pay range should be clearly stated in the assignment information in order to ensure—

The Chair (Mr. Bas Balkissoon): Thank you very much.

Ms. Karen Sun: Thank you.

The Chair (Mr. Bas Balkissoon): I realize your recommendations are in a written submission, so the members have it. Thank you for taking the time to be here.

KELLY TOM

The Chair (Mr. Bas Balkissoon): The next presenter is Kelly Tom. Please state your name for the record, and you have 10 minutes.

Mr. Kelly Tom: My name is Kelly Tom. Thank you for taking the time to listen to me.

I have been employed as a temporary worker for several years. These are some challenges that I faced as a temporary worker that were a detriment to my physical health and financial well-being. Some financial challenges I faced as a temporary worker were that I was paid at a lower rate than a non-temp worker doing the same work—also, arbitrary fees charged by the temp agency, and lack of access to termination or severance pay. These three issues have affected my quality of life and my ability to be self-sufficient. These three issues combined have caused my quality of life to deteriorate, as opposed to when I was a permanent employee with benefits.

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When I talk about fees, one agency asked me to pay \$250 to update my cover letter and resumé. I refused, and they actually refused me work because I said no to the \$250 that they would make off me. They said, "Go elsewhere."

Another challenge I faced as a temporary worker was a lack of access to permanent employment with benefits. As a condition of employment, the temporary agency would require that I sign a contract stipulating that I would not work for any of their client companies or subsidiaries. As well, the temp agency would have the client company sign a contract saying they would not hire a former client of theirs at their company or any of their subsidiaries. I faced these issues several times and therefore had to depend on the agencies for employment. This unscrupulous practice by the temporary industry has prevented me from obtaining stable employment with benefits, as most of the jobs available are through temporary agencies, many of which use the calculated practice of requiring both client companies and clients to sign contracts which prevent clients from obtaining full-time employment and companies from hiring qualified workers. An example of this is, I was looking for permanent work and had three phone calls in one week: one from a bank, one from an insurance company, and one from a market research company. They all said that they were required to sign a contract by the temp agency that if they

hired me—I don't want to give the name, but they said, "Well, your name is on this list. You work for this agency, and we do business with this agency, so we cannot hire you." This is very unfair. I was looking for permanent work. Considering that eight out of 10 jobs advertised are through temporary agencies, you don't know where you're going to be able to work or not work.

The financial aspects of fees, a lower rate of pay for temporary workers than permanent workers, and lack of access to termination or severance pay by the temporary industry overall have to stop, as they are creating more social costs and problems for the provincial government, in the form of higher social assistance costs and health care costs, while the temporary industry is making billions of dollars at the cost of the provincial government and taxpayers of Ontario.

The practice of preventing clients from applying directly to client companies or preventing client companies from hiring clients of agencies has to stop. It has a very negative impact and a profound effect on Ontario's economy overall, as it keeps people in a perpetual cycle of dependency and poverty. This is forced slavery in the 21st century and has to stop if Ontario is to have a viable, healthy economy to compete in the global marketplace, survive this recession and be the economic engine of Canada it once was.

The Chair (Mr. Bas Balkissoon): We have time for questions. Mr. Bailey.

Mr. Robert Bailey: Thank you for your presentation today. Would you suggest that staffing firms that offer these services—if this bill was implemented as it's written—offer those services for free? How would they be reimbursed for the training and the work that they do in preparing people for the workplace?

Mr. Kelly Tom: Actually, there are several non-profit organizations that help people write resumés and cover letters. So that's redundant. That should be taken away. That's just another added cost that's unnecessary. You have, like I said, non-profit agencies doing this. Why would the temp industry try to make money on something that's already being offered for free by the non-profit industry?

Mr. Robert Bailey: Another question: Are you familiar with the CCACs?

Mr. Kelly Tom: Yes.

Mr. Robert Bailey: Do you ever wonder why the government exempted them? In your opinion, should they be exempted or should they also be included?

Mr. Kelly Tom: Sorry. What does that stand for again?

Mr. Robert Bailey: Community care access centres. They provide health care in the homes. I just wondered if you had an opinion on why they were exempted from the bill. If you don't, that's fine.

Mr. Kelly Tom: I've read about it in the papers. I don't think they should be—they should be included in the bill, because you have all these people coming over from different countries and looking for work. It's stressful enough. They're coming to a different country; it's a

culture shock. And then to have all these fees charged to them to get a job—did you have to pay a fee to get your job? No, I don't think so. So why should these people have to pay a fee to get their jobs? They were trained in their countries to be a nanny or what have you. This is totally arbitrary and unfair, and this should be included. Nobody should have to pay a fee for a job, to work.

The Chair (Mr. Bas Balkissoon): Thank you. Ms. DiNovo?

Ms. Cheri DiNovo: I totally agree with you, Mr. Tom. Also, just for your information, if the agency did not introduce you to the client company, the client company is absolutely incorrect in saying that they can't hire you on and that they'd have to pay a fee to the agency, even under the situation we find today in Ontario, just so you know. I'm sorry that you went through that. I think a lot of the misinformation that goes out is what we're hoping to correct both in this bill and the amendments to it.

The other question I had for you, and I think you kind of answered it, is around nannies. There's been a lot of talk about nannies in the news lately, the fact that this bill could, but doesn't, include agencies that deal with overseas workers in homes, and really should. That's where a lot of the abuses happen in terms of the charging of fees etc.

Would you be in favour of extending this bill to include foreign-trained workers, nannies, as well?

Mr. Kelly Tom: Oh, definitely. It's a human rights violation as well, what they're doing. This has to be brought in, because it's going to put a black eye on Ontario in regard to human rights. If this is allowed to continue, we're not going to be a place to do business. With our economy the way it is, we need all the help we can get. We don't need these agencies to be putting a black eye on us as someplace that's going to abuse its workers once they get here. They have enough challenges being a new citizen, the culture shock. So I totally support this.

Ms. Cheri DiNovo: Thank you.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon?

Mr. Vic Dhillon: In Bill 139, the barriers to permanent employment will be removed; that's one of the purposes of the bill. How do you think that will help temp workers in their pursuit of getting full-time employment?

Mr. Kelly Tom: It will allow them to be more self-sufficient, with benefits. As it stands now, when you're a temp, if you apply for a job, you're more or less at the mercy of the temp industry and you're in a cycle of poverty and dependency on these agencies, which is putting a huge strain on the provincial government in social costs, i.e. health care and social assistance. Why should the provincial government pay those costs? The temp industry makes billions of dollars a year because they don't want to take away this clause. Everybody should play by the same rules.

Mr. Vic Dhillon: How much were you paid on a typical assignment, and what type of assignment would that be?

Mr. Kelly Tom: I worked in banks, insurance companies, call centres. I was paid anywhere from \$9 to \$12 an hour. This is below the industry standard in regard to pay, which would be anywhere from \$15 to \$16 an hour. I was paid at a lower rate.

On top of that as well, it's putting a huge financial strain on temporary workers.

The Chair (Mr. Bas Balkissoon): Thank you very much for being here and for taking the time.

Mr. Kelly Tom: Thank you.

THE STAFFING CONNECTION

The Chair (Mr. Bas Balkissoon): The next presenter is The Staffing Connection. Please state your name for the record, and you have 10 minutes.

Ms. Rebecca Artymko: Thank you. Good afternoon. My name is Rebecca Artymko. I'm here representing The Staffing Connection, which has locations in Peterborough, Cobourg, and Barrie, Ontario. Mr. Daynes, who was scheduled to speak before you today, was hospitalized, unfortunately.

Mr. Vic Dhillon: Sorry. How many locations did you say?

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Ms. Rebecca Artymko: Three.

Mr. Vic Dhillon: Three. Okay.

Ms. Rebecca Artymko: Yes. Unfortunately, Steve Daynes, who was originally on your sheet, was hospitalized and not able to make it. That's why I'm here before you now.

An area that the Staffing Connection focuses on is in the area of developing skills in the mindset of people who are, specifically, on Ontario Works and the Ontario disability support program, ODSP. In this regard, we're able to give these individuals various work experiences while on different short-term assignments. Some of the benefits of this are, as you're aware, that some individuals have personal issues or life challenges they're currently working on, but that are preventing them from being able to work at a permanent job. Where these individuals may need coaching, we're able to provide them with this assistance while accommodating their needs to build their long-term goal of sustainable, full-time employment so that they become a contributing, productive member of the community.

The Staffing Connection is a very community-minded company with emphasis on adding value to our employees and our clients. In 2008, we donated over \$50,000 to the Peterborough area. Our community mission is to build into the lives of those communities that we serve: the employees, the clients and just the community at large. Aspects of this bill will restrict our ability to accomplish these things.

I understand the intent of the government, but losses of employment and job opportunities, particularly for persons on Ontario Works and ODSP, will be one of the results of the government's actions if amendments are not made, along with the strong possibility of many

reputable agencies, including the Staffing Connection, going out of business.

The staffing services industry in Ontario has recently incurred some significant financial hardship as a result of general decline in the economy, combined with the adoption of the new statutory holiday, Family Day, in 2008, and the recent removal of "elect to work" provisions in the regulations. Nevertheless, the Staffing Connection, as a member of ACSESS, supports the initiatives to create a fair and balanced environment for all employees and employers in all industries in Ontario.

The Staffing Connection is supportive of Bill 139 in its objectives. Major concerns are limited to three areas: the continuance of employment while not working; termination of severance rights; and regulating business terms and client fees within service agreements. I will be speaking of two.

The continuance of employment while not working is the first one. The Staffing Connection is very concerned with subsection 74.4(2), because it creates an implied continuance of employment while not on assignment, which, in turn, constructs an inconsistency between the employer's obligation and the reality of the employment context. This is inconsistent with not only other jurisdictions within Canada but within North America. The legislation fails to appreciate the nature of temporary employment and the staffing services industry. It creates a different and higher standard for staffing company employers, and creates a higher cost burden and liabilities for temporary staffing companies compared to all other agencies in every other industry. The Staffing Connection is very concerned that this proposed amendment will result in a significant reduction in the number of short-term employees being hired and will result in higher unemployment in the province of Ontario.

This provision will cause the greatest harm to thousands of employees who choose temporary employment and benefit significantly from the flexibility and the training provided. Many times our employees utilize our services as a means to fill their employment gaps between seeking permanent positions. In many cases, our employees are hired on by our clients after a specific period of time working on our payroll. Some of these employees may never have had the opportunity at full-time permanent employment, except for the fact that we, as a staffing agency, were able to give them that opportunity to show our clients, and in some cases coach them through developing their work ethic and their skill set.

The employees who face various personal barriers or life challenges will have less of an opportunity to become integrated back into the workforce.

In the interest of time, our recommendations for amendments are very much in line with those that you've already been provided with through our association, ACSESS.

The second point that I'll be talking about is regulating business terms and client fees within service agreements. Paragraph 74.8(1)8 and subsection 74.8(2) limit a temporary help agency from charging a fee to a client in

connection with the services provided. The client is always the company or the organization and is never the worker or the candidate. Controlling financial business terms between staffing services and clients represents a misapplication of employment standards legislation in the area of consumer and commercial transactions.

The Employment Standards Act governs the relationship between employees and employers in Ontario, and the act should not be misused to interfere with established contractual business agreements between staffing firms and their clients. Temporary help services incur significant advertising, recruitment, background screening, risk and other overhead costs and should be permitted to offer their services to clients without government's arbitrary interventions, limitations and restrictions upon legitimate business terms.

This provision fails to provide any meaningful benefit to low-wage workers. It will significantly damage the largest percentage of the industry providing important services in areas of information technology, accounting, engineering, manufacturing, medical services and other professional services.

These amendments will cause significant hardship and irreparable harm to the Staffing Connection and, by extension, its clients and its candidates. The client loses the opportunity to evaluate the progress of a potential employee who may never have had the opportunity to be employed at that employer because of various issues with the employee's history. We've had many cases where a client has had the same employee's resumé but they would not interview them because of past history, but because they were placed on an assignment at that client through The Staffing Connection, they were retained by the client in a full-time permanent capacity after the specified contractual period of time.

We provide opportunities, not barriers to employment. The recommendations are definitely in line with the association ACSESS for regulating business terms and client fees within service agreements.

In conclusion, through Bill 139, the Ontario government specifically recognizes the importance of the staffing industry and the significance of the industry to job seekers, employees, employers and industry. Bill 139 will establish a new part in the Employment Standards Act defining the relationships between parties and special rules for the staffing service industry. The objective is to ensure that Ontario's employment legislation recognizes the needs of temporary employees and staffing firms that employ them in a fair, balanced way.

In these uncertain economic times, many of our clients will utilize the services of the Staffing Connection to meet the demands of peak orders. If they did not utilize our services, they still would not hire on their own because they don't know what tomorrow holds for them. In this scenario, no one benefits. Even if it was a temporary assignment, the low-income person will get no hours and therefore no money.

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time to be here with us.

Ms. Rebecca Artymko: Thank you.

The Chair (Mr. Bas Balkissoon): The next presenter is Nadira Gopalani.

Interjection.

The Chair (Mr. Bas Balkissoon): Did I miss one? My apologies; I've missed one. We'll get back to you next.

1410

LABOUR READY

The Chair (Mr. Bas Balkissoon): Labour Ready.

Can I get you to state your name for the record? You have 10 minutes.

Mr. Kevin Suter: Thank you, Mr. Chairman and members of the committee, for the opportunity to speak regarding Bill 139. My name is Kevin Suter; I'm the regional safety manager for Labour Ready, a temporary staffing company that specializes in blue-collar casual labour. With me in the gallery is Mark Tower, the area vice-president for Labour Ready.

Last year in Canada, Labour Ready put more than 24,000 people to work, more than half of those in Ontario. We served more than 6,000 companies, many of them small and family-owned businesses.

We support much of this bill, but I am here today because I think the authors misunderstand the staffing industry and don't know how this legislation will hurt the very people they intended to help. In particular, we are concerned with these provisions: It overrides the "elect to work" standards and does not recognize active versus inactive employment; it requires termination notice and severance for temporary and casual employees; and it requires written job descriptions before assignment.

When most people think of casual labour, they think of the cash corner, the illegal practice of hiring people off the street and paying them unfair wages under the table. Companies like Labour Ready are the legal and ethical answer to the cash corner.

Labour Ready is an on-demand labour provider. We fill job orders as we receive them. If one of our customers gets an urgent order, they can call us to fill 20 positions that morning. Businesses use our services when someone is absent, to meet seasonal demands, to fill high turnover positions, to complete special projects or to hire people through working interviews.

People work at Labour Ready when they're in between jobs, to learn new skills, or to make ends meet with a second job. On average, a temporary worker works for us for only 20 days—and that may be intermittently. Many use temporary work as a bridge to full-time employment. Labour Ready has never charged a placement fee or required a certain length of service before a customer can hire one of our employees. We also employ a lot of individuals whom traditional employers call unemployable. Some are homeless or incapable of holding a regular 9-to-5 job due to physical, mental or personal challenges.

The changes to the "elect to work" section would impose a standard upon the staffing industry that no other

industry is required to meet. Labour Ready truly is an “elect to work” employer.

When this bill was introduced, the Minister of Labour said, “A few decades ago, temporary help agencies provided workers for short-term clerical jobs.” We still do that, but for blue-collar jobs. Most of our jobs only last a day or two. Our employees choose whether to work on a daily basis. We do not penalize employees who work sporadically. At the end of each assignment, we assume that an employee has terminated his or her employment relationship with us, and many of our employees work at several agencies at one time. We have no way of knowing they’re available to work unless they sign in at the branch. This bill deems temporary employees to be current employees even if they do not make their availability known or choose not to work.

Say a Tim Hortons employee was able to work but decided not to show up to work for three months. If Tim Hortons gave them their job back, nobody in their right mind would say that that person was an employee of the company during the three months they did not work, and yet that is what this bill would mean for temporary staffing agencies.

Section 74.11 requires notice of termination if an assignment employee has not worked for 35 consecutive weeks. It is impractical to expect us to issue a notice of termination, particularly if we have no way of knowing whether someone is willing to work for us on any given day. Requiring us to give termination notices and severance will add an administrative burden that would be impossible to meet. We have no way of tracking the availability of thousands of employees who do not contact us. Likewise, it is impractical to expect us to pay severance and give a temporary employee 21 weeks of pay when they only worked 20, and to do so 35 weeks after they last chose to work. The cost would be passed on to our customers, and that will cost jobs. We recommend that you delete clause 74.4(2)(b). Staffing firms should not be held to a standard that no other company in all of Canada would be expected to meet.

Providing written job descriptions before an assignment will unnecessarily add to dispatch time, increase costs and ultimately cost jobs. We tell employees in writing what a job pays before they accept it, and they know we pay daily for short-term assignments and weekly for longer assignments. We print the client’s contact information on the work ticket that we give employees upon assignment. We give verbal job descriptions and direct our employees to call us if they’re asked to do something else. However, providing written job descriptions before assignment is impractical for on-demand agencies. When customers call with a job order, they may need temporary employees within 30 minutes. Customers give a verbal job description, which we share with the employees, but writing the description on a dispatch form takes more time than most people would think. If we had to give each of 20 workers written notification of 20 different jobs, we’d need at least one and a half more hours to assign the workers. Considering that on a summer day we may dispatch more than 70 people, we would

have to hire additional staff to complete the written job descriptions, and that additional cost would have to be passed on to our customers, again costing jobs.

Labour Ready recommends that job descriptions be shared verbally upon assignment and be made available in writing to employees upon request and in a reasonable amount of time.

Although Labour Ready does not charge a fee when a customer permanently hires one of our employees, we understand the practice and do support ACSESS’s position on this point.

Again, thank you for your time. We support many of the initiatives in this bill, and we do believe it’s well-intended. However, the requirements I discussed will cost jobs. We have submitted a brief to provide more information, and I welcome the opportunity to answer any questions you might have.

The Chair (Mr. Bas Balkissoon): Thank you. We will start the questions with Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, Mr. Chair, and thank you for your deputation. Do you issue records of employment for your employees?

Mr. Kevin Suter: We issue records of employment electronically, right directly to Revenue Canada, after seven days of absence.

Ms. Cheri DiNovo: And to the employees too, for EI?

Mr. Kevin Suter: Revenue Canada, as of March 26, has said that employers do not have that obligation if they do submit them electronically. Any of our employees can go to the local HRDC office and get a copy of their record of employment.

Ms. Cheri DiNovo: In the European Union—this is true of European Union countries—they’ve brought in a mandate for equal pay for equal work. We’ve heard some deputants who talked about that. Would you support equal pay for equal work? In other words, if one of your temporary employees is doing exactly the same job as a permanent employee, exactly the same job, should they be paid the same wages?

Mr. Kevin Suter: That’s a very difficult question to answer because we have such a wide variety of jobs and a wide variety of experiences. A lot of our workers, because it is very short-term, are new workers to almost every job they go to. I would say that in many cases our employees are already being paid what a new worker would have been paid by one of our clients. I’m not saying that’s in all the cases. I think it would be very difficult for me to answer at this point.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much. Does your firm charge a temporary-to-permanent fee?

Mr. Kevin Suter: No, sir.

Mr. Vic Dhillon: What’s your practice on recruiting? How do you recruit employees?

Mr. Kevin Suter: Oh, jeez, a variety of ways. We certainly contact social service agencies. In some communities we’re in, we deal with Ontario Works. We do advertise. We are storefront agencies. We’re not in upstairs offices, so we have signage right on the street when people walk by. It’s a variety of ways.

Mr. Vic Dhillon: What type of assignments are given?

Mr. Kevin Suter: The type of jobs, you mean?

Mr. Vic Dhillon: Jobs, yes.

Mr. Kevin Suter: It's such a wide variety with us. We do everything from hospitality to construction to factory to warehouse to unloading trucks at stores. There's such a wide variety. If our clients request a skill, we'll look for it, and if we can find it, we service them.

Mr. Vic Dhillon: Would you be able to give an example of the amount of mark-up you charge?

Mr. Kevin Suter: Every client is completely different, so I couldn't give that amount. I can tell you—

Mr. Vic Dhillon: The numbers might be different but the percentage—

Mr. Kevin Suter: Again, the percentage is different from client to client. What I can tell you is that, after all of our costs are factored in, we typically work on a 2% to 3% profit.

The Chair (Mr. Bas Balkissoon): Mr. Bailey?

Mr. Robert Bailey: Thank you, Mr. Chair, and thank you for coming in today, Mr. Suter. The way you described it, especially, your firm is probably a little more unique. It's just-in-time staffing instead of just-in-time delivery. Would a lot of the staffing people, the resources, be new Canadians and—I noticed you mentioned Ontario Works—people who maybe wouldn't have an opportunity to take part in the labour force if they didn't have an opportunity to work through your firm?

Mr. Kevin Suter: Depending on the community we're in, we have a large number of new Canadians, yes. I wouldn't say that they're the greatest percentage of our employees but, for example, our downtown Toronto office would have a larger percentage than our Peterborough office. But yes, we do have a fair number.

Mr. Robert Bailey: Do I have time for one more? Is that it?

The Chair (Mr. Bas Balkissoon): One quick one.

Mr. Robert Bailey: What would be the impact, if the bill is implemented as written, on your firm?

Mr. Kevin Suter: Similar to what some of the preceding agencies have talked about, certainly it would increase our costs, which I think would certainly decrease our customer base, which would decrease the number of jobs we could offer. I think that our clients would be more leery of dealing with agencies, but I don't think that they would necessarily be hiring people temporarily themselves. I don't think it would create more jobs. I think that many of the factors in there would cause us, as some of the other agencies have said, to be looking at more long-term placements.

The Chair (Mr. Bas Balkissoon): Thank you very much, and thank you for taking the time to be here.

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NADIRA GOPALANI

The Chair (Mr. Bas Balkissoon): Now I will go to Nadira Gopalani, and my apologies for having you stand

up before. You have 10 minutes. Please state your name for the record.

Ms. Nadira Gopalani: Good afternoon, everyone on the committee. My name is Nadira Gopalani. I would like to thank the committee for giving me the time to be here today to talk about why it is important to make sure that Bill 139 is strong enough to address the issues faced by the disposable workforce: workers who are facing the consequences of temp businesses being allowed to collect as much as they can from workers without being regulated or facing any consequences.

The lessons that we are learning from the current economic crisis are that businesses need effective regulation for a sound economy to exist.

My daughter is currently looking for a job in companies that we are hearing about this afternoon. Let me tell you a bit about what is actually happening on the ground.

When we came to Canada, one of my kids, who is a trained IT professional, tried to get work in her profession. When there seemed to be no breakthroughs available, the logical step was to go the route which was the norm in Toronto, and that was, to be able to get a position in one of the IT firms, to register with a temp agency, get a contract and work for it. She did just that. She got a job at an IT company.

Now, that IT company is a world-famous, well-known one. It has a very well defined, tiered workforce who are known as regulars, supplemental, and temps and contractors. The temp tier is the disposable workforce, usually hired through high-ranking temp agencies.

The temp agency in question defines itself—let me quote from their website. It's "a world leader in the employment services industry, creating and delivering services that enable its clients to win in the changing world of work." This agency did a great job. It did deliver a world-class worker to the IT company.

My family member worked for over two years for this IT company through the agency, earning less than 50% of what her co-workers did, with no benefits, working harder than the co-workers just to be able to hold on to that job, with the hope of being hired as a regular worker.

At the beginning of the assignment, my kid's job duties were to deal with 15 businesses across Canada. But after some time, things changed. When she started working, her work ethic and hard work were recognized, and the quality was appreciated, so a lot of new responsibilities were added. From 15 businesses, she was asked to deal with 250 businesses across Canada. What did that mean to her as a worker? From 80 to 90 calls in a week, it went to 90 calls a day and 350 e-mails to be answered every single day. This company where she was working has a reputation for answering each and every call and e-mail within a turnaround time of two hours.

All the temps working there worked faster and harder than all regular co-workers, just at the thought of being hired permanently by that company. But my kid learned the hard way a very big lesson: It takes much more than that to be hired permanently.

This afternoon, I'm hearing a lot of questions being put to agencies that are sending workers on temp assignments, and we are hearing very twisted and very vague answers that companies are finding it very hard to just pin down one single client agency that they are working with to be able to give an answer about the markups they're giving.

Let me explain what was happening. The regulars who were working in the company were paid \$25 hourly, with benefits. The supplemental staff was paid \$16 an hour, and temps were paid \$13 an hour. So when the duties changed, the thing that happened is very strange. At no time in the whole time after the duties changed was there any difference of a single penny in the wages that were being paid to my kid.

There were at least three managers who met with her on separate occasions and discussed the possibility of being hired as a permanent person, but as soon as they realized that it was a temp worker, their immediate advice would be, "You're an excellent person, an asset to our company, but our advice would be to go out of the company for one year, and only then will it be possible for us to hire you back as a permanent employee of this company."

So, just coming to the second year of employment, there came a situation, and like it happens a lot of times, there were some errors on my kid's paycheque. There were some wages owed, backlogged. The manager had to be called upon to make another copy of the hours worked, and as they were going through the process, he questioned her and asked, "So what is the agency paying you now?" When he heard that she was being paid \$13 an hour, his eyebrows just shot through the sky. It was very obvious that there was a different set of wages being paid to the permanent workers and there was a huge markup on what was being paid to the temp workers.

Besides my family member, there were 13 other temps who worked in that agency, and when things came to the position where a lot of work needed to be done, the pressure was all on the temp workers.

Around that time, this well-known company sold a part of its business to another business in China. What that meant was that a lot of jobs in the company needed to be restructured. So the regular employees, each and every person, were met by the manager and had an interview. They had a session where they went through what it meant to them. Everyone had a discussion. The managers had a discussion with the employees to soften the blow and also to discuss further strategies—how they could connect themselves, how they could position themselves better in the future in their working life. But the temp workers were all huddled together and had a five-minute meeting where they were just told, "We are going to sell the business and that's it. There's nothing else." The perma temps, who were working for more than two years, were never considered important enough to discuss their future with the company.

Now, coming to the differential treatment that was put out to my child, being a temporary agency worker rather

than a regular worker had a huge impact on us as a family. Let's do the math. What happened? Let's do the math, because that does constitute—

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Ms. Nadira Gopalani: —an important part. So, \$28,000 for every year worked: That meant my daughter received \$62,000 less for two and a half years that she worked in that company, with no public pay—that means 20 days of public holiday pay—and no benefits, while regular workers collected benefits and accrued pensions also. There was no—

The Chair (Mr. Bas Balkissoon): Thank you very much. I have to move to the next presenter. Thank you very much for taking the time to be here with us.

1430

CANADIAN AUTO WORKERS

The Chair (Mr. Bas Balkissoon): The next presenter is the Canadian Auto Workers.

Mr. Ken Lewenza: It might be the most relaxing five minutes I've had this year.

The Chair (Mr. Bas Balkissoon): I'd ask you to state your name for the record. You have 10 minutes. If there's any time left after your presentation, I will allow questions of all three parties.

Mr. Ken Lewenza: Thank you very much. Let me thank the committee for taking the time on this very, very important bill. To my left is Laurell Ritchie. She is a CAW staff representative who works with workers who lose their jobs. To my right is Cammie Peirce, who works in the adjustment centre, representing CAW members who have lost their jobs. I'm Ken Lewenza, president of the Canadian Auto Workers union.

Again, we gave each of you a brief. Obviously, the brief is much longer than 10 minutes, so I'm just going to kind of skip through the important sections of the brief if you don't mind, for the purpose of time, to try to ensure that you have some questions and the opportunity.

On the introductory page: Obviously, employment standards are important to all workers, those covered by collective agreements as well as those most vulnerable to labour market forces. Every day we see fresh evidence that all workers are vulnerable at least some of the time.

At the bottom: A good first step—holiday pay extended to temporary agency workers. Effective January 2, 2009, the provincial government enacted regulation 432/08, which extends public holiday pay to those not previously eligible as "elect to work" employees. This greatly benefits temporary help agency, casual, on-call, and contract workers.

Many more steps are needed for a greater measure of fairness and equality for temporary help agencies. The CAW welcomes this. At the same time, we strongly urge the government to make improvements that would ensure that the bill is more effective in achieving the overall stated goal.

Like many other workers, laid-off CAW members find themselves confronted by a disturbing new reality, one

they were not prepared for and one that many Ontarians are not yet aware of. Many of these laid-off members simply cannot find a new job now except by applying to temporary agencies.

Our action centres' report—and we have multiple action centres: Action centres for laid-off CAW members are reporting as follows:

(1) Between 70% and 90% of the advertised job postings are now through temporary help agencies.

(2) Workers see jobs that they used to do for \$20 an hour now advertised at \$15 an hour, with the difference presumably going to the temp agencies.

(3) Workers can't apply directly to firms with job openings; they are directed instead to apply to temp agencies.

(4) There's no end in sight to the worker's association with the agency because of the barriers erected by temporary agencies to permanent employment.

(5) Once locked into this relationship with temporary agencies, some workers report that they are not able to accumulate the required hours to qualify for a future EI benefit.

The emergence of a new labour market that offers increasingly unstable employment and that encourages jobs that are low-wage, with few health benefits, is a problem not only for the workers involved and their families, but the province as a whole.

Those working for employment agencies earn 40% less than their permanent counterparts. The gaps persist even when hours of work are taken into account—and again, that's right from Statistics Canada.

There is a common perception that the only problem with temp agencies is that a few "bad apples" have spoiled it for the rest—the disreputable fly-by-night operations that take a worker's money one day, close up, and reopen under a new name. But there is another, bigger problem. As reported to the CAW 2008 collective bargaining and political action convention, "Employers are developing a disturbing 'relationship of convenience' with the temp job agencies that have popped up everywhere. These are not the temp agencies of old. It's not about casual labour for limited time projects. It's about converting stable employment into agency work.

"And it's big business. Manpower Inc. ... is now ranked among Fortune 500's....

"Hiring through private temp agencies happens in many sectors across the economy. It is even transforming the auto industry. This is especially true of lower-tier auto parts firms. Researchers estimate 10% to 20% of auto parts workers are now classed as 'temporary.'"

A peer helper at a CAW worker action centre in Oshawa writes:

"First of all, various agencies, and employers make it near impossible to become privately employed within companies with which they have contracted....

"Agencies will commonly secure a contract with a (client) company, locking out all outside hiring capabilities, ensuring contingency fees, and effectively forcing employees to work for deflated wages while charging a company a contracted or full rate."

Temp agencies are not creating jobs. They are not a new pathway to employment. Rather, they are developing relationships with employers on a for-profit basis and then acting as the gatekeepers. This has very serious implications for the next generation of jobs—jobs offered by Honda.

Bill 139 would still allow agencies to apply restrictions on companies hiring workers directly during the first six months of an assignment. A six-month exemption—a very large loophole—will undermine the stated objectives of Bill 139. A six-month loophole could have the unintended consequence of a revolving door of six-month assignments—and I think the sister prior to my presentation identified that fairly clearly.

In conclusion, the CAW has chosen to focus on the three issues which speak most directly to our members' lived experiences: the barriers that stop temporary workers from getting permanent employment; the need for equal treatment on severance and termination pay; the need for joint and several liability protection.

We commend the government for taking the initiative on holiday pay for temp agency workers, for committing to stronger enforcement, and for tabling Bill 139.

We also strongly urge the government to remedy the serious flaws in Bill 139 which will undermine, if not defeat, its worthy objectives.

Again, you've got the full address in front of you. Obviously, it's more detailed than my explanation here today, in the interests of time. I hope that you will take the time to consider our brief and enact the ideas and suggestions within the legislation.

Once again, I thank the government and the opposition parties for their work and for introducing Bill 139 to the Legislature.

The Chair (Mr. Bas Balkissoon): We have one minute for each member. I believe it's the government's turn. Mr. Dhillon.

Mr. Vic Dhillon: Thank you for taking the time to appear before the committee.

Do you feel that temp agencies are taking away full-time work in general, all over the province?

Mr. Ken Lewenza: There's absolutely no question about it. Employers are looking at temp agencies as a supplementary workforce that is actually now encroaching into full-time jobs for the purpose of cost-saving, yes.

The Chair (Mr. Bas Balkissoon): Mr. Bailey.

Mr. Robert Bailey: It's good to see you, Ken.

What percentage of your laid-off members would you think are being placed now, re-placed, in employment with temporary agencies?

Mr. Ken Lewenza: Some 80% to 90% of them have to go through a temp agency to get a job. Cammie Peirce deals with this first-hand. Are those numbers accurate?

Ms. Cammie Peirce: That's probably very close to accurate. In spite of the fact that we try very hard not to be going through a temp agency, even if you go onto the Service Canada website, you will find that it is absolutely flooded with agencies. That's the way people are getting their work.

Mr. Robert Bailey: They'd still be union members, and if there was a recall they would be able to be replaced, if the jobs come back again, even though they've left with a temporary agency? That doesn't jeopardize their membership?

Mr. Ken Lewenza: That's a collective bargaining issue. There are some bargaining workplaces, actually, where temp workers are excluded from the bargaining agreement. Again, it depends on the strength and power of the union to be able to change. Obviously, I would like to believe that every worker who walks into a unionized work environment gets the benefits of a unionized worker, but it depends on your ability to bargain with the employer and to strengthen your ability to do that.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo.

Ms. Cheri DiNovo: Certainly, in the European Union, equal pay for equal work is the law of the land, and that's what we're after in the New Democratic Party, across the board.

The six-month barrier to employment—I think the six-month charge is actually open to a charter challenge, so it's something you might want to look at in the CAW, because it is a barrier to employment.

1440

My one question is about home care workers and nannies. Mr. Lewenza, would you be in favour of extending the coverage of this bill to include those who are most exploited—foreign-trained workers?

Mr. Ken Lewenza: Absolutely. In fact, the media attention on that particular abuse has been significant and I hope all Ontarians have been following the media reports on that exploitation.

The Chair (Mr. Bas Balkissoon): Thank you very much and thank you for taking the time to be with us.

Ms. Laurell Ritchie: Sorry, I have just one other item. We have a lot of action centres with the CAW, and so do a lot of other unions and organizations right now, given the extent of job loss. Yesterday, there was a big forum for action centres, union and non-union, in London—

The Chair (Mr. Bas Balkissoon): I have to actually be very quick because I have a full list of deputants.

Ms. Laurell Ritchie: I'll leave this document with you from that group.

The Chair (Mr. Bas Balkissoon): Okay, thank you.

Mr. Ken Lewenza: I'm going to walk around until the next presentation starts to thank you guys.

The Chair (Mr. Bas Balkissoon): Thank you very much. Thank you for coming in.

STEVENS RESOURCE GROUP INC.

The Chair (Mr. Bas Balkissoon): The next presenter is Stevens Resource Group, if you could come forward. Can you please state your name for the record? You have 10 minutes.

Ms. Sherri Stevens: Good afternoon. I would like to thank you for giving me the opportunity to speak to you today.

My name is Sherri Stevens and I am the president and owner of Stevens Resource Group. We have eight locations in southwestern Ontario, mostly in the smaller, rural communities. Next year, we'll be celebrating 20 years in business.

Our story began in 1990. After working for eight years as a flight attendant, I decided to change careers. During this transition, I turned to a staffing firm that placed me in temporary administrative positions with government agencies. This gave me time to think about my future while still being able to take care of life's necessities. Working with a staffing firm made it so much easier and gave me the opportunity to build my skills while gaining confidence in myself and my abilities. I was introduced to jobs that I know I would never have been able to secure on my own. I also learned from my experience that I still wanted a career involved in helping people. I decided to return to my hometown. This was at the beginning of the 1990 recession and jobs were difficult to find.

Having had such a positive experience, I opened my own staffing company. I secured a \$1,000 line of credit and worked at night in a printing shop so I could pay my employees. As the recession waned, businesses started calling for flexible employees to support their sporadic growth. Many of our first team members were stay-at-home moms who were looking to re-enter the workforce.

I recall my very first team member. Her name was Jeanne Turner and she had just graduated from a job re-entry program. Jeanne was very quiet-spoken, introverted and would blush when spoken to, but she had a kind heart and determination. At a chamber board meeting, I was approached by the general manager, who required a part-time receptionist. At this point, Jeanne only wanted part-time work, as her children were still in school. This position was perfect for her. Eventually, the role turned into a full-time position with the chamber.

As consumer confidence grew, so did the demand for our services. In 1992, we were approached by a local automotive company to provide 20 production associates for their just-in-time production line. I remember one team member in particular, Amer Cengic. Amer, his wife and three-year-old daughter came to Canada from Bosnia looking for a better life. Amer came into our office looking for work as a production associate in July 1992. Even though Amer had a B.A. in business and a master's in marketing from Bosnia, he was desperate for a job and would do anything to support his young family.

In September 1992, we placed him with our new client, who was so happy with Amer's performance that in January they offered him a full-time position. After only four months of employment, Amer was invited by the company president to visit their head office in Japan. Seventeen years later, Amer is still employed with this client and is now their general manager. I am so proud to have witnessed his career progression. Amer is not only a client, but a trusted colleague. Today, this client has almost 560 employees; 510 found full-time employment through our company.

This is only one example of many where we were able to place a substantial amount of people into full-time positions. This clearly demonstrates how the staffing industry removes barriers and builds bridges to opportunity in living the Canadian dream. Also, as our client base grew, so did the need to add more internal, full-time staff members.

Another story that comes to mind is Nelson Martinez. Nelson was a new Canadian who emigrated from the Philippines. He had eight children and he couldn't afford to bring them all to Canada; he had to leave one behind. He was in Canada for one year. He was working for other employers—not temporary staffing agencies, but other employers—at minimum wage, and still could not afford to bring his child to Canada. He came to us and we were able to place him in a full-time position for substantially more than minimum wage. As a result, they were able to bring their four-year-old-daughter to Canada. His wife had tears in her eyes while thanking us for getting her husband such a great job. Nelson kept saying, “Because of you and Stevens—thank you.”

As you can see from the preceding real-life stories, many benefits are realized by our team members. Jeanne was able to gain valuable skills and self-confidence while at the same time allowing flexibility in her schedule for her family, Amer gained experience that was instrumental in advancing his career, and Nelson was able to reunite his family and provide a good life for them.

Our guiding principle at Stevens is to focus on promoting a culture of initiative, integrity, creativity and trust. This is posted in our head office and at all our branches. We believe that productive relationships are the result of mutual respect and commitment. Our people are our strength; their success is our success. This is why we thoroughly prepare all team members prior to their work assignments.

Initially, we spend two and a half hours with each team member and our ISO certification standardizes our process to ensure consistency in that delivery. We conduct a detailed client workplace inspection and we have declined business if we believed the worksite to be unsafe for our team members. In addition to our employee handbook that outlines our policies and procedures, all team members are given specific instructions regarding their assignment prior to placement.

In your packages are invitations. I would personally like to invite you to visit any of our branch locations to meet our team members and review our business practices.

I agree with the intent of Bill 139. However, to make this a fair and balanced bill, our recommendation is to remove only two clauses.

(1) Recommendations for continuance of employment while not working: Do not codify a continuance of employment, and recognize/respect periods of active versus inactive employment. There is no employment when the assignment employee is inactive—not on assignment. Delete clause (b) of subsection 74.4(2). Do not impose a different and more onerous legislative standard on

staffing firm employers. The notion of implied continuance of employment is contrary to well-established principles of employment law and existing provisions contained in regulation 288/01 of the Employment Standards Act.

(2) Recommendation for regulating business terms and client fees within service agreements: Remove 74.8, paragraph 8 of subsection (1), and subsection (2), which interfere with business terms, and refocus attention on employment-related issues such as employment agreements and employment terms so that a worker is never unfairly restricted from seeking employment with prospective employers.

Should this bill pass in its entirety, I fear for the continued existence of our industry in Ontario. But most of all, I fear for the people who depend on us to be their human link to better opportunities. Who will be left to support our employees? Will we be looking at increased social assistance or employment insurance? With an \$18-billion deficit over the next two years, can our government support the impact this bill will create?

The businesses that do survive this recession will be left without the flexibility that our industry affords them, potentially having their existing employees work more overtime while ignoring the excess hours legislation, adding more job responsibilities per employee or paying people under the table. Efficiencies will be lost. Costs such as labour, WSIB and health care will increase. Businesses will close completely or relocate to other provinces or countries where the business environment offers more freedom for all.

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I am very passionate about this industry and the benefits and opportunities we provide people. I also feel very fortunate to be an entrepreneur and to own a small to medium enterprise in the province of Ontario, as do, I'm sure, many of my colleagues in the staffing industry, many of whom are also SMEs.

I would like to commend the McGuinty government for saluting small business last October by dedicating the month to entrepreneurs and small firms. To quote Harinder Takhar, Minister of Small Business and Consumer Services, “Small business owners and entrepreneurs are truly exemplary Ontarians. After all, they are key contributors to innovation, investment and job creation in every part of our province. They are the drivers of our economy, and while we pay special tribute to them this month, their efforts are felt year round.”

Ninety-nine percent of Ontario firms are SMEs and account for over 360,000 businesses—

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Ms. Sherri Stevens: —and over half of the private sector jobs. SMEs contribute more than \$250 billion in economic activity annually. I fear Canada, and in particular Ontario, is in for the fight of its life. We should not let the sins of a few condemn the whole. If SMEs are such a key part of Ontario's economic growth and potential recovery, why are we putting up more barriers for conducting business in Ontario?

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time to join us.

HCR PERSONNEL SOLUTIONS INC.

The Chair (Mr. Bas Balkissoon): The next presenter is HCR Personnel Solutions Inc. Please state your name for the record, and you have 10 minutes.

Mr. Peter Raback: Good afternoon. My name is Peter Raback. I'm the president of HCR Personnel Solutions. We're a staffing company in the GTA with four locations. We've been in business for 13 years. Today I would like to pass the floor to one of my customers, Kelly Harbridge from Magna International.

Mr. Kelly Harbridge: Good afternoon, honourable members and members of the committee. My name is Kelly Harbridge. I'm labour and employment counsel from Magna International. Magna is the third-largest automotive parts supplier in the world and one of Ontario's largest private sector employers. We have 53 manufacturing facilities and eight engineering product development centres in Ontario, and we employ approximately 15,000 employees in the province of Ontario.

In terms of the current challenges that the manufacturing sector is facing, Ontario's manufacturing base, and the automotive industry in particular, have been extremely hard-hit by the current economic crisis. Many manufacturers, like Magna, are currently struggling to maintain their existing business footprint in Ontario. In our view, any new legislation that further increases financial or administrative cost of doing business in Ontario is poorly timed and may jeopardize further jobs in the province.

The Ontario Employment Standards Act is already one of the most restrictive and costly pieces of employment legislation in North America. It's not to say that these protections aren't essential to protect Ontario workers. Having said that, they need to be balanced in terms of other jurisdictions in North America with whom we're competing for business and jobs. Undue legislative restrictions would result in Ontario employers being less flexible and competitive than other nearby jurisdictions, including other Canadian provinces, as well as US states, particularly northern states that have a manufacturing base.

Intense global competition from low-cost countries is creating unprecedented challenges for Ontario manufacturers. In order to compete and survive, Ontario employers need greater flexibility. Our current manufacturing volumes, in particular, are increasingly volatile and unpredictable in nature. Like never before, we are seeing wild fluctuations in customer demand that often make long-term manpower planning difficult. In years past, it would not be uncommon for us to have an idea weeks, and sometimes months, in advance of what our customer demands were in terms of schedule and production. Some of the more recent examples: We're being advised as to parts orders only 24 to 48 hours in advance for many of our larger customers. You're seeing

short bursts of manufacturing production. A customer may want parts produced on a particular program for two or three weeks at a time, followed by months of downtime and layoffs. So long-term manpower planning is becoming increasingly difficult.

Over the years, we've partnered with various staffing agencies, including HCR. Those partnerships have been incredibly successful in terms of helping to supplement our regular full-time workforce in order to address many legitimate business issues in terms of unpredictable and unstable customer volumes, which I have addressed, programs and facility launch situations—often when you're opening a new plant or launching a new technology, your business and manpower may be in flux for sometimes weeks and months after launching a new facility—short-term quality control issues, absenteeism and lost time, as well as dealing with excessive overtime costs. This relationship with our staffing agencies has helped Ontario manufacturers and Magna remain competitive by managing short-term and fluctuating manpower needs in an efficient and cost-effective manner.

We've had many success stories over the years in terms of our partnership with the staffing agencies we do business with and we've helped many unskilled and vulnerable individuals access the job market and transition to full-time employment. The average length of a temporary assignment at Magna has generally been in the four- to six-month range and during the past several years over 3,500 Ontarians have started their careers at Magna as temporary workers before moving to full-time, regular employment—approximately 24% of Magna's Ontario workforce. This has been an efficient and cost-effective way for Magna to recruit new employees, allowing many individuals to gain essential skills and experience in the job market while permitting the customer firm company such as Magna to audition candidates for upcoming and future opportunities as they may arise.

There are a couple of success stories in particular. Our Ontegra facility located in Etobicoke, Ontario, originally launched in 2001. At that time, we partnered with Mr. Raback's firm, HCR, to recruit and staff the entire workforce through his temporary agency. There was a rapid launch and recruitment drive and eventually all 500 employees at Ontegra, who started as temporary staff, transitioned to full-time regular employment with that facility.

A similar success story is our Deco Automotive facility in Rexdale, Ontario, with approximately 600 regular full-time employees. Between 2003 and 2007, about 177 temporary staff transitioned to full-time regular jobs at Deco. We're very proud of Deco's workforce. It's a very rich cultural mosaic. There are over 40 different languages and cultures present on that production floor. It really is a miniature United Nations with people from around the world, many new Canadians who've been given their first opportunity for a stable job with good pay and good benefits, many of whom wouldn't have had that opportunity if they hadn't had their foot in the door through Mr. Raback's firm, HCR.

We're very proud of those two plants in particular, and that's just a glimpse of many employment success stories at Magna in terms of individuals who wouldn't have otherwise had access to a full-time career at Magna without coming through a temporary agency first and gaining those essential skills and experience.

In terms of our concerns with Bill 139, Magna generally supports the government's intentions with respect to Bill 139; in particular, those aspects of the bill that promote full disclosure and education for the workers being employed through temporary staffing agencies and the removal of any illegitimate barriers to full-time employment.

However, certain provisions within Bill 139 need to be refined, in our view, so as not to impede a legitimate agency-customer relationship or impose excessive administrative and financial costs that will impact the ability of Ontario manufacturers to compete. In particular, section 74.8, the ban on client fees, in our view, is both unnecessary and counterproductive. In our experience, those client fees are not a barrier to full-time employment. They cover several value-added services that many of these staffing agencies provide to companies like Magna and other manufacturers. In a sense, we've contracted out a lot of our front-line HR and recruiting services to third-party agencies such as Mr. Raback's HCR. They handle our recruitment and interview process, the screening and selection of candidates, pre-placement skill and ability testing, pre-placement medical testing in those situations where it may be required, as well as training—health, safety and otherwise—and orientation services. So many of the front-line services provided as part of the recruiting process by firms like HCR and others are very value-added and cost-effective for manufacturers like Magna, as opposed to having to handle those services in-house.

One of the other concerns with respect to Bill 139 is subsection 74.4(2), the deemed continuity of employment provision. I think that fails to recognize the short-term and often sporadic nature of temporary assignments, very different from the regular employment relationship where there is a contractual understanding between the parties that it's a relationship of indefinite duration. In these situations, they're often short-term and sporadic, often with individuals working for various temporary agencies all at the same time. It becomes very difficult to administratively track the continuity of employment.

In our view, this particular provision will significantly increase cost determination, and that cost is unlikely to be absorbed by the agencies themselves. One would think that those costs will be worked into the overhead—

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Mr. Kelly Harbridge: —and eventually downloaded to the client company, making Ontario less competitive with other North American jurisdictions.

To the extent the ESA imposes new costs on the cancellation of short-term temporary assignments, one would think that industry, in many cases, will think twice about

retaining such individuals in the first place, reducing opportunities for vulnerable groups to access the job market. It creates financial disincentive for companies to retain temporary workers for any periods of longer than three months. Prior to three months, under the legislation employees are not eligible for termination pay—

The Chair (Mr. Bas Balkissoon): Thank you very much.

Mr. Kelly Harbridge: Thank you.

The Chair (Mr. Bas Balkissoon): Thank you for taking the time to join us and give us your input.

The committee is now recessed and will reconvene at 4 o'clock.

The committee recessed from 1500 to 1601.

LAURA ST. PIERRE

SIOBHAN ST. PIERRE

The Acting Chair (Mr. Joe Dickson): I call this meeting to order. Our first delegation is Laura St. Pierre and Siobhan St. Pierre. Welcome. Make yourself at home, ladies. You have exactly 10 minutes. I wonder if you'd be good enough to introduce yourself for the Chair, and if there's any time left over from the 10 minutes, we'll proportion that equally amongst the three parties to ask you questions. Please proceed.

Ms. Laura St. Pierre: My name is Laura St. Pierre.

Ms. Siobhan St. Pierre: I'm Siobhan St. Pierre.

Ms. Laura St. Pierre: I'm here today in support of the temporary help agencies, against Bill 139, as a temporary worker. Currently, I'm working at 3M Canada and, quite simply, I wouldn't have this job without the help of a temporary agency. I have used the services of agencies for five-plus years now and have gained a wealth of knowledge and experience that I genuinely believe I would not have had the opportunity to in any other fashion.

I was recommended to a temporary help agency by my mother, an Irish immigrant, who has had first-hand experience with the many benefits these businesses perform. When I finished high school, and all throughout university, I quickly learned the same lesson my mother learned when she immigrated to Canada, which was that experience is one of the keys to finding a full-time job. But I struggled to understand how a person can gain experience when no one will give them a chance, and I believe this is where a temporary help agency has stepped in to help.

After hopelessly searching for a job, my mother applied at a temporary help agency called Quantum, where she was instantly given a chance and ended up with a full-time job at Grafton Fraser, and today lives a very successful life.

Personally, as a temporary worker, all of my experiences have been excellent. I have always been given all required information about my assignment, my location, the rate of pay and the scheduled amount of time my assignment should take. The training and the availability

of the agency staff, as well as the support that I have always been provided, have always been outstanding.

This really showed through during an assignment I was given in an HR department at a company in London, whose offices were located in an old Victorian-style home. The assignment I was given was clerical and filing within the office. When I arrived, I was brought through the house and out the back door to another door. When the woman opened the door, I was led down a set of stone stairs; the walls were also made of stone and were covered in cobwebs and spiderwebs in every corner. At the end of the staircase was a little room that can best be described as a dungeon. It was lit by a single light bulb hanging from the ceiling that you pull a chain to turn on. The ground was covered in a puddle and the filing cabinets were placed on wooden skids. The woman told me what she wanted me to do and went back up the stairs. She then yelled back down to me to make sure I left the door open because there was no light for the stairs, and with the single bulb turned off it was virtually impossible to see anything. I was completely appalled, especially since this was the company's HR department. I contacted the agency and was pulled from the assignment immediately.

The agency then followed up with the client by performing yet another site visit and saw the environment I was working in, which they were never shown initially on their first visit. They then told the client they would not be a part of sending anyone else into that environment. Had I been an employee of that company, would I have had a choice to work down there or not? I'm inclined to believe that the answer to that is no.

In addition to working various assignments, I have also had the opportunity to work within an agency for three years. This provided me with the opportunity to see the other side of the industry. I learned quite a bit during my time, and I will continue to carry the skills forward with me. One thing that I will hold with me is the reality, the compassion and the understanding that was demonstrated toward the huge spectrum of people who walked through those doors, from the man I met who had lost his job of 28 years at Accuride and was his family's sole provider, to the UN worker from the Sudan, to the doctor from the Middle East—all in search of not just a job, but a chance. We live in a country that too frequently neglects the skills obtained in other countries and considers them inferior to ours. These temporary help agencies make such an impact and really help these people get the experience they deserve to be successful.

Ms. Siobhan St. Pierre: My name is Siobhan St. Pierre. I'm also here today in support of the temporary help agencies against Bill 139.

My experience with the agency has always been of a positive nature, with a lot of understanding and support.

Approximately two years ago, I was diagnosed with a medical condition that caused me to resign from a job I held for four years while I was in high school, because my employer failed to understand my situation and provide any support to me. Some days I would wake up

and I'd feel great, while other days I had absolutely no chance of getting out of bed and facing work. What kind of an employer would accept an employee saying, "Today I can work, but tomorrow and the rest of the days, I don't know"?

It was recommended that I register at a temporary agency. From the beginning, I let them know what was going on in my life. That was the beginning of an excellent relationship with the temporary agency. I have never felt that I was being judged. Whenever an assignment became available that suited my qualifications, the recruiters would call and ask if I would consider the assignment. I never once felt pressure that I had to say yes or they wouldn't call me again.

One assignment that I accepted brought me to the University of Western Ontario, where I was doing high-level administrative work. Throughout the day, I began to feel more and more overwhelmed, so I called the agency that afternoon and explained how I was feeling. They completely understood, and without judgment they told me that they would find a replacement for me.

The medical condition I suffer from is clinical depression and anxiety. Unfortunately, in the society that we live in, there's a stigma attached to these illnesses, but I never once felt that from the staff at the agency. During my treatments, I had to attend a daily program for six weeks from 9 to 2 at the hospital. As soon as I completed my program, they sent me out to work again. The point I'm trying to make is that not once did I feel judged during my employment with the agency for something so many others would have judged me for. They were always understanding and supportive.

Today, I am working at the children's aid society. In the future, I wish to work with disturbed and troubled teens, so what better way to network? I would like to add that it was a temporary agency that helped me get this job.

Ms. Laura St. Pierre: In conclusion, Siobhan and I both feel very strongly that this bill will result in hurting the very people it was created to protect. We are in a scary economic time where people are struggling to find work and keep their jobs. The passing of this bill will not only create less options for the current struggling, vulnerable workers, but could potentially add more workers to a seemingly increasing number, because these agencies will no longer be able to afford to stay open and continue to help those who walk through their doors.

Like everything in life, there is the good and the bad: the ones who play fair and by the rules, and the ones who take advantage of the worker and are concerned with nothing more than profit. It makes absolutely no sense and seems extremely unfair to punish all the respectable rule-abiding agencies because of the fly-by-night and money-driven ones. If these agencies are not here to do what they do, they can't help those who really need it.

Please do not pass Bill 139.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation. We have just under two minutes, so I'll allocate 30 seconds per party. I'm not

sure of the sequence, so we'll start with the official opposition, either Mr. Bailey or Mr. Miller.

Mr. Robert Bailey: Thank you, Ms. St. Pierre and Ms. St. Pierre, for your presentation this afternoon. So it would be fair to say that without the opportunity of temporary agencies, as you have outlined, you probably wouldn't have had the opportunity to get into the workforce, be able to network and improve your job skills. Would that be fair to say?

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Ms. Laura St. Pierre: I would think so. Working where I am right now at 3M and talking to a lot of the people on the floor that I'm with, a good portion of them have all gotten in through an agency. Coming out of university, one of the struggles that I had was to get somewhere where I could actually grow with the company, but every company seems to want some kind of experience, and how do you get it if no one is going to let you have a chance?

The Acting Chair (Mr. Joe Dickson): Ms. DiNovo from the third party?

Ms. Cheri DiNovo: No questions, but thank you. I know it must have been difficult to talk about an illness like depression, so I commend your courage.

The Acting Chair (Mr. Joe Dickson): From the government, member Dhillon.

Mr. Vic Dhillon: Thank you, ladies, very much for making your presentation. I just want to make a comment. I don't really have a question. I appreciate your views. We're of the view that temp agencies are a vital part of our economy; they help the workforce. We're all in favour of the good ones that bring about good outcomes for employers.

I don't know if you were here before or throughout the hearings. There have been independent presenters who have presented their story, and their storyline is the same in terms of the views that they suffer, and it's to correct those wrongs that, for the most part, we're going through with this bill. Again, I just want to reiterate that we're not against the good temp agencies that bring about good results, not only for themselves but also for the workers. We appreciate your being here, and once again, thank you very much for your presentation.

The Acting Chair (Mr. Joe Dickson): Thank you, member Dhillon. Thank you very much, ladies. Well done.

BRAMPTON BOARD OF TRADE

The Acting Chair (Mr. Joe Dickson): I would then call on Mr. Gary Collins, the Brampton Board of Trade. Welcome. Please introduce yourself.

Mr. Gary Collins: Good afternoon. My name is Gary Collins. I'm the chief executive officer of the Brampton Board of Trade. I'd like to thank the committee for hearing us with respect to Bill 139.

Our presentation will be done by Carman McClelland, the president of the board of trade and a former member

of the Ontario Legislature, and the conclusion will be done by Linda Ford, our immediate past president.

Mr. Carman McClelland: Thank you, Mr. Chair, members of the committee, staff, I appreciate the opportunity to be here today to present our views for your consideration with respect to this particular legislation.

I want to indicate that as president of the Brampton Board of Trade, I'm here speaking on behalf of our membership of some 1,200 businesses representing literally tens of thousands of employees in the area of Brampton, Ontario. Many of the employment services agencies from Brampton are in fact part of our membership, as well as other members in every sector of the economy that benefit from these temporary employment services that are provided to them close to home and in the community itself. That happens to fall into two major categories, principally manufacturing and in the area of warehousing, logistics and transportation.

We in the Brampton business community are supportive of enhancements and regulations that protect temporary workers and ensure employment standards that are representative and respectful of the temporary relationships among the players. Our staffing agency members are legitimate businesses; they work with professional clientele at a high level of integrity. They're building their businesses and their communities by creating opportunities for local talent. They contribute on a variety of fronts in terms of the cultural and social and the voluntary sector as well. They are an integral part of our business community and the community at large.

The recent budget of the government envisions a global, competitive Ontario creating jobs, driving economic recovery and speaking of prosperity for the future. Changes made to the sales tax and corporate tax indicate the need for businesses to make investments on their own for growth.

We would submit that temporary employment allows businesses of all sizes and sectors to flex their market, conduct short-term special projects, contracts, research, development, plan, measure, assess, access experts, and build at a substantial pace and at a pace that is sustainable and measurable.

Temporary employment is vital. It's important to the smallest and newest businesses, those with the greatest potential for growth.

Temporary employment opportunities are good for the community. They work to integrate underemployed persons, get them into the workforce, and those who cannot or who have chosen not to work on a full-time, permanent basis.

We would respectfully submit that if passed as written, Bill 139 would have administrative, legal and financial costs that will be measurably increased for temporary staffing organizations. These costs will be passed on to the client, the general business community, which can ill afford it, particularly at this point in time—increased statutory holidays, minimum wages, high energy costs, profit-insensitive taxes, like property taxes etc.

The competitive gains that we expect from recent budget proposals, which we hope will come into play, we

submit, would be threatened in part by the legislation as crafted.

Ontario will have the most regulated temporary employment regime in North America, which will diminish the attractiveness of this region as a place for investment.

If passed as written, the negative impacts will be felt by the legitimate businesses. I thank our local MPP, Mr. Dhillon, for saying that he supports them, but our submission would be—and we'll hear some specifics momentarily—that you don't deal with the mischief by punishing and adversely affecting those who are conducting their business in an appropriate fashion with integrity and professionalism.

The fly-by-night operations are going to be a mischief that has to be dealt with, but we would submit that Bill 139 will punish the good players, if you will, in the regime. The only way to ensure that individuals have access to legitimate opportunities with the protection of employment standards is to ensure a viable and thriving temporary staffing industry. Market forces will quickly and effectively eliminate any rogue operators, and those who continue to operate ought to be dealt with specifically for the mischief and the harm that they bring to bear, without punishing the legitimate operators, which we submit Bill 139 very clearly and predictably will do.

I'd ask now my colleague, past president of the board of trade and a person who is actually involved first-hand in the industry, Ms. Linda Ford, if she would conclude our submission. Thank you, Linda, and thank you, members.

Ms. Linda Ford: As part of the introduction, I'd just like to say that the employment and staffing industry is amongst the largest employers in the world, and it is important to recognize that there is a need worldwide for the integration of people through the use of temporary help into businesses and especially to ensure our competitiveness.

There are some areas in which we have some great concerns, and we have specific recommendations for reconsideration. Subsection 74.4(2) reads:

“As an assignment employee of a temporary help agency does not cease to be the agency's assignment employee because....

“(b) he or she is not assigned by the agency to perform work for a client on a temporary basis.”

The impact is that regardless of the reason for the lack of assignment of any employee by an agency, the employee-employer relationship continues. Reasons for non-assignment include choice of the employee not to work, the end of a task or a contract, unavailability due to other employment, education or family obligations, and reasons like failure to contact their agency. This provision disregards the short-term, temporary or trial relationship inherent in temporary staffing arrangements.

In no other jurisdiction are people who are not actively employed considered to be employees.

Our recommendation is to remove clause (b) under subsection 74.4(2).

Subsection 74.8(1), exception number 8, reads, “A temporary help agency is prohibited from charging a fee

to a client in connection with the client entering into an employment relationship with an assignment employee, except as permitted by subsection (2).”

This provision disregards the legal foundations of business practice, confidentiality, contract negotiation, competition and fiduciary duty.

This provision does not respect the variations of services and development of relationships between the client, the employer and the employee.

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The prohibitions propose to prevent barriers to permanent employment. Temporary staffing agencies have successfully transferred a majority of their assignment employees to their clients for permanent full-time employment. Rather than create barriers to full-time employment, the relationship between the agency and the client creates opportunities that would not happen if it were not for the employment agency and had that relationship not previously existed.

Prohibition 8 limits free enterprise between two commercial entities. It is not the place of government to decide contracts and fees for the entrepreneurial businesses in this world. We recommend removing prohibition number 8 under subsection 74.8(1).

Subsection 74.11(1) reads as though temporary staffing agencies would be responsible for tracking and administering termination and severance obligations without the benefit of information regarding the temporary assignment employee's activities during the 35-week period. Agencies would have to front-load costs of engaging in assessment, evaluation, calculation and collection of severance monies and activities onto their clients' bills and apply it across the board, despite the fact that the individual employer of record has fulfilled all the employment standards obligations regarding termination and severance. Agencies would have no recourse should an assignment employee quit/leave their assignment of their own accord. Normal employment standards do not impose any severance or termination obligations upon the employer in these situations.

Our recommendation is the rework of termination and severance section 74.11 to ensure it is reflective of the employment standards that obligate all business and does not create a special set of standards for temporarily assigned employees, their agencies and their client businesses.

Mr. Carman McClelland: Members of the committee and Mr. Chair, I'd certainly be pleased to entertain and respond to any questions, as we're able.

The Acting Chair (Mr. Joe Dickson): Thank you, past member McClelland. We have 22 seconds, which will give you about seven each.

Mr. Carman McClelland: Time to clear our throats.

The Acting Chair (Mr. Joe Dickson): If anyone has a statement to make, the next speaker would be the third party, Ms. DiNovo, if you wish.

Ms. Cheri DiNovo: Just a general question. Do you think that two people doing exactly the same job should be paid different rates?

Ms. Linda Ford: I think that if two people enter the workforce at the same point, they should be paid the same.

Ms. Cheri DiNovo: Taking into account seniority and time at the job.

Ms. Linda Ford: Like I said, from an entry-level perspective, if they're both starting the job today, they should both be making the same rate doing the same job. I think that does vary with level of experience, certifications, education and length of service—

Mr. Carman McClelland: The [inaudible] the company, the employer.

Ms. Linda Ford: Yes, all those things.

The Acting Chair (Mr. Joe Dickson): Thank you. I appreciate your presentation. I cut off the other two speakers. I'll give you time on the next speaker.

KIM FLINN

The Acting Chair (Mr. Joe Dickson): The next speaker is Kim Flinn. Please come forward and introduce yourself.

Ms. Kim Flinn: Good afternoon. My name is Kim Flinn.

The Acting Chair (Mr. Joe Dickson): Welcome.

Ms. Kim Flinn: I'm here today to tell you how the staffing industry has had a huge impact on my life and that of my family. For 20 years, I was very busy at home raising two children, one of whom is severely disabled. When I was finally able to consider re-entering the workforce, the only people who were interested in assisting me were the recruiters in the staffing industry. My skills were pretty rusty, and I was pretty nervous. But they were very supportive and helped me to find resources within my community where I could update my computer skills etc. In addition, they provided me with online tutorials I could do at home in Word, Excel etc. They helped me continue to learn and improve my skills.

I was given the opportunity to work within this agency office as an internal temporary employee. I started as a part-time receptionist and, as my skills improved and I gained experience, my role was expanded to include various administrative duties to the point where I was working full-time and was responsible for completing their temp payroll, as well as becoming the primary contact with the HR department for their largest client. I was also given the opportunity to assist in the process of recruiting, pre-screening and conducting skills evaluations for candidates applying for jobs.

After one year, they offered me a permanent position, which I declined because the opportunity for a job with another staffing agency became available. I was hired by this second agency and worked again for one year as an internal temp. Then I was given a permanent, full-time position, which is where I am still employed today.

Presently, I am responsible for processing the weekly payroll for two divisions of our company, approximately 250 people, including completion of all records of employment, payroll/invoice adjustments, providing client

and employee customer service, completing applicant references, managing and maintaining employee and client electronic records, preparing financial reports for clients etc.

If it were not for the support and opportunities presented to me within the staffing industry, I would not be where I am today. It has been a steep learning curve—one on which I have thrived—and I continue to enjoy working within this industry. I really enjoy working with our employees and seeing them experience the same type of success that I have. It is satisfying to see people come into our office unemployed and leave with the opportunity for employment, often the very next day.

I continue to recommend to my friends, family and acquaintances that they seek opportunities for work from agencies. My oldest daughter started as a temp employee with a financial institution that was a client of ours and, after a time, she was hired on a permanent basis, received benefits and eventually received a promotion. My daughter's boyfriend enjoyed the flexibility of working with our agency as a student and was also offered a permanent position, but declined as he was returning to school in September. My husband's friend lost his job due to a plant closure, and he too gained permanent employment through our agency.

There are numerous success stories as the result of opportunities for employment gained with staffing agencies, and I am just one of the many. Thank you.

The Acting Chair (Mr. Joe Dickson): Thank you very much. Is there anything further to add?

Ms. Kim Flinn: No. That's what I wanted to share with you today: Had it not been for the opportunities I've been given, I certainly wouldn't be where I am today.

The Acting Chair (Mr. Joe Dickson): Okay. Thank you. I will now give one minute each, starting with Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for your presentation. When you became a permanent employee, are you aware of any fees that might have been paid for you to become a temporary to permanent employee, and if so, what the fees were?

Ms. Kim Flinn: No.

Mr. Vic Dhillon: So you don't know if there were any fees paid?

Ms. Kim Flinn: I was working with an agency. I was hired as a permanent position within the agency itself, so I doubt there would have been any type of fees.

The Acting Chair (Mr. Joe Dickson): Mr. Bailey or Mr. Miller?

Mr. Norm Miller: Thank you very much for your presentation. You've certainly outlined many positive benefits of your experience in terms of building skills and being able to get back into the workforce, and I think you also talked about flexibility. You've had lots of experience working in temporary help agencies, and obviously the government sees problems. So I would ask, do you see any problems in the experience you've had working with temporary help agencies that are unique to that industry or are different from any other workplace?

Ms. Kim Flinn: No, I don't. As a matter of fact, I think what it does is remove a lot of barriers for employment for people, particularly right now in the economic situation we're in, where a lot of people, like my husband's friend, have been in a particular place of employment for 25 years, the plant closes and they're really at a loss. When they come and see us, they find that we're very empathetic and supportive. We can help them find employment.

We don't always just want to find them employment with us. We're very supportive. We'll say to people, "Go to other agencies. Find work for yourself." We've often said to people, "If you find an assignment with another agency, good for you." We want to see them working. I find they're very, very nervous, and it feels really good to be able to help those sorts of people when they come in, or oftentimes young people who don't have any experience. I find they're treated very fairly, and as I do the payroll, I can see that they are treated fairly.

The Acting Chair (Mr. Joe Dickson): Thank you very much. I'm going to go to Ms. DiNovo for about 15 seconds.

Ms. Cheri DiNovo: Just quickly, this bill does not include nannies or home care workers—clearly, some of the most exploited workers. Our suspicion is that it's because the government pays for home care workers themselves, so they haven't covered their own temporary employees. Any comment?

Ms. Kim Flinn: No, I don't have any comment on that.

Ms. Cheri DiNovo: Thank you.

The Acting Chair (Mr. Joe Dickson): Thank you very much for a wonderful presentation. Thank you for your time.

Ms. Kim Flinn: Thank you.

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CHRISTINA GORDON

The Acting Chair (Mr. Joe Dickson): The next presentation is Stephanie Beres. Good afternoon. We have you—

Ms. Christina Gordon: Yes, good afternoon. My name is Christina Gordon. I have worked as a temporary employee for 17 years. I was hoping to appear here together with my colleague and friend Stephanie Beres, but unfortunately, I am here on my own. I have submitted Stephanie's report to the clerk, and it is available. My report is also available. Stephanie and I are both temporary workers. This is Stephanie's; mine is a little bit longer.

Have you ever wondered what a performer does when they aren't under contract or in a production house? They have rent and mortgage payments, and they also have basic expenses of living. So what are they going to do? Some of them waiter, some of them do retail, some teach and some, like myself, temp.

I have used a temp agency for almost 18 years now to fill in the gaps between my professional engagements. As

a performer, I am a contractor, so I cannot go on EI, even though I pay it when I do a desk job. That's a federal matter, and we won't get into that.

I think I should work, because I can work.

Other than basic typing, all of my training as an admin assistant, specializing in payroll and accounting, has been gained through my various positions through the temp agency. I get paid when I work and for the work that I do.

Every Wednesday at noon, I pick up my paycheque. This has been the norm for the last 17 years. While at the office last week picking up my paycheque, I decided to check into the application process currently being used. I hadn't applied for this company for 16 years, so I was sure that it had changed a bit.

I was shown a standard application form: release forms for credit checks, that kind of thing. There was also a take-away page that clearly outlined the ESA, the Employment Standards Act, and my rights to work as an employee in Ontario. There was also a form for vacation pay entitlement. I was given a lovely payroll package that had timesheets in it so that I knew I had to send in my timesheet on time to get paid. There was also an option to have direct deposit, which is great if you're working outside the scope of the agency.

Furthermore, I saw an incredible collection of people applying that day. There were new Canadians, mothers returning to the workforce, labourers and even a guy in a Hugo Boss suit—obviously a senior executive-type person who had been recently laid off. I can only assume that, because he was at a temp agency.

I also was asking about the difference between "basic labourer" and "office worker," and I was given a safety program handbook, which was compiled by the agency. Also, a new and young workers awareness policy was posted.

If I ever need to update my skills for a particular assignment, I can go in and use their computers and their programs. I can also have the program e-mailed to me, and I can update my skills at home.

My 17 years have contained some interesting gigs. At every assignment, the agency had my back. Within four hours of arriving at the client's, I get a phone call from my consultant, asking me how it's going.

I have run reception at ad agencies, financial companies and government ministries. I have done payroll, accounting and collection calls. I have filed medical charts at a doctor's office, and was asked by my consultant if the filing cabinet was sturdy and bolted and if the stool was up to code. I have tracked down new addresses for RRSP statements. I have conducted satisfaction surveys at the Ontario courts, which actually served as an incredible character study for me, because there are some really interesting people in the Ontario court system.

In all these years, I have only had two scary moments. I was once sent to the wrong hotel to do convention. I was sent to the Delta Chelsea, and the people in Michigan, the company that sent me there—not the temp agency, but the company, the client—it was actually

happening at a totally different hotel. I was in a quandary as to what to do. I went to the agency and waited until the doors opened. The then branch manager escorted me to the proper hotel, once we figured out the problem, and she took the yelling, rather than me.

Another posting was a nightmare from the minute I got it. A receptionist for a paint company's head office called in sick the day of a hostile merger, so there was no one on the phone.

I got there, and the phone system was something like a cross between Uhura's station in Star Trek and the "one ringy-dingy," pushing-the-buttons kind of thing. I was freaking out. I had people screaming at me for an hour and 15 minutes until there was a very friendly voice, finally, on the other end of the line. It was my consultant. She had been instructed by the company to send me home. I had no problem with that whatsoever. But on discussion with my consultant, she said that I would be paid for four hours of work minimum, regardless, because the expectations were unrealistic.

I fully understand that my pay is lower than what the client is billed. The markup, however, is not that substantial, and it reflects the fact that staffing services are businesses, not government services. So we must keep a competitive margin, okay? I am willing to pay that extra bit of money to have access to a pool of jobs when I'm unemployed. The client also does not have to pay for an HR division, because they would normally have to set aside an office and a person to interview new staff, to make sure that all of their signatures are correct, that they're actually even legally allowed to work in Ontario.

Even though almost all of my postings have produced an offer of permanent employment, I choose to leave my desk job to be a performer. I have performed in seven of the provinces across Canada and have been a card-carrying ACTRA and CAEA member for over 22 years. I myself have personally suggested my company to over 20 performers who have either worked temp, continue to work temp or have gone permanent as their acting careers have slowed down.

It is my understanding that there are two sections of Bill 139 that are being questioned. The bill on the whole looks lovely as far as I could read through it with my limited legal knowledge. But I read the Hansards—I had to google that word because I didn't know what it was—and I was horrified by the accounts of some of the speakers myself. That is why I'm here today: to show the reality of my 17 years with an established staffing service. I think some of the infringements could be stopped by a closer adherence to the Employment Standards Act.

In closing, most temps work temp by choice, either to try out a new profession or location, to pay for upgrading their education or to facilitate a change in the family dynamic. I have been able to balance my chosen profession on the stage because I can always call up my agency and tell them when I'm available for office work.

If the two points, continuance of employment and six-month limitation of client fees, are left to stand as they

are, I fear they will effectively cut off thousands of temps and temp-to-perm employees—

The Acting Chair (Mr. Joe Dickson): Thirty seconds.

Ms. Christina Gordon: —from the jobs they need. Thank you very much.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation. Well done.

THE PEOPLE BANK

The Acting Chair (Mr. Joe Dickson): The next presenter is the People Bank, Londa Burke, vice-president of operations.

Ms. Londa Burke: Hello.

The Acting Chair (Mr. Joe Dickson): Welcome. You have 10 minutes.

Ms. Londa Burke: I'm Londa Burke, vice-president, operations of the People Bank.

In 1986, I came to Canada as a landed immigrant. I sent my resumé to over 50 companies and only received one call back. It was from a temporary help company. My consultant wanted to place me at the ministry, but my paperwork was not complete. The following week, when I was eligible to work, my consultant said she had a one-day temp assignment in their office.

This one-day assignment lasted me a lifetime. I was quickly promoted to a consultant myself. Over the past 22 years, I have placed thousands of people on temporary assignments that went permanent. Many are now in senior positions due to their work ethics. Many of the employees were too shy to do a good interview or their resumé did not express the full reflection of their experience. After coaching and working on the job as a temp, these employees received great jobs. It was an added service that I did at no cost.

Our service is also great for the return-to-work moms who need recent experience so they are eligible to get full-time jobs, or someone who wants to do a career change. We help them with getting the opportunities they deserve. I enjoyed watching them go from little confidence to feeling great about their skills. I could go home at the end of the day feeling proud that I had made a difference in the lives of these people. I have received many thank you cards, letters and flowers, thanking me for helping them achieve their potential. Many were landed immigrants just like me.

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I am proud of what I do. I'm a certified joint health and safety officer and I go to most sites myself to review the safety. I have declined business if I feel the temporary employees are in jeopardy. I have always treated everyone how I want to be treated and I have always been honest with our temporary staff. I know that being placed by a temporary help company myself made a difference in my life and made moving to another country that much easier to absorb.

At our temporary help company, we partner with government agencies such as HRDC, YMCA and

COSTI. We help these agencies get these staff back to work. We hold job fairs, we assist them in their resumé-writing and we coach them on interview techniques. We also allow, at no cost, for the temporary staff to take advantage of upgrading their software skills.

I have seen the bad publicity; that the temporary help agencies make oodles of money. I can tell you honestly that's not even close to being true. We make 50 cents to a dollar per hour, and that has to pay for our advertising, our testing, recruitment staff, our guarantees to our clients if the temporary doesn't work out and all other ESA obligations. We have all been hearing in the media all the bad things that the agencies are doing. This is just a handful of bad companies, as in any industry. Please do not penalize the great temporary help companies that do great things for people and get them jobs. We are their lifeline, and Bill 139 will take this away from them. These are the people who need and trust us the most. So I am requesting changes to Bill 139.

Recommendations of continuous employment while not working: Do not codify a continuance of employment; and recognize or respect periods of active versus inactive employment. There is no employment when the assignment employee's inactive or not on the assignment. Delete clause 74.4 (2)(b), "An assignment employee of a temporary help agency does not cease to be the agency's assignment employee because ... (b) he or she is not assigned by the agency to perform work for a client on a temporary basis."

Do not impose a different and more onerous legislative standard on staffing firm employers. The notion of implied continuance of employment is contrary to well-established principles of employment law and existing provisions contained in regulation 288/01 to the Employment Standards Act. Regulation 288/01 respects the nature of fixed-term temporary employment.

Recommendations for regulating business terms and client fees within service agreements: Remove paragraph 8 of section 74.8(1), and exception (2), which interfere with business terms, and refocus attention on the employment-related issues such as employment agreements and employment terms so that a worker is never unfairly restricted from seeking employment with prospective employers.

Thank you for your time. Any questions?

The Acting Chair (Mr. Joe Dickson): Thank you for your presentation. We'll commence now with questions from the official opposition. Mr. Bailey or Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. So basically, in summing up, you've had a very positive experience. In your opinion, would you say the great majority of temporary help agencies are doing a good job and both employees and the companies are good businesses? I guess I can put it that way.

Ms. Londa Burke: Absolutely.

Mr. Norm Miller: So it's the minority, and as I think a previous presenter said, this bill is going to negatively affect all the businesses instead of going after the few bad apples.

Ms. Londa Burke: Absolutely. It will really hurt our temporary help company, along with thousands of others in Ontario.

The Acting Chair (Mr. Joe Dickson): Thank you very much. The third party, Ms. DiNovo?

Ms. Cheri DiNovo: There are no questions. Thank you for your deputation.

The Acting Chair (Mr. Joe Dickson): Thank you very much. I will go to the government.

Mr. Vic Dhillon: Thank you for your presentation. Does your firm charge temporary-to-permanent fees?

Ms. Londa Burke: Actually, rarely. I won't say no. Most of them, it's anywhere from six weeks to 20 weeks, depending on their skill level, and we do not charge a perm fee for those positions. The only ones where we would charge a fee, and it's pre-negotiated in advance, would be for higher-level positions. But for entry level work, absolutely not.

Mr. Vic Dhillon: What type of testing do you do to recruit?

Ms. Londa Burke: What type of testing? It depends on the skill level and the position. If it's labour positions, for instance, we have some labour types of testing. If it's for clerical and that sort, we might put them on Word, Excel, a clerical test and so forth.

Mr. Vic Dhillon: You mentioned your mark-up is 50 cents to \$1 per hour, but in the deputations we've heard today and the previous day, we've heard examples where permanent employees are earning \$26 an hour and a temp employee is earning \$13 an hour; a permanent employee is earning \$16 an hour and a temp employee is earning \$9 an hour. Why such a large spread? What's your gross margin? Fifty cents to a dollar: Is that a gross amount?

The Acting Chair (Mr. Joe Dickson): I'll give you 30 seconds to answer that.

Ms. Londa Burke: That's after we take out all the burdens that we have; we're left with 50 cents to \$1 per hour.

Mr. Vic Dhillon: That's your profit?

Ms. Londa Burke: Yes.

Mr. Vic Dhillon: What would be the gross?

Ms. Londa Burke: A good question. Maybe about—

Mr. Vic Dhillon: On average.

Ms. Londa Burke: On average, it's maybe half of that—I mean, double that, probably. It depends.

Mr. Vic Dhillon: So \$2?

Ms. Londa Burke: Maybe. Well, I don't know that answer, I hate to tell you. I don't want to say something and just come up with it, but I can tell you that we make very little every month; in fact, in some months, negative numbers. So we don't make money.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your question and answer. Thank you for your presentation. Excellent.

HOMEWATCH CAREGIVERS

The Acting Chair (Mr. Joe Dickson): Our next presenter is Homewatch CareGivers, serving—it sounds

like a commercial—Burlington, Oakville and Mississauga west. Scott McNabb, president and owner. Welcome, sir.

Mr. Scott McNabb: Good afternoon. I'm Scott McNabb, president of Homewatch CareGivers in Burlington, Oakville and Mississauga. Thank you for providing me this opportunity to address you today on this important issue.

Homewatch is very supportive of the Ontario government's initiative to promote and protect employment rights and to correct specific situations in sectors where workers are not being fairly treated.

I'd first like to mention that I have read the Ontario Home Care Association's submission and I fully support their comments and recommendations, and I'll limit my comments to four key issues.

First of all, I wish to emphasize that home care service providers provide valuable and specialized services, and we're not just employment placement agencies. We provide a wide range of services to clients, many of whom are in the vulnerable sector of our communities. These services can include regulated health care professional services, such as nursing; personal care services, such as bathing, dressing, toileting; and home support services, such as healthy meal preparation, companionship, transportation and light housekeeping.

Our caregivers are specifically trained for specialized services such as Alzheimer's care and palliative care. Our clients engage us because they require our specialized care-related services. The services that we provide are based upon personalized home assessments, a consultative process with the prospective client and their family members. The care plans are designed to specifically meet the needs of the client and be flexible—to provide services when and where they are required. The flexibility in the range of our services and the flexibility as to when the services are provided enable our service to be cost-effective and affordable for those we serve, and to provide the best value to our clients.

Our mission is to preserve dignity, provide independence and provide peace of mind for our clients and their loved ones by providing exceptional home care service. In order to do so, we hire the very best caregivers to provide these services. The caregivers are our employees. We take our responsibilities to our clients very seriously, as they are part of the vulnerable sector of our community—seniors, disabled individuals and young children.

Homewatch CareGivers is accountable to our clients for the performance of our caregivers, and the caregivers are accountable to us for their performance. Homewatch CareGivers is also responsible for protecting both clients and caregivers. Our caregivers are well trained in the safe delivery of our services and they are bonded. With respect to our caregivers, we provide extensive training to help them work safely, we provide WSIB insurance coverage and also we pay our share of CPP and EI obligations.

"Home care providers are not 'temporary help agencies' that supply and assign employees to a 'host' employer. There are identifiable differences between the structure of the temporary help agency and the home care provider."

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As I mentioned, our caregivers are our employees. They are our most valuable resource and the core competitive strength of our company. We seek caring and capable caregivers who possess the highest level of integrity. We diligently train and motivate our caregivers, to ensure they have the skills to work safely and productively.

Each caregiver undertakes a thorough orientation program where their rights and their responsibilities are clearly and plainly provided. We also provide extensive training in specialized care, such as Alzheimer's and palliative care, as I mentioned.

Each caregiver is given a comprehensive care book for each and every assignment. This care book is complete with the client's living co-ordinates, the care plan, which outlines the services that they are to provide, a log for when they arrive and depart, emergency policies and procedures and the client bill of rights.

In order to meet the needs of the client, our care plans need to be flexible and designed to provide services when and where required. We provide services 24 hours a day in discrete segments. We could be contracted to provide services for eight hours from 10 p.m. to 6 a.m. to provide palliative care for a client in their home or three hours one Monday morning to permit a caregiver some respite, and then again Thursday evening. Flexibility is the key in our industry. We provide our services in private residences, retirement homes, long-term-care facilities and hospitals—wherever our client resides.

In order to provide this flexibility, we look to employees who are mobile and flexible in their preferred work schedules. Many of our employees work part-time and stipulate the hours during which they would be available. It's a symbiotic relationship that works well for our caregivers and our clients. For example, a young mother may choose to work only evening hours when her husband is home and available to care for their children, or alternatively, a student who is looking to earn wages to support their education may only be available to work during the weekends.

We seek to hire, train and retain capable career employees. In the vast majority of cases, where a caregiving assignment is disrupted, it is due to the change in client circumstances, such as death or transfer to a long-term-care facility; or by a change in the caregiver's circumstances, such as moving to a new city or returning to school for further education. In both scenarios, the change is beyond our control. We do, however, adjust and adapt quickly to provide continued employment for all of our caregivers through obtaining clients in a competitive market.

I also wish to note that the private home care services sector is helping the Ontario government achieve its

goals in transforming Ontario's health care system and, in particular, implementing the aging at home strategy.

I will quote the OHCA's submission. I think it is very well stated:

"All home care services enhance quality of life, are cost-effective and prevent unnecessary hospitalization, emergency department admissions and premature institutionalization, thereby serving the broader goals of the Ontario health care system.

"All home care providers in Ontario, regardless of the type of funding source, bridge the gap between the various settings of health and social care, including acute care hospitals, emergency rooms, supportive living, long-term-care facilities, hospices and the physician's office. These close linkages meet the client's needs in an individual and comprehensive manner and go well beyond physical and mental health care to engage social supports as well."

I would also like to acknowledge that we're fully supportive of the exemptions that are afforded to individuals providing professional services, personal support services or homemaking services as defined in the Long-Term Care Act, 1994, if they—or their employer—have contracted with the community care access centre under the Community Care Access Corporations Act, 2001.

We wish to highlight, however, that the private home care services sector provides identical services to those providers, to the same vulnerable sector throughout Ontario.

The exemption to these individuals who have contracts with the CCAC creates a significant competitive disadvantage to the private home care providers, not only to us but to other reputable providers throughout Ontario that are not contracted with the CCAC. This disconnect provides yet another impediment to the health and vitality of the private home care services sector.

Homewatch CareGivers is also very concerned that the provisions in Bill 139 could significantly increase the cost of providing caregiving services, the implication of which would be to either adversely impact the financial well-being of the home care service providers or increase the cost to our clients, namely seniors, the disabled and children—all of whom are members of the vulnerable sector.

As a footnote, I'd like to mention that the recent regulatory change in the holiday pay had the impact of increasing our payroll costs by 4% and will likely increase the cost of our payroll throughout 2009 by 3.3%. Further to this, the recent harmonization sales tax proposed by the Ontario government could increase costs to our clients by another 8%. Homewatch CareGivers strongly recommends to the standing committee that private home care service providers be provided the same exemption as that afforded to individuals providing professional service under the Long-Term Care Act and who are contracted by the CCAC.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation today here, sir. We appreciate it.

ALTISHR

The Acting Chair (Mr. Joe Dickson): The next presenter is altisHR, Kathryn Tremblay. Welcome.

Ms. Kathryn Tremblay: Hi. I'm Kathryn Tremblay. I'm with altisHR, and I started my business in 1989 in Ottawa with \$750 at 21 years of age. I've invested my life building this business. It's been an incredibly wonderful experience. Our company turned 20 years old this month—and yes, I just gave you my age—but we were named among Canada's 50 best-managed companies in 2006 and have requalified every year since then.

We have 2,000 temporary employees on assignment every day in Ontario and 100 permanent employees. We are the largest supplier of staffing to the federal government in Ottawa and also among the leading suppliers to the provincial government.

Before this committee decides on the fate of our industry and on the fate of my business, I am asking you to seriously look at this bill. What concerns me gravely are some of the comments I've heard today. Contrary to what the president of the auto workers' union said—that temporary workers are paid 40% less—this is absolutely inadequate for our 2,000 workers. Our employees who are temporary earn between \$15 and \$75 an hour. Our highest-paid makes \$100 an hour or \$1,200 a day normally. Our workers are professionals. They're administrative candidates, from secretarial to accountants. These are not all these low-wage workers under these circumstances; they are highly remunerated, and they have very specialized skills.

In the private sector, about 38% of our candidates become permanent as a result of our temporary introduction. We get them their foot in the door. In the federal government, about half of our temporary workers are offered terms and casual employment after we've introduced them to these experiences. We process 6,000 security clearances every year in order to help our candidates get their foot in the door to the federal government. We offer this service for free, and we try to support their ability to get that foot in the door.

What has horrified me in this process, listening to all of this, is that our sector is being made out to be some kind of villain. We are absolutely the contrary to that. We are not fraudulent; we are certainly not fly-by-night. We have 20 years' experience, and we have wonderful employees who care every day about what they do.

With the continuance element, which has concerned me gravely, the responsibility has now shifted to us to be responsible for a temporary worker for 35 weeks after they finish. This will be so onerous to our company that we will have to shut down. I am hoping not to have to go out of business.

Specifically, our average assignments last 18.81 weeks. Based on applying the rules, it would take us 22.8 weeks to actually break even on our assignments. That means that we would lose 0.7% on every candidate that we place on an 18-week assignment. We would not be able to stay in business under those circumstances. Or we could pass on the cost to our client, the client being the employer. As Kelly Harbridge from Magna said, I don't believe any company in Ontario right now can absorb an extra 5% or 6% cost for a temporary worker. This is not the time for us, in this economy, to go to our client and say, "Oh, by the way, can you pay another 5% or 6%?"

1700

Our company is down about 21% in sales as a result of the economy and we've had about four or five clients close their doors since January. We are certainly not hoping, under these conditions and with this bill, to now go back to our client and say, "Can you handle an increase?"

There is no other business with this legislation; there is no other jurisdiction with this legislation. Quebec and Alberta have looked at similar legislation and have struck it down. We would certainly like you to re-look at this element because it's not even clear to many people how it will be applied. We have spoken with our legal team and the legal team of ACSESS, our national association, and no one seems to have the exact same interpretation of the bill. We believe that each person at this table needs to seriously look at the effect on business before making this decision.

Every economy relies on temporary workers. In our experience, within our clients, 95% of their workforce is permanent, and 5% of their workforce or less is temporary. That temporary workforce shrinks and grows and increases or decreases as it needs to, based on their own requirements. By introducing this bill, it will make the Ontario economy less competitive and it will slow the recovery. I don't understand why this government would want to slow the recovery of this province.

The temporary employees that come to us now—we help them every day. We provide them training, we provide them jobs, we provide them advice, and we put food on their table. We pay them every week, with no holdback. We are an excellent employer, and those people who are out of work that are permanent and now need work come to us and we place them in jobs and introduce them to new opportunities.

When we go away and when our industry's been annihilated by this bill, I'm wondering who's going to help these temporary workers find work. Who is going to do that? Are they, these new Canadians, now going to send their resumé to 100 companies, 500 companies or 5,000 companies? This is not feasible for the average person. Instead, the employer comes to us, we do the selection, the testing, the reference checks, the training, and we introduce them to that opportunity. This bill will hurt those vulnerable workers. How is it that that new Canadian is going to know what 1,000 companies to apply to for that one-month assignment to get their skills

kick-started in this economy? What we're suggesting is that you deal with the fly-by-night companies. I don't know who they are, but if you do, please send your labour police in there and shut them down. Don't shut down the 99.99% of the wonderful companies that are providing jobs in this economy.

What I have been deeply upset with is that for 20 years I'm paying taxes, I'm employing people, and you're going to shut me down. I absolutely would like to know from each person here if you would be willing—this is a personal invitation to you—to come to my company, come and meet my employees, meet my temporary workers, meet my clients. Once you've done that, you will realize that the effect of this bill is too negative to continue with. Now, if there are elements of it—and I understand there are some that are good; fine. But please, at least look at continuance of employment as a major area that needs to be edited.

The Acting Chair (Mr. Joe Dickson): We have exactly two and a half minutes, so I will give you 40 seconds each, commencing with the third party.

Ms. Cheri DiNovo: Thank you for your presentation. You said that a number of your employees, your temporary contract employees, are placed with governments, federal and provincial. I've asked others this: How many temporary employees do you think the province, in terms of the percentage of their workforce, has at any one time? We're having a difficult time—

Ms. Kathryn Tremblay: It's quite low. The Ontario government used to spend \$100 million on temp help; it now spends \$25 million. It has actually reduced its requirement quite a lot. It is, I think, streaming its own cost, which is probably a good thing, and also hiring permanent workers. So we've found that it's reduced quite a bit. If you look at your entire payroll, I think you could easily come up with that number—your entire payroll and then looked at \$25 million. It's probably 1%, maybe 2% of your workforce, but certainly not more than 2%.

Ms. Cheri DiNovo: No more than 2%. Okay. Thank you very much.

The Acting Chair (Mr. Joe Dickson): The next speaker is Member Delaney.

Mr. Bob Delaney: Thank you for an excellent deputation. Congratulations on 20 years in business. I was very impressed with the grasp that you had on the detail of your market and your business.

A couple of quick questions: What's your gross margin today?

Ms. Kathryn Tremblay: You'd have to look at every single temporary worker and break it down by sector—

Mr. Bob Delaney: As a company.

Ms. Kathryn Tremblay: —whether it's professional or administrative. I don't think, as a private firm and an independent, that I would want to talk about that at this hearing, not because it would be—you'd have your pay rate, plus your direct costs, plus your operating costs, and then profit. Most of our sector earns between 2.5% and 3.5% profit.

Mr. Bob Delaney: Do you charge temp-to-perm fees?

Ms. Kathryn Tremblay: Yes, we do, and our clients find that less expensive than going about it on their own. They find it more effective to pay us to put a temporary person in to convert them to perm than to go out and put an ad in the paper.

Mr. Bob Delaney: A last quick question: Do you provide—

The Acting Chair (Mr. Joe Dickson): Thank you very much. The next question will be by Mr. Bailey or Mr. Miller.

Mr. Norm Miller: Thank you very much for your presentation. I certainly agree with your philosophy in general, about dealing with the bad apples versus the 99% of the businesses that are not trying to break the rules and are responsible companies. I guess a couple of things: Why do you think your particular industry, temporary help agencies, is being vilified—I think that's what you said—and should there be different rules for your company versus everybody else out there? Or does the Employment Standards Act cover you well enough?

Ms. Kathryn Tremblay: I don't think our sector should be addressed separately, no. I think all businesses should have the same general practice rules. In general, these rules just don't make sense for our sector. It hasn't been looked at from a business standpoint, and so, no, it doesn't make sense. It will shut us down, and shutting down the temporary help sector in Ontario certainly doesn't make any sense at this point in time in the economy.

Mr. Norm Miller: So why are you being vilified—

The Acting Chair (Mr. Joe Dickson): Thank you very much, Ms. Tremblay and Mr. Miller.

Ms. Kathryn Tremblay: I don't know.

The Acting Chair (Mr. Joe Dickson): We appreciate your presentation.

Ms. Kathryn Tremblay: Thank you.

The Acting Chair (Mr. Joe Dickson): It's good to have you here.

FERNANDO DE PASQUALI

The Acting Chair (Mr. Joe Dickson): Our next presenter is Fernando De Pasquali. Welcome. Please introduce yourself and your guests. You have 10 minutes, sir.

Mr. Fernando De Pasquali: Hello, committee members. My name is Fernando De Pasquali. I'm here with Mike Rafuse and Danny Lynch, who are here to support me on my opinions.

I'm a laid-off worker, and so are my friends here from Oshawa. I'll tell you why there's no way I would ever go to a temp agency to find work: I have a problem with the six-month exception. Why is it that an agency is allowed to just toy around with a hard worker and charge whatever fee they please, terminate as they please, pay or not pay severance as they please, so that every time a worker has a chance, and knows that he has a chance, as he gets closer to the end of the six-month period, to earn

a better wage, the agency is then allowed to just pull the plug or relocate, or title you "elect to work" and leave you jobless?

Why is it that a worker must pay a fee to get a permanent job? If you ask me, that's not a very good labour law exception. If it is prohibited or illegal beyond the six months, then that's not prohibited or illegal, now, is it? If it is illegal, it should remain illegal from the start of the contract to the end of the contract. Why should I pay a company for me to get paid? Not only is a worker making 40% less than their co-workers, but he also has fewer benefits.

The agency exceptions, I think, undermine the labour laws. They create insecurity, income instability, precarious work, human rights violations and poor work standards, whereas a worker who never gets a chance to earn a decent wage will be exempted from poor work standards, and this exemption allows the agencies to pretty much use and abuse you within that six-month period.

I have an example I'd like to talk about. I have a friend whose wife is a part owner of one of these companies, and this is what she did: When she started the agency, she had contracts with the client company where the wage of a full-time worker was \$14 an hour. She would, at the time, charge a fee of \$4 an hour for every hour worked for her company's services, leaving the temp worker at a \$10-an-hour wage. But then, when the agency became bigger and she had more temp workers on contract, she decided to raise the fee to \$6 an hour for every hour worked, leaving the temp worker at a minimum wage of \$8 an hour. That was three years ago; who knows what the fee is up to now?

How is it that an agency is allowed to take a good- or a decent-paying job and make it into a minimum-paying job? How would you feel, committee members, if your boss decided that he needed to make more of a profit, so he splits the committee in half? Both sides still have to do the exact same amount of labour, but one side's wages will be charged a fee of almost half your wage? Let's say you go from \$80,000 a year to \$40,000 a year because your boss has been given the power to extract \$40,000 per year from your wage. Would you consider that fair or unfair? If it happened to you, wouldn't you agree that this exception to the rules should be illegal? After all, you're doing the same job as your co-worker, so therefore you deserve fair and equal pay, but you can't do anything about it because the labour law has accepted this provision and made it an exception to the rule. Is that not undermining labour laws and human rights?

1710

Temp agencies believe that Bill 139 will reduce jobs, but I believe that these agencies are not creating jobs in the first place. They're supplying temporary labour. If you ask me, a worker is simply being hustled out of their income potential.

Not only that; just imagine again, committee members, if your boss decided to place you somewhere and did not give you any information on where you're going

to work, how long, with whom you're going to work and how much you're going to be making, while at the same time making you sign a contract without any clarification on holiday pay, benefits, wage or termination pay. Would you then accept the job? I know I wouldn't. Therefore, it would leave the door open for a hard worker without the knowledge or awareness of how temp agencies work. That person will sign a contract and be hustled out of their hard-earned cash. The whole purpose of employment standards is to recognize the power imbalance between employers and workers. Bill 139 should ensure that it brings temp workers the same equal rights as any other worker.

Another topic I'd like to talk about is the responsibilities that a client company should take on. The way it stands now, if there is a health and safety concern, there's nothing a temp worker can say or do because the client company will not take responsibility for a temp worker. If there's sexual harassment, again, the worker is left in the dark. Or simply being mistreated or overworked, there's nothing a temp worker can do because of the title of the work—temporary work. Is that not a human rights violation? How would you feel if you were being harassed or discriminated against, and you contact the supervisor of the client company, and he tells you, "Sorry, bud, there's nothing I can do for you. We're not responsible for you"? Is that not demoralising? It would be to me, and it would lead me to want to quit the job. If you're working in a company, that company should be responsible for any worker who is under their roof, whether temp or full-time. What would happen, then, if there's a fatal accident on the job site? Is the compensation to the family simply brushed off because the worker is a contracted temp worker?

Giving the client company the right to refuse any type of severance pay: How in the world is that legal?

You know, a lot of people wouldn't quit like I would under these standards. Some people won't, like the ones who went to these agencies for a first job, who have no idea about labour laws or rights. These are some of the people that these agencies will take advantage of, the ones who are unaware and don't know any better. I believe this is how they have tripled in the last 15 years, making billions off workers' hard labour.

I think we should follow in the steps of provinces like BC, Alberta, Manitoba and Nova Scotia. I recommend that you make fees illegal, for fairness and protection for the worker. I also recommend that agencies should be required to provide workers with the proper and clear information on job description, job site and how long it will be for.

I recommend that you remove the six-month exception to prohibitions on barriers to employment. If you were to ask me what I would do to rectify this problem, I would either charge a one-time fee or no fee at all because it would be better than taking away part of their wages.

We had a gentleman here earlier who said they had 35,000 temp workers under contract, and 16,000 of them were in Ontario. That should tell you right there that the

exceptions are too lenient in Ontario. These companies are able to give donations and do charity because they have taken part of a worker's hard-earned wage to make this possible. Without these changes, Bill 139 is not a step in the right direction, except in the eyes of an agency because all they care about is their profit.

If anything, it's a step backward. So these companies, again, use the wages of a worker to pay for their own advertising and business costs, as was said earlier.

The charge should not be variable, either. It should be a flat fee or no fee at all. Just the fact that none of these companies can tell you specifically what percentage a fee is—I see that as a problem.

You also asked a lady earlier how it would affect the agency. What she came up with is that it would affect the flexibility. I don't think it's the flexibility that would be affected; it would be their profit, and that's what they care about. Also, another person said earlier that sometimes they don't pay severance because a temp worker would not contact them. He also said there's no way a company can keep track or contact their employees. How's that possible? Do they not sign the contract with the name and address of their employee? That's just a poor excuse, if you ask me. Thank you.

The Acting Chair (Mr. Joe Dickson): Thank you, Mr. De Pasquali. We have exactly 22 seconds left, so I won't entertain any questions. But thank you for your presentation and for the guests who are here with you.

OAKVILLE AND DISTRICT LABOUR COUNCIL

The Acting Chair (Mr. Joe Dickson): The next presenter is Oakville and District Labour Council. Welcome.

Ms. Norma Pennington-Drabble: Good evening. Thank you for allowing this presentation this evening.

My name is Norma Pennington-Drabble, and I'm the second vice-president of Oakville and District Labour Council and the political education chair.

Bill 139, Employment Standards Amendment Act (Temporary Help Agencies), aims to remove barriers to permanent employment and protect the rights of vulnerable workers. The province wants to ensure legislation reflects the realities of today's workplace and labour market in a balanced way.

In terms of background, what is a temporary help agency? The Ministry of Labour employment standards fact sheet defines a temporary agency as a company that sends its employees on temporary work assignments to its client businesses. The temporary help agency is the employer for the purposes of the Employment Standards Act.

Over 700,000 people in Ontario have temporary jobs, employed through over 1,000 temporary help agencies. This is worth \$8 billion a year to Canada, with 57% of that in Ontario. The sheer number of those involved in temporary work and the probable increase in these numbers in our uncertain times demands protection of these workers.

The province of Ontario has protected all persons in the Human Rights Code, stating:

“And whereas it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law, and having as its aim the creation of a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and able to contribute fully to the development and well-being of the community and the province....”

In terms of the background, I'd like to skip now to what the amendment act, as it was tabled in December, actually says. It establishes that the temporary employees are covered by the Employment Standards Act. Where the Ministry of Labour has translated this information, it must be provided in the first language of the agency's employees. When a temporary employee is assigned to work by a temporary help agency, that agency is the person's employer, and this person is an employee of that agency. The act, as it stands, ensures that temporary workers are aware of their rights under the Employment Standards Act. It prevents temporary help agencies from charging workers for resumé writing and interview preparation. It ensures temporary workers have some information they need about assignments, especially pay schedules and job descriptions. It enables temporary employees to have termination and severance pay rights that align with the rights of permanent employees.

1720

When offering a work assignment with a client, temporary work agencies will have to provide the legal operating or business name of the client; client contact information, including address, telephone number and at least one contact name; the hourly or other wages or commission and benefits associated with each assignment; the hours of work for the assignment; a description of the work to be performed; the pay period and/or pay date established by the temporary help agency.

That's as it stands. You'll notice it doesn't say that the temporary help agency has to say where the work is located.

The temporary agency workers and their employers are covered by the following legislation: the Employment Standards Act, Ontario Human Rights Code, Occupational Health and Safety Act, Workplace Safety and Insurance Act, Employment Insurance Act, and Labour Relations Act. You'd think that would be enough.

Our position is that although we support Bill 139, the Employment Standards Amendment Act (Temporary Help Agencies), we feel that the following amendments would strengthen the rights of these most vulnerable workers, and prevent the perception that the Ontario government allows and condones discriminatory practices against workers.

The Ontario Human Rights Code states:

“Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin,

citizenship, creed, sex, sexual orientation, age, record of offences....”

The key here is that “Every person has a right to equal treatment with respect to employment.” It doesn't say in the Human Rights Code that if you work for a temporary help agency, you're excluded from these rights. It includes everyone.

What needs to be improved in Bill 139:

Home health care agency workers: Due to the Ontario government's removal of the “elect to work” exemption for public holiday pay, which occurred on January 2, 2009, health care workers employed by agencies under contract with the community care access centres are now paid for public holidays, either in lieu time or pay at time and a half.

For some reason, community care access centres have been given an exemption on providing rights on termination and severance, allowing discrimination against professionals, personal care and homemakers who work for them by denying access to termination and severance benefits for three years, to 2012. This exemption should be removed.

As it stands, Bill 139 gives the temporary help agency industry six months to comply with termination and severance requirements once the bill is passed. The home health care industry should have the same six-month implementation date as temporary help agencies.

Regarding information provided to workers: As I mentioned earlier, there are a couple of things missing there. The information provided to a worker about an assignment originates from the temporary help agency, which obtains this information from the client company, and is the only information a worker receives. The information required under Bill 139 is an improvement but does not go far enough.

In order for agency workers to clearly understand the nature of the assignment offered and organize their working lives, they need to be given the following information: the company name; company contact information; the location of work, so that they can plan how to get there and how long it will take; the rate of pay; the pay period; overtime hours and the rate of pay for overtime; hours of work; start and end date of an assignment, so they can plan where they want to go next; and a general description of work.

This information should also be dated and signed by both the temporary help agency and client company representatives.

A worker should also receive a pay slip showing the name of the worker, the pay period, hours worked and rate of pay, overtime hours worked and rate of pay, gross pay, net pay, vacation pay, employment insurance deductions, Canada pension plan deductions and tax deductions.

There should also be a transparent process for revising the terms and conditions of employment with worker and agency involvement.

You may think it's surprising to hear that a pay slip such as the one I've described is not issued.

Regarding barriers to permanent jobs, a company should not be charged for hiring a worker from a temporary help agency during the first six months of an assignment. Surely, the purpose of taking temporary work is in the hope of being hired permanently. Charging a fee for hiring such a worker would only serve as a deterrent to the client company. Agencies are paid for the services of providing labour to client companies in the fees charged for each hour worked. We should not be erecting any barriers to permanent jobs for temporary help workers.

Bill 139 will prevent temporary help agencies from charging fees for registering with the agency, getting work assignments or any other services for temporary assignments, and will allow temporary help workers to file claims at the Ministry of Labour to gain redress for illegal fees that have been charged by the agency.

The Acting Chair (Mr. Joe Dickson): You have 30 seconds, Ms. Pennington-Drabble. Thank you.

Ms. Norma Pennington-Drabble: Interestingly enough, the Association of Canadian Search, Employment and Staffing Services' code of ethics states, regarding charging workers for services, "We will derive income only from clients and make no direct or indirect charges to candidates or employees unless specified by a licence." And pertaining to barriers to employment, "We will not restrict the right of a candidate or employee to accept employment of their choice."

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation today.

ASSOCIATION OF PROFESSIONAL COMPUTER CONSULTANTS

The Acting Chair (Mr. Joe Dickson): Our next presenter is the Association of Professional Computer Consultants. Welcome, sir. You have 10 minutes.

Mr. Frank McCrea: Thank you. Good afternoon, ladies and gentlemen. I'm speaking today on behalf of the Association of Professional Computer Consultants. We are an association of approximately 1,000 computer consultants who make our living by working on contract, and this legislation directly applies to our livelihood. I want to thank the committee for the opportunity to make our thoughts known. I believe it's important to note that this is our first opportunity to do so.

In brief, I'm engaged in the staffing industry; I've been engaged for quite a long time and give freely of my time in support of that industry. A recurring theme in my presentation today will be that the staffing industry is the oil of the Canadian economy, and I have outlined some of the reasons why that is so: just-in-time labour, optimum allocation of scarce resources, points of entry for new Canadians and new workers, and other points, as noted on page 3 of my submission.

Labour is fast emerging as Canada's most valuable renewable resource, and I've noted some of the reasons, beginning on page 4. I cannot overstate the importance of that role. As the US raises its barriers and Canada

welcomes the global community, high-tech labour has somewhere to go now, and the emerging trend is that it's coming here from India. One factor is our dynamic staffing model.

A common goal of the private and public sector is to facilitate the growth of the economy. We should be working together toward that goal to create jobs and economic prosperity, not to frustrate it and not to reduce job opportunities. It is predicted that the IT sector in Ontario will need between 59,000 and 84,000 new positions over the next five years, and I'm here today because I fear that the elements of the proposed legislation will function as grit to the oil which the staffing industry provides.

While I have sympathy for the individuals who are victimized, I should point out that there's a low barrier of entry to this industry. Virtually anyone could enter it, and in this day of online communities and websites, anyone with creativity could make themselves look larger than they really are.

My comments are in three parts: conversion, continuance of employment and applicant profiling.

On the topic of conversion, it is my understanding that the provision is being proposed with the goal of removing an obstacle based on the assumption that it will make it easier for a person to switch from working under contract to secure full-time employment. This assumption is false. Has it been considered that the fee might just be a convenient excuse for the company not to hire the person? Remove this excuse and they'll just find another, such as, "I don't want to hire your person because the agency won't supply my people." The excuse works both ways, with our members commonly hiding behind the fee when they don't want to work for the client.

Contract staffing is simply the application of the lease vs. buy decision to labour. The analogy is consistent and the same issues apply. There are a lot of factors which contribute to a reason why a person chooses one option over the other, just as there are a lot of reasons why some people lease their car as opposed to buying their car.

Figure 1 of our submission presents the parties to a contract engagement. It shows the contractor, the agency and the client. The Employment Standards Act applies to the relationship between the employee and the individual. Using the ESA to micromanage contract revisions that would apply to an agreement between two corporations is improper. It would make Ontario the only jurisdiction in the world to do so, and this is not a good point of differentiation. There's always the element of risk in these relationships. If an agency was the supplier to Nortel: the employees were paid; the agency lost money.

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There's a fundamental need for anti-conversion clauses in contracts. No one can predict all the scenarios, so I'll just give one. The contractor is an employee of the staffing firm. After six months, in the absence of such a clause restricting conversion, the client sees the financial benefit in hiring the contractor directly as an employee and paying some form of bonus to the employee. The

systems integrator or staffing agency is left out in the cold with no opportunity to recoup all their investment in standby charges and training. How many times might this happen before the SI stops investing in training people?

Costs: Figure 2 differentiates the activities associated with contract versus full-time placement, and it highlights a number of aspects of that differentiation. Contracts are capital-intensive and have a lot of burdens and risks, which consumes the margin, so the profits are low, as other people have said earlier. Our contracts are not short-term, typically. The potential negative financial impact is large. We're dealing with large corporations, and protection of our contracts is needed. Agencies, we have to say, need profits so they can get the jobs for us and our members. The profits from contracting are presented in Figure 3. Once you allow for the cost to service the contract, the margins, even before commissions, have a level of 10%. It goes down from there.

One of our concerns is that agencies might find different ways to restructure their services. Perhaps they will bid projects. Once they have done the hard work of defining their project and completing it, they can then shop them offshore. So jobs that used to be here will go away. It's very common. In the United States, \$790 billion of business is outsourced annually. An escapable result will be the exact experience of the US loss of jobs.

When I read the legislation, I saw no reference to rate thresholds or terms which excluded my sector in the market, and until I see otherwise, I will share the concern that the concerns of the temps will apply to our sector as well. You will be removing an obstacle to employment, yes, but you will be removing an opportunity to be employed and jobs will be lost.

Continuance of employment: It was explained to me that the goal to make matters clearer removes some of the complexities. Having read the legislation, I doubt that's the case. Currently, a part-time worker needs to work both the day before and the day after a stat holiday in order to qualify for pay. The proposed condition will put part-time workers on one model and agencies on another, the difference being an additional cost to the agency. The incentive is, therefore, to have the client hire individuals directly and not use an agency. Clearly, someone at the CCAC became aware of this provision and told the government that if it was implemented for health care workers and their agencies, the entire business model for care in the home that the Ministry of Health is implementing would crash.

I've been told that, in addition to health care workers, government bodies will be exempted from the legislation as well. Government jobs are quite attractive, so I have to ask why the government would retain these alleged barriers. Can someone perhaps explain why temporary government workers will not have the same rights and opportunities as temporary workers outside? Surely the Ministry of Labour would not want these workers to be disadvantaged, if such is the case.

The bill is silent on an emerging and troubling practice. US firms commonly request details which enable a

reviewer to identify an individual's nationality or country of birth. Our association suggests that the legislation be adjusted to prevent client companies or their agents from requesting these data elements, which can be used to identify an individual by nationality or gender. The individual and/or his representative must be able to satisfy the fact that they are able to work in Canada, which is to say that they have the proper documentation and approvals. It's proposed that the items listed in our submission be made prohibited from being used.

Labour is a major cost component of any corporation, and any increase to cost translates directly to reductions in volume that will hurt the contractor community. Just as investors flee risk, I fear that employers and agencies will flee risk. If they do so, my membership will suffer, job opportunities will be lost and rates will increase. I can simply caution everyone to be aware of unintended consequences. I suggest that once you think of the staffing industry in the view of oil for Canadian business, optimizing access is the view to have.

I ask this committee to hearken back to the Harris government's extension of the retail sales tax to contract services in 1997, and the lessons learned by that misstep. One simple phrase, that a computer program was tangible personal property, raised costs and applied the retail sales tax and resulted in thousands of jobs leaving the province. It was a good intention with unintended consequences, which linger to this day.

The recommendations are included in the written form of my submission.

The Acting Chair (Mr. Joe Dickson): Thank you very much, Mr. McCrea. We have exactly 52 seconds. Is there anyone here who can ask a question and get an answer within 52 seconds? Mr. Delaney.

Mr. Bob Delaney: Having done some IT work myself in my time, the benchmark that we always look at is about 10 days of professional development a year. How do you handle professional development in the business that you serve and who pays for it?

Mr. Frank McCrea: Individuals are responsible for their own professional development. They're paid a reasonably significant premium over salaried employees, and that funds that cost.

Mr. Bob Delaney: There's a shortage of about 50,000 such people in Canada right now. This should be a seller's market. Are you worried about the ongoing viability of your business?

Mr. Frank McCrea: No; we're importing people from Brazil.

Mr. Bob Delaney: Okay. Thanks very much.

The Acting Chair (Mr. Joe Dickson): I actually have 10 seconds. I would then go to—

Interjection.

The Acting Chair (Mr. Joe Dickson): Are you sure? I thought I had the Tories—if Mr. Miller passes, we'll go to Ms. DiNovo.

Mr. Norm Miller: If I can sum up, then, to do with the conversion—you're in favour of having fees. You don't see a problem with the fees that are going to be, I

guess, outlawed in this bill; you have a problem with the continuance-of-employment provisions and you're asking questions about the CCAC exemption, saying, "Well, the government figured out it was bad for them, so that's why they put that exemption in." Is that correct?

Mr. Frank McCrea: There's a correlation between margin and conversion. Some companies prefer to have a low margin, i.e., have the agency reduce their fees as low as possible, and then they don't care about the conversion—with the conversion fee high at the end; other companies are prepared to pay a higher margin and have no conversion fee. It's all part of a give-and-take process between corporations.

Mr. Norm Miller: So it should be left to—you don't have a problem with that variability?

Mr. Frank McCrea: I see no benefit—

The Acting Chair (Mr. Joe Dickson): Thank you. I'm going to have to call the presentation time. I appreciate that very much. I'll start with you in the next round, Ms. DiNovo.

BRIAN VAN TILBORG

The Acting Chair (Mr. Joe Dickson): The next presenter is Brian Van Tilborg. Welcome, sir.

Mr. Brian Van Tilborg: My name is Brian Van Tilborg. I come from Brantford. I appreciate you putting on this committee so that I can get my say. The people of Brantford, many of them, want me to send a message to you, and that is, not to let what happened in my community spread to all the other communities in this province. Brantford's been inundated with temporary employment agencies to a level that you probably cannot imagine. I could only wish that the stories of help that these agencies have been portraying here were true.

The people who can help those workers are you, right here, and this bill is just one small step in doing that. This is not going to put one single agency out of business, no matter how much they say that. The reason is, they can tell you what their margins are here, but these presidents, vice-presidents, some of their financial people who have come in here and presented, their employees who speak as if they were general workers who have been out in the workforce but actually work for their agency—that's how they found their employment, and they do payroll—they seem to lose track of what their gross is.

I know what's happening in my community. During a period of expansive growth before this downturn, we saw agencies popping up. You know what? We had agencies for a long time, but there were two, three, four. We're not a very big place; we're very small. A plant of mine closed down in 2007 and at that time, there were 10 agencies. A month later, there were 11; two months later, there were 13. Before the year was done, there were 20, and the year after that, we were up to 26.

I have an adjustment centre. I do try to help people. It's hard work to get that work done effectively, and it's near impossible sometimes, because what those people have told you, when they say 99%—because it's not even

70% in our area; it's like, 90%. You can check that out. That's on government websites every day, if you want to go on Service Canada.

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The gatekeepers to those jobs are the employment agencies. When I heard those figures of 15% and 20% as the floating workforce—maybe at one time, but the companies that hire today, in a place that has 1,000, when you have 700 full-time permanent and definite temporary employees working for many different agencies under one roof, that's what you guys are looking at for the future of your labour market.

I want you to seriously consider that, because I'll talk about this company without naming it, but I will give you this little tidbit. In my industry, a forklift driver probably either went out to pasture or was a hustler, because we were in just-in-time production, but it was the lowest-paying job in the place. In other words, if you had seniority, it's what you wanted to get on the forklift job, and if you wanted to move and move the goods, you got on the forklift job. That was the lowest-paying job and that was probably about \$19 an hour.

A new company came into town and it was, "This is going to be great. They're providing lots of jobs and that job is going to pay \$17 an hour." Well, I'll tell you what: If you were at the bottom, and your job was forklift driver and you were making \$18 or \$19 an hour, and you lost your job and within weeks you could go to another place for \$17, you would have done well. Our just-in-time forklift drivers worked very well with this new established company, and that's a good wage.

So we had this dialogue for about three months, and we knew—they put out an ad and it made big news—they were hiring 100 more people. But when you advertise like that, because you're making headlines in the paper, agencies from across the province scan what's going on in the newsreels, and of course, we had one come all the way from Toronto to visit us. This company came down, met with the company that was hiring the forklift drivers, and they cut a deal. When they were talking with the company, they asked them, "Where have you been getting your forklift drivers?" They didn't know that they were coming from my old company. What they knew was that they had the retraining certificate. See, at an adjustment centre we try to get people's most current forklift licence updated, so it's good for three years. So they said this place here—being the smart people that they are, because they knew that that company liked the forklift drivers that came from this training centre—contacted the training centre. The training centre said, "Oh, we know these guys. They're from this plant and they've got an adjustment centre." So they come up—and remember, this is all in one day, those 100 jobs that I'm looking forward to to put more people to work—and when I've got a relationship with that company, they show up: "Hi, we are XYZ employment agency from Toronto and we've got 100 jobs for you." I said, "Great." "They're \$11 an hour and it's for forklift driving. Have you ever heard of this company?" Of

course they knew that I knew the company. And so there's the cut. That's not bad.

I don't need that kind of help. The government doesn't need that kind of help. We're paying for that training in one way or another. Now, they had done their dog-and-pony show, and we just saw a bunch of those today, and you probably saw some last week, about all the good things. That dog-and-pony show involved them showing pictures of a computer and a forklift and a warehouse and saying they do all this training, but at the end of the day, all this agency did was read a headline, run down, cut a deal, get a contract, find out where we were—who are already supplying the labour, because that's our job; we want people to work—and they took their cut. That's one example.

With the number of companies doing this—and we are seeing 70% full-time temp—it's not good. It's putting people in vulnerable positions—very vulnerable. In my city it has not been unusual for somebody to work for an agency—many of the good ones that have presented here—for 11 years; 11 years, full-time, waiting to get the carrot. Unfortunately, sometimes those very same agencies hire. When a position comes up, you don't get rid of the person who's working 11 years and get them on with a company so that they can make \$17 an hour. They're making you good money; they show up to work every day. You make sure that person doesn't get hired and the next day somebody starts on that same job right beside you again. They're making \$17 on day number one and the agency gets a cut for that. Good, eh? Just do some of the math at 700 people: There's a production line that pays \$14.40. So you have two different jobs: one at \$17, the other at \$14.40. At the end of the day, the pay rate is \$10.40. With 700 people, 40 hours a week, 52 weeks a year, that's one company. I'm dealing with 180 agencies in Brantford. Just because 20 of them have offices doesn't mean that I have to just deal with those. They're from all over.

We have skilled trades that will no longer come to Brantford, look at Brantford or check the job postings in Brantford because it says "Agency, agency, agency." Brantford has become a wasteland. We can't let that happen elsewhere.

This is minor stuff. That somebody's been working five years in an agency, certainly they can get severance if they're let go, if the company closes its doors—and that is happening. No agency that I know, none of them, can save a company from its demise or foreign, offshore decision-making. They have no say in that. They're only providing labour.

The Acting Chair (Mr. Joe Dickson): You have 30 seconds, sir.

Mr. Brian Van Tilborg: I'll cut it there. I'd like any questions.

The Acting Chair (Mr. Joe Dickson): I'll go to Ms. DiNovo first. I think we'll just have time for one question. Go ahead, please.

Ms. Cheri DiNovo: Thank you very much for that moving testimony. As we know, about 40% of Ontario's

workforce is now in precarious contract, part-time or temporary employment, so it's a huge number. You're absolutely right about that. Certainly, in some manufacturing plants, they're working cheek-by-jowl with people who are making considerably more than them. So I just want to thank you for your deputation, and better luck in the future.

The Acting Chair (Mr. Joe Dickson): Thank you for your presentation, sir, and thank you for coming.

DURHAM REGION LABOUR COUNCIL

The Acting Chair (Mr. Joe Dickson): Our next presenter is the Durham Region Labour Council. Welcome, Jim. It is Jim?

Mr. Jim Freeman: Yes, it is.

The Acting Chair (Mr. Joe Dickson): How are you, sir?

Mr. Jim Freeman: I'm good, thank you very much.

I'm Jim Freeman. I'm the president of the Durham Region Labour Council. We represent about 40,000 workers who are affiliated with about 52 different local unions in Durham region. Our workers work in many different occupations, from daycare workers to auto-workers, from nurses to power workers. On behalf of our members, the Durham Region Labour Council is pleased for this opportunity to share some of our thoughts and ideas with the standing committee here today.

We feel that for far too long, temp agency workers in Ontario have been treated like second-class citizens when it comes to the Employment Standards Act. The Durham Region Labour Council believes Bill 139 is an important first step in bringing some fairness and equity to temp agency workers, but we think amendments are needed to better protect people who are temporarily employed through these agencies.

We believe the Ontario government has a duty to strengthen and pass this legislation to help workers who are amongst the most vulnerable in the province. The government should not enable employers to impose inferior conditions on workers simply because of the form of employment or employment status. The Durham Region Labour Council believes it is more important now than ever to update the Employment Standards Act to address unfair conditions for temporary workers.

The DRLC believes that the economic crisis, coupled with the growth of staffing and employment agencies, has worsened the situation for people doing precarious work—work that is low-paid, insecure and not well protected by minimum standards. Low-wage workers, especially women, immigrant and racialized workers, are increasingly working in temporary, contract and part-time work and juggling two and three jobs without employment benefits or workplace protections. We think that as the recession continues and more people fall off the EI rolls and are forced to turn to these agencies for work, that the time is now for changes that will go a long way toward bringing some fairness to these workers. So we're just going to touch on a few quick ones here.

Improving employment standards: Agencies will be required to provide information on employment standards rights and enforcement procedures to all current and future employees. Where the Ministry of Labour has translated this information, it must be provided in the first language of the agency's employees. We believe this will help empower these workers as to their rights and procedures and we are pleased the government has included this.

The Durham Region Labour Council believes that protecting temp agency workers through improving employment standards and knowledge of those standards is very important, but that it is just one part of it. Enforcement is the other very important part of it. Workers need to be able to enforce their rights while they are on the job. With no protection in the workplace, workers could be denied minimum standards such as overtime pay. When violations of minimum standards occur, workers must absorb the lost earnings until they can find a new job, or be fired. That is why any change must include improving employment standards enforcement.

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We think this bill goes a long way toward protecting workers against reprisals by extending responsibilities. Both the client company and temp agency will be responsible for any reprisals against workers who try to enforce their employment standards rights. Temp workers are often left struggling to assert their rights in the three-sided employment relationship that is temporary work. This change will allow workers who are penalized for trying to enforce their rights to go after the company when it is responsible for reprisals in employment standards violations. The Ministry of Labour will also be able to go after the client company with third party orders when the temp agency refuses to pay wages. We fully support these much-needed changes.

Termination and severance: For far too long agencies and other employers used to deny termination pay or notice and severance pay to workers by calling workers "elect to work." The government plans to remove the "elect to work" loophole on termination and severance for most workers. Although this may be good news for temp agency workers, unfortunately Bill 139 would only allow temp agency workers to get termination and severance if they are terminated by the agency or go 35 weeks in a row without any work assignment. This means temp workers would have to wait longer than other workers who get termination and severance if they have been without work for 13 out of 20 weeks. Unlike other workers, temp agency workers would have no right to refuse an assignment during those 35 weeks except in the case where the assignment offered is much different than the work they usually do. The Durham Region Labour Council thinks the best way to fix these problems is to have temp agency work follow the same rules as other employers and employees for termination and severance rights. There should be no more treating these workers as second-class citizens.

No barriers to permanent jobs: The bill will stop any fees or penalty for workers who are hired by the company where they are assigned. Workers can't be required to sign a contract to stop them from seeking a permanent job with the company. We feel this is a step forward for workers.

Unfortunately, the Durham Region Labour Council believes that allowing an agency to charge a company for hiring an individual is wrong, even if it is limited to six months. We think this not only erects a barrier to permanent employment but also sets a bad precedent for restraining workers' freedom to move from one job to another. Agencies already get paid for the service of providing labour to client companies in the fee they charge for each hour worked. We think it would be extremely unfair to employers to allow agencies to charge a fee in the first six months to compensate for future loss of earnings because a worker has been hired by another company. Other countries in Europe and the European Union that regulate temp agency work do not allow agencies to erect any barriers to permanent jobs.

Fairness for home health care agency workers: At long last health care workers employed by agencies under contract with the community care access centres, the CCACs—

The Acting Chair (Mr. Joe Dickson): Excuse me, Mr. Freeman. I'm sorry to be doing this to you, but because the bell is being called for a vote, you have less than two minutes. You're going to miss one minute off the end. Keep going, sir; we're going to go as long as we can.

Mr. Jim Freeman: Okay—can now get public holiday pay like other workers. This is because of the Ontario government's removal of the "elect to work" exemption for public holiday pay that took effect January 2, 2009. We believe that getting access to public holiday pay is a step forward in bringing fairness to these workers, and we thank the government for that change.

Unfortunately, these same workers will be denied access to termination and severance benefits for three years. The government is considering a regulation that would keep the "elect to work" exemption for termination and severance for professionals, personal care and home care workers working for companies under contract with CCACs until 2012. After this, these workers would be entitled. The Durham Region Labour Council is opposed to any such a regulation.

I'll just skip right to the last page for you then.

Client companies must sign on: The bill only requires the agency to provide information about the assignment. We think this leaves workers stuck between the client company and the agency when there is a disagreement about the terms of assignment. It's the client company that determines the hours of work, the work duties and the term of assignment, and so it is our position it should sign and date the information form provided to workers. We think this will—

The Acting Chair (Mr. Joe Dickson): Thirty seconds, sir.

Mr. Jim Freeman: All right.

In conclusion, the Durham Region Labour Council is pleased that the government is acting to bring in long-overdue changes to how temp agency workers are treated. There are many parts of this bill that we fully support, but like any piece of legislation, we think there are some parts of the bill that should and need to be improved to truly help temp agency workers. After many years of temp agency workers fighting for fairness, these are important changes that could make a big difference in the lives of temp agency workers.

Again we thank the government for bringing this bill forward.

The Acting Chair (Mr. Joe Dickson): Thank you very much, Mr. Freeman. Thank you for your understanding, sir. We didn't call the bell, and all parties are represented here.

The committee is adjourned until Wednesday, April 8, 2009, at 1 p.m. for clause-by-clause consideration of Bill 139 in this location. Thank you.

The committee adjourned at 1755.

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