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Mercredi 25 mars 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

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Wednesday 25 March 2009

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE L'ASSEMBLÉE LÉGISLATIVE

Mercredi 25 mars 2009

The committee met at 1230 in room 228.

The Chair (Mr. Bas Balkissoon): We'll call the meeting of the Standing Committee on the Legislative Assembly to order, Wednesday, March 25, 2009. We're here on Bill 139, An Act to amend the Employment Standards Act, 2000, in relation to temporary help agencies and certain other matters.

SUBCOMMITTEE REPORT

The Chair (Mr. Bas Balkissoon): Mr. Delaney, can we have the report of the subcommittee on committee business?

Mr. Bob Delaney: Yes, Chair. Your subcommittee met on Friday, March 6; Friday, March 13; and Friday, March 20, 2009, to consider the method of proceeding on Bill 139, An Act to amend the Employment Standards Act, 2000, in relation to temporary help agencies and certain other matters, and recommends the following:

(1) That the clerk of the committee, with the authorization of the Chair, post information regarding public hearings on Bill 139 on the Ontario parliamentary channel, the committee's website, and for one day in the Globe and Mail, Toronto Star, London Free Press, the French daily and L'Express, and also in major Punjabi ethnic papers, and in major South Asian, Caribbean, Portuguese, Italian and Chinese ethnic papers.

(2) That the clerk of the committee also send information regarding the public hearings on Bill 139 to Canada NewsWire.

(3) That the committee meet for public hearings on Wednesday, March 25, and Wednesday, April 1, 2009, from 12:30 to 3 p.m. and also from 4 to 6 p.m., subject to authorization by the House of additional meeting time.

(4) That the Chair of the committee be directed to write to the House leaders to request authorization of additional meeting time on Wednesday afternoons (4 p.m. to 6 p.m.) as follows: March 25, April 1 and April 8, 2009.

(5) That the Ministry of Labour be asked to provide the committee with Bill 139 briefing binders prior to public hearings.

(6) That the appropriate Ministry of Labour staff associated with Bill 139 be asked to provide a 10-minute technical briefing at the outset of public hearings on Wednesday, March 25, 2009, to be followed by a 10-minute period of questions and comments by the three parties.

(7) That interested parties who wish to be considered to make an oral presentation on the bill contact the clerk of the committee by 4 p.m. on Wednesday, March 18, 2009.

(8) That, following the deadline for receipt of requests to appear on Bill 139, the clerk of the committee distribute a list of all requests to the subcommittee members.

(9) That witnesses be offered a maximum of 10 minutes for their presentation.

(10) That witnesses be scheduled on a first-come, first-served basis.

(11) That the clerk of the committee advise anyone who requested to appear but cannot be scheduled that they will be kept on a waiting list to be scheduled in the event of a cancellation, and also that they are invited to send a written submission.

(12) That the deadline for written submissions on the bill be 5 p.m. on Wednesday, March 25, 2009.

(13) That the committee meet for clause-by-clause consideration on Wednesday, April 8, 2009, from 1 to 3 p.m., and from 4 to 6 p.m., if required, subject to authorization by the House of additional meeting time.

(14) That for administrative purposes, proposed amendments should be filed with the clerk of the committee by 4 p.m. on Monday, April 6, 2009.

(15) That the research officer provide the committee with a summary of witness testimony prior to clause-by-clause consideration of the bill.

(16) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

Chair, that is the report of your subcommittee.

The Chair (Mr. Bas Balkissoon): Shall the report be adopted? Thank you.

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.

MINISTRY OF LABOUR

The Chair (Mr. Bas Balkissoon): The first presentation is by the Ministry of Labour.

Come on up and introduce yourselves for Hansard. You'll have 10 minutes, and then we'll have 10 minutes of questions.

Ms. Cara Martin: I'm Cara Martin from the Ministry of Labour.

Ms. Debbie Middlebrook: I'm Debbie Middlebrook, Ministry of Labour.

Ms. Benita Swarbrick: Benita Swarbrick, Ministry of Labour.

Ms. Cara Martin: Bill 139, if passed, would amend the Employment Standards Act, 2000, to address certain barriers to permanent employment by prohibiting temporary help agencies from doing the following:

—restricting client businesses from providing references to employees;

—restricting client businesses from hiring a temporary agency employee if that employee has never been placed with that client by the agency;

—imposing on employees any temporary-to-permanent fees or any restrictions on accepting employment opportunities; and

—limiting a client from entering into an employment relationship with an assignment employee.

Bill 139, if passed, would also prohibit agencies from charging assignment employees fees. It would amend the ESA to prohibit agencies from charging any fees to employees or prospective employees, including fees for assistance in finding or attempting to find employment with a client or for services, such as courses on resumé writing, job interview preparation etc.

It will prohibit agencies from charging temporary-to-permanent fees. A temporary-to-permanent fee is a fee that a temporary help agency charges a client to hire an assignment employee directly. Bill 139, if passed, would amend the ESA to prohibit a temporary help agency from charging a temporary-to-permanent fee, except during the six-month period after the day when the employee first began to perform work for the client. The intent of this provision is to remove a barrier to permanent employment.

Determining when an employment relationship ends: The bill, if passed, includes a statement about when an employment relationship ends. The bill states that an assignment employee of a temporary help agency does not cease to be the agency's employee during periods between assignments. Employers need to terminate the employment relationship in order to end employer obligations. This section sets out existing law; it does not change it. This section was needed to make the part of the bill clear and comprehensive.

Bill 139, if passed, creates termination and severance rules that are specific to temporary help agencies. If an employee is not assigned by the agency for a period of 35 consecutive weeks, his or her employment would be deemed to be terminated on the first day of the 35-week period. In contrast, the general provisions of the ESA set out that a temporary layoff cannot be more than 13 weeks of layoff in any period of 20 consecutive weeks or more than 13 weeks in any period of 20 consecutive weeks, but less than 35 weeks of layoff in any period of 52 consecutive weeks, where certain conditions are met.

Under the bill, a temporary help agency assignment employee's employment would also be severed where the agency does not assign the employee for a period of 35 consecutive weeks. The employee would then become entitled to severance pay, if the general requirements under the ESA for receiving that entitlement are met.

1240

Severance pay is compensation to an employee for loss of seniority and job-related benefits. It also recognizes an employee's long service. The current provision of the ESA from most other employers states that if the general requirements for severance pay are met, employees will receive severance pay when their employer lays the employee off for 35 or more weeks in a period of 52 consecutive weeks.

The bill excludes home care workers that are under contract with community care access centres. The provisions of this bill are not relevant to CCACs. Issues such as possible ESA reprisal by a client, or the need to provide the employee with information about the client to ensure that it is reputable, are not relevant when the client is a CCAC.

The bill, if passed, would also amend the ESA to prohibit a client of a temporary help agency from engaging in reprisals against assignment employees. The agency, as the employer, would continue to be prohibited from reprising against its employees under the current provisions of the ESA.

The bill, if passed, would amend the ESA to specify that if the ministry is unsuccessful in its attempts to collect an order for unpaid wages, but obtains information about a client that may owe monies to the agency, the director of employment standards may require the client to pay the amount outstanding to the temporary agency instead to the ministry, and the ministry would then pay the employee.

The bill, if passed, would also amend the ESA to provide that assignment employees of temporary help agencies receive the following information when being referred to a client for an assignment that they have accepted:

—the temporary help agency's and client's names, including corporate names, address, phone numbers and contact names;

—the hourly rate, piece rate, and/or commission and benefits associated with the assignment;

—pay schedules;

—hours of work;

—a general description of work to be undertaken; and

—general information on ESA rights and obligations of assignment employees, temporary help agencies and clients, as prescribed.

That concludes the technical briefing.

The Chair (Mr. Bas Balkissoon): Thank you. We will now go to questions from the various parties.

Mr. Robert Bailey: Thank you for the presentation this morning. How long do we have, Mr. Chairman?

The Chair (Mr. Bas Balkissoon): About three minutes each.

Mr. Robert Bailey: Okay. My first question is in two parts. Did you meet with the agency representatives and get their input and advice as to how the severance issue would affect their businesses and also the clients that they represent?

Ms. Cara Martin: There was a consultation process that was undertaken between May and July 2008, where we met with ACSESS to get information about various things. Since the introduction of the bill, there have been other meetings with ACSESS as well.

Mr. Robert Bailey: And they made their points to you?

Ms. Cara Martin: Absolutely.

Mr. Robert Bailey: Second question: Why are the CCACs exempt? What was the reasoning behind CCACs being exempt from this act?

Ms. Benita Swarbrick: Benita Swarbrick. The CCACs are not like regular clients of agencies. They're also not receiving the services of home care workers directly themselves. CCACs, for example, are not going to engage in ESA reprisals against the workers. They also are well known to home workers and agencies, and so the home workers do not need information on the CCACs in order to know that it's a reputable client. Those are the provisions that we have in the bill to ensure that employees of agencies are protected with respect to the clients that they deal with. It's not a relevant type of employment when the contracts are being done through CCACs.

Mr. Robert Bailey: Do I have a little more time?

The Chair (Mr. Bas Balkissoon): Time for one more.

Mr. Robert Bailey: Okay. Back to the presenter. As regards the severance issue for temporary employees, was it made plain and understood by the ministry staff that there could be impacts on business and their temporary employees as well by the implementation and the provision of this severance issue?

Ms. Cara Martin: Was it made plain?

Mr. Robert Bailey: Yes. Was it understood what the implications could be to business during this time of—we're going to need a lot of temporary employees as we come out of this recession period.

Ms. Cara Martin: Yes—do you want to take it?

Ms. Benita Swarbrick: I just wanted to make clear that what we're doing with the severance and termination provision of this bill is essentially providing for a longer period of time, 35 weeks, that will occur before there's an automatic termination of the employment relationship. Normally, it's 13 weeks out of 20. The reason why it's there is to provide greater flexibility for both employees and employers of temporary help agencies because of the intermittent type of work that they do. That's the entire purpose of it.

Other than that, there is no difference in the way that temporary help agencies are being treated with respect to notice of termination and severance obligations relative to other employers in the province.

The Chair (Mr. Bas Balkissoon): Okay. We'll move to the NDP. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for your hard work on this bill. I have a few questions. First of all, in terms of the six-month temp-to-perm issue, why six months? Why not three months, a year, two years, two months, two weeks? Why six months?

Ms. Benita Swarbrick: We thought that six months represented a good balance between the ease of employees to have access to permanent employment without undue barriers and also a period of time for temporary help agencies to be able to charge—they have ongoing fees, we believe, typically, in their relationships with their clients—to be able to have those fees and to have a fee that they could charge a client if they do try to hire one of their employees. That's a reasonable period of time for them to be able to recoup the investment they made to make the match between the employee and the client.

Ms. Cheri DiNovo: I'm aware that the Canadian Charter of Rights and Freedoms precludes barriers to employment. Would the six months be seen as a barrier to employment? Did you check the legal standing of this under a possible charter challenge?

Ms. Cara Martin: I'll let our legal counsel answer that question.

Ms. Debbie Middlebrook: If I could just quickly respond to that: It wouldn't be seen as a barrier because the amount of fees is looked at to be reasonable, so it's a six-month period and, as indicated by Benita, it's intended simply to allow an employer to recoup any costs that may be associated and to allow the employee to be able to receive an opportunity for permanent employment. So for the Charter of Rights and Freedoms, we have not identified any—

Ms. Cheri DiNovo: Okay. But what if the employer says it is a barrier for them to hire this person?

Ms. Debbie Middlebrook: Then it would be a legal question of whether or not that would in fact be seen by the courts as a barrier.

Ms. Cheri DiNovo: Right. So an employer could challenge this, as well as an employee.

The other question I have is around the CCACs and home care workers. You were talking about the different relationship with the CCAC as contrasted with a temporary agency. But temporary workers who work through temporary agencies get to know their agency workers pretty darn well and presumably trust them to a degree, or have to. I don't see the difference here. I heard your

explanation, but I don't really buy it, so perhaps you could explain it again.

Ms. Benita Swarbrick: The distinction that I really want to make clear is that we're not talking about the CCAC as being an agency but as being a client. This is the important distinction. It's a different kind of client because it is a government agency. It's not going to engage in reprisals, for example, under the—that's a part of this bill. It's a provision that we've put in to make sure that clients do not reprise against employees of temporary help agencies. That is not an issue that's going to come up with CCACs.

For example, also, they are not going to be in a situation where they have to provide information to their employees; that's the agency that's providing information to their employees about the client, so we have to think of the CCAC as being a client. That's how the CCAC operates with respect to these home care agencies—

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

Mr. Kevin Daniel Flynn: Thank you for your presentation. I'm sure at the ministry you have heard from people who think that the proposal you put forward perhaps goes too far. You've probably heard from people who think it doesn't go far enough and, as the old fairy tale goes, from people who think it's just right. From the questioning that we've had so far and from the presentation that you've given so far, and mindful that we're going to start hearing from the public and the stakeholders now and they're going to bring forward their presentations and opinions, is there anything outstanding that you haven't presented, any decisions you made along the way that you could perhaps highlight, reasons you did not move ahead with a suggestion or perhaps reasons that you did incorporate a suggestion that came from the stakeholders to date?

1250

Ms. Cara Martin: I'm not sure that that question might not be more appropriately answered by political staff, but certainly at the Ministry of Labour we consulted with the stakeholders, we heard their views. We and options forward to political staff, and decisions were made on that basis.

Mr. Kevin Daniel Flynn: Okay. So there isn't anything that you can think of that you maybe didn't cover enough in your presentation or maybe that we should hear a little bit more about; we're ready to hear from the public now.

Ms. Cara Martin: Yes.

The Chair (Mr. Bas Balkissoon): Thank you very much for coming and being with us.

ONTARIO COUNCIL OF AGENCIES SERVING IMMIGRANTS

The Chair (Mr. Bas Balkissoon): The next presenter is the Ontario Council of Agencies Serving Immigrants.

If you could come forward and state your name for Hansard. You have 10 minutes to make your presentation. If you're finished ahead of your 10 minutes, there will be questions from all parties.

Mr. Roberto Jovel: Thank you to the committee for this opportunity to present the views of the Ontario Council of Agencies Serving Immigrants regarding this bill. We have been involved in a process of consultation around this matter ever since the consultation process started. So we are very happy to be able to provide further input.

The Ontario Council of Agencies Serving Immigrants is an umbrella organization whose members are agencies serving immigrants, refugees, people without status—

The Chair (Mr. Bas Balkissoon): Can I have your name for Hansard and the name of the person with you?

Mr. Roberto Jovel: My name is Roberto Jovel. I am the policy and research coordinator at OCASI.

Ms. Tanya Chute-Molina: My name is Tanya Chute-Molina. I'm a board member at OCASI.

The Chair (Mr. Bas Balkissoon): Carry on.

Mr. Roberto Jovel: As I was saying, we are the umbrella organization for agencies serving immigrants, refugees, people without status and temporary workers in Ontario. The council was created 30 years ago to act as a collective voice for these agencies and to work towards the full integration of refugees and immigrants in Ontario and in Canada.

We are going to be sending the written submission before the end of the day today. I apologize for not having it here with us. I would like to make some introductory comments before we actually go into our recommendations regarding the bill.

One of the reasons why OCASI is concerned about the situation with temp help agencies is, if you look at information coming from Statistics Canada, particularly the labour force survey and the situation of immigrants in the labour market, it shows that unemployment rates are higher for recent immigrants and way higher than the average for Canadian-born people. Particularly, people coming from Africa and women coming from all over the world are in very difficult situations, with higher rates of unemployment; really high. There's a connection between that and of course the recourse that they may have to take temp-help employment.

There's also information coming out of Statistics Canada regarding the quality of employment, so when we talk about the rate of employment among recent immigrants, we need to look at what kind of employment we're taking about. Are we talking part-time; are we talking precarious and all of that? There's reason for concern amongst our member agencies and the people we serve around overrepresentation of immigrants, refugees, refugee women and racialized people among those who have been undergoing situations of abuse with temp-help agencies.

We welcome this bill in terms of a step towards assuring respect for workers' rights and protections against abuse. We also would like to say that we support

the presentation and the recommendations coming from the Workers' Action Centre, who have done extensive work in this area and solid research for some years now. We believe that we're presenting from the perspective of making a success out of building a future for Ontario including everyone, whether they were born here or not. I'm going to pass it on to Tanya Chute.

Ms. Tanya Chute-Molina: Good afternoon. For OCASI, Bill 139 represents a promising step forward for temp-agency workers. However, a number of issues still need to be addressed if the bill is to achieve its goal of achieving fairness and protection for temporary workers.

Moving away from elect-to-work exemptions for public holiday pay, termination and severance is one of those promising steps forward; however, we are concerned that the limitations placed around eligibility for termination and severance by temp agency workers is something that is unfair. Temp agency workers, in order to qualify for termination and severance, have to be terminated by the agency or not given a work assignment for at least 35 weeks in a continuous period. They do not have the right to refuse work during that period, and they may run into situations where an agency will offer them one or two days of work before the end of that 35-week period simply to avoid the costs of severance. We believe that the ESA rules should be applied in the same way to temp agency workers as they are to any other worker. We also note that the exemptions for home health care agency workers should be removed.

The second issue that I'd like to address is the elimination of fees. Again, I think that there are some very promising steps forward in this regard in terms of eliminating a series of different fees. However, we believe that there still is a barrier in terms of achieving permanent employment. In order to remove this barrier, we need to remove the possibility of charging fees for the client company to hire the worker directly within six months of starting the assignment. Again, if you refer to the submissions of the Workers' Action Centre, they note that 66% of temp agency workers are on short-term assignments of less than six months.

Mr. Roberto Jovel: A couple more points about the bill, one regarding information about work assignments: OCASI had recommended that the temporary help agency should provide every worker with complete information about each work assignment before the worker starts the job. Bill 139 proposes to require the agency to provide information about the name of the client company; contact information; hourly wage; commission paid by the company to the agency; benefits, where applicable; hours of work; description of the work to be performed; and the pay period and payday. What is missing is information about the length of the assignment.

Further, the bill proposes that the agency should provide the information listed above, although it is the client company that determines the factors affecting the assignment. The bill is not clear on what recourse a worker would have if there is a dispute between the information provided by the agency and what the client company tells the worker.

In our recommendations during the consultation, OCASI had asked the ministry to ensure that workers are not put in a position where they would be caught between the agency and the client company in any dispute involving the assignment.

The last point is about information about employment standards rights. It's actually something that we welcome very much, the fact that the bill proposes that temporary help agencies should provide workers with information on their employment standards rights and about enforcement procedures. Tanya?

Ms. Tanya Chute-Molina: Again, what we have before us is a promising step forward, but much more remains to be done. In our view, we need to work not just for the protection of minimum employment standards but for equality and non-discrimination in the workplace. In Europe, legislation requires equal treatment in wages and working conditions for workers hired through employment agencies.

As noted earlier, newcomers and racialized communities are overrepresented in temp agency and precarious work. For these communities to achieve equality, we need to ensure that temp agency workers receive the same pay packages and benefits as other employees.

The Chair (Mr. Bas Balkissoon): Thank you. We have about 30 seconds each. We'll start with the NDP.

Ms. Cheri DiNovo: Very, very quickly: Since you work with immigrants, you probably heard about the discussions in the House and my questions of Mr. Fonseca on nannies, it being that this bill could be extended to include nanny agencies, people who are most precarious in the home and who don't have landed status. Would you be in favour of doing that?

Ms. Tanya Chute-Molina: Very much so.

Ms. Cheri DiNovo: Thank you.

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

Mr. Vic Dhillon: Thank you very much for your presentation. The vast majority of your presentation was about immigrants and refugees and their ability to not complain. If there were random inspections or audits done by the ministry, do you feel that would help in terms of creating better conditions for their work?

1300

Mr. Roberto Jovel: We were happy to hear from the government that they are willing to allocate more resources to reviewing compliance. So we're waiting to hear from the budget. Of course, any sort of close monitoring is absolutely needed.

The Chair (Mr. Bas Balkissoon): We'll go to the Conservatives. Mr. Bailey.

Mr. Robert Bailey: No questions.

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

The next presenter is the Council of Agencies Serving South Asians. Is anybody here from the Council of Agencies Serving South Asians? I'll move to the next presenter.

SERVICE EMPLOYEES INTERNATIONAL UNION

The Chair (Mr. Bas Balkissoon): Service Employees International Union, come on up.

State your name for Hansard, and then you'll have 10 minutes. If you have any leftover time, we'll allow the parties to ask questions.

Mr. Elliott Anderson: My name is Elliott Anderson. I'm the director of government relations for the Atlantic, Central and Western Canadian Council of the Service Employees International Union, more commonly known as SEIU.

SEIU is an organization of two million members across North America, more than 100,000 in Canada. We're a union of working people united by the belief in the dignity of workers and the worth of services they provide. Our members are dedicated to creating a more just and humane society, and to achieve this goal, our union is committed to organizing workers.

SEIU is the fastest-growing union in North America and in Canada. Since 1996, across North America nearly 900,000 workers have united in SEIU. SEIU is the largest property services union in North America—cleaning contractors and security guards—and the largest health care union in North America.

In an unfortunate sign of the times, I'd be remiss if I didn't mention this to the committee: Members in both of these sectors that are members of our union are currently on strike. Security guards at the Windsor Raceway have been off the job since March 5, and home care workers employed by the Red Cross across Ontario, about 3,000, are now in the second day of ongoing strike action. I feel that's an issue that should be of particular concern to this government.

These workers, like many of our members, have been marginalized by the changes in our economy. Like a growing number of workers in Ontario and across North America, they are falling into a new world of work. Full-time permanent jobs with pensions and benefits are being replaced with short-term, part-time temporary work arrangements where wages are lower, benefits are rare, and legal protection, much less strong union representation, is hard to find.

The Minister of Labour, in his introduction to Bill 139, stated that the nature of work has changed. He's absolutely right. Bill 139 and the regulations that accompany it are very positive steps, and I wanted to say that very clearly. I'm going to focus the majority of my limited time on areas where we'd like to see changes, but I did want to get on the record that we're thankful for this bill. We had an opportunity to meet with the minister and particularly with the parliamentary assistant to the minister, who has been working on this issue for some time, and we thank them for attempting to tackle it.

One regulation in particular that has already come into place, which was announced in conjunction with this bill, was the regulation extending holiday pay to all workers regardless of whether they were classified "elect to work." That is a positive step which we are very thankful for.

Small steps but positive steps—and we welcome the bill. In the time provided, however, we want to address some key concerns which we hope the committee will take note of.

First, the narrow definition of temporary agency in Bill 139: Part III of the bill proposes adding a new section, 74.1, to the Employment Standards Act which would define temporary help agencies as "an employer that employs persons for the purpose of assigning them to perform work on a temporary basis for clients of the employer." This, again, is a good step for dealing with the world of precarious work, but we feel the definition is a little narrow. If the government's goal is to protect vulnerable workers in the world of work, then a broader definition capturing a variety of employment agencies is required. The misclassification of workers as subcontractors is a common practice in cleaning that we have encountered in our union, and it provides a good example of the sort of precarious work that we would hope to see covered by this bill. This is not necessarily an issue of temporary work, but it is an area where Bill 139 could help, we feel.

In the course of organizing and researching our campaign Justice for Janitors, which is an effort to create bargaining rights for all cleaners in the cities of Toronto and Ottawa, SEIU Local 2 has observed situations where workers trapped in subcontracting schemes are regularly denied their employment rights. In one situation, a Toronto cleaning company contracted with another entity to perform work in two buildings in the city of Toronto. In exchange for the cleaning services provided by the purported employees of the subcontractor, the company paid $9 per hour to the subcontractor for the hours worked by those persons. In turn, the subcontractor paid its purported employees in cash at the rate of $8 per hour.

Obviously this situation raises a series of red flags. First, and perhaps most obvious, the affected employees were not paid the minimum wage prescribed by the Employment Standards Act. Beyond that, it's clear that the subcontractor was not receiving adequate funds to provide for the payment of vacation pay mandated by the Employment Standards Act, as well as various premiums, taxes and levies required by different legislation; for example, WSIB premiums. These subcontracting schemes are unregulated and are too often used to exploit vulnerable workers, particularly new Canadians who are unaware of their legal rights. As one worker trapped in a subcontracting scheme noted, "That's why they're keeping us as subcontractors. I don't have CPP, WSIB. There is no vacation pay, no bonus. There are no sick days. Nothing at all."

The issue of subcontracting abuse requires an overall strategy, I'd argue, from the government beyond Bill 139, but I feel Bill 139 could take a step towards curbing potential abuses of this arrangement by broadening the definition of temporary agencies in section 74.1 to cover all employment agencies, anybody charging a fee for

placing people in employment. I urge the committee to consider such an amendment, and I know other presenters today will be putting such a suggestion forward.

The second issue that I want to address today concerns the one class of temporary workers that will not be receiving new protection under this act, and that's home care providers. Section 74.2 of Bill 139 sets out that the new provisions regarding temporary workers will not apply to working women and men in home care. They are specifically excluded. SEIU has also been informed that if Bill 139 is passed, the government intends to revoke the elect-to-work exemptions regarding notice of termination and severance pay within six months of passage. However, once again, home care workers would be treated differently. For these women and men, the exemptions would not be revoked until October 1, 2012. The government has argued that the provisions of Bill 139 cannot be effectively applied to home care agencies. However, the decision to make home care workers wait three years longer than any other worker in Ontario for termination and severance is a little harder to justify. We just feel that with this bill being an overall positive direction, this decision to treat home care workers separately is undermining what should be good news with some undue delay.

Equally vitally, if the government is not prepared to address the issues facing temporary workers in home care through Bill 139, then we feel that it's incumbent on this government to find other means to address the poor working conditions that home care workers face. I want to talk a little bit about home care workers because we're particularly facing some serious issues in the sector right at this exact moment.

The government of Ontario indirectly employs nearly 16,000 women and men to provide home care services in Ontario. These workers are mostly women, widely respected in their communities and living on wages that often leave them below the poverty line.

In other provinces, home care workers are employed directly by government health agencies and have stable, reliable and rewarding jobs. Ontario, however, has embraced a service delivery model where all work is conducted through agencies which compete for contracts every three years. Not surprisingly, home care workers in Ontario consequently have limited job security. They also have lower wages and fewer benefits, and people abandon the sector in higher numbers. In other words, the government has consciously chosen to make home care part-time temporary work.

Government attempts to curb the flaws in the system have had underwhelming results thus far. I'll note, for example, that in May 2006 the Ministry of Health announced increased funding to address concerns laid out by Elinor Caplan in her report on home care and to set a minimum wage of $12.50 an hour for personal support workers in home care. Unfortunately, the minimum wage has not led to an effective living wage because these workers, due to their status as temporary workers, aren't paid for a large chunk of their working day.

I'll explain further: A typical personal support worker is expected to visit five or six clients, patients, people in their homes, a day. Obviously this means that a lot of their working day is spent in transit. However, personal support workers are only paid for the time they're in a client's home. The several hours they spend daily driving from home to home are not properly compensated. There's no agency that provides full and adequate compensation for those services.

To provide one example, Pam Sulyma is an SEIU member and a Red Cross personal support worker in the Niagara region.

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The Chair (Mr. Bas Balkissoon): There are 30 seconds left.

Mr. Elliott Anderson: You know, it's funny; I thought I would read too fast.

On a typical workday, she's on the job for 11 hours. She spends approximately four hours driving, for which she's not paid, and seven hours administering care, for which she earns $14 an hour. Her income, after an 11-hour day, is $98, or $8.90 an hour. Suffice it to say that people are leaving the system, and a study of the impact of managed competition on home care workers has found that more than half the workers—

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

Mr. Elliott Anderson: I apologize very much and I urge folks to read the written submission. Thanks very much.

COUNCIL OF AGENCIES SERVING SOUTH ASIANS

The Chair (Mr. Bas Balkissoon): The next presenter is the Council of Agencies Serving South Asians.

Please state your name for Hansard. You have 10 minutes. If there's any time left in your 10 minutes, there will be questions from all parties.

Mr. Abimanyu Singam: My name is Abi Singam, and I'm here to present on behalf of the Council of Agencies Serving South Asians, CASSA.

CASSA facilitates the economic, social, political and cultural empowerment of South Asians by serving as a source of information, research, mobilization, coordination and leadership on all social justice issues affecting our communities. As a social justice umbrella organization working with Ontario's diverse South Asian communities, we would like to express our support of the government of Ontario's efforts to improve the employment standards of all workers in Ontario.

Through this brief, CASSA would like to bring to the attention of this committee some of the challenges faced by workers of South Asian background in Ontario, while identifying some of the changes that the proposed legislation must undergo in order for it to be effective in improving the working conditions faced by all workers in Ontario, including those of South Asian origin.

Canada is home to more than a million people of South Asian origin, and 61% have chosen Ontario as their home. It's one of the communities that's a very new immigrant community and faces many challenges in integrating in Ontario. For instance, while Canadian adults of South Asian origin are considerably more likely than the rest of the population to have a university degree—25% of Canadians of South Asian origin aged 15 and over have a degree, compared to 15% in the overall adult population—they earn significantly less than the national average. In 2000, the average income from all sources for Canadians of South Asian origin aged 15 and over was just under $26,000, compared with almost $30,000 for all Canadian adults. Recent reports by the Children's Aid Society of Toronto also indicate that one in four children from South Asian communities lives under the poverty line, compared to other children.

According to the research that we have done and the information that we have collected among South Asian communities, this issue of temporary workers is of primary importance. As part of our dialogue with members of the South Asian communities, we held media talk shows, town halls and public discussions to identify some of the challenges faced by members of the South Asian community in accessing equitable employment opportunities in the GTA. During these discussions, the issue of temporary agencies and their exploitation of a vulnerable workforce, lack of benefits, and lack of proper information about the work they're being hired for featured prominently. It is with this lens that we studied the proposed Bill 139.

We are pleased that the government has taken leadership in addressing the challenges faced by those working through temporary agencies. It is to be noted that the people who work through temporary help agencies will work weeks, months and sometimes years alongside coworkers doing the same job but for 40% less pay and fewer or no benefits, no job or income security and little protection against employment standards violations.

As an organization, we are deeply concerned about the racialization of poverty in Ontario. We are extending our fullest support to this bill in the hope that such measures would promote equitable access to employment and workers' rights. We commend the enactment of regulation 432/08, which eliminates the public holiday exemption for elect-to-work employees effective January 2, 2009.

CASSA, however, invites all our legislators to endorse the bill, as CASSA understands that Bill 139 will eliminate elect-to-work exemptions for public holiday and termination and severance entitlements and reduce direct fees that can be charged to agency workers. The bill requires that the legal and operating names of the agency and contact information for the agency, client company and work assignments be provided to employees.

We support the bill in the belief that the bill would require agencies to provide all employees with a copy of the information developed by the Ministry of Labour in an employee's language, if available, about the employment standards, rights and responsibilities of temporary help agencies, client companies and agency workers.

We also hope that the bill would extend some responsibilities, such as anti-reprisal protection, under the Employment Standards Act to the client company and the agency, and that this bill will reduce barriers to permanent jobs by removing some of the barriers that those temporary agency workers on longer-term assignments face when trying to be hired directly by a client company by prohibiting an agency from restricting workers from being hired directly by the client company.

Therefore, we actually acknowledge the leadership the Workers' Action Centre has provided in advocating for improved employment standards for all workers in Ontario and endorse the Workers' Action Centre's recommended amendments. We propose that the committee consider making these amendments to Bill 139.

We hope that Bill 139 would construct the agency as the employer of the assignment worker, and that it also restrict liability of the client company for the person assigned to work on a temporary basis to issues of reprisals.

The narrow scope of Bill 139, however, would still allow temporary staffing and employment agencies to charge workers fees for job placement. We therefore urge that the committee considers favourably the WAC's proposed amendments to change the name of new part XVIII.1 from "Temporary help agencies" to "Employment agencies" and the amendment to change 74.1(1), which is the interpretation for "temporary help agency" to read "'employment agency' means the business of providing services for the purpose of finding workers employment with employers or of supplying employers with workers for employment by them or that employs persons for the purpose of assigning them to perform work on a temporary basis for clients of the employer," and that the bill would reflect this definition of employment agency interpretation through the act.

Second, we also hope that section 74.2, which excludes a worker who is an assignment employee assigned to provide services under contract with a community care access centre, CCAC, or who is doing work governed by a contract with a CCAC—because we strongly feel that the subcontracted home care workers should be getting the same minimum termination and severance benefits that other workers get and that they should not have to wait three years to get termination and severance entitlements, we urge you to delete section 74.2, which is covering the exemption of home care agency workers under a CCAC contract, in its entirety.

We also recognize and support the government's proposal to prevent agencies from restricting a client from directly hiring a worker that was on assignment at the company through this legislation, but we are concerned that Bill 139, as it stands now, would allow agencies to apply restrictions on companies directly hiring assignment workers within six months of starting an assignment.

We also believe that the agencies should not be allowed to charge the client companies additional fees to compensate for future loss of earnings from a worker. These prohibitive charges would discourage employers from offering employment to workers and leave them in a vulnerable situation. We therefore urge that the government remove the six-month exception to prohibitions on barriers to employment. Therefore, we propose the amendment to delete subsections 74.8(2) and 74.8(3).

Fourth, in practical terms, the elect-to-work exemption in the ESA is used to deny termination and severance to mainly low-wage workers in temporary, contract and irregular forms of work. Therefore, we believe that removing the elect-to-work exemption is the most effective way of bringing fairness and protection of termination and severance benefits for temporary agencies. We propose that the government should proceed immediately with a regulation to remove the elect-to-work exemption for termination and severance.

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This legislation sets up additional barriers and promotes a two-tier system of rights. The current standards that support termination and severance pay in the Employment Standards Act should apply to agency workers, rather than creating a two-tier system where agency workers would have to wait more than twice as long to be eligible for termination.

The bill will also disentitle agency workers from termination and severance if they are sick or taking other statutory leave. Therefore, we call upon the committee to consider amending Bill 139 to include temp agency workers under the current termination and severance pay requirements in the ESA. Therefore, we call upon the committee to consider deleting "Termination and severance," section 74.11.

Fifth, the information—

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

Mr. Abimanyu Singam: The information requirements in the proposed legislation, sections 74.5 and 74.6, address the reality of the changing labour market by requiring the information about the agency, client company and assignment to be provided to the temporary agency worker. However, to fully address the realities that temp agency workers face, workers need to know the expected duration of the assignment. Therefore, we propose the following amendments—

The Chair (Mr. Bas Balkissoon): Thank you very much. We have to move to the next deputation.

Mr. Abimanyu Singam: Thank you again for your time.

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

ADECCO EMPLOYMENT SERVICES LTD.

The Chair (Mr. Bas Balkissoon): The next presenter is Adecco Employment Services Ltd.

Please state your name for Hansard and you have 10 minutes. If there's any time left over, there will be questions from all parties.

Ms. Nicolette Mueller: Thank you. My name is Nicolette Mueller. Good afternoon, members of the standing committee, and thank you for allowing me the opportunity to address this important issue before you today.

I understand that in some circles—namely, this one—there is a negative stereotype surrounding staffing agencies and the use of temporary workers. I'd like to start by telling you a little bit about myself and my employer, Adecco Employment Services Ltd., to hopefully address that stereotype.

For many years, I practised employment law at a large Toronto firm. My practice mix was roughly 50-50 between employers and employees. As an advocate on behalf of employees, I assisted with bringing employment standards complaints before the Ministry of Labour, as well as human rights complaints based on discrimination and harassment before the Ontario Human Rights Commission. Less frequently, I had occasion to assist employees with matters before the Canada Employment Insurance Commission and the Workers' Compensation Board. These were in addition to the many breach of contract and wrongful dismissal lawsuits dealt with in the regular courts.

On the other side of the table, as counsel to employers, I assisted clients with drafting and implementing legally compliant human resource policies, conducting harassment training and investigations and giving advice on human resource practices and procedures. The goal of much of my work was to support my clients in implementing sound, balanced and fair employment strategies that would be to the benefit of both the client and their employees.

When I left private practice and joined Adecco, many aspects of my practice continued on in my current role as vice-president, human resources and legal counsel. While I now officially only represent one client, I still see my role as ensuring that we implement sound, balanced and fair employment strategies for the good of Adecco, Adecco's clients, as well as our employees.

For those of you who may not know, Adecco is a global leader in providing HR services. On a daily basis, Adecco employs 500,000 temporary workers in over 60 countries. Adecco connects more people to more jobs at more companies than anyone else in the world. Our biggest asset is our workforce, and we take great care to treat our workforce fairly, ethically and in compliance with our legal obligations.

Adecco's operating model is to offer flexible employment options to those who seek it and to ultimately transition temporary workers to full-time employment. Our pool of temporary workers comes from many backgrounds. Many are recent immigrants to Canada who need help with eliminating barriers to employment in order to be hired into the industries in which they've been trained in their home countries, or those who wish

to work part-time while they're pursuing accreditation in their fields of work. Other workers are recently retired or seeking a second career. Adecco has recently partnered with CARP, the Canadian Association of Retired Persons, to provide employment opportunities for seniors who wish to change their career direction or earn extra income in their retirement through temporary work assignments. Other temporary workers are students who wish to work while studying or between school terms. And yes, there are also employees who are seeking full-time, permanent employment and wish to work on short-term assignments to get by until they do.

All temporary workers, including those whom Adecco is not able to place on assignments, are offered ongoing training designed to increase their skills, job opportunities and income potential. We have thousands of free online courses available to anyone who wishes to take them. Our ultimate goal is to provide temporary employment to those seeking it, provide the opportunity to upgrade and learn new skills and, once those have been acquired, to assist temporary workers in finding permanent work, either with the clients to whom they were initially assigned or with other clients who retain Adecco to recruit permanent employees on their behalf. Often we meet that goal.

I don't have time to go through them, but behind the yellow sheet in these submissions are approximately 30 e-mails as samples that I wanted to bring to your attention from our temporary workers. The first one is from a recent immigrant, and she relates her experience and thanks Adecco for assisting her. The second is from a woman who came out of hairstyling in her 50s because of surgery on her hands; she could no longer style hair. She talks about Adecco's job training for other positions—and so on and so forth. I'll let you go through those at your leisure.

You will see from the dates of these e-mails that none was solicited for the purpose of these proceedings today. They're just a few of the many examples of ongoing feedback that we receive from our temporary workers, and this was long before Bill 139 was introduced.

In Canada, up until six months ago, Adecco sent 11,000 temporary workers out to work every single day. They were deployed across the country to thousands of small, medium and large enterprises in a wide variety of industries. About 60% of that workforce was based in Ontario, where, as you know, manufacturing and secondary auto supply industries are concentrated. As you well know, many of those businesses today are struggling and have significantly reduced both their permanent and temporary workforces. Some are teetering on the brink of bankruptcy. In order to become as efficient as possible, many seek the help of staffing agencies like Adecco to assist them with flexing their workforce up when there's a temporary rise in demand and down again when demand wanes. Their survival depends on this flexibility.

At a time when the state of the economy demands removing obstacles to temporary employment, certain parts of Bill 169 do the exact opposite. In fact, it will become costlier for companies to hire agencies and thereby impair their ability to respond to these unpredictable times.

However, before I get into the problematic aspects of Bill 139, I want to make it clear that we at Adecco applaud its overall objective, which is to protect workers. This is an objective shared by many agencies. It's only right that temporary workers are given information about their assignments, including their wage rate and benefit information, their hours of work and a description of their assignment.

We agree that an agency should not charge temporary workers a fee for signing up with the agency, assisting with resumés or preparing for job interviews. We also agree that the time spent training a temporary employee for a specific position is compensable time and that they should be paid. Finally, although my view isn't shared by all agencies, I personally agree that when temporary workers work on the days leading up to and following a statutory holiday, they should be paid for the statutory holiday.

There is much that is positive about Bill 139. However, there are some sections of Bill 139 which are problematic and could have a devastating impact on the industry, our clients and those whom Bill 139 was intended to protect—the workers.

One such section is 74.4, subsection (2), which is the deemed continuance of employment between assignments. Nowhere in North America, or any of the other 60 countries in which Adecco operates, has such a legal concept been introduced. There's good reason for this. The effect of this section is to treat staffing agencies more onerously than any other employer.

Take the example of the temporary workers we assign to one of our clients' state-of-the-art warehouse distribution centre in the GTA. The client is a large national retailer, and our temporary workers assist with shipping and receiving merchandise during this retailer's Christmas rush. Their assignments usually start early in the fall and continue through into January, after which point the client flexes back down to its core group of permanent employees until late spring when business peaks again. At this point, some of the same temporary workers may be offered a second assignment there. Some may accept and some may not. Possible reasons for not accepting a second assignment are numerous. People move or find employment elsewhere. They may be travelling or at school or may have decided to stay home with children during summer months. Regardless, even though they're not available to work, this deems them to be continuously employed and accruing tenure. Then, 35 weeks later, that employee is entitled to one week's termination pay. Any other employer would not be liable for this amount, but Adecco would.

The section can also lead to ridiculous scenarios. Starting with that same example and changing the facts slightly so that the same temporary worker accepts a short-term assignment with Adecco and, when completed, accepts a second assignment with a competitor

and then, shortly after that, a third assignment with a third competitor: Following that, according to Bill 139, that temporary employee would the employee of three agencies at the exact same time, accruing tenure with each of them and becoming entitled to termination pay from each of them. Again, in no other industry would this be possible.

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

Ms. Nicolette Mueller: Multiply these added termination costs by the thousands of employees Adecco has in Ontario and we no longer have a viable business model. We'd be forced to increase the cost of our services to our clients, who would, in turn, reduce the use of our services.

Continuing with the example of our retail client, instead of opting to use temporary workers it may opt to require a smaller pool of its permanent workers to work longer days and more overtime hours to meet its cyclical demands. The effect of this would be employment of significantly fewer employees and, more generally, an economic climate that puts Ontario businesses at a competitive disadvantage.

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

Ms. Nicolette Mueller: The rest of my submissions are in the handout that you've been given.

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

ASSOCIATION OF CANADIAN SEARCH, EMPLOYMENT AND STAFFING SERVICES

The Chair (Mr. Bas Balkissoon): The next presenter is the Association of Canadian Search, Employment and Staffing Services.

Please state your name for Hansard. If there's any time left over after your presentation there will be questions from the three parties.

Mr. Steve Jones: My name is Steve Jones.

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

Mr. Steve Jones: Good afternoon, Mr. Chairman, members of the committee, ladies and gentlemen. Thank you very much for the opportunity to speak with you today and to see you here today.

My name, again, is Steve Jones. I am president of the Association of Canadian Search, Employment and Staffing Services, know as ACSESS. We are the national association representing the staffing services industry in Canada. We represent executive search firms, employment agencies, professional and technical contractors and, of course, temporary staffing service firms.

While our name has changed over the last 35 years, ACSESS has emerged as the single and national voice, respected as the voice for the broader staffing services industry with an honourable purpose to foster the health of the industry by promoting dignity and respect amongst workers by promoting and protecting employee rights, and to influence and promote good public policy through the full and proper understanding of our industry and our industry's practices.

This June 2009, I personally will have completed my 26th year in the staffing services industry here in Ontario and I will be in my fifth term as a volunteer president of our industry association, ACSESS. I personally have received a volunteer of the year award from the Solicitor General of Canada for my work through ACSESS on the integration of vulnerable workers into the workforce, and many other ACSESS members have been named for countless awards throughout the industry, showing that our people and our companies inside our association are dedicated to quality and ethics and particularly to making a meaningful difference in the lives of the people that we serve.

We were here in 1989, when we supported the creation of the employer's health tax under the Peterson government at the time to ensure that there was an employer paid health care coverage for all temporary workers in Ontario. We were here with reforms to the Workers' Compensation Board, to the creation of the WSIB, to ensure that there was a sustainable model for guaranteed insurance for injured temporary workers. We have created an industry safety group through the WSIB, and amongst the 32 safety groups in Ontario, ours was ranked number one in all of the province in terms of reducing lost-time injuries and reducing incidents.

I give you this background so that you have confidence that while you may hear a variety of opinions and interpretations from other groups and various presenters over the next few weeks, you can rely with confidence that the materials you've received from ACSESS—that ACSESS is a source of facts about the industry. If you understand the truthful facts, then you are in the right place when you get to make your own interpretations and develop your own personal opinions about what needs to happen for the temporary staffing services industry.

The good news is that I come here today, representing ACSESS in the entire staffing services industry, to say that we are supportive of Bill 139. We support the overall objective, quoting Minister Fonseca, which "is to ensure that Ontario's employment legislation recognizes the needs of temporary employees and staffing services firms who employ them in a fair and balanced way." Fair and balanced.

We support the recent regulatory changes that occurred in December to eliminate exemptions, to ensure that all workers in the province, including those working in temporary employment arrangements, have equal access to public holiday pay. We're doing a great job in moving forward.

While the bill contains page after page of important and effective initiatives, let me be very clear about one point: There are two paragraphs, and only two paragraphs, that have shortcomings in this bill. These two paragraphs on first glance seem innocuous, yet these two technical errors will undermine any benefits that the overall bill could achieve. These two paragraphs that

have gone astray will cause harm to the most vulnerable workers in Ontario. They will result in barriers to employment, they will create lost employment opportunities and they will hurt the exact group of people that we all set out in the beginning to assist and defend and protect. These two simple paragraphs create a complex web of administrative, technical and legal cost barriers that will destroy the industry and will cause irreparable harm to Ontario's economy and our ability to recover. So we move on to look at two—just two in the entire bill—amendments to ensure that this bill achieves its stated objectives.

You have the notes with more detail, but the first is clause (b) of subsection 74.4(2), where it says, "An assignment employee of a temporary help agency does not cease to be the agency's assignment employee because ... he or she is not assigned ... to perform work." So I translate for you: What that means is that when a person finishes their contract term, when they're done their job, even though they have been given adequate and proper notice, even though their term or their task is complete, this paragraph in the bill will mean that the employee, even though they do not want to work, may not be available, may have gone back to school, may have found work elsewhere, may be at home looking after their children, may have, in the most extreme scenario, been incarcerated, in jail and failed to inform us, they will theoretically continue to be, under this bill, our employee, accruing tenure and the rights of an employee. This, quite frankly, just doesn't make sense. This what I refer to as a sleight of paragraph would only apply to staffing services firms; it would not apply to any other employer in Ontario; it would not apply to any other staffing services firm anywhere else in the world. This is a notion that does not exist in employment law anywhere in Europe or North America or Canada. So we simply ask you to look at subsection 74.4(2) and please remove that from the bill.

Our second concern and second paragraph is 74.8(1), paragraph 8. It has been referred to earlier, and its exceptions. In this area, which is in the notes provided to you, there are 10 prohibitions, nine of which are excellent, and we support them—nine out of 10. One paragraph gone awry: Paragraph 8 provides that we cannot charge fees under certain conditions after six months of work. Over 200,000 workers found full-time regular employment through the temporary staffing services industry last year in Ontario. Over 50% of the people worked on temporary assignments, which resulted in full-time permanent work, but this particular provision mistakenly uses the Employment Standards Act to interfere with our negotiated agreements regarding our customers' fees and payment terms in an inappropriate and misguided way.

This provision disregards the well-established legal principles that have been reinforced by the highest courts of Ontario and Canada regarding fair business practices, protection of confidential information, contractual tortious interference, unfair competition, fiduciary duty—and I could go on. This clause does nothing to help the people who need it the most, and it inadvertently and accidentally will affect all other aspects of our industry, affecting workforce management, professional services, on-site services, payroll services, engineers, drivers, information technology professionals, even executives placed on contracts. It destroys our industry. It does not respect the hundreds or maybe thousands of permutations of business models and variations of services, while it ineffectively attempts to help a tiny segment of our industry. Please take a look at this subsection 74.8(1) paragraph 8 and the subsection exemptions, (1) and (2). Understand that the nine prohibitions that are there do a wonderful job of achieving our objectives. This particular one is not necessary, and quite frankly could be harmful.

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Our goal, as an association, is to go forward to say that we can support this bill in its entirety, to stand shoulder to shoulder with all the other groups that are appearing before you—

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

Mr. Steve Jones: —particularly with the government, to say that we can and will support Bill 139 to help the people who need it the most. But we encourage you and urge you to deal with these two amendments so that this bill will work and we can stand with you and make it become an effective law for Ontarians.

Thank you very much.

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

PARKDALE COMMUNITY LEGAL SERVICES

The Chair (Mr. Bas Balkissoon): The next presenter is Parkdale Community Legal Services.

Please state your name for Hansard. You have 10 minutes. If there's any time left after your presentation, there will be questions from all parties.

Ms. Mary Gellatly: My name is Mary Gellatly, from Parkdale Community Legal Services. We're a poverty law clinic, providing support for people in low-wage and precarious work.

Temporary work is just one of the ways that employers are moving work beyond the protection of our labour laws; we see this every day. So we certainly applaud the government for taking a first step in updating and improving our employment standards. Hopefully, it's just the first step of many to protect people in precarious work.

The goals of Bill 139 are to ensure fairness and protection for temporary workers, and we support these goals. When we looked at Bill 139, we looked to see how it would meet these goals of fairness and protection. Certainly, Bill 139 takes some important steps in expanding protection and employment standards for temp workers: things like improving access to public holiday pay; making it illegal to charge temp workers fees;

providing workers with information about assignments and employment standards rights; making client companies legally responsible for reprisals against temp agency workers who try to enforce their rights—these are very important changes. In our submissions, you'll see further discussion about how they can improve conditions for temp workers.

But at the hearing, we want to talk about what needs to be changed and fixed. For us, there are four things which we believe are important to address in order to meet those goals of fairness and protection. In our brief, we've got more detailed clause-by-clause changes to help with the effectiveness of the act.

First, I want to address—and other people have addressed it before—the issue of the barriers to hire. The government set out the important goal of ensuring that workers are not unfairly prevented from assessing permanent jobs when employers want to hire them from the agencies. Getting rid of barriers that temp workers face to more stable, higher-paying jobs, potentially with benefits, is an incredibly important part of an economic recovery plan, particularly in the current context, and an important part of a job development strategy.

But Bill 139, as we've heard, will only make barriers illegal after six months from the first day of assignment. This effectively creates a six-month barrier on hiring, and we feel that this absolutely has to be removed. The reality is, the majority of temp workers work for assignments that are six months or less. The majority of temp workers are not going to benefit, and we'll effectively have two standards, one for longer-term and one for shorter-term workers.

The six-month barrier on hiring will create a loophole that will allow agencies to cycle temp workers through. Basically, the six-month prohibition is on an individual employee. All that agencies have to do is, at five and a half months, take out the assignment employee, put in another one, and you've got an effective loophole which allows them to avoid the prohibitions after six months as well.

Putting in law that agencies can restrict the free movement of employees in our labour market is a dangerous precedent for employment law, and one that we should not be taking here. A six-month barrier on temp-to-permanent hiring that leaves the majority of agency workers trapped in low-wage and precarious work—these are precisely the workers that this bill is supposed to be protecting. Restricting temp agency workers from gaining permanent work is contrary to public policy, particularly in the current economy.

The temp agency is arguing that it's going to be financially hurt if it can't recoup its costs through these fees for recruiting and retaining this pool of labour that it leases to clients. The argument is based on the assumption that agencies don't spread their overhead costs across the board through their markup fee, and they do that. Recruiting costs are the same as other costs for advertising, heating etc. Those costs are applied to the markup fee, which is charged on an hourly basis. We have to look back to what is the very purpose of our legislation. The legislation is to ensure that the costs of employer obligations for employment standards—and those are our basic, minimum standards—are borne not by workers through not being able to get a stable job, but by employers and, in this context, client companies who benefit from that labour.

To be effective to the goals of the legislation, we need a total prohibition on barriers to permanent hire to ensure that the underlying goals of Bill 139, but also the remedial nature of employment standards legislation, are maintained.

Second—it seems that we have agreement on the kinds of issues that need to be addressed—termination and severance is also an issue that we feel needs to be addressed. It's good that the government announced that it's going to get rid of the elect-to-work exemption for termination and severance. Quite frankly, there's no need to wait until Bill 139 is passed. The government can proceed immediately by regulation to get rid of that. People in precarious work, temp agency and all other workers, who are denied termination through the elect-to-work prohibition need that termination and severance now, particularly with the state of the economy. Let's move immediately. We don't have to wait.

What we do need to do for termination and severance is deal with the special rules that are being considered. As we heard from the Ministry of Labour, temp agency workers right now get the same termination and severance entitlements that other workers in the province get. The bill would create special rules which say, "You don't have to be unemployed for 13 weeks out of 20. Now you've got to wait 35 consecutive weeks without any right to be sick, disabled, to get a statutory leave"—other grounds that we believe, under the Human Rights Code, could cause a serious challenge to this provision.

Fees create lower standards for temp agency workers. They create impossible barriers which I think effectively are going to mean that people don't get termination and severance. The bill is supposed to protect temp agency workers. These special rules certainly do not provide that protection, and I think they limit workers' access. We believe that 74.11, termination and severance, the special rules, have to go. They have to be deleted.

We've heard the temp industry arguing that they want to basically reduce their liability for termination and severance by reducing—right now, the Ministry of Labour has told us that the practice in Ontario is that temp agencies are responsible for workers from the time that they sign up until the time that that relationship is terminated. That's a practice now. Now they want to say, through the deleting of a provision of Bill 139, "We don't want to be responsible for workers for the whole time"—even through the very nature of the business is to have a pool of workers to lease. They don't want to be responsible for them except when somebody is directly on assignment, making money for them.

Again, we have to go back to, what is the objective of Bill 139? What is the objective of employment stan-

dards? It is to ensure that minimum employment standards and the cost of those rights are not borne by workers. Right now, with the reality that most temp workers never get termination and severance, those costs are being borne by workers who systematically make 40% less than their coworkers. Let's get rid of the termination and severance thing.

The other thing I might add is that in the story we heard about having to have staff online for 35 weeks, even though they may have just worked over the Christmas holidays, agencies have the right to give notice. To give a week of notice, they don't have to pay a cent. I think it's a bit of smoke and mirrors to cast it as bearing liability for 35 weeks. There are mechanisms to give people notice without any cost liability.

Our third point is around the bill and who it leaves out. We believe that the bill will leave some workers still charged fees for work. When the government introduced Bill 139, it said that it was stopping agencies from charging fees because it was unfair. The minister said that. He's absolutely right: It is unfair. But Bill 139 will still leave a third of the employment and staffing industry with the ability to charge workers fees for work. It's a step backward from Ontario's old Employment Agencies Act—the original bill that you brought forward, Mr. Dhillon.

1350

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

Ms. Mary Gellatly: Okay. Time goes quickly here. Basically, it's a step back not to include prohibition of fees for permanent work. We believe that the bill has to be changed to include all of the employment staffing industry and to clearly prohibit the charging of fees for permanent placement at work as well as for temporary placement at work. My colleague at the Workers' Action Centre will talk about changes to information required.

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

LANNICK GROUP OF COMPANIES

The Chair (Mr. Bas Balkissoon): The next presenter is Lannick Group.

Please state your name for the record. You have 10 minutes, and if there's any time left after your presentation, we will allow questions from the three parties.

Mr. Peter Jeewan: My name is Peter Jeewan and I am the CEO and president of the Lannick Group of Companies. I'd like to thank the committee for taking the time to listen to me this afternoon.

First off, I'd like to say that generally we support the provisions of Bill 139. We do have an issue with section 74.8, paragraph 8, which prevents us from charging temp-to-perm fees, and we respectfully ask that you remove the section. I will attempt to support that request by telling you a little bit about our business.

Our firm specializes in placing accounting and finance professionals on a temporary and permanent basis. In 2008, we placed close to 200 accounting professionals on a temporary basis. Their average income was approximately $130,000 on an annualized basis, with some making in excess of $300,000. These individuals performed services that in most cases would have otherwise been provided by public accounting firms, and they did so for about one third of the cost that our clients would have otherwise incurred had they used public accounting firms. Generally speaking, the professionals we represent earn a premium to their peers in public accounting.

The talent pool that we represent is highly skilled and commands a significant wage in the marketplace. Recruitment agencies representing this type of professional provide Ontario's businesses access to much-needed skilled workers in a cost-effective manner while at the same time providing skilled workers with access to assignments which provide premium wages on an as-needed basis.

Contract professionals such as the ones we represent elect to work in this manner as a matter of choice and they utilize our service to augment their own marketing activities to find work when needed. They enjoy many choices in terms of the agencies they can work with, and in order for agencies like ours to be effective, we have to provide higher wages and better assignments than our competition, which of course directly benefits these workers. This is a crucial point: We operate in an efficient, effective marketplace that equally benefits both the employer and the worker.

Our company has been in the placement business since 1985, and our long-standing commitment to our business and our employees has always been predicated on the expectation of a fair and predictable business climate in the province of Ontario. While we applaud the government's desire to prevent the placement industry from exploiting workers and engaging in practices like charging fees to workers, we feel that the pending legislation is over-broad in its application and will have a seriously negative impact on our sector of the placement industry, our clients and the workers we represent.

As the committee is probably already aware, there are recruiting firms that charge fees in the manner prescribed by Bill 139. These firms tend to provide high volumes of general labour and clerical workers to their clients and they themselves typically employ individuals with clerical backgrounds to do so. The economics of a firm of this type are dramatically different than firms such as ours, and the market forces governing their relationships with the workers they represent are very different as well. Generally speaking, they operate in a buyers' market.

Firms like ours provide highly skilled workers and tend to employ other highly skilled workers. Most of our internal employees, myself included, have professional accounting designations. Our company invests in sophisticated tracking systems and continuous training and upgrading of skills, all in an effort to provide better service and greater value to our clients and candidates. All of this goes to say that we are a much higher overhead proposition because we service a market that

requires a much greater degree of intellectual capital and sophistication. Our market is a sellers' market, and the sellers are the workers we represent. They have all kinds of employment options available to them, and all that the proposed legislation will do is interfere with the fairness and cost efficiency that free-market competition generates.

Our fee structure, including temp-to-perm fees, reflects the balance of what clients are willing to pay for our services and the revenue that we must generate in order to recover past investments, make future investments and survive the cyclical challenges of our business.

The draft bill addresses temp-to-perm fees as a barrier to employment. I can tell you unequivocally that we have never encountered a situation where a candidate lost a permanent job opportunity because of a temp-to-perm fee. These types of fees are a long-standing and generally accepted part of an efficient fee structure in the industry across the world. They allow clients to pay for services in the manner that they intend to use them. Restricting our ability to charge temp-to-perm fees means that we will have to recover our recruitment/acquisition costs by charging higher hourly margins. This will boost the cost of knowledge workers to companies and may even result in reductions to these hourly workers as firms seek to expand margins to compensate for lost temp-to-perm fees. We maintain that these fees are the domain of the free-market system.

We view this anticipated impact of the legislation on our segment of the recruitment industry as an unintended negative consequence and respectfully ask that the legislation be revised so that this provision is dropped altogether. Failing this, we ask for clearly defined worker classes to be identified so that it takes proper aim and will achieve the intended effect.

Passing the legislation as it stands could put us and many other firms like us in full retreat from our expansion in Ontario. We are what I believe anyone would consider a success story, with a positive culture. We have been selected as one of Canada's top 50 employers and enjoy a reputation for excellent service. We've grown by 1,200% in the past four years, and a large part of our success resides in the very real investment we put into our internal staff and the development of innovative best practices that benefit both our clients and the workers we represent. None of this comes free, and the proposed fee restrictions would substantially reduce our return on investment and compromise our current model. This model has been welcomed and embraced by our clients, and they willingly pay our fees because they understand the value of accessing top talent as and when needed and for as long as they need them, including on a permanent basis.

Our segment of the marketplace is dominated by multinationals, companies like Robert Half, which is headquartered in California and operates all across North America and Europe. Multinationals like Robert Half do not have the same relative cost structure and are not making the same relative investment in Ontario. Their executive jobs are located outside of the country and the province. They will be dealt a relative advantage over Ontario-only firms like ours as their branch economics will work better in the new environment that this legislation promises to create. Our company, with its Ontario head office structure, will be at a disadvantage. Needless to say, one of the net effects of this will be to discourage investment and innovation in an industry that needs both.

Today, our industry is at the leading edge of a massive recession, with many of our peer firms reporting a 75% decline in business activity. Many firms in our industry are fighting for their lives, and history says that more than half of them will go out of business before the economy rebounds. The proposed legislation will increase the damage that is already being wrought on our industry and will most definitely impact our company's profitability by at least 25%, putting into question the ability of many in our industry to make it through this current economic cycle without taking drastic action.

As entrepreneurs, we do not complain about recessions and we do not ask for handouts. Recessions usually weed out the weak and reward companies that innovate and invest in themselves intelligently. As it stands right now, this legislation will exacerbate the effects of the recession on all recruitment firms and will be especially punitive to firms like ourselves with heavy investments in Ontario.

We respectfully ask that you remove section 74.8, paragraph 8, which interferes 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.

The Chair (Mr. Bas Balkissoon): Thirty seconds left.

Mr. Peter Jeewan: Thank you.

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

1400

WORKERS' ACTION CENTRE

The Chair (Mr. Bas Balkissoon): The next presenter is Workers' Action Centre.

Please state your name for Hansard. You have 10 minutes, and if there's any time left after your presentation, there will be questions.

Ms. Deena Ladd: Great; thank you. My name is Deena Ladd, and I'm the coordinator at the Workers' Action Centre. I want to thank the committee for letting me make a deputation today.

I just wanted to give a bit of context as to where the Workers' Action Centre comes from. We're a non-profit community organization that helps people with their problems at work. We operate a phone line in six languages where people can phone in for advice and get support if they're dealing with problems and if they've got violations of their rights. We do a great deal of education in the community across the GTA, and in fact

across Ontario, with workers looking for work and who are in work, on employment standards and labour market issues.

When we began nearly 10 years ago, we immediately started to deal with the practices of the temp industry, which for the most part has been quite unregulated. We've witnessed it, and on a daily basis we've had to deal with phone calls and questions and lots of people calling us from across this province who have been very concerned about the impact of an industry that has been allowed to develop a whole range of unfair business practices restricting workers from accessing full-time jobs, charging a range of fees, from transportation and equipment to finding work. We've had to, time and time again, help individuals access basic statutory rights under basic employment law such as public holiday pay, overtime pay, vacation pay and unpaid wages.

The context: Before this economic crisis hit, we had a situation where there's been incredibly huge growth of precarious employment in this country, and we've got a labour market where close to 40% of workers are now in precarious work. It's been incredibly shocking to us to see how workers can be treated completely differently in the labour market just because they're hired through a temporary agency. We've found that workers hired through agencies can be treated so completely differently that you can be denied the same pay, benefits and access to jobs as the workers that you're working alongside with, and there's the fact that you can just be gotten rid of in a moment's notice with no notice of termination even if you've been on an assignment for years.

These have been so many of the kinds of calls that we've gotten. We've been having lots of community meetings about this bill. We've been having lots of calls from many different workers across this province, and people are saying, "How can this be allowed to happen in the 21st century? How can I be restricted from applying to jobs at a company? How come I'm not treated basically like any other worker? How can this be allowed to happen?"

Really, all we're saying is that we're seeking a level playing field so that all employers have to follow basic employment standards and so that workers can have the confidence and protection of basic employment standards, regardless of who hires them. All we're really asking here is that we have an established floor of standards for everyone.

We were very pleased when Bill 139 was introduced, because we see this as a big step in that direction. We're very pleased that the government of Ontario is recognizing that our workplaces have changed, that there's a huge increase in precarious employment and that temp agency workers need protection from this whole host of unfair practices that have been allowed to flourish in our province, which workers are dealing with individually on a day-to-day basis.

Due to the time limits—we've obviously only got a very little bit of time—I want to focus my comments on three key changes that we'd like to see and get your support for in Bill 139. It really is just trying to establish those fair standards, a fair, level playing field for workers.

One of the biggest issues and concerns, and of course we've been hearing about it all afternoon, is the employment legislation barrier that we'll be seeing in Bill 139 in hiring workers. Rightly so, Bill 139 prohibits agencies from imposing barriers on client companies hiring assignment workers, but it only makes those barriers illegal six months after the assignment at the client company starts. We really feel that this should be removed. When you've got the majority of workers who are working six months and less, this is going to be a huge barrier for them in accessing work. We hear time and time again of workers calling, saying, "I'm working here; I'm stopped from accessing a full-time job because of these kinds of barriers." I think, especially in this economic crisis, that the whole goal of our economy should be to try and find people employment. How can we allow restrictions on people's mobility in the labour market?

We have a whole host of government-funded services that are dealing with laid-off workers: employment search workshops, job development. These are government-run, community non-profit organizations that are doing the same work and would never be allowed to restrict someone's movement into a full-time job and charge a fee, yet this bill is actually allowing temp agencies to continue that. I think this six-month barrier on hiring will create a huge loophole that will in fact stop workers from accessing those jobs because, frankly, if an agency's income is made from placing someone on assignment and they get their fee through the hourly markup, why would they let that person go beyond six months? Just replace that worker at five and a half months with another one so they can continue to make their profit.

I think it's incredibly important that this be removed and that we don't put in legislation that someone's mobility in the labour market could be restricted by a fee. I think it creates a very dangerous precedent.

The second amendment we are seeking is on the information required. I think this is very critical, especially when you're dealing with people who are moving from assignment to assignment and really rely on basic employment standards for protection. Many of the workers we work with will never have access to a trade union and really do rely on employment standards to protect them at work. We think it's incredibly important that in the information provided to someone about their assignment, they are told what the duration of that assignment is. Temp workers are just like other workers: With any one of us, if we're applying for a job, our first question, of course, is, "How much am I going to get paid?" but then, "How long is this job going to be for?" I think it's totally reasonable for a temp worker to have that same information as any other worker. Temp workers have lives; they have families; they have dependants. They need to plan their financial stability. They've got bills to pay. I think it's only reasonable that they should have that

information included. So we would certainly request an amendment to ensure that the information is provided.

Another amendment that we'd like to suggest to that information is that the client company sign on to that information piece. Again, what we see on a daily basis is temp workers being put in the middle. The temp agency gives them a little bit of information; then they're told, "You'll get that information from the client company. Just show up at the back door and talk to whoever, and they'll put you to work." We want to make sure we have transparency of information. Anyone who goes on a job should have the information and they should know that the client company has that same information, so that the client company can't turn around and say, "Oh, no. We didn't say that you didn't have to work overtime," or, "We didn't say that this was the type of work you were going to do." We think it's very important for people's basic protection that the client company signs on to the information sheet, as well as the temp agency and the worker, so that there's no misunderstanding, no confusion about what the job is, how the job is going to be done, and the conditions of that work. We would like to request that amendment.

The third amendment that I wanted to talk about is the issue around termination and severance. I think that when the government announced it would be getting rid of the elect-to-work exemption for termination and severance—

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

1410

Ms. Deena Ladd: —sure—we were very pleased with that, because it meant that, obviously, people could get paid public holiday pay. I think what's very critical about Bill 139 and what we're quite concerned about is that it's going to create special rules on termination for temp agencies. We believe that temp agencies should have to follow basic employment standards just like every other company in Ontario. Temp agencies argue that they are the key employer; well, they should have to follow the law and ensure that their employees have equal access to termination and severance.

Thank you very much.

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

COMFORT KEEPERS

The Chair (Mr. Bas Balkissoon): The next presenter is Comfort Keepers.

Please state your names for the record, and then you have 10 minutes. If there's any time left after your presentation, there will be questions from all parties.

Mr. Peter Drutz: My name is Peter Drutz. I'm the president of Comfort Keepers for Canada. I'm joined by my colleague Laurie Saunders. We appreciate the opportunity to speak in front of the committee today.

I'd like to start by telling you a bit of background about Comfort Keepers, because we represent a different industry than those you've heard from quite a bit today, and yet are very much affected by this bill. At Comfort Keepers we provide personal support services, homemaking and companionship to the elderly and to others who are in need of assistance with their activities of daily living. We offer our services primarily in private homes. We do some in retirement homes or long-term care or hospitals, but most of our work is done in private homes. We're a franchise company that is made up of small business owners who operate offices across Ontario. We employ hundreds of workers, and these are workers who have sought to make a career out of being home care professionals.

The services we offer are usually purchased either by a family member or by the direct recipient of the care themselves, and these services play a very important role in the well-being of our clients. The entire industry we represent, the private home care industry, complements public health care, as our services tend to improve the quality of life that our clients have and can often prevent or significantly delay the need for additional medical care.

We're very mindful of the existence of unscrupulous employers whose hiring practices perhaps subject very vulnerable employees to unfair treatment, who perhaps pay at or below minimum wage, and whose employees are really biding time until they can find a better, more permanent or higher-paying job. Therefore, we're very in favour of the elements of this bill that offer the range of protections that are presented for these kinds of employees. However, it's not what our company is about. Our staff work for us because they themselves are very committed to their profession of being home care professionals. They need and they want the kind of flexibility we offer. Many of the personal support workers we employ, quite frankly, have the opportunity, as an alternative, to work in long-term-care facilities or other institutions, and yet they choose to work for Comfort Keepers because we offer them the work-life balance that they want. We offer them the flexibility that they want, whether that's to take a two-week break from their work or whether that's to take a 40-week break from their work. That flexibility is core to our relationship with them.

So when you look at how we interact with our staff, we spend a considerable amount of time and money on recruitment, screening, training, and the safety of our caregivers. We treat our staff with respect and dignity in every aspect of our relationship, from how we manage them to the fact that we comply with all government regulations.

The nature of our assignments to various private individuals can differ quite widely. They can range, for example, from the short-term-care needs of a patient who might be returning from hospital to caring for a senior with Alzheimer's who starts off needing perhaps a few hours of care a day and eventually progresses to requiring around-the-clock care.

That's the background to what we do and the nature of our work. I'd like to address three areas of concern we have with the bill.

The first is the differential treatment of home care service providers under the CCAC, or community care access centre, contracts and those provided by private providers.

Comfort Keepers believes that private-pay services and those that are funded publicly should be treated equally under Bill 139. Therefore, our recommendation is that the government broaden and amend section 74.2 to remove that unfair playing field, and we put the language in there. The option of both private and public care is very important to Ontario residents and, quite frankly, nothing should systematically create an inequality between these two.

The second area that we looked at was the proposed amendments with respect to termination and severance. As you heard earlier, the bill establishes that an assignment employee is entitled to notice of termination and severance if they haven't been assigned to work for a period of 35 weeks. But I think it's very important to put into context the number of factors that could affect the length of care or service we provide to a patient or client. There could be substantial changes in the client's medical circumstances. There could be variances in business volume of the operator. There could be a change in mix of the kinds of clients we have who require different kinds of home care services. Really, it's in the best interests of both the caregiver and a home care company like us to be able to find assignments for the staff.

From the employee's point of view, periods of not being assigned are often at their request. Let me give you an example. During the summer, we very often will hire nursing students who want to do home care work over the summer period. Months later, or even in the following season, almost a year later, if they have an opportunity to work with us during school breaks or other times, then they want to stay on our roster and we want them to stay on our roster. They're not looking to be terminated and rehired, and that's the intent.

As well, the proposed 35-week formula is going to impose an increased administrative burden, and that's ultimately going to add cost to an already thinly margined business. It's also invariably going to lead to increased cost for private individuals, seniors, who often will now not be able to afford the service. That's unnecessary, given the fact that this change as proposed is going to force termination paperwork and records of employment for employees who don't want to be terminated and for employers who don't wish to terminate them.

The third area has to do with the notion of charging client fees for directly employing agency staff. Section 74.8 allows our client the right to directly hire a caregiver or employee without penalty after six months. I've previously commented on the fact that private home care companies have invested substantially in recruiting and in the ongoing training of these staff. We therefore believe that it really should be a matter of contract between the agency and the client, not a matter of employment law, as to whether those penalties are going to apply.

You've heard in earlier submissions today the notion that companies may want to take advantage of that and, five and a half months into the process, suddenly swap out one caregiver for the other. That's very contrary to the nature of the work we do, where so much of it is based on matching a caregiver with a private individual in their home. It would be ludicrous to assume that we would want to swap that person out to avoid a clause like this. Therefore, we recommend that this be eliminated. In the alternative, we would propose that the window be extended to one year.

In summary, we really have three areas of concern: the proposal with respect to the CCAC exception; the termination and severance clause; and last, the fees to clients for hiring staff directly.

The Chair (Mr. Bas Balkissoon): Thank you. We have about 30 seconds each. The government first. Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much for appearing before us today. Do you do any business for the CCACs at all?

Mr. Peter Drutz: No, we don't.

Ms. Laurie Saunders: By choice.

Mr. Vic Dhillon: And the majority of your business is to individuals?

Mr. Peter Drutz: Yes.

Mr. Vic Dhillon: Okay.

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

Mr. Robert Bailey: Yes. Thank you for your presentation today. If the bill as written is implemented without the changes, would it seriously harm your business and similar businesses, do you feel?

Mr. Peter Drutz: Absolutely.

1420

Ms. Laurie Saunders: It would harm our business substantially. It would also harm the employees who work for us who want that flexibility to pick and choose assignments and who, in many cases, work for multiple agencies as well.

Mr. Peter Drutz: And indirectly it would harm the relationship between seniors in need of care and their caregivers that they've come to form bonds with.

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

Ms. Cheri DiNovo: Pass.

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

CANADIAN UNION OF PUBLIC EMPLOYEES

The Chair (Mr. Bas Balkissoon): The next presenter is the Canadian Union of Public Employees.

State your name for the record. You have 10 minutes, and if there is any time left within your 10 minutes, we'll allow questions.

Ms. Kelly O'Sullivan: It's Kelly O'Sullivan.

Ms. Stella Yeadon: Stella Yeadon.

Ms. Kelly O'Sullivan: I wanted to start by thanking the committee for providing the Canadian Union of Public Employees and myself, as a representative, with the opportunity to present to the committee on Bill 139. The focus for CUPE is to talk about the issue of the home care workers' exclusion from the severance and termination pay that's being proposed in this amendment.

CUPE represents more than 220,000 members across Ontario and over half a million in the country. We deliver services that range from child care, municipalities, emergency services—community-based—and other social services.

In Ontario, we don't represent a large majority of home care workers. In fact, the local that I'm from, CUPE 4308, probably represents the largest chunk of workers at about 300. In total, we probably represent about 500. In fact, the majority of home care workers are not unionized in this province. Because of our collective agreements, our workers do have access to severance and termination pay. The reason we're here today speaking out around this issue is that we don't think that that small group of workers who are unionized should be the only ones who have access to severance and termination.

Home care workers—I'm not sure how many of you on the committee are familiar with the type of work in this sector and the nature of the work—are among the nearly 40% of Ontario workers who would be considered contingent, contract and temporary workers. Oftentimes, the type of work that they do is lower-waged. The province has set a minimum of $12.50 an hour. While that may seem reasonable compared to the minimum wage, that's not working on any guaranteed hours of income. You can have, as we have in our workforce, workers who have worked for 20 years. You may work 15 hours one week, 20 hours the next and 10 hours the following week. You oftentimes don't have benefits, pension plans, access to other health care provisions—even though you're considered a health care worker. So there are real challenges in this sector to begin with, and now, to add insult to injury, to take a specific exemption to severance and termination pay for these workers we find particularly frustrating, and we're calling for that to be removed from Bill 139.

In home care, the predominant workers are women. In urban centres such as in Toronto and Hamilton and other areas, they are predominantly racialized women and, as we've mentioned already, have very precarious working conditions. These precarious working conditions have been fostered through the competitive bidding process that's currently used in the province of Ontario, a process that has, as you know, been stalled and put on hold a number of times, but we still manage to think that somehow it can be fixed. I guess we'll see, in this next round coming up, how much further damage it creates for vulnerable clients and workers in the sector. I think that's very important, though. Because of the competitive bidding model, these are workers who greatly are in need of protection around severance and termination, because, for no fault of their own, the company they work for can lose a contract. So there they are, no longer employed—not because of anything they have undertaken or done on their part; simply because a contract has been lost. They're now, as this bill looks at, going to be exempt from severance and termination.

That's a serious concern for us. I think that what we really want to see removed is section 74.2, which explicitly excludes a home care worker who is an assigned employee assigned to provide services under the contract with the community care access centre or doing work governed by a contract with a CCAC. These are entitlements that will be given to other contract workers once this legislation is passed. So it begs the question for us: Is this a purposeful withholding of termination and severance pay to CCAC-contracted home care workers directly related to a concern over liability of the government funder—as I said before today, the Ministry of Health and Long-Term Care—to pay these costs under a home care delivery model that is already exploiting workers through low pay and that fuels job loss?

The competitive bidding system means that home care workers lose their employment more frequently as companies lose contracts, and we're looking at a bill now that would exclude them from receiving termination and severance pay. This specific denial of termination and severance for home care workers, who, because of the nature of home care and competitive bidding, are subject to precarious employment and income instability through no fault of their own, we believe flies in the face of the provincial government's commitment to reduce poverty in Ontario.

So Bill 139 amendments are called for. It's unfortunate that the provincial government has, for the last six years, refused to stop the competitive bidding model. While it's in place, I think it's imperative that severance and termination have to be addressed.

Bill 139 provided the government with another opportunity to improve wages and working conditions for home care workers. However, as it's currently proposed, it once again fails home care workers and doubly punishes them. There's a fundamental unfairness here. The exploitation of home care workers must stop. They must be included in the new protections of Bill 139.

Even a Liberal government-commissioned report on home care competition written by the former Minister of Health, Elinor Caplan, recommended that home care workers receive termination and severance pay.

Home care workers should not be exempt from the new entitlements of termination and severance pay that, when Bill 139 is law, elect-to-work workers—except home care workers—will be entitled to receive.

CUPE Ontario asks for the following amendments to Bill 139: Delete section 74.2, which exempts home care workers under a CCAC contract in its entirety. We're also asking that section 74.2 of Bill 139 be deleted and the elect-to-work exemption be repealed, as I already stated. The amendment to that bill would ensure that home care workers are eligible for termination and severance pay. This is the same entitlement extended to other elect-to-work-status workers once Bill 139 is passed.

I would be remiss not to recognize the importance of our community allies who have supported the incredible work of Bill 139 coming into place. Our request for an amendment to this bill is in no way to diminish the importance of the changes that need to take place. Our concern here is specifically on the exclusion of home care workers.

Once again, when you look at it, it's kind of like, out of all the workers in the entire province we could choose, we found these particular workers to exclude. You have to ask yourself: Why has that been done and what are the reasons for that? From our perspective, representing home care workers—and I would think the majority of people who receive personal care from those workers would ask you the same question: Why are you excluding them from this right that's being extended to other workers?

The Chair (Mr. Bas Balkissoon): Thank you very much. We have about 30 seconds, and we'll start with the Conservatives. Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. I'll ask the question you were just asking: Why do you think the government put this exemption for CCAC home care workers into Bill 139?

Ms. Kelly O'Sullivan: I think our concern, as we alluded to in the statement, is that ultimately the CCAC is funded by the Ministry of Health. The Ministry of Health would have to be responsible, we would assume, for ensuring that that money is available to both for-profit and not-for-profit companies that provide home care.

1430

Mr. Norm Miller: So in other words, the reason they did it is that it would cost the government more money?

Ms. Kelly O'Sullivan: We haven't been told anything different. I'm not sure. I'd love to know why.

Mr. Norm Miller: That's probably correct.

Ms. Kelly Sullivan: If there's another reason, I'd like to hear it.

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

Ms. Cheri DiNovo: Thanks for your presentation. There has been some news recently in the last couple of days—my questions to Mr. Fonseca about extending care and coverage to nannies, one of the most exploited groups in Ontario. This bill could do that quite easily. Would you be in favour of that?

Ms. Kelly O'Sullivan: Of course we would be in support of that. I think it needs to be extended to all workers in Ontario.

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

Mr. Vic Dhillon: Thank you for your presentation.

Ms. Kelly O'Sullivan: Thank you.

ONTARIO HOME CARE ASSOCIATION

The Chair (Mr. Bas Balkissoon): The next presenter is the Ontario Home Care Association.

Please state your name for the record. You have 10 minutes. If there's any time left, there will be questions.

Ms. Susan VanderBent: My name is Sue VanderBent. Good afternoon and thank you for the opportunity to speak today. I'm representing the board of the Ontario Home Care Association, representing over 50 home care organizations in Ontario and across Canada.

Overall, OHCA is supportive of the amendments to the Employment Standards Act, which are designed to further the government's overarching objective to promote and protect employment rights and to correct any specific situations in the temporary-help-agency sector, where workers are not treated fairly.

However, 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 specifically related to its labour practices and policies. This difference is due, in part, to the type of work with which the home care worker is entrusted and the needs of the vulnerable client populations served.

Home care providers are negatively affected by some of the proposed amendments within Bill 139, such as 74.8, where an organization is prohibited from contracting with clients for maintaining the ability to have a staff member in the home.

In the context of health care and, in particular, home care, which is a unique and growing place of work, it is vital to address ways to support the workforce and ensure success in human resource recruitment and retention. Members of the OHCA wish to maintain current employment practices that are beneficial in order to ensure that a growing number of Ontarians are able to stay independent and functional in their own homes.

The government of Ontario is committed to transforming the broader health care system from one that is episodic, acute and institutionally oriented to one that addresses the longer-term management of chronic conditions for people of all ages within their homes. Research shows that people of all ages want to receive care at home for as long as possible. Home and community care in all its aspects is acknowledged to be vital to the transformation of Ontario's health care system.

Publicly funded home care is intended to supplement the care provided by family. Publicly funded home care services in Ontario are coordinated through the community care access centres, or CCACs.

Privately funded home care is also purchased independently by families and individuals. This privately funded care assists with growing pressures to balance work, raise children and care for loved ones who might require more care than the current publicly funded home care system supports.

More and more Ontarians are choosing to purchase home care services privately as a supplement to the publicly funded system. There has been a corresponding increase in the number of private and corporate insurance plans to respond to this trend.

All OHCA members can provide home care services under contracts with all levels of government, community care access centres, insurance companies, institu-

tions, corporations and private individuals. OHCA members have a range of different types of corporate tax status.

The home care provider delivers care in the home through the work of regulated health professionals—that is, nurses or therapists—and also supports clients with personal care—which is bathing, toileting, feeding—and home supports: light housekeeping, transportation, companionship and meal preparation.

Home care recipients, particularly the elderly, often require regular and consistent care in the morning—to rise—and in the evening—to go to bed. There is a corresponding need for home care employers to ensure that there's a high number of staff available at both of these periods of time during the day, and that is to manage this fluctuation in the natural care needs of a client.

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

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

Human resource strategies that work well for the institutionally based acute and long-term care sectors do not readily translate to the home and community care system, which is highly mobile, decentralized, and supervised remotely. This makes sense, because we are going to someone's home. The worker is not going to an institution.

There are unique aspects to providing care as a guest in someone's private home, which requires careful management to maintain a satisfied, safe and productive staff. This consideration is critical and fundamental to creating strategies designed to attract and retain adequate health human resources. In order to deliver the most responsive home care, flexible staffing models are required to ensure that staff are available to respond to fluctuations in volume assignment, particularly in the morning and evening hours, as required by the client population.

Home care workers do have access to health care benefits, travel pay and public holiday pay.

There are unique and differentiating characteristics of home care providers, including an ongoing, intensive relationship with employees over time to manage assignments in the home. Home care providers' employers have a responsibility for an ongoing process of assessing and managing the health and safety issues for staff in the home—and we run into work hazards such as ensuring adequacy of lighting, clearing ice and snow on walkways, clients who smoke, dealing with their animals, and dealing with any other persons in the home who may not be the best for our workers. We have a lot of issues that we have to do in terms of maintaining health and safety.

We have to have specialized recruitment processes geared to suitability, aptitude and competency, specific to the needs of frail and elderly people in the home. We have to provide specialized training and educational programs geared to supporting clients. We provide detailed information to each employee prior to the delivery of home care services. We provide ongoing supervision and involvement of the employer in the work of the staff, and ongoing facilitation/collaboration with family caregivers and other formal caregivers such as family physicians—we make hospital discharge arrangements; we pick up medications for families at local pharmacies.

The initial recognition of home care services provided through the CCACs, as separate from temporary help agencies, within the bill is welcomed from a policy perspective. OHCA believes that publicly and privately funded home care services should be treated the same under Bill 139. In order to ensure the continued flexible and responsive provision of home care in Ontario, whether publicly or privately funded, or both—and that can happen; often, people are supplementing their publicly funded care with privately funded care, and that is happening more and more in the province of Ontario—the OHCA believes that one of the two suggested changes to section 74.2 should be considered.

Recommendation 1: The OHCA recommends that the government change section 74.2 to read: "This part does not apply in relation to an employee assigned by his/her employer to an individual person to provide professional services, personal support services or homemaking services as defined in the Long-Term Care Act, 1994."

Alternatively, the OHCA recommends that the government change the section to add a part (c): "An employer of the assignment employee and an individual person, for the provision of professional services, personal support services or homemaking services as defined in the Long-Term Care Act, 1994."

1440

With respect to regulation change related to termination and severance, the Ministry of Labour has indicated that with the passage of Bill 139, the government intends to revoke the elect-to-work exemptions related to termination and severance. As with the revocation of public holidays, there will be significant additional costs to be borne by the ministry and private funders, i.e. Ontarians, in order to address the proposed termination and severance provisions.

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

Ms. Susan VanderBent: The OHCA estimates the costs to be between $30 million and $40 million for this industry alone. The OHCA recommends, along with many other groups in the business sector, that prior to proceeding with the proposed regulation change, the government undertake a full review of the potential ramifications and the full extent of the costs. Certainly, in the

event that the government determines to move ahead, OHCA recommends that all elect-to-work employees be considered as having a start date for these provisions effective upon the passage of the bill.

The Chair (Mr. Bas Balkissoon): Thanks for taking the time.

STAFFWORKS INC.

The Chair (Mr. Bas Balkissoon): The next presenter is Staffworks Inc.

Please state your name for the record. You have 10 minutes. If there's any time left after your deputation, there will be questions.

Ms. Sandra Sears: My name is Sandra Sears, and I'm the president of a staffing firm here in Toronto.

Staffworks makes its business out of placing candidates in temporary and permanent jobs across all sectors. We place clerical staff, warehouse staff, accounting staff and technology experts. One of my biggest customers is the Ontario government, actually.

I strongly support the objectives of Bill 139 as they relate to supporting the rights of workers throughout Ontario. As a matter of fact, one of the reasons I started this business and why I've been in the business for l5 years is that I get to see over and over again how what we do changes the lives of the candidates we work with. Not only do we help Ontario's businesses stay competitive, but we give thousands of Ontarians access to opportunities. There are many, many new Canadians who settle in Toronto looking for work, and many of these folks bring themselves to my office within days of arriving.

I take issue with two segments of the bill, and I'm going to talk about that in a minute. But before I get to that, I just want to talk about the issue of our fees being a barrier to employment. We've heard four or five people refer to our fees as a barrier, but I haven't yet heard a specific example of this in action. Actually, I feel that these examples are somewhat conspicuous in their absence. On the other hand, I'd like to give you a couple of examples of how we are actually not a barrier to permanent employment but a doorway to permanent employment for many, many Ontarians.

In the years between 2000 and today, Staffworks placed hundreds of temporary staff in the provincial government. These candidates are recent university grads, new mothers returning to the workforce after maternity leave and new Canadians arriving from countries like Tanzania, Nigeria, South Africa and regions like eastern Europe, countries where human and employee rights are not as entrenched as they are here.

At last check, 20% of the temporary candidates we placed in the government of Ontario were taken on to the payroll and are now members of OPSEU. These are talented individuals who would not have had access to the province's job opportunities without first being placed temporarily by Staffworks. I've got a few specific examples; I think that's important: Vinna Vong, a recent university grad, placed with the Ministry of Health, now permanently with Economic Development and Trade; Orit Dobsky, a recent university grad, placed with Environment, now permanently with the Ministry of Health; Nic Flores, an immigrant from the Philippines, placed on temporary assignment with the Ministry of Health, did a spectacular job, now permanently at eHealth; Felix Silva, returned to Canada from Colombia wanting to start a whole new career, placed temporarily at the LCBO, and he's been there permanently for seven years, doing an exceptional job, promoted through the ranks.

Another striking example is the story about our candidate Zulficar. I won't talk about his surname or the country from which he came. Suffice to say that he came to Canada in 2000 and soon registered with us for temporary assignment. When he came to see us, we recommended, as we do with all of our candidates, that he register with more than one agency: "Cast your staffing agency net wide, and continue to look for work on your own." Luckily, though, we were the first service to offer this candidate a job that he felt was a good fit. It wasn't in his field of education, but he was motivated, driven and eager to prove himself. And he did, and after several assignments with us, he found a permanent job with a company that we'd placed him with months earlier. He had enhanced his resumé, improved his skills and become a well-qualified candidate for our client. He's since moved up the ranks as well, and has an excellent, stable job in a successful multinational organization. This would not have happened otherwise.

Since that time we've placed almost 75 employees with that very company, and over and over again this company pays us a small fee—not thousands of dollars, but they pay us a small fee in recognition of our work—to take our staff on to their permanent payroll. They're happy to do so. We get letter after letter from these employees, saying, "Thank you for giving me the chance." They go in there, they bust their chops, they get hired permanently and everybody's happy, but they wouldn't even know the company existed if it wasn't for Staffworks or my competitors, who introduce them to other temporary jobs.

Another example is Donna, a recent arrival from British Columbia due to some personal and tragic circumstances. She was looking for permanent work but she took a temporary job through us in the meantime. She's an exceptional executive assistant, and the president clearly recognized that and happily paid a significant fee to bring her on. She was going to get a job one way or the other, and this company recognized her talent. They are happy to pay some form of fee, one way or the other. So my point is that we are not a barrier; we are a doorway to employment.

I wanted to talk to you about our bill rates. Our temp rates that we pay our employees are over $14 an hour. We just finished a project placing cashiers and shelf stockers at $10 an hour, also over minimum wage. We don't even pay minimum wage. We can't; we just can't get the talented folks that we need. You'd be sure that if a Staffworks client employed my staff directly they'd be

paying them less and the employees would have to restart their job search from scratch when it was over. Instead, they may choose to take more jobs through Staffworks and have a much better chance of finding work that is suitable, that develops their qualifications or leads to a meaningful career.

My final two points deal directly with Bill 139. The first deals with subsections 74.8 (1) and (2). In subsection 78(1) there are 10 prohibitions, nine of which are great. But subsections (1) and (2) are an interference, a tool to regulate the legitimate and legal terms of business between me and my customers. We're on a slippery slope, in my opinion, once the government starts to regulate prices, time frames for payment obligations and other legitimate business arrangements between two businesses. What bank would get excited about financing a business that is at the mercy of government regulation—and, I might say, an overreaching regulation? Access to financing is a key element to the staffing business and to any business, really, and unilaterally interfering with and dictating our terms of business with our customers will make us a pariah to banks and investors. I ask that you remove 74.8(1) and (2), which interfere with business terms, and refocus attention on the employment-related issues, the employment agreements and employment terms, so that workers are never unfairly restricted from seeking employment with prospective employers.

The second and final point deals with continuance of employment, clause 74.4 (2)(b), where it says, roughly, that an assignment employee of a temporary help agency continues to be my employee even if he's no longer assigned to perform work. When an assignment employee finishes their assignment with Staffworks, they have choices and they do what's their best interests. I hope they will work for me again, but they may find another job, work for another staffing firm or go back to school. They may wish to stay home with their family, or maybe they now have the confidence to start their own venture. Bill 139 in clause 74.4(2)(b) says that an assignment employee of a temporary help agency does not cease to be my assignment employee because he's not assigned by me. Why in the world would I continue to be responsible for employer obligations to a worker who does not work for me?

I've done the math and my association has done the math, and there's no doubt that it will do serious harm to my competitiveness, my efficiencies and my industry. No other business, industry or international jurisdiction requires an employer to continue to take employer responsibilities for people who are no longer employed. The industry whose sole business is to put all kinds of people into all kinds of jobs will be debilitated by this clause. This will make Ontario quite anti-business and quite an anti-employment jurisdiction throughout North America and Europe.

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Just another point I wanted to mention: Over a year ago, China, in their movement towards a market economy, granted licences to Manpower and other staffing firms to provide temporary staffing services—China. It seems to me that Ontario is moving in the wrong direction.

Therefore, I ask that you remove—

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

Ms. Sandra Sears: —clause (b) of subsection 74.4(2) talking about the cessation of work issue.

China—I think we need to move in the right direction.

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

COMMUNITY SOCIAL PLANNING COUNCIL OF TORONTO

The Chair (Mr. Bas Balkissoon): The next presenter is the Community Social Planning Council of Toronto.

Please state your names for the record. You have 10 minutes, and if there's any time left after your presentation, there will be questions from all sides.

Ms. Celia Denov: Thank you very much, and good afternoon. My name is Celia Denov, and I'm the president of the board of directors of the Community Social Planning Council of Toronto.

The Community Social Planning Council of Toronto is a non-profit agency engaged in research, policy analysis, community development and capacity-building work. As an organization committed to social and economic justice and the improvement of the quality of life for all people living in Toronto, and a member of the Good Jobs for All Coalition, we are encouraged to see the Ontario government taking action to protect the rights of temporary agency workers. The bill is both critical for temporary agency workers and a vital step in the province's movement on poverty reduction.

A disproportionate number of temporary workers are new immigrants, women and people from racialized backgrounds. We believe this act will work to provide greater protection for Toronto's working communities. For these reasons, we fully support the implementation of Bill 139.

The Ontario labour market has seen a rise in the amount of part-time, temporary, self-employed and contract work; nearly one in three jobs in the province are of this precarious nature. From 1997 to 2005, the number of temporary employees in Toronto increased by 68%, and in 2006, they accounted for 13.4% of all Toronto workers. According to Statistics Canada, in February 2009, Ontario led the country in the number of workers who held a temporary job, at 547,200; Quebec came in second with 362,600. It should come as no surprise that the primary channel for placing employees in such work, the temporary help industry, has grown and profited enormously over the years, providing employers with temporary workers in nearly all sectors of the economy.

There are nearly 1,000 temporary help agencies operating in Ontario. The rapid growth of this industry has gone largely unregulated, particularly due to the previous government's repealing of the Employment

Agencies Act in 2000. Ontario's outdated Employment Standards Act has not kept pace with these dramatic changes in the labour market, and as such, we are seeing increased incidences of workers who are being unfairly treated and their employment rights violated. Agencies have taken advantage of this fact and have reaped millions off the backs of hard-working Ontarians. This type of work has also proliferated employment inequities, with temporary workers earning 4O% less than their permanent workplace counterparts, with little or no benefits.

The temp industry maintains that it is simply responding to the demands of employers by providing them with a pool of flexible workers and that any government regulations and intervention would only impede job creation, hurt business and are contrary to the principles of a free-market system. However, these employment agencies have already imposed their own forms of interventionist and regulatory policies via restrictive contracts and rules about who can work where, when and for how long. There is a growing consensus emerging from workers, labour unions, communities and advocates that the industry has clearly not been able to self-regulate and that the provisions of such employment placement services have come at a great cost by completely neglecting human and labour rights and stifling labour market participation and mobility.

Research demonstrates that workers making use of temporary help agencies are facing discrimination, having their employment and human rights violated, and are being confronted by numerous barriers to gaining stable and permanent work. Due to their temporary status, workers find themselves needing to pay fees to agencies if they wish to be hired by the client company, being denied public holiday pay and being misclassified as independent contractors. Thanks to the effort of the government, temporary workers who have been categorized as "elect to work" are now able to collect holiday pay. The province is moving in a positive direction, yet much more needs to be done.

Bill 139 will work to reduce barriers to permanent employment, eliminating fees that pose immense strains on vulnerable low-income workers and guaranteeing that employees are properly informed about their work assignments and their basic rights afforded to them under the Employment Standards Act. These rights to "just and favourable conditions of work" are also enshrined in the UN's Declaration of Human Rights. Any legislated changes should not be viewed as a threat to employment agencies but, rather, necessary measures to ensure fairness and adequate protection for all workers.

While we strongly support the substance of the bill and its objectives to expand the Employment Standards Act to protect temporary workers, some sections of the bill can be strengthened to more effectively meet these objectives. We at the Social Planning Council of Toronto therefore support the following recommendations:

(1) Inclusion of all employment agencies: We would like to see the language of the bill expanded to include not only temporary help agencies but all employment agencies that are in the business of staffing employers or helping workers find employment, both temporary and permanent. This will ensure that no agency is imposing fees onto workers for any employment-related service, a regulation that had previously been in place under the Employment Agencies Act.

(2) Barriers to direct employment: The bill as it currently stands does not effectively remove barriers to permanent employment and direct hiring, as agencies are allowed to charge fees to the client company during the first six months of a work assignment. This essentially creates a large loophole for the employment agencies, as they may remove a worker from a work assignment just prior to this six-month period and replace them with another worker in order to avoid direct employment by the client company.

During this time of economic hardship and increased job loss, it is counterproductive to purposefully erect barriers for workers who seek stable and lasting employment. Access to permanent employment would benefit not only workers themselves but the province as a whole, with increased productivity and tax revenue to support much-needed social programs. We therefore urge the government to abolish the six-month period during which temp agencies may charge fees.

(3) Information on work assignments: Workers are often left in the dark regarding the basic details of their work assignment, including the very name of the company they'll be working for. Bill 139 will remedy this by ensuring that agencies provide in writing the name of the company, contact information, hours and description of work to be performed, and information regarding wages and pay periods. This will allow workers to have access to important information needed in order to manage personal and family time, as well as to enforce their employment standards rights in the case of any disputes that may arise.

We also ask that this section be amended to include the start and expected end date of work assignments and any markup of fees between what a company pays an agency and what the agency pays the worker; and to require client companies to sign such a document, to ensure transparency and accountability.

(4) Termination and severance: The misclassification of employees as "elect to work" that has been imposed by temporary agencies onto workers has been used, until most recently, to deny workers public holiday pay. It is also being used to deny workers termination and severance entitlements. We ask that the government immediately move to remove the "elect to work" exemption for termination and severance benefits.

(5) Equal pay for equal work: The income disparity between a temporary worker and their permanent employee counterparts urgently requires the inclusion of an equity clause within the bill. It is unacceptable that a temporary worker performing the same tasks and duties as a worker who was hired directly by the company receives a substantially lower income, with no benefits and little job security.

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

Ms. Celia Denov: Okay. The last thing is penalties: Stricter enforcement of the Employment Standards Act and stronger penalties for violations are needed to ensure that agencies and client companies are abiding by both current and future legislation.

We applaud the Ontario government for its actions thus far and look forward to seeing some of these amendments and suggestions in the final bill.

Thank you very much for the opportunity to appear before you.

The Chair (Mr. Bas Balkissoon): Thank you very much. The committee will now recess and will reconvene at 4 o'clock.

The committee recessed from 1500 to 1600.

METRO TORONTO CHINESE AND SOUTHEAST ASIAN LEGAL CLINIC

The Acting Chair (Mr. Lorenzo Berardinetti): I'd like to call the committee back to order.

We are now going to hear from our next deputation on the Standing Committee on the Legislative Assembly. This is the 4 o'clock deputant, the Metro Toronto Chinese and Southeast Asian Legal Clinic.

Good afternoon, and welcome. We've been going through a very quick list here, so there's 10 minutes. If there's any time left from your presentation, we'll allocate it to the three parties. You have 10 minutes. Please go ahead.

Ms. Avvy Go: Sure. My name is Avvy Go and I'm the clinic director of the Metro Toronto Chinese and Southeast Asian Legal Clinic.

Ms. Uzma Shakir: My name is Uzma Shakir. I'm representing the Colour of Poverty Campaign, and I'm endorsing the presentation. We're making a joint presentation.

Ms. Avvy Go: Actually, the clinic is also a member of the Colour of Poverty Campaign, which is to look at the issue around the racialization of poverty in Ontario. But also from a legal perspective—because we serve a lot of clients who are immigrants, workers working in low-wage jobs, and many of them will be hired through temporary agencies—we're aware of some of the issues that they face.

For our clients, the immigrant workers, an employment standards violation is a norm rather than an exception. We also want to emphasize that, as a general rule, there's always a power imbalance between an employer and an employee, but that imbalance in the situation of immigrant workers is exacerbated by the fact that they are immigrants and they are workers of colour. We highly recommend, as a starting point for any legislative reform, that you need to understand that.

In the context of temporary help agencies, these agencies very often are a hindrance rather than a help for our clients with respect to their rights and the protection of their rights. I'm not going to go through the examples. I've listed some of them in my presentation.

For all these reasons, we do commend the government for taking the first step in closing the protection gaps between workers who are hired through temporary help agencies and those who are not. However, we do want to emphasize that it's a mistake to think that Bill 139 is going to end all forms of unfair and discriminatory treatment faced by these workers. The bill leaves unresolved many of the fundamental problems faced by our clients and other workers who are vulnerable.

To begin, we think that there is actually a false dichotomy or false distinction between employment that is found through temporary help agencies and employment that is found directly with the employer. It's a false distinction because our labour law, our employment standards law, does not, in fact, guarantee any right to a job, let alone a permanent one. The reality is that many workers in Ontario find their jobs through temporary help agencies, and employers have the incentive to allow these agencies to continue because they see it as a way of saving money. The agencies are acting in the front while they access workers who are actually doing the exact same kind of job the permanent employees do, but they can get away by paying them less.

We think that the government has an obligation to make sure that the law, particularly the Employment Standards Act, does provide minimum protection to all workers in the province. As such, in the reform of this act, to enhance protection for all workers, we believe that one of the most fundamental principles is that any changes that are made to the act have to eliminate any and all distinctions between workers who are hired through temporary help agencies and workers who are hired directly by business clients or client businesses of these agencies.

With that in mind, I'm going to address some of the specific provisions in the bill. The very first problem created by the bill is, because it deems the temporary help agency as the employer rather than the client businesses, for the workers, that creates a problem for all the reasons I talked about, but also because you have to get around that. You try to make distinctions and you have to get around some of the provisions that are otherwise equally applicable to workers who are hired directly by the client businesses. A lot of times, you'll see that the workers are treated differently, whether it's the issue around public vacation or whether it's severance pay or termination pay. You kind of have to artificially give them less rights in order to fit in the model of the employer.

To make it equitable and to ensure there's equality, one of our recommendations is to eliminate the differential treatment among these various workers when it comes to termination pay, severance pay, public holiday pay and so on. We think that the ultimate solution is to make the client the employer. But even if you don't want to do that, there are still ways to eliminate differential treatment. Of course, some people suggest that you just

get rid of the elect-to-work exemption. That's one way. But look at the bill itself and just remove any of the provisions that create that distinction.

Our second concern is around the issue of barriers to permanent employment. I'm sure you've heard from others about this issue. I'm also sure you've heard that the six-month restriction is going to be a problem, because it will render the prohibition to permanent employment meaningless because you have that six-month provision in there. So we suggest that the six months should be removed so there's absolutely no restriction of any kind on businesses to hire workers directly who are on assignment from temporary help agencies.

The third issue, and I'm sure again I'm repeating some of the things that you've heard, is around the narrow definition of temporary help agencies and the narrow scope of work arrangements that are being regulated through the bill. That creates a huge gap in terms of the type of services, and also the kinds of fees that are being charged by many of the temporary help agencies out there, as well as by agencies that are not currently covered by Bill 139, including recruitment agencies that recruit live-in caregivers from overseas. I must say that I'm very disappointed to hear reported comments made by our Minister of Labour about his reluctance to take action to regulate these unscrupulous recruitment agencies. We believe very strongly that all employment agencies, whether it's for live-in caregivers, whether it's employment agencies or temporary help agencies, must all be regulated—if it's not in this bill, it must be in another kind of bill—so that none of them can get away with charging fees to any workers who choose to work in Ontario.

The next issue I want to talk about is the issue of liability for violations. Again, I go back to my theme about who the employer is. Even if you don't want to treat the client businesses as employers, you should hold them liable for any violations that have been created by the temporary help agencies that they hire to help them find workers. At the very least, it has to be a joint liability. I think that's the only way to make sure that there will be no temporary agencies trying to get beyond the law and do something illegal. Employers who do not want to use these agencies can just simply not use them. If they don't want to be held liable, then they should damned well make sure that they find agencies that are not going to break the law. The only way you make sure that will happen is to hold the client businesses jointly liable.

In the interest of time, I'm going to ask you to look at the rest of our submissions, which talk about the information. We think that there has to be a clear timeline on when the information is going to be given out. Just saying "some time afterwards" is not going to do it. You're going to have to give a timeline, like 24 hours or 72 hours, as to what kind of information needs to be given to these workers. The kind of information that is given out must include the term of the assignment that is given to the worker.

In conclusion, I just want to congratulate the government for introducing the bill, but it's definitely not enough. A lot more needs to be done to ensure that there is equal protection for all workers, regardless of how they're hired, the nature of their job and the nature of their employment relationship with the business that hired them.

Thank you.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you. That was very well timed; it was 10 minutes exactly.

FAMILY SERVICE TORONTO AND CAMPAIGN 2000

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our next deputation, Family Service Toronto and Campaign 2000. I have Jacquie Maund, campaign coordinator.

If you could state your name for Hansard, again, the rules are basically 10 minutes to make your presentation. Any time left is split between the three parties for questions.

Ms. Jacquie Maund: Good afternoon, everyone. My name is Jacquie Maund, and I'm the coordinator of Ontario Campaign 2000. I also do work at Family Service Toronto.

Campaign 2000 is a coalition of 66 partner organizations across the province committed to working together to end child and family poverty. Our name dates from the unanimous House of Commons resolution in 1989 to end child poverty in Canada by the year 2000.

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Our work has shown over the years that low wages and poor working conditions in Ontario are part of the reason we continue to have a high rate of child and family poverty in this province. We commend the government for its announcement of a poverty reduction strategy last December, with an initial target to cut child and family poverty by 25% by the year 2013. We know that addressing the challenges faced by the working poor in Ontario is a key part of that strategy, and it must be a key part to achieve effectiveness. So we are very pleased that the government has introduced Bill 139, which aims to improve fairness and protection for temp agency employees.

We know that working conditions faced by temp workers contribute to Ontario's poverty problem. Temp agency workers, on average, make 40% less than their co-workers who are hired directly; they have few employment benefits; and they face higher health risks due to employment strain.

Bill 139 makes some important changes to the Employment Standards Act for temp workers, but we'd like to highlight four amendments that we would like to see in this bill.

(1) The government should pass immediately a regulation to the Employment Standards Act to ensure that temp workers—that is, those who are classified as "elect

to work"—can receive termination and severance pay, as per the rules that apply to other workers right now. We appreciate the government action that was taken recently to ensure that temp workers can receive public holiday pay; that was an important step forward. We feel that, given the current economic downturn and rising unemployment, it's crucial that temp workers have access to all of the income to which they are entitled in order to feed their families, to pay the rent and to prevent them from falling onto social assistance rolls.

(2) We call for a removal of the six-month exemption to prohibitions on barriers to employment, so that temp agencies cannot charge companies a fee if they decide to permanently hire a temp worker within six months of their temporary assignment. The current design means that there's an incentive for temp agencies to remove a temp worker from a client company just before the six-month time limit, if the worker has not been hired permanently, and replace him or her with another worker in order that the company might recoup the fee if they were hired. This design, implicitly or explicitly, serves to trap temp workers in temp work for a period of less than six months. The temp agency industry may argue that they will be hurt financially if they cannot charge companies for hiring workers, but research in other jurisdictions where this happens shows that this is not the case.

(3) We call for a broadening of the definition of temporary help agency so that agencies providing temporary and permanent staffing placement and services cannot charge fees. This would mean that temp agencies would not be allowed to charge fees for services related to permanent job placement. For example, cleaning companies would not be allowed to misclassify workers as independent contractors and then charge fees for work assignments. Such fees clearly cut into the income and make workers even poorer.

(4) We ask that you not exempt home care workers under contract to community care access centres from Bill 139. Home care workers are notoriously low-paid, with few benefits, little job security and little income security. They should not have to wait three years for entitlement to termination and severance pay, as is currently indicated. It's particularly hard to attract and maintain personal care workers, yet our aging population means that all of us will probably at some time need service from health care workers and personal care workers.

If the changes proposed in Bill 139 do not extend to home care workers, we feel it will further discourage people to enter this field or to stay in this field when they can get greater labour protection in other occupations. We echo the call of the community care access centre procurement review committee in 2005 for protection and enhancement of workers' rights with part-time and casual home care workers being protected under the Employment Standards Act.

Just to conclude, Campaign 2000 believes that Bill 139 is an important first step in updating Ontario's Employment Standards Act. We call on the government to continue to make progress on its commitment to reducing poverty in Ontario by amending the bill to strengthen it and ensure protection for people in low-paid, precarious work.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you. We have about four minutes left, so we'll just work our way around the table. I don't know where we left off last in the rotation. We'll start perhaps with the Liberals, for a minute and a half each.

Mr. Vic Dhillon: Sure. Thank you very much, first of all, for your presentation and for being here this afternoon. There's been an argument made that some provisions in Bill 139 would put an undue burden on business. What do you have to say to that?

Ms. Jacquie Maund: My understanding is that what we're seeking here, ideally, is a level playing field for employers and for industries, so by requiring temp agencies to live up to some of the requirements that are made of regular workers, of workers who are hired directly, that, in fact, levels the field. It ensures a level playing field for all employers.

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move on to the Conservatives, Mr. Bailey.

Mr. Robert Bailey: Two questions, if we can cover them both: The reason why the CCACs were exempted—any idea on that, kind of quickly?

Ms. Jacquie Maund: It's my understanding that the CCACs report in some fashion to the Ministry of Health, so it's my guess that it basically saves money for the Ministry of Health if health home care workers are not enabled until three years' time to have access to termination severance pay.

Mr. Robert Bailey: Okay. The second question, if I could: We had previous deputations made in the first session. A number of people talked about people going from temporary to permanent. This person who made the deputation to us listed numerous people, with names and everything. Would you think that was the exception rather than the rule, in your opinion? Does that not happen from time to time, or was that just an exception?

Ms. Jacquie Maund: My understanding is that the majority of temporary agency workers are actually hired for a period of less than six months so that they remain in temp work. They circulate from temporary contract to temporary contract, but I would stand to be corrected if other people in the audience have difference factual information.

The Acting Chair (Mr. Lorenzo Berardinetti): For the NDP: Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for the deputation. A question: In the last couple of days, there's been a lot of news about the exploitation of nannies and nanny agencies. It would be very simple for this bill to extend coverage to them by simply, as you've said, calling for "employment agencies," not "temporary agencies," so two words might extend coverage to them. Would you be in support of such a move?

Ms. Jacquie Maund: Yes, we would.

Ms. Cheri DiNovo: Okay. That's number one. Thank you for that.

Also, there was something raised by another deputant about equal pay for equal work. This is part of the European Union's legislation, so that if you work two hours or you work 40 hours, you should be paid the same hourly rate if you're doing exactly the same job. Does that sound reasonable to you as well?

Ms. Jacquie Maund: That sounds reasonable to us, yes.

Ms. Cheri DiNovo: Thank you very much.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you very much for your presentation.

ALLSTAFF INC.

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our next presentation, AllStaff.

I have three deputants listed here. Perhaps you could just list your name and title.

Ms. Lisa Hutchinson: My name is Lisa Hutchinson and I'm the president of AllStaff.

Ms. Christina Drigo: I'm Christina Drigo, the director of operations.

The Acting Chair (Mr. Lorenzo Berardinetti): Good afternoon. You have 10 minutes, and if there's any time left at the end, we'll ask questions.

Ms. Lisa Hutchinson: By way of introduction again, my name is Lisa Hutchinson and I am the president of AllStaff. We're in our 10th year of business and we are in the employment industry. We have offices located throughout Ontario, in London, Cambridge and Markham. I'd like to thank you for allowing me the opportunity to speak in front of you. It's a tremendous honour.

First, I'd like to begin by acknowledging that there are many positive aspects that I think we can all agree upon in the bill, and we are in favour of the spirit of the bill. However, there are two specific areas of the proposed bill, technical shortcomings that give me grave concern. As a matter of fact, they gave me such grave concern that I got in my car, I drove 300 miles, and I overcame a fear of public speaking just to talk to you today about this.

The first is continuance of employment, the never-ending employment obligation; and the second is conversion fees, which is interference with our business contracts.

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Employment agencies offer a free service to candidates and workers, and we're a quick and efficient link to employment—we're quick access to employment. We are a valued service to the thousands of companies in Ontario that rely on flexible staffing to address periodic surges in their employment requirements.

Furthermore, if Bill 139 is successful and passes in its entirety, these two issues are inflationary to the nth degree and will virtually eliminate any flexibility every employer or business in the province of Ontario has in meeting any temporary or short-term employment needs. Further, it will destroy the entire employment staffing industry. And this is just the beginning. This will not increase employment, but will cause less, both in terms of traditional and non-traditional employment. Additionally, it will make companies less efficient and increase administrative costs, thereby decreasing their competitive edge over companies located anywhere but Ontario.

As an example, a company has some sales reps—let's use the automotive industry that's suffering tremendously right now—and their sales reps go out and get an account that's not for permanent, full-time work. Let's say it's for a short-term period of six weeks. They don't have the manpower to have the kind of HR department that can keep a pool of people—let's say they need to bring on 50 people. So they'll come to a staffing agency, if, that is, we still exist—and I will submit respectfully that if parts of this bill do go through, specifically the two points that I mentioned, it will make us highly uncompetitive, and I fear that we will go bankrupt. We just won't be able to afford what's being proposed.

An employment agency often employs people in various job transitions, which results in minimizing their need of social programs and the social safety nets. Some of these jobs do become permanent—and as a result, we were a quick link to full-time work.

There seems to be a misconception that our objective in life is to start a staffing agency offering temporary staff and then pay those people as little as we possibly can, possibly even under minimum wage, which I've never heard of in my 13 years of doing this. There are unsupported statistics being floated around the room, and I want to bring that to your attention. That's very important to understand. Our mission is not to find minorities and find people and take advantage of them. Our purpose, our raison d'être, in this industry is to match employees with employers. That's what we do. There's nothing sinister about it. There were certain comments made earlier about unscrupulous activity. I find that a tremendously offensive and inaccurate statement.

There are a lot of people who prefer temporary employment. To that point, there are students, there are parents—me being one of them—there are artists. I'll give you a specific example. We have a baritone performer, and in between gigs he comes to us, and we supply him around his schedule. So, for him, the temporary scenario works. Even highly skilled individuals such as IT professionals and engineers prefer to pick up assignments due to flexibility of work. A case in point would be retired individuals, as well, who are picking up extra work in between being a snowbird. So the assumption that temporary work is a negative would be incorrect. For many, it's preferred.

This bill, in the two parts aforementioned, could potentially just destroy our industry; and thereby our company and all others like it, in its wake, could significantly increase the costs to all the social safety nets.

Employees working on temporary assignments will often transition into another assignment with very little disruption in employment when using a service such as

ours. This is because of the nature of agencies and the ability to provide employment and a number of clients. For instance, sometimes we have a pool of millwrights coming off one assignment and they're able to go to another assignment. Instead of filing for EI and drawing upon the system, we've got them as productive, tax-paying, revenue-generating individuals. Without our industry, these people would be left to their own devices to find employment in a system already ill-equipped to assist them.

I just don't think that it's truly in the best interests of the people of Ontario to put these two particular parts through.

To be clear, again, in 13 years, I have never heard of someone being charged to work. I've never seen it; I've never heard it from our competitors. Maybe it did exist, but I just don't think it was to the capacity that it has to be put into the bill, truthfully.

Our clients are our customers. Our customers are always the plants, manufacturers, insurance companies—those are the clients. They pay our bills, and they pay our bills to put them in touch with qualified, pre-screened, pre-assessed, pre-trained and pre-referenced individuals who are work-ready.

The current financial impact of the public holiday pay—and don't get me wrong; this is something that we approve of, but we want you to be aware that there's a humongous financial cost burden to companies.

The Acting Chair (Mr. Lorenzo Berardinetti): Sorry to interrupt. Could you just step a little bit back from the microphone? Just a little bit, for the purposes of recording Hansard.

Ms. Lisa Hutchinson: Oh, yes, sorry. Of course.

The Acting Chair (Mr. Lorenzo Berardinetti): It's okay. Everything else is fine.

Ms. Lisa Hutchinson: All right, fair enough.

For instance, the first public holiday, the Family Day: This represents general labourer costs, because costs are different, depending on whom we place, but let's just say a general labourer. That added another 5.93% of costs, which represents almost a 27% reduction in our gross profit, right off the hop.

This holiday pay didn't just increase the wage but the entire payroll burdens and remittances that accompany it. So I'll use $10 an hour—not that people are getting $10 an hour; it's just a super-simple number to use. In addition to that, we have to pay, within the rate category, the WSIB remittances, the CPP, the EHT, the EI and the federal taxes. So that's what resulted in that 5.93% increase.

We employ over 1,000 individuals a year. We're not Adecco; they're a phenomenal organization, a decent competitor, and they employ a lot of people. But 1,000 individuals a year in this corridor—it makes a dent. Many of them we were able to match—just by their accepting a temporary assignment, they were transitioned into the temp-to-perm, just as a result of taking temporary work.

The average paid worker was $14.83 per hour. That's a far cry from the pittance—certain workers' action associations would have you believe that we pay less than minimum wage, which is ludicrous.

The actual dollars paid out for Family Day—for that one day—was about $10,000 in payroll and associated burdens. We've seen a 30% drop in our business recently. Add to this the uncertainty to future costs, given the proposed implied continuance of employment for temp workers who were not employed at the time of the holiday, and the proposed pay in lieu of notice and severance, which, by the way, would apply to no other company or industry but the employment industry which provides for temporary employment.

If I could give you an example of—

The Acting Chair (Mr. Lorenzo Berardinetti): You have about 30 seconds left.

Ms. Lisa Hutchinson: Oh, you've got to be kidding me. All right. Well, I'm going to go right to the punch, then.

What we're asking is no codification of implied continuance of employment, so that you strike 74.4(2) of Bill 139, and that regulating business contracts, you just strike 74.8, paragraph 8, sections 1 and 2.

And I had a killer example, for the record.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you very much. We received your submission as well.

Ms. Lisa Hutchinson: You're welcome.

TORONTO AND YORK REGION LABOUR COUNCIL

The Acting Chair (Mr. Lorenzo Berardinetti): Our next deputation is the Toronto and York Region Labour Council, Mr. John Cartwright, president.

Mr. John Cartwright: Good afternoon, Chair and members of the committee.

The Toronto and York Region Labour Council represents 195,000 women and men who work in every sector of the economy. We're pleased to be here to present on Bill 139.

Our understanding of this issue comes from the experience of our affiliates in construction, manufacturing, hospitality, building services and contract cleaning and in home care.

I'm a construction worker. Our industry, by its nature, is about temporary work. A foreman I used to work for had a great saying: "Come on and hurry up on that job. The sooner you finish, the sooner you get laid off." The nature of it is, when we finish a building, we move on.

We come from temporary, but there's a unique difference between that experience in a very vibrant and important industry in Ontario's economy and the massive spread of temp agency work into every other sector of the economy.

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The previous deputant talked about the role they play in matching workers with job opportunities. That used to

be done by a public agency called Canada Manpower efficiently and effectively. The thing is, when somebody got referred to a position by Canada Manpower, they got the full wages and benefits that were on offer by that employer.

What we're seeing with the scourge of the spread of temporary agency work is that the consequences of the change from that being a public sector aspect of the labour market to one that is now being privatized through temp agencies are that the vast majority of workers do not get equal pay and equal conditions with those they're working beside. I think the committee should be looking at the basic principle: What is wrong with somebody going to work in a workplace and having the same wages and benefits as the person who is doing exactly the same job as them, who they're sitting beside or standing beside on an hourly basis?

So while we say that Bill 139 is an important step in curbing some of the worst abuses that exist in the current system, it is nowhere near the answer that's needed to deal with temp agency work and its erosion of stable, secure jobs. Let's be clear. Major industry has turned to temp agencies to replace permanent, full-time decent jobs with temporary precarious jobs. The literature shows that Magna, one of Ontario's largest manufacturers, maintains at least 15% of its entire workforce through temp agencies. So they go to agencies, as the one you've just heard from, and say, "Send me a millwright," rather than putting an ad in the paper and saying, "We're paying $32 an hour plus benefits for a millwright." The difference is that that person, when they go and work there, has no sense of security, no sense of rights as a permanent employee.

We're going to suggest that Bill 139 has to have a number of things: One, that it includes temp agency workers under the current termination and severance pay requirements in the Employment Standards Act; secondly, that it should remove the six-month period where agencies can charge companies for hiring a worker; thirdly, that it should be amended to ensure that temp agency workers are informed of the duration of their contract. It's not right that people get told, "You're going to go and work at a plant in Scarborough. We have no idea how long you're going to be there." A worker has to choose what they're going to do with their job offers. One of my own family members relies on temp agency work in the summers and doesn't know which temp agency to respond to if there's a job offer because it might be two days' work or it might be four weeks' work.

Bill 139 should state if there's a health and safety committee at the client company. Temp agencies and their client companies must inform temp workers if there's a health and safety committee in that workplace so that workers know how to avail themselves.

We believe strongly that home care workers should be covered by the changes to the Employment Standards Act found in Bill 139. Elinor Caplan's report some months ago reviewed the issue of visiting home care workers and noted that now over half of the employees in that entire sector are denied vacation pay, holiday pay and sick pay because they're working as precarious employees rather than stable, long-term employees within that sector. That is an outrage, that those people, who are providing those vital services to our seniors, those who are sick and those who are disabled, don't have the same rights to the decent employment standards that the rest of us do.

Bill 139 should officially recognize the temp agency industry operates in a tripartite manner with an agency worker having two employers—the agency and the client company.

Then we say very clearly that where there is a collective agreement in place in the client company for workers doing similar work, temp agency workers should be covered by that collective agreement. We have more and more situations these days as people are trying to form a union in their workplace where a larger and larger number of those people work for temp agencies. Then, when they try to bargain a first collective agreement, it becomes a strike or lockout issue whether or not all "people" working in that place will belong to the union and be covered by union wages and benefits. The law should step in here and say that if people are working in a unionized workplace through temp agencies, they should have all the rights and conditions of that collective agreement.

Where there is no collective agreement in place, the law should say that those people should receive the same wages and benefits equivalent to those of workers performing equivalent duties. That's the spirit of the legislation that is in a framework position of the European Union, endorsed by a number of countries—that if you work in that workplace, within 60 days you must be paid full wages and benefits comparable. Doesn't that make sense? If the value to the employer, to the company, is X dollars and benefits, why should somebody be paid less than that? Why should the government of Ontario abide a situation where more and more of our working people are being denied those wages, those benefits?

Last July, the news covered the valiant struggle of 2,400 auto parts workers in Vaughan working for Progressive Moulded Products who lost their jobs. Suddenly on July 1, the plant shut down. They were owed severance pay. They didn't have a union, but they blockaded that plant because they wanted to try to get their severance pay. They haven't gotten the severance pay yet. They certainly got the attention of governments. They got the attention of the media. They have an action centre where people are trying to upgrade their skills and write resumés.

My friends, I would invite any one of you to go to that action centre at 2180 Steeles West. Look at the job board, and you'll see what permanent jobs are on offer. You won't find any other than "pizza delivery driver." What you will find is temp agency manufacturing, $10.50 per hour; temp agency warehousing, $9.50 per hour; temp agency this, temp agency that. That is what is on offer for

thousands and thousands of Ontario workers who are losing their jobs today. You have an opportunity to say that when they go to that job through a temp agency, if that's the direction it has to be, they will at least get the money that that job is worth and not allow companies to take a cut, not allow a system, whether it's designed or it's simply the consequence, where those people are being paid $3, $4 and $5 an hour less than what that job is worth.

Finally, you should say that Bill 139 should be amended to state that both temp agency and client businesses should be liable for violations of the Employment Standards Act. I was outside this building not three hours ago with laid-off auto workers and manufacturing workers who are being denied their severance pay because their companies have gone bankrupt—who had to take the law into their own hands, who are being branded criminals because they occupied a plant to say, "We demand our severance pay. There's a provincial law that says we should get it, there's a federal law that says bankruptcy gives the banks first dibs, and we are the ones who are losing out." That's the growing reality of what's happening in this province.

But I'm going to go back to where I started, on the construction industry.

The Acting Chair (Mr. Lorenzo Berardinetti): There are about 30 seconds left.

Mr. John Cartwright: Some years ago, we looked at what we call the underground economy and the growth of companies that were taking people as temporaries and paying them cash on the dash. There was a study done by the Ontario Construction Secretariat that proved that the taxpayers lost hundreds of thousands of dollars of taxes, workers' compensation payments and health care payments because those companies were circumventing the standards that should be in place.

What's in front of you with Bill 139? You can do the minimum and pass Bill 139 or you can do the right thing and amend it so that equal pay for work of equal value is a basic right of every working woman and man in Ontario. Thank you very much.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you, Mr. Cartwright.

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DOUGLAS YARDLEY

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move on now to our 4:40 delegation. Mr. Douglas Yardley?

Good afternoon, and welcome. You have 10 minutes to present. If you finish early, then we'll have questions of you from the different parties here. Please state your name for the record for Hansard, and then you can commence.

Mr. Douglas Yardley: My name is Douglas Yardley. I worked for many months as a temporary agency worker. I'm glad to have this opportunity to speak to you today.

I am glad to hear that the province is taking some steps to regulate temporary employment agencies, but I still have some concerns about the legislation. It's essential that our labour laws not allow the creation of an underclass of low-paid, vulnerable workers. Temporary agency work is a major aspect of the job market, and as a society, we cannot afford to have hundreds of thousands of people working for wages below the poverty line for lengthy periods. These agencies and the poverty they cause are dragging our economy down. Workers cannot live on such low wages; neither can people looking for work afford to pay any fees to employment agencies.

In my own case, I was able to get a better-paying permanent job in November 2007, but after more than a year, I am still paying the cost of having worked as a temporary agency worker. I will reach retirement age in eight years, and I cannot afford to work as a temp worker again.

I urge the province to remove all barriers to obtaining permanent work. Client companies should not have to pay any fee for hiring an agency worker at any time.

The agreements between agencies and client companies, including the hourly rate markup and expected job duration, should be disclosed to workers because they are part of our working conditions. When workers know the expected duration of their assignment, they can know when they have been let go prematurely as a reprisal for trying to exercise their rights. This will provide increased legal protection for workers and accountability for client companies.

We deserve the same rights to public holiday pay and termination pay as regular workers. We need that money, and the employment agencies are well able to pay it. Workers are not just red ink on a ledger; we are also markets for goods and services.

Workers also deserve to have full information about the nature of the assignment and the name of the client company. From my own experience, I suspect that in some cases, such information is withheld as a means of preventing a worker from refusing an undesirable assignment. On a few occasions, I was given incomplete information and found, after a few hours or a day or two, that the job had some serious drawbacks, such as long hours or rotating shifts.

Stronger regulation of temporary agencies will mean that they will be forced to compete to attract workers. Agencies can bear these costs. If they cannot, they deserve to go out of business. To put it bluntly, I would really not mind if some of those temporary agencies and the people who run them were wiped off the face of the earth.

Thank you for hearing my concerns.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you, sir. We have about six minutes, so two per party, to ask you some questions. We'll start with Mr. Bailey of the Conservative Party.

Mr. Robert Bailey: Thank you for your presentation this afternoon. You mentioned the fees—and you're still paying them? You've moved on to a different job that's

of a permanent nature, yet you're still paying from the agency that you were with before?

Mr. Douglas Yardley: I'm still paying off the debt I accumulated when I was working for low wages.

Mr. Robert Bailey: Okay. Did working in that temporary agency before help you, in some way, move to the more permanent job you're in now? Did you pick up some skills there or opportunities to advance yourself?

Mr. Douglas Yardley: In the job where I'm working now, I started out as a temporary worker, and then the company hired me on permanently after 17 months.

Mr. Robert Bailey: No further questions.

The Acting Chair (Mr. Lorenzo Berardinetti): Then we'll move on to the NDP. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for your presentation and your deputation. You heard the deputant just before you speak about equal pay for equal work. Is that something that you would support? In other words, if you had been working as a temporary worker and you received exactly the same pay and benefits as somebody who was working as a permanent worker there, would that have alleviated your situation?

Mr. Douglas Yardley: It would certainly have helped.

Ms. Cheri DiNovo: The other question I have for you: There's been quite a bit of news lately about a particular class of worker that is in a particularly bad state right now, and that's home caregivers, nannies, who go through very unscrupulous agencies. Would you be in support of this bill—it could easily be extended to cover them by simply saying "employment agencies" rather than "temporary agencies." Would you be supportive of that?

Mr. Douglas Yardley: I would. I have no personal experience with nanny agencies, but I would certainly support fairness for those people.

Ms. Cheri DiNovo: Also, in the European Union, which was mentioned by the previous deputant, they have a limit on the time that somebody can work on a temporary basis. The original idea of temp work, of course, was to fill in for maternity leaves, to fill in for somebody who was ill and off the job, for a limited period of time. So the European Union has taken upon itself to specify a time, that being a year. Does that make sense to you; in other words, that temp work really be temp work?

Mr. Douglas Yardley: I believe so, ma'am. It's being used today as a major means for recruiting workers. It shouldn't take very long to find out whether a person is worth hiring as a permanent worker.

Ms. Cheri DiNovo: Thank you.

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move to the Liberal Party and Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for appearing before us today. Why did it take a year for you to recover your costs?

Mr. Douglas Yardley: Simply because I was going into debt. I was unable to keep up with living expenses.

Mr. Vic Dhillon: And did you pay a temp-to-permanent fee? You mention that you're now working—

Mr. Douglas Yardley: No, I didn't have to pay any such fee.

Mr. Vic Dhillon: Thank you.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you very much for your presentation today, sir.

ONTARIO FEDERATION OF LABOUR AND WATERLOO REGIONAL LABOUR COUNCIL

The Acting Chair (Mr. Lorenzo Berardinetti): The next presentation is the Ontario Federation of Labour. We have Wayne Samuelson and Derek Ferguson.

What we're doing is basically 10 minutes maximum, and if you do finish early, we allow time for questions. If you could just identify yourselves.

Mr. Wayne Samuelson: It's unfortunate that there's such a short time for such an incredibly important issue.

The Acting Chair (Mr. Lorenzo Berardinetti): Yes. We just have a very long list here.

Mr. Wayne Samuelson: My name is Wayne Samuelson. I'm president of the Ontario Federation of Labour. I have with me Derek Ferguson from the Waterloo Regional Labour Council. Derek will be speaking to you later about the practices of temporary agencies in the Waterloo region and the things he encounters on a day-to-day basis.

I want to talk to you about how important it is that this legislation go forward. I suspect that employers might be saying to you that in hard economic times you shouldn't pass this legislation. I want to tell you that in these times it is more important than ever to make sure we protect workers and provide a minimum standard that's enforceable.

This bill makes changes and progress in increasing protection for some of the most vulnerable workers in Ontario: new immigrants and racialized workers. It will try to bring workers the same protection that every worker in Ontario is supposed to have from the Employment Standards Act. That's why we think this legislation needs to move forward. However, if you want to make it effective, you will need to make some amendments that ensure that the delivery of the program meets the intent.

First, you have to ensure that a subgroup of workers, those who work in the home care sector, for example, receive the protections of this bill and that they have the same enhanced access to severance and termination as other workers. The government's proposed treatment of these workers flies in the face of the advice it received from Elinor Caplan in her review of home care, for example.

Second, we have to ensure that this legislation truly delivers on equal treatment for all workers and doesn't set a higher threshold for severance and termination pay for workers employed in temporary agencies.

Third, you have to ensure that this bill is effective in ensuring that temporary agencies cannot charge fees to workers.

Finally, you have to ensure that barriers to permanent employment are eliminated by this bill and remove the provisions that allow temporary agencies to prevent their clients from hiring temporary workers.

We know that rights that are not enforced aren't worth the paper they're written on. That's why we will be watching tomorrow's budget very closely to ensure that the government delivers on its promises of $10 million to hire enforcement officers for employment standards.

We have provided you with a very detailed analysis of what we think needs to happen in the bill, but because time is so short, I'll have to leave it there and I'll turn it over to Derek.

Mr. Derek Ferguson: I'll state that I am Derek Ferguson, an executive member of the Waterloo Regional Labour Council and a firm believer that all workers of Ontario deserve the same protections under the Employment Standards Act. Unfortunately, many of those workers retained through temporary agencies are not receiving those same protections.

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In my time before the committee, I have two recent examples of vulnerable workers speaking to me in confidence for fear of reprisal from their temporary agency employer. My first example concerns a worker from a temporary agency on an assignment with a large Waterloo manufacturer. He was laid off temporarily at the end of January due to the lack of work, with a suggestion from the temporary agency that the layoff would be short-lived and he would be back to work soon. Over six weeks have passed with no job offers, and more importantly, he has not received his record of employment. He has been patiently waiting for a recall to work and feels that if he asks for his record of employment, he will be excluded from any permanent job opportunities.

My second example is of a worker assigned by a temporary agency to a local foundry. This temporary job involved repetitive heavy lifting. After several weeks, he developed the onset of a repetitive strain to his forearm and wrist. Afraid, again, to mention the injury, he tried to work through the pain but eventually spoke to the temporary agency, which managed to find him alternate temporary employment with a different client. No claim of injury was filed with WSIB, and his workplace injury is now approaching a chronic condition.

There are approximately 67 temporary agencies in the Waterloo region. It is very, very hard for anyone to gain employment except to go through one of these temporary agencies. These vulnerable workers, including the new immigrants, know they're being exploited, but they feel they're in no position to speak out, and that's why Wayne and I are before you today: to speak for them.

Respectfully yours.

The Acting Chair (Mr. Lorenzo Berardinetti): We have about five minutes left for questions. We'll go around the table and we'll start with Ms. DiNovo first for two minutes.

Ms. Cheri DiNovo: Thank you for your deputation. You heard the other deputants just before you and certainly you heard the woman who owns a number of temporary agencies around the province.

It seems to me that, in the temporary agency business—I'm going to ask you to comment on something you're not intimately involved in; you're not owners of one. But if this bill came into effect and was, in fact, strengthened with equal pay for equal work, health and safety committees, the end of the six-month situation, the other things you've asked for over and over again today in the deputations, this would apply to all temporary agencies and hence create an even playing field. Certainly, it would get rid of some of them, which would be the agencies that are operating outside of the law and should close, but every other agency would be in the same position as any other business where the laws are the same. Would that be your answer to some of the concerns of the agencies?

Mr. Wayne Samuelson: I've got to tell you, if somebody comes here and tells you that because of your legislation there are going to be less jobs—give me a break. Temp agencies don't create jobs. What they do is, they find themselves in a position of basically skimming off the top, the money that should be going to people who get up in the morning and go to work and are trying to provide for their families. So I say to those temp agencies, "You've had a good run."

I can tell you, I came from a plant where 1,000 people lost their jobs two years ago. You talk to any of those people in the Kitchener-Waterloo region. If they want a job, they have to go through a temp agency, and you know what? If there's a time for a government to stand up and represent those people, it's now. This bill moves in that direction. The question for all of us is, are we going to be able to stand up for these people when they really need our help? And sometimes, that means standing up against people who have a vested interest in making a profit. It's that simple.

Ms. Cheri DiNovo: Do I have a minute more, or that's it?

The Acting Chair (Mr. Lorenzo Berardinetti): That was two minutes. I'm just going to go round to Mr. Dhillon and the Liberal Party. Go ahead.

Mr. Vic Dhillon: Thank you, gentlemen, for appearing before us today. That was a good presentation, and I do agree with some of the points you've made.

Employment agencies or temp agencies claim that workers can choose when to work. What's your experience on that?

Mr. Wayne Samuelson: And they say that with a straight face? I don't know if they're in the same economy that I'm in, but there are literally hundreds of thousands of people who have lost their jobs in the last couple of years. If you want to suggest to me that the solution in our economy is focused towards some people who want to work from time to time, then I've got to say to you, you're completely out of touch with what's going on across this province. I don't know how far you get to travel, but in the last week I've been to Thunder Bay, I've been to Belleville, Kingston, London—there's a

crisis out there and people want good, secure jobs. They don't want to find themselves going from temp agency to temp agency, from contract to contract. And, trust me, if we had more time, I could talk to you about how that leads to incredible exploitation of workers. The case Derek talked to about someone who gets an RSI injury, a repetitive strain injury, is a common situation. The chair of the workers' compensation board said two years ago that he was going to deal with it. Nothing has happened. This problem is not only out there today; every single day we wait, it becomes more and more of a challenge for our communities and for people who are out there.

My suggestion to you is, frankly, take with a grain of salt those people who have a vested interest in making money off of this and just go talk to the people that you have the privilege of representing.

The Acting Chair (Mr. Lorenzo Berardinetti): We need to move on to Mr. Bailey.

Mr. Robert Bailey: Thank you both, Mr. Ferguson and Mr. Samuelson, for your presentation.

Do you feel—I'm sure you do, from your presentation—that the CCAC should have been included in this and there would be no exemption for health care workers? I guess I probably don't have to ask.

Mr. Wayne Samuelson: I don't know how the government can justify this. There are lots of challenges in our health care system, certainly lots of challenges in the structure of the CCACs. But to somehow pick this group of workers and say that their rights are going to come later makes no sense to me, and I'm sure all of you—I'm sure you and Cheri DiNovo are sitting there and trying to figure out what the heck the government is thinking. There's absolutely no justification for it. And frankly, these are people who need support from the government right now, if not yesterday. They certainly can't wait for a year or two from now.

The Acting Chair (Mr. Lorenzo Berardinetti): Okay. Thank you very much for your presentation. We appreciate it very much.

PETER CARAGIANAKOS

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move on to our next presentation, which is Peter Caragianakos.

Good afternoon and welcome.

Mr. Peter Caragianakos: How are you, sir?

The Acting Chair (Mr. Lorenzo Berardinetti): Because you came in late, I'll just say that we are following a protocol of 10 minutes per deputation. If you do finish early, then we ask questions to fill in those 10 minutes. If you could, when you start, just identify yourself for the Hansard record.

Mr. Peter Caragianakos: Good evening, ladies, sirs. I am here on behalf of myself and other impoverished and demoralized workers who have been abused at the hands of the agencies. I have been waiting for years to tell my story, but until now I did not know who to tell it to.

I thought my troubles were over when I got a job working at the Airport Group, $11 an hour. I never made that much money in my life. Two weeks later, I received my paycheque. Instead of it saying "Airport Group," it said "Mavis and Miller." I asked a couple of guys, "What's up with this Mavis and Miller?" They told me that it is a temp agency, and you only work for the Airport Group after a 90-day probation period. Then you get full benefits. I was under the impression that I was working for the Airport Group. Anyway, what can I do?

A couple of days later, I heard from my colleagues that two guys were fired. Apparently they had criminal records and they didn't pass the security check. Unusual. You had to pass security before you could work at the airport. You have to go pay $35 up at the police station. And these guys got in. I talked to Sammy, my supervisor, who told me they hired the guys anyway because they needed workers. These guys were working at the airport.

1700

After a couple of months, I started noticing my colleagues disappearing. What was happening? On the 89th day, everybody was getting fired, and because you were a temp, you had no recourse. My heart was broken. Before the 90th day, you're a statistic. On the 90th day, you might become a human being.

A few years later, I read about the RCMP raiding Erie Meats on Wharton Way in Mississauga. The temp agency that Erie Meats hired had illegal workers. They thought they had tuberculosis. What happened is explained in the latter pages here. I've got all the details here.

Just recently, I applied for a job as a security guard. The ad said, "Earn top wages. Immediate job opening." I applied and was told to take a $309 training course first, and then I could work. I paid the money, I took the course, and then nothing happened. I got screwed. I got a hold of Donald Bowlby, recruiting officer, and was told, "We are just an agency and don't hire." I googled Donald's name. That's when I found out the truth: They are scammers. He had an agency in Ottawa called Premier Security and had to close it because of the bad exposure by CTV News. Kathy Tomlinson was the whistle-blower.

In closing, these agencies, in my opinion, are predators. Employers just use them to circumvent labour laws. The one agency, Mavis and Miller, breached airport security by hiring criminals. The other agency, Erie Meats, almost started an epidemic with their incident. The third agency, National Security Workers—still in business—in my opinion, they're outright crooks, preying on immigrants and new Canadians, the most vulnerable people in our society.

I also have from CTV, Google—here's a little snippet:

"Sourav Addy was one of those clients who paid and then didn't get the well-paying job PSIA staff said they would find for him. Born in India, he'd been in Canada just six days when he saw the company's ad. He paid more than $500 for training he says he never received. That's a lot of money where he comes from.

"'It would take me seven months to work for and get that kind of money in Indian currency,' says Addy."

Now we've got people who are offering jobs. They're masquerading as employers, but really, they're job

agencies. With this employer's market, this is the trend. This isn't the only security company doing this. When you open up the Toronto Star, there are three or four of them—Iron Horse and a few other ones—doing the same thing: charging you for training and then getting you nothing. That's what's happening out there. That's where it's got to now. You've got to pay to work, and you still don't get a job.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you. We have about a minute and a half per party, and we'll start with the Liberal Party. There's a question for you from Mr. Delaney.

Mr. Bob Delaney: Just out of curiosity, what type of work were you doing? You were talking about your experiences. I was just kind of interested in the kind of work that—

Mr. Peter Caragianakos: What experiences?

Mr. Bob Delaney: The experiences you were relating, when you were talking.

Mr. Peter Caragianakos: I worked for these companies, except for Erie Meats. I worked for the Airport Group. I was working for them at $11 an hour. My job was to sweep up the garbage and go around the parking levels. They also employ—you know the guys who write the tickets when you try to park at the airport? And they employ inside workers, too. My job was sweeping up the garbage.

Mr. Bob Delaney: Thank you very much.

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move over to the Conservative Party. Mr. Bailey.

Mr. Robert Bailey: Thank you very much for your presentation this afternoon. In your experience, a number of people have been affected by these so-called unscrupulous employers, like these security companies. Do you feel there needs to be more oversight of the security companies that offer these services?

Mr. Peter Caragianakos: Well, all you have to do is open the Toronto Star. They're listed there every day: "Phone today; work tomorrow. Earn top wages." So you go there; they sign you up for this course—they give you a one-day course at Humber College or whatever—and then, "That's it. Sorry." They give you the impression that they are hiring. Even their employees, when you go into their offices, are all dressed like security guards. I can see a new Canadian or an immigrant going in there and thinking, "Hey, these guys are hiring, so I'll pay the $309," like I did.

Mr. Robert Bailey: Okay. Thank you.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move to the NDP. Ms. DiNovo?

Ms. Cheri DiNovo: Thank you for your testimony here. It was moving and compelling. Unfortunately, Bill 139 doesn't address exactly the issue you point to, which is the definition of an employee, because these security companies clearly would still be allowed to function even with the passage of Bill 139 as it's still written. So I'm making a note about that.

Another issue: equal pay for equal work. Would that have helped you in your situation? If you were making the same hourly rate and benefits as a permanent employee, would that have changed the situation even at Airport for you?

Mr. Peter Caragianakos: Well, it's not the point of the wages. I don't think the wages have too much to do with it. It's the way they treat you. The thing that hurt me at the Airport Group was, "Yeah, we'll give you a job," and all these guys were doing—I can't understand why Toronto cannot hire their own people to do what these guys were doing. I have the profile here of what these people do, the Airport Group. Why they couldn't hire themselves and then hire people at $15 or $17 an hour—it's just mind-boggling. Then these people, in order to keep the wages down—after 90 days you're an employee of Airport Group. Then you get benefits and you get a little bit more pay. For all the guys I was working with, at the 89th day of employment: "See you later. We don't need you."

Ms. Cheri DiNovo: And it's unfortunate that the immigrants you describe in Erie Meats would not be covered by Bill 139 either.

Mr. Peter Caragianakos: They're illegal, so—

Ms. Cheri DiNovo: Thank you.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you very much for your presentation, sir.

BEI XI LIU

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our next presentation, Bei Xi Liu.

I hope I pronounced that properly.

Mr. Bei Xi Liu: You're right. Perfect.

The Acting Chair (Mr. Lorenzo Berardinetti): Try my last name.

Again, the rules are, 10 minutes to present. If you finish short of that, any remaining time can be used to ask you questions.

Mr. Bei Xi Liu: All right. Shall I begin?

The Acting Chair (Mr. Lorenzo Berardinetti): Yes. If you could introduce yourself for the record, and then you can start your presentation.

Mr. Bei Xi Liu: Okay. My name is Bei Xi Liu. I was a temp worker for one year. I worked for a temp agency until July of last year. Through the temp agency, I had worked at a downtown company as an accounting clerk. I'm going to talk about two issues. The first one is statutory holiday pay; the second is barriers to getting a permanent job.

When I worked for the temp agency, in my first half-year I didn't get statutory holiday pay. When I asked them why, they told me, "You are a temp worker and an elect-to-work." At first, I didn't understand elect-to-work. Then I tried to do research on the Internet and I found that "elect to work" means that you have options—it's quite complicated. It's taken me a long time to understand that. I felt that the nature of my work was not "elect to work." I worked there every week; I never said no to any assignment. Also, the client company is the only

company I worked for through the temp agency. I never got any chance to give me the option to elect to work. So I didn't believe what they said.

Then I phoned them again and told them, "It's not my case; I am not an 'elect to work.'" So I threatened the agency. I said, "If you don't pay me the statutory holiday pay, I am going to file a complaint at the Ministry of Labour." Actually, I didn't really know how to file one of those, but I just threatened them. But then it worked and they started to pay me. So that shows that the agency knew they were wrong. They just thought I was a sucker and they could fool me because I speak broken English. That's why they thought they could get away with it. I didn't let them get away with it. Actually, they still owe me some holiday pay for the first half-year, but I just forgot about it, because it's too much if I want to pursue that.

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I also want to say a little bit about Bill 139. It took me a long time to read it, but I found that it has lots that's very good. It should have come out sooner, actually. My experience with the temp agency shows why we need very clear rules with no loopholes, to give fairness and protection for temp agency workers, just like me and the—some statistics—700,000 I read about on the Ministry of Labour's website. For example, just removing barriers to public holiday pay will finally give us the same rights to statutory holiday pay that other workers get. So I think that Bill 139, on the whole, is very good.

Next, I want to address one issue about the six months—the agencies still can charge the client company a fee. That could be another loophole for those agencies, and they could take advantage of that.

Today, it seems that if you want to get a job, you cannot really get hired directly. You always have to go through some agency or some middleman. I just don't know why. It seems that the jobs are there, but you just cannot get them. The employers always use agencies.

If you work for agencies, you put yourself in a very contradictory situation. When you go there, you need a job. At the same time, you know that if you get this job, you'll restrict yourself because you'll block your way to future employment or potential employers. When I was sent up there, I knew that it would just put one rope around my neck, because I know they have the rules. Even if you finish your assignment, you still have—some agencies have 12 months; some have six months; some have 24 months. In my case, after I finished my assignment, my agency said I still had 12 months when I couldn't work for the client company; otherwise I'd have to pay them a fee. It's on the timesheet.

After I worked one year for that agency, the client company finally said—I always tried to get directly hired by the client company—"Okay, we're going to hire you, but there is a cost." Basically, it was a buy-you-out fee. The client said, "We have to pay the agency a fee to buy you out." The person who was in charge of hiring at the client company said, "We paid the fee to buy you out, so we can only offer you this wage rate." That rate is lower than the normal amount I could get if I went through direct hiring. It's not fair, but my situation was really bad. I was caught up in that. What was I going to do? So I had to accept that. I knew it was not a good deal. It's a lousy deal. However, it was better than what the agency gave me. It was better than working with the agency. You get trapped there. You have no future. I'm shouldering that, and every half-month I feel that because when I get my paycheque, I see my rate and know, "Okay, that's what I paid for the agency." I know that in Bill 139 it says that rate is a prohibition. It's very clearly stated that agencies cannot charge the temp workers or transfer it to the client. But when they are allowed to charge you within six months, then that cost will shift to whoever, to somebody like me. You're hired by a client company and then you are in a disadvantaged position when you want to negotiate your salary or any of those things. So eventually it will fall on our heads.

That's why I feel that we shouldn't give them any loopholes to take advantage. No matter how long, even just one day, if you allow them to charge, they will use that. In my case, they might say, "Let him work here five months and then move him out and get another one there."

The Acting Chair (Mr. Lorenzo Berardinetti): Mr. Liu, you have about 30 seconds to wrap up.

Mr. Bei Xi Liu: Just 30 seconds?

The Acting Chair (Mr. Lorenzo Berardinetti): Yes.

Mr. Bei Xi Liu: Oh, my gosh. All right. I'll just say one—what do I want to say? I wish they'd remove the six-month status. They shouldn't have that, because really it's a loophole in there. Okay, that's all I have to say. Thank you very much.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you for coming here today and for your presentation.

URBAN ALLIANCE ON RACE RELATIONS

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move on to our next deputation, the Urban Alliance on Race Relations. I have a number of individuals here: Sri-Guggan Sri-Skanda-Rajah and Michelle Cho.

If you could, as I was mentioning this afternoon, mention your names before you speak or identify yourselves. You have 10 minutes, and any time not used up will be shared by the parties to ask you questions. Good afternoon, and welcome.

Ms. Michelle Cho: Good afternoon. My name is Michelle Cho, and I'm here today with Sri-Guggan Sri-Skanda-Rajah, president of the Urban Alliance on Race Relations. The UARR has been around since 1975 promoting racial equity in Toronto through public education, research and advocacy.

A society committed to healthy labour relations can be defined by how its public institutions remain accountable in the protection of its most marginalized workers. We come to you in solidarity with other community organizations working to highlight the many ways in which

temporary employment agency workers in Ontario are paying some of the greatest financial, physical and psychological costs for the holes we have chosen to ignore in our labour standards.

I'm sure many people here today have been talking about the significant shift towards unsecure labour in our labour market disproportionately staffed by racialized workers, newcomers and women, which has only contributed to the feminization and racialization of poverty.

Further, the elimination of Ontario's Employment Agencies Act in 2000 made room for temporary employment agencies to begin a slew of practices to take advantage of workers without basic protections.

Employment agencies have benefited enormously, with income generation increasing from $1.5 billion to $8 billion in revenues in the past eight years, with over 60% of that being generated in Ontario.

Our labour law is outdated, and we applaud the government of Ontario in taking steps to ensure that these market changes are met with corresponding adjustments in labour law to reflect fairness and protection for workers in temp agencies.

Bill 139 is definitely a step in the right direction, and the new Employment Standards Act will give temporary agency workers some minimum protections in the following areas: the repeal of elect-to-work regulatory exemptions; making documentation about employment standard rights and work assignment information mandatory; and making it illegal to charge direct fees to temporary agency workers.

Unfortunately, due to the limited nature of this presentation time, we're just going to focus on a few key points regarding the ways that we think Bill 139 has to be amended.

(1) The prohibition of elect-to-work exemptions: We're happy to see that the elect-to-work exemptions have been eliminated in this proposed legislation amendment. Most temporary agencies define all workers as "elect-to-work" because they're seen as having the ability to deny work assignments without penalty and can therefore be exempt from receiving any holiday pay or compensation for termination or severance. We know that most low-wage workers don't have this privilege, so we're glad to see that being removed. While public holiday pay exemptions have been removed, workers will have to wait until Bill 139 is passed for the repeal of elect-to-work exemptions for termination and severance. We believe this regulation should be immediately removed.

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(2) Making it illegal to charge temporary workers direct fees: Temp workers should not be charged any direct or indirect fees by the agency employing or obtaining employment for a person seeking work or for information about employers looking for workers. These fees are not only unjust; they financially exploit workers who are already making 40% of the income of their permanent employee counterparts. There are a lot of changes that need to be made with the elimination of the Employment Agencies Act, because it has now become common practice for the industry to charge fees for services that should either be provided by the agency or are being misrepresented as a mandatory requirement. We agree that it should be made illegal; that temporary agencies should not be able to charge workers direct fees for services.

However, the definition of temporary work assignment under Bill 139 has been too narrowly defined and will not stop these agencies from charging workers fees for finding permanent jobs and employment services. We would suggest that the definition of employment agency needs to be broadened to include temporary and permanent staffing and placement services. If not, then the overall aim of the legislation will be undermined and fail to address the loopholes that companies will use to charge fees for anything that falls outside this narrow definition. These are ways for companies to pass on the basic costs of doing business when they already have such low overhead. Workers are being charged for services and completing training rather than being paid the hourly wage they deserve for this time. Ontario should be following the lead of other provinces that have made these fees illegal such as Alberta, BC, Manitoba, the Northwest Territories, Nova Scotia, Nunavut, Saskatchewan and the Yukon. Further, in other provinces that have banned the charging of these direct fees for services, it has not harmed this industry's revenue, and in fact these companies have seen double-digit revenue increases since 2006.

Last, the six-month barrier to full-time employment: Bill 139 says it will prohibit temporary employment agencies from imposing barriers on client companies hiring assignment workers. This is another much-needed change, as there should be no barriers for temporary workers to find stable employment. However, the proposed bill will only make these barriers illegal six months after the assignment begins. Further, agencies will be able to charge a fee to the client if the employee is hired during the six-month period. This section should be completely deleted, because it traps workers in low-wage, precarious work and creates financial deterrents for the client companies to hire them as permanent workers. There's no logical reasoning for temporary employment agencies to charge costs for future loss of earning—that's simply unconscionable. Further, it would only create legislated incentives for workers to be removed from work assignments prior to the six-month deadline. Failing to remove the six-month barrier will only ensure workers' immobility in the trap of insecure labour and contradict the goals of this proposed legislation.

We see the exploitation of temporary workers as being a modern-day form of indentured labour of people whom we have determined to have dispensable rights. The Employment Standards Act is ineffective at addressing substandard working conditions, where people are struggling to meet their basic needs in a system that has failed people and punishes the worker for wanting their rights respected. Unfortunately, we didn't have time to

address other issues such as the issue of termination and severance and the exclusion of home care workers, but we support other community agencies that have come forward and brought those concerns.

In conclusion, we cannot afford to stand idly by while people are continuing to fall through the cracks because of these regulatory holes. Temporary agencies and client companies must be held jointly responsible for the violations of basic worker rights to ensure justice and fairness for all. To this end, this committee should reform the legislation without delay for the following: immediate repeal of elect-to-work legislation; broadening the definition of temporary work assignments; banning the charge of direct and indirect fees for temporary workers; and the removal of the six-month barrier to full-time employment.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you very much.

SKILLS FOR CHANGE

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move on to our next presentation, Skills for Change; Jane Cullingworth, executive director.

Ms. Jane Cullingworth: Hello. My name is Jane Cullingworth and I'm the executive director at Skills for Change. Skills for Change is a community-based non-profit organization that has been working with immigrants and refugees for the past 26 years. We serve approximately 13,000 clients a year, providing language training, skills upgrading and employment support programs. Many of our clients are internationally educated professionals: teachers, medical doctors, engineers and architects looking to secure employment in a labour market that is often inhospitable.

Despite the fact that Canada has actively encouraged the immigration of skilled workers, many of our clients face barriers that are often insurmountable. These include—and you have heard these all before—not having Canadian work experience, which is often a requirement in our workplaces; lack of recognition of their qualifications and experience; difficulties of securing a licence in regulated professions; difficulties in finding jobs in our hidden job markets; lack of networks; and often, underlying all of these barriers, racism.

Many of our clients and other immigrants across the GTA access the services of Skills for Change and other organizations. They also turn to temporary help and employment agencies. We know first-hand from our clients that the experience with these agencies is varied and that there are far too many instances where individuals are exploited.

We applaud the government for its leadership in Bill 139. You have listened to the concerns of the community and taken strong action to create a framework that provides important protections and necessary restrictions in the industry. This bill will go a long way to addressing the exploitation experienced by many newcomers to Ontario.

There are three areas where we would recommend changes to strengthen the bill to ensure that the government's goals of fairness and protection of temporary agency workers can be achieved. These are: removing the fees for hiring temporary-to-permanent workers, expanding the definition of temporary help agency and introducing penalties to ensure compliance.

In the first area—this is subsection 74.8(1), the exception of paragraph 8, subsection (1), fee for hiring—the bill allows the agency to charge a client a fee for hiring an assignment employee within six months from the date of assignment. We do not agree with this. We believe it is unethical for there to be any fees related to the hiring of a temporary worker. We are concerned that this provision will result in practices that will see temporary workers assigned to contracts of less than six months, ensuring that they cannot be hired by the client without a fee. It is our understanding, and actually our experience, that the majority of assignments are already less than six months.

This practice may have the unintended consequence of further institutionalizing insecurity for workers. It certainly creates barriers to client companies who want to hire workers directly. There can be no exceptions to this approach; all workers, regardless of their assignment, whether it is a low-skilled position or a position that requires a high level of experience and education, need to have freedom of mobility when it comes to their employment.

Further, we are troubled by the enshrinement of this provision in legislation. To our knowledge, no such provision currently exists in the employment standards legislation. The validation of this practice sets, potentially, a dangerous precedent. Legislating restrictions on workers' mobility opens the door to other problematic employment practices, and this is of great concern. We strongly suggest that the government remove this section from the bill to ensure that fees cannot be levied for the hiring of temporary workers at any point in their employment. At Skills for Change, we witness every day the impact of the systemic barriers that are faced by our clients. We cannot, as a society, continue to create systemic barriers.

The second area in which we would suggest change is in subsection 74.1(1), the interpretation. Here, we suggest an expansion of the definition. The proposed legislation contains a restrictive definition of a temporary help agency. We understand that the intent of this legislation is to protect workers. In order to do this, an expanded definition is critical. We fear that the current wording will result in some creative practices that will see many fee-based services charged to workers who sign up with staffing agencies that fall outside of the definition of a temporary help agency. We recommend that a more inclusive definition be used, such as "employment agency," to ensure that the intent of this bill is realized.

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Finally, penalties: In order to ensure that this proposed legislation will have teeth, penalties must be introduced for non-compliance. The best policy in the world is

meaningless if there is not the ability to ensure its application.

Many of the individuals who access temporary help and employment agencies are vulnerable workers. They are often willing to sign restrictive contracts, even if these contracts are legally unenforceable, if they believe that they will secure work as a result. Given the nature of this relationship, a system needs to be in place to ensure that temporary help agencies know that their practices are being monitored and that penalties will be levied for non-compliance. We call upon this government to introduce penalties to ensure the enforcement of Bill 139 similar to the penalties that are included in Bill 124, which is the Fair Access to Regulated Professions Act.

These are the key areas that we wanted to highlight for the committee's consideration. We strongly urge that the bill be strengthened to ensure that it can achieve what the government has stated it will: create fairness and protection for temporary help agency workers.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you. We have about a minute per party. We'll start with the Conservative Party.

Mr. Robert Bailey: Thank you for your presentation. Is it your experience, Ms. Cullingworth, that temporary workers have in fact moved from temporary to permanent employment?

Ms. Jane Cullingworth: It does happen, yes.

Mr. Robert Bailey: That's a good thing. So that has actually happened; they're not left languishing if they have the skills.

Ms. Jane Cullingworth: It's less often we see that. Generally people do tend to become trapped as temporary workers, but yes, we have had experiences where people have moved on to permanent employment.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move to the NDP.

Ms. Cheri DiNovo: Thank you for your deputation. Certainly employment standards officers are in short supply, and only about 1% of employers ever get inspected. So some of the abuses could be solved by having more employment standards inspectors go out to employment companies, which we're asking for.

Nannies: This has been in the news for the last couple of days. We're asking for action from the government in extending this bill to include nannies. They're some of the most exploited of internationally trained folk who come over. Would you support the extension of Bill 139 to include nannies as well?

Ms. Jane Cullingworth: Yes. I think the framework is good, and it should be applied as broadly as possible.

Ms. Cheri DiNovo: Absolutely—just calling it "employment agencies" rather than "temp" would do it.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you. The Liberal Party.

Mr. Bob Delaney: If you could encapsulate in a few seconds, what do you see, in your opinion, to be the responsible role of an employment services agency today?

Ms. Jane Cullingworth: For many of our clients, what they're looking for is Canadian work experience. They just want the opportunity to be able to demonstrate their skills. So it is great for people to have the opportunity to go into a workplace, even if it's a short assignment, to demonstrate their skills. What we need to make sure of is that there aren't barriers to the employer in actually being able to hire those individuals.

Mr. Bob Delaney: Thanks.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you very much for your presentation, Ms. Cullingworth.

CANADIAN PUNJABI POST

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move on now to the next presentation, the Canadian Punjabi Post, Karam Punian from the editorial board.

Good afternoon, and welcome.

Mr. Karam Singh Punian: Thank you, Chairman and committee members, for this opportunity. My name is Karam Punian. I am associate editor of Canadian Punjabi Post—it's a daily newspaper—and a co-host at 770 AM. It's the radio where we talk, taking views on news only.

We've been discussing this matter with our listeners since at least December, and the following is the feedback we get from the community.

There should be no relationship between the client and ownership of the agency. We have lots of complaints that the same people running the business are the same people running the temporary workers' agency.

The markup gap should be limited. We have complaints like the companies are making $5, $5.50, $6 per hour with the workers.

A six-month permanent period is a very hard time. We get the feedback from the community that there should be no time period for this; or, if there is any, it should not be more than 60 days.

Disclosure of client company's needs for work: It should be notified to the worker, like such-and-such work that he's going to do on such-and-such dates. Temporary workers get minimum wage; it doesn't matter how long they work. There should be some provision to review the minimum wages, and we suggest at least after 60 days, and there should be some night premium added to this one too.

Temporary workers get no benefits whatsoever, including prescriptions from the family doctor. We urge that something can be done so that the temporary worker is not forced into poverty.

We have feedback: The client is very selective for demands for the workers on the basis of age and gender. We realize that they are already allowed there, but those things are happening. It should be not be there and there should not be selection on the basis of age and gender.

Agency rosters are too high and the worker doesn't know when his term is coming. He has the family to run, he has parents to look after and kids at home. He's looking at the phone, when the phone rings. So we have feedback. There should be at least 24 to 48 hours' notice

when he's going to work. In some instances, clients call the worker for work, and he shows up at the door and then they say, "No, we don't have any work for you today." In that situation, there should be a minimum of four hours' pay for the worker for showing up at the door.

An agency roster should be limited and it should be available to the public so they know—let's say there are 1,000 agencies—how many workers are on the list, and the worker at least knows when his turn is coming.

If resources permit it, we request that there should be the ethnic media involved, because we are listening from the South Asian community. Mostly people are South Asians who are affected with this one, and there should be something we can communicate to the public about their rights and their responsibilities.

When this law is done, there should be a monitoring body and enforcement otherwise it will be a piece of paper. There should be a body and there should be the system if someone wants to put a complaint forward, either in Metro or Peel. Wherever it is, there should the provision.

Thank you very much for the opportunity, and I'm more than happy to answer any questions.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you. We have about two minutes per party. We'll start this time with the NDP and Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for your deputation. A question you must see also in your community: Nannies who are hired through unscrupulous agencies would not be covered by the bill as written. Would you support the extension of this bill to include those home care workers who are nannies and probably some of the most exploited workers?

Mr. Karam Singh Punian: We feel it was the jurisdiction of the federal government. If you realize that Ontario can do something for this one, definitely we support that.

Ms. Cheri DiNovo: Absolutely. Employment standards is an Ontario issue, and all they would need to do in part is put "employment agencies" rather than just "temporary agencies" and a couple of other little changes, but it would be very simple to do. Manitoba has done it.

Also, equal pay for equal work: Is this something that you would support? In other words, if someone working is doing exactly the same job, should they get equal pay for it even if they're only working part-time or temporarily?

Mr. Karam Singh Punian: That's what I mentioned. There should be equality not only in pay but in gender too. It should be similar for every worker who's going for this type of job. It should be similar for each individual.

Ms. Cheri DiNovo: Thank you very much, sir.

The Chair (Mr. Lorenzo Berardinetti): We'll go to the Liberal Party, then, and Mr. Dhillon.

Mr. Vic Dhillon: Thank you, Mr. Punian, for coming before us today. You mentioned that you are a host on, I suppose, a Punjabi radio show?

Mr. Karam Singh Punian: Right.

Mr. Vic Dhillon: What's the volume, if you could describe, of the calls that you receive in terms of complaints about the issue we're talking about here, temp agencies?

Mr, Karam Singh Punian: Continuously, we're discussing this issue for the last five days. We have a two-hour program and we get 50-plus calls every day. So we got more than 200 calls in the last four days.

Mr. Vic Dhillon: One of the things that has created this bill is complaints about fly-by-night temp agencies which, for lack of a different word, abuse the workers. Can you give us an example or two of how, and what type of abuse is occurring out in the community?

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Mr. Karam Singh Punian: Very good question. Yesterday we got a call. A girl wanted to talk off the air. We spoke to her off the air. She wanted to meet us personally. We met her at 5:30 yesterday.

She explained that she's going through an agency. She is 22 years old. There were ladies working for a client; they were about 50, 55. The supervisor working for the client requested to the agency, "Don't send 55-year-olds. Send 22-year-olds." She was almost crying. When she went over there, he made remarks like, "Your job is in my hands." You can understand this situation, what it can be.

Mr. Vic Dhillon: So it leads to further exploitation.

Mr. Karam Singh Punian: It is way more. That was one example. I asked, "How many girls are working there?" She said, "Twelve." I asked, "Does everybody face the same situation?" She said, "Very much so."

The Acting Chair (Mr. Lorenzo Berardinetti): Last question.

Mr. Vic Dhillon: You mentioned the use of ethnic media etc. Do you feel, if the rights are communicated through different languages and awareness is heightened, that would lead to a lessening of the abuse?

Mr. Karam Singh Punian: Definitely, sir. I live in Peel region, and in my area the population is more than 50% ethnic. I believe that if government resources permitted, if you went through the different channels—Chinese, Korean, Indian, Afghan or whatever it is—that would be a big help for the working-class people.

Mr. Vic Dhillon: Thank you very much.

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move over to the Conservative Party. Mr. Miller.

Mr. Norm Miller: Thank you, Mr. Punian, for your presentation. I just had a question to do with your point A, where you say that there are innumerable instances where clients have direct ownership stakes in the management of the temporary help agencies. I was surprised by that, actually. Is that quite prevalent?

Mr. Karam Singh Punian: We have two reports. Three companies get together and they form a temporary agency. Instead of hiring workers directly and paying them more, they bring in the resources through the agency. Plus, they have their own people running this agency.

At the same time—we have three examples; it's not on the record: The same people are the clients and, indirectly, the same people are running the temporary work agencies.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you for coming out this afternoon, Mr. Punian. That completes your deputation. We'll move on now to our next deputation.

Mr. Karam Singh Punian: Just one second. There are a couple of mistakes. My last name: One spelling is missing. In print there's "markup"; I think I printed "makeup" there, so I request the change in that one too.

The Acting Chair (Mr. Lorenzo Berardinetti): Oh, we added the "n" at the end.

Mr. Karam Singh Punian: Okay. Thank you.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you very much.

DALIA GALINDO

The Acting Chair (Mr. Lorenzo Berardinetti): The next deputation is Dalia Galindo.

Good afternoon, and welcome.

Ms. Dalia Galindo: Good afternoon. Hello. My name is Dalia Galindo. I have worked with five different temp agencies in a period of two years and five months. I have seen so many different issues in each one of the agencies that it's difficult for me to reduce my story to just 10 minutes, but I'll try.

I wanted to talk here today not only for myself but also for my mom, who used to work with me, for my friends and other workers who face the same problems.

I am here today because we need changes, and Bill 139 is a baby step toward what we need. Maybe one day we will have a bigger change. Meanwhile, one of the important points in the bill is the fact that if the bill is approved, it will require the agency to provide us with information about the assignments we are required to do.

The day I came into the first agency to sign an application, they provided me with only a little bit of information about the task. They just said I would work in a plastics factory and I would be required to use an X-acto knife. They said they would show me a video about safety in the workplace, but just after saying this, the agency received a call from the factory saying they needed more people, so they told us we could start right away. They asked us just to be careful and not to cut ourselves with the knife because otherwise the agency would get into trouble. They also asked me to tell the manager I had seen the video, even though they never showed it to me.

After working there for around two months, 12 hours per day, four days a week, I came up with another issue. While I was working, a man on the same assembly line asked me how much money I was making per hour. So I answered that I made $8.25. The man's mouth dropped wide open. He told me, "You are young. You shouldn't work here anymore. The agency is paying me $14 an hour." I couldn't believe it. I couldn't even understand why a place could pay different rates to people doing the same assignment. I even thought, "I'm smarter than this guy, and here I am doing the same job. I should get paid more." Later on, I thought that maybe the guy was just lying. Maybe I just needed to pay more attention and then see if I could find someone else who was getting a different salary. So one day when I went to pick up my money, a woman came in asking for information. When she asked how much the agency paid per hour, my own manager told her it was $7 an hour—right there in front of me. After that, I stopped working through that agency.

It didn't take long before I learned about another agency. I went there and filled out an application full of illegal questions. Of course, at that time, I didn't know it was illegal for them to ask my actual age or my first language. Anyway, I finished the application. They tried to get me into working without my insurance permit. I refused. Then, again, I was provided later with information about the workplace. They pretty much just said that I would work as a waitress, making $9 per hour. I agreed. After one month of working with them, I received my first pay, and to my surprise they refused to give me the cheque. They said that they had to cash it themselves, and I would have to pay $5 each 15 days for that service. I also had to pay another $5 for transportation to the workplace. As far as I know, Bill 139 will also get rid of some of these fees, and that will mean more money in my pocket every payday.

Most of the time, I will never know how long my shift will be. I was told to ask the banquet hall I was working for and then inform the agency one hour before the shift was over. That way they would have time to get ready to pick us up. Even though we are required to pay for the pick-up service, if two groups of people working in different banquet halls finish shifts at the same time, you have to wait one hour, sometimes more, sometimes less. I am talking about a job where most of the time you finish at 12 or 1 a.m., which means that you cannot catch the subway anymore because of the time, and they don't even pay you for that time.

I seriously think Bill 139 should be approved and improved. We need to know where we're going to work, for how long and what is expected of us. We have lives too. We need to pay our bills and run our lives and we need security. We really need a law to make the agency provide this information. Especially myself, I have suffered because of the lying in this field. The agency would lie to me about the place where I was going to work. They would call me, tell me I was going to work in one place and then simply drive me to another one—the one none of my co-workers liked because of the bad conditions. That is not the only trick they have. They also called my mom and told her she was going to work as a waitress, and then, in the end, they just took her to a pasta factory. How was she supposed to know what to do there when nobody told her where she was going?

I really want this bill approved. I want information about the work. I don't want to have to go to places that I don't like just because of the lack of information.

Moreover, why should I have to pay fees to work in a deceiving place? Bill 139 will force the agency and the company to take responsibility for the workers. What if I get hurt? How do I prove I was on assignment that day? If the three parties—the agency, the company and the workers—sign off a paper sheet, I wouldn't have to fight for respect all the time. Someone would have to take responsibility for me.

I'm so lucky. My English is pretty good and my personality allows me to speak about my rights—not to mention that I don't have children. Even though I fear not being able to pay my rent, I don't have as much responsibility as parents do. I have less to fear. That's why I am here today, trying to speak out for what we need. We need to make Bill 139 stronger. We should have laws to protect us, laws that will force the temp agency to respect us. That's it. Thank you.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you. We have about a minute per party to ask you questions, starting with the Liberal Party.

Ms. Laurel C. Broten: Dalia, thank you so much for coming today. We're coming to the end of our day today, and I think it's so important that individuals come forward and tell their stories. We've had a lot of individuals come forward today and throughout the time that we've been talking about making improvements to this system. It's only by having the insight that all of you give us that we are able to determine what the issues are and how we can move forward. Simply, on behalf of all of us here today, I really want to thank you and the others who came today for being brave enough to come and tell your stories and to let you know that it is absolutely critical that we get that information to be able to move forward to create the type of society that we all want. Thanks very much.

The Acting Chair (Mr. Lorenzo Berardinetti): The Conservative Party.

Mr. Robert Bailey: Yes. Thank you, Ms. Galindo, for your presentation today. It was very insightful and very helpful to understand what new Canadians and new immigrants face in the employment sector. Hopefully, your case is not an example of all but maybe an exception. I wish you well, and thank you very much for your presentation here today.

The Acting Chair (Mr. Lorenzo Berardinetti): Ms. DiNovo?

Ms. Cheri DiNovo: Yes. Thank you, Ms. Galindo. I'm so sorry for what you've had to live through. Certainly as the employment standards critic for the New Democratic Party, I pledge to try to make this bill as strong as we possibly can so that it prevents other people from having to live through the same experiences you've had to live through.

Thank you so much. You're a brave woman: Know that.

Ms. Dalia Galindo: Thank you.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you, and thank you for your presentation as well.

Ladies and gentlemen, members of committee, we are adjourned. Our next meeting is Wednesday, April 1, starting at 12:30 p.m.

The committee adjourned at 1753.

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