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## **Official Report of Debates (Hansard)**

**Monday 26 March 2007**

## **Journal des débats (Hansard)**

**Lundi 26 mars 2007**

**Standing committee on  
general government**

Regulatory  
Modernization Act, 2007

**Comité permanent des  
affaires gouvernementales**

Loi de 2007 sur la modernisation  
de la réglementation

Chair: Kevin Daniel Flynn  
Clerk: Susan Sourial

Président : Kevin Daniel Flynn  
Greffière : Susan Sourial

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES**

Monday 26 March 2007

Lundi 26 mars 2007

*The committee met at 1545 in committee room 151.*

**ELECTION OF ACTING CHAIR**

**The Clerk of the Committee (Ms. Susan Sourial):** I'd like to call this meeting to order. In the absence of a Chair and Vice-Chair, we need to elect an Acting Chair. Are there any nominations?

**Mr. Tim Peterson (Mississauga South):** I move that Mr. Rinaldi act as the Chair until Mr. Lalonde arrives.

**Mr. Peter Kormos (Niagara Centre):** I second that motion.

**The Clerk of the Committee:** All right. Any further operations? Nope? Okay. Mr. Rinaldi?

**SUBCOMMITTEE REPORT**

**The Acting Chair (Mr. Lou Rinaldi):** I would like to call the standing committee on general government to order to deal with issues with Bill 69. Our first order of business is the subcommittee report. Would somebody like to read it? It's the second page of what's on the desk.

**Mr. Kormos:** Chair?

**The Acting Chair:** Go ahead, Peter.

**Mr. Kormos:** I move:

(1) That the committee hold one day of public hearings at Queen's Park on Monday, March 26, 2007, and one day of clause-by-clause consideration on Wednesday, March 28, 2007.

(2) That the committee clerk, with the authority of the Chair, post information regarding the committee's business on the Ontario parliamentary channel and the committee's website. The ads are to be posted as soon as possible.

(3) That interested people who wish to be considered to make an oral presentation on Bill 69 should contact the committee clerk by 12 noon, Thursday, March 22, 2007.

(4) That on Thursday, March 22, 2007, the committee clerk shall supply the subcommittee members with a list of requests to appear received (to be sent electronically).

(5) That if all groups can be scheduled, the committee clerk, in consultation with the Chair, be authorized to schedule all interested parties.

(6) That groups be offered 30 minutes in which to make a presentation. (The committee clerk will consult with the Chair if there are more than four groups requesting to appear and the time for presentations will

be adjusted to 20 minutes to accommodate additional groups.)

(7) That, if there are more requests than can be accommodated with 20-minute presentation times, the Chair call a subcommittee meeting by conference call to discuss how to proceed.

(8) That the committee clerk, in consultation with the Chair, be authorized to schedule any late requests on a first-come, first-served basis, as long as there are scheduling spaces.

(9) That the deadline for written submissions be 12 noon, Tuesday, March 27, 2007.

(10) That the research officer prepare a summary of the recommendations heard.

(11) That the deadline (for administrative purposes) for filing amendments be Tuesday, March 27, 2007, 4 p.m.

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

**The Acting Chair:** Thank you, Mr. Kormos. Any debate on the recommendation from the subcommittee? Hearing none, then the subcommittee's report—

**Mr. Kormos:** Carried.

**REGULATORY  
MODERNIZATION ACT, 2007**

**LOI DE 2007 SUR LA MODERNISATION  
DE LA RÉGLEMENTATION**

Consideration of Bill 69, An Act to allow for information sharing about regulated organizations to improve efficiency in the administration and enforcement of regulatory legislation and to make consequential amendments to other Acts / Projet de loi 69, Loi permettant l'échange de renseignements sur les organismes réglementés afin de rendre plus efficaces l'application et l'exécution de la législation de nature réglementaire et apportant des modifications corrélatives à d'autres lois.

**ONTARIO PUBLIC SERVICE  
EMPLOYEES UNION**

**The Acting Chair (Mr. Jean-Marc Lalonde):** Sorry for the delay. I'm Jean-Marc Lalonde. I'm replacing Jim Brownell today.

Our first presenter will be the Ontario Public Service Employees Union, OPSEU, Ms. Leah Casselman, president. Is she around?

**Ms. Leah Casselman:** Yes.

**The Acting Chair:** There she is. Ms. Casselman, welcome again to the general government standing committee. You have a total of 30 minutes. You could take the whole 30 minutes or leave some time at the end for questions from the three parties. If we only have a few minutes left, I will decide, in going around, if the questions are going to come from the three parties or just one, depending on the time we have left. You can proceed.

1550

**Ms. Casselman:** Thank you very much. Good afternoon. My name is Leah Casselman. I'm the president of the Ontario Public Service Employees Union. With me here today is Don Ford, our communications officer. I thank you for receiving our submission today.

I'm here on behalf of thousands of my members who are on the front line of public safety in the province of Ontario. Our inspectors ensure workplace safety, they protect motorists from unsafe vehicles—and no, Cam Woolley is not a member of our union—they protect our environment and drinking water and they ensure that meat is safe to eat and that our natural resources are protected. Our members also make certain that our province's tax laws are enforced.

Over the years, we have heard many complaints from our members about the frustrations that they have encountered in trying to do their jobs, everything from short-staffing, unavailability of proper equipment, being forced to adhere to quotas regardless of how complex the investigations are and, specifically within the Ministry of Natural Resources, the inability to do patrols because they don't have any gas to put in their vehicles.

That being said, Bill 69, the Regulatory Modernization Act, will go a long way in addressing one of our members' concerns: the inability to share information across ministries when there are violations of different kinds. We support the intent of this act, which will break down the silos of information that prevent, say, the Ministry of Labour being told about a safety violation that was discovered by an inspector from the Ministry of Transportation.

Our union supports anything the government does that will assist our members in fulfilling all the aspects of their jobs. However, we have some specific concerns about this legislation that is detailed in our written submission, but let me briefly describe those to you.

First, we have a real concern that Bill 69 could allow the creation of what we call super-inspectors. Currently, our inspectors receive specific, in-depth training on the legislation that applies to their job. This allows them to perform their inspections or investigations in an effective, competent manner and back it up in court when necessary. What we don't want to see are any initiatives that would require our inspectors to have to become experts in other fields. As you can imagine, the training

and experience an inspector would have in, for example, workplace health and safety would be very extensive. If that same inspector was then required to learn all the legislation from the Ministry of Transportation or the Ministry of the Environment, that would have essentially a watering-down effect on their job performance. We believe our inspectors are the very best at what they do. The people of Ontario depend on these inspectors to safeguard their lives and their health. Just like specialists in our medical community, we can only do the best that we can if we are concentrating on specific issues.

Our next concern flows from the first. If the new act allows for the creation of super-inspectors, we believe it will only be a matter of time before there will be layoffs and downsizing. While we have seen a substantial increase in the number of inspectors at the Ministry of Labour, many of our other ministries are suffering from short-staffing. There are simply not enough meat inspectors and transportation inspectors, not to mention the appalling lack of funding in natural resources for our conservation officers. We do not want to see an unintended consequence of this bill resulting in cross-training of inspectors and then a decision being made that would result in not filling empty positions or, worse, the downsizing of our current members.

Our last main concern is one of protection of information. A portion of the information our inspectors gather in the course of an investigation or inspection is private and confidential. Our members are governed by the Public Service Act, and that act regulates the privacy of information and how it is shared. Our apprehension is that there are agencies impacted by Bill 69 that do not have the same constraints of confidentiality that members of the public service do. For example, the Technical Standards and Safety Authority, the agency that inspects things like elevators, amusement rides and ski lifts, is not described under the Public Service Act. Therefore, there lies a possibility that information could be misused by non-OPS staff.

You will see in our written submission that, while the intent of Bill 69 is honourable, there are a host of barriers that will have to be overcome to truly make this act work. The government will have to standardize information technology systems in the ministries where information will be shared. Ministries will have to have a common approach to inspections, a common interpretation of policies, training for managers to eliminate the silos within the ministries, and a much better system to track orders and compliance activities.

This is a system that our members report is already one that doesn't work very well. We hope that you will find the information in our submission useful and that our concerns will be addressed. We also hope that this government will actually put enough funding into this initiative so that it will really work. Some of our inspectors out there, especially our conservation officers, are starving for funds. That is an unacceptable way for this province to safeguard the safety and health of its citizens. Let's work together and make this province a model for others to follow.

**The Acting Chair:** Thank you very much, Ms. Casselman. We will proceed with the questions with the official opposition.

**Mr. Gerry Martiniuk (Cambridge):** Thank you very much for your presentation, Ms. Casselman. I'm particularly interested in the question you raised in regard to sharing of information and confidentiality. It has always troubled me in this province that each police department—I'm talking about municipal forces now—have their own occurrence statement, yet we ask them to share information. But of course, if they're different occurrence statements, a particular item might appear in 5 on one of them and 6 on their neighbour, and it's very difficult, from a statistical standpoint, from a computer standpoint, to share that information. I can see that you've raised this, and I'd like you to comment on it. Do you envision that the inspectors would have some common occurrence or complaint or concern statement that they could distribute to other governments, or is that not something we should be recommending at this stage?

**Ms. Casselman:** I don't know about other governments. That certainly raises the question about public health. So if our meat inspectors—and, quite frankly, some of our staff in our investigative unit at the Ministry of Natural Resources were involved in the slaughterhouse in Aylmer, I think it was, which spawned the Haines commission for meat inspection. So if they come across something in the nature of their work that has a health and safety issue to it, I think there should be a common form or chit that they write out that's the same for everyone, to say, "I was here doing my inspection and found this," and then it gets forwarded to the proper ministry. So I think you would want some kind of common form so whoever is picking it up doesn't have to search the form to find out why they have it, so that they know exactly where to look on that form.

**Mr. Martiniuk:** Okay. Both of the points you've made make a great deal of sense to me, but there is sort of a conflict, because we don't particularly want to create a super-inspector, and yet, by having common forms, one would assume that one would be trained to complete those forms. There is nothing in the bill that says that these inspectors necessarily have to be actively seeking other concerns. It's sort of, if they come across it in the pursuit of their particular narrow field, they would report it, but there is nothing in here to say how they would report it. A common form might be of some benefit. However, without proper training, that could lead to wild goose chases, incorrect information and a waste of time. What do you think about that?

**Ms. Casselman:** If workers—of course, they weren't unionized in that slaughterhouse in Aylmer, but if they had been and had called in a Ministry of Labour inspector because there was something wrong with their equipment, I would think that whether or not you had any training in food safety, you might actually identify that the animal was dead before they "killed" it, which I think was the alleged case—as they're still in court, I should probably say "alleged" case—down there, that they were actually "slaughtering" dead animals.

What I was thinking about with the form—it's not that you would have the knowledge base, because a Ministry of Health inspector may not have all the knowledge of what's happening with an environmental spill, but they know something is wrong. So they would just send a basic form to say, "I've been here. You probably should be looking at this place."

1600

**Mr. Martiniuk:** Okay. Thank you very much.

**Ms. Casselman:** You're welcome.

**The Acting Chair:** I forgot to mention, we have 24 minutes for questions or comments and each party is allowed eight minutes each. I will move on to the third party, the NDP. Mr. Kormos.

**Mr. Kormos:** Thank you kindly for coming today. Section 9 is one of the operative sections that talks about enabling an inspector to report observations that may not have anything to do with his or her reason for being in that place. What's the status quo? I did the one-hour lead on this bill on second reading and I tried to flesh out the scenario as I saw it. What's the status quo? Are you telling me that if a Ministry of Labour inspector whose inspection is for the purpose of addressing workplace health and safety issues is in an abattoir and witnesses something suspect, they're bound by confidentiality not to pass that information along with respect to, let's say, improper handling of carcasses, what have you, in an abattoir?

**Ms. Casselman:** I'm going to let Don handle that one.

**Mr. Kormos:** Yes, please.

**The Acting Chair:** Can you identify yourself, please.

**Mr. Don Ford:** My name is Don Ford, communications officer with OPSEU.

Currently, there are pieces of legislation that do just that. They prevent, under confidentiality and privacy laws, the inspector from actually reporting that other violation because they were not there to look for that.

In practice, I believe that there's an informal practice that if there's a major problem at one of these sites, our inspectors are on the phone saying, "Look, there's a big problem here and you need to come look at it." I think one of the things that we do support about this bill is the fact that this is going to give some concrete authority now to these inspectors so that if they're in some place and they're doing a workplace accident and they see that there's a chemical leak, this gives them the solid authority to actually pick up the phone to the Ministry of the Environment to say, "There's a problem at this facility. You need to send an inspector down here."

I guess our concern is—and this goes back to what you were saying earlier—we know there's going to have to be some training just to comply with the act, to say, "If (a) occurs, then you do (b)." That should be consistent across all the ministries that have inspectors in the field. I guess what we are more concerned about is that they aren't training them to say, "Okay, while you're in there inspecting an accident for the Ministry of Labour, you need to be also noting the following things: Is their chemical storage in good order? Are their trucks in good

order in the parking lot? These are all the things you should be watching for while you're doing your other inspection."

I think that goes above and beyond what the act is trying to do, but at the same point there would have to be some common practices for the inspectors to be able to report all of these incidents.

**Mr. Kormos:** I appreciate that. This came up because sometimes people here can set up almost silly scenarios. Doing emergency management, we were talking about firefighters or police officers entering burning buildings and, for the life of me—while I suppose technically you're trespassing if you enter a building without permission of the owner, what would the damages be if, let's say, a firefighter were sued for trespassing for entering a building where perhaps there was no fire; he was mistaken? The damages would be zero. Similarly, you're suggesting that while the current legislation may preclude, in terms of the legislation, a public servant from responding in one way, shape or form to an observation, in practice their interest in public safety has motivated them to do what they've had to, refer the matter to the appropriate agency, because although it may be a breach of something, the consequences of that breach are nil. Is that fair?

**Ms. Casselman:** One of our MTO folks could be in doing an audit on a trucking company—that's mostly like paperwork, audit stuff—but while they're there, they notice some violations in relation to workers' health and safety or something; right? Currently, right now, it's a nudge-nudge, wink-wink and a phone call to their folks in the other workplace without any formalization.

**Mr. Kormos:** On second reading, New Democrats have stood with you on that proposition: that, in and of itself, this is a good thing to allow. However, we've also expressed your concern, because this facilitates—although it doesn't mandate—the creation of multi-tasking inspectors, if you will.

**Ms. Casselman:** If you were hiring computers, you could fill them up with all the knowledge, all the environmental issues around chemical spills and all that kind of stuff, or if it was the Ministry of Transportation, whether it's an audit of an auditing firm or whether it's putting on your overalls and figuring out why the truck is losing its tires, or the Ministry of Labour. Those are the types of things that you need in your head to do all those jobs. The Ministry of Labour has mines. There are different types of inspections, different types of workplaces, let alone natural resources, where they do all kinds of conservation enforcement and regulation out there as well. It just can't be done.

**Mr. Kormos:** I'm hard-pressed to think of how this bill could be amended to prevent section 9, for instance, from being misused by the government as an employer. But you're suggesting that were they to travel that route of multi-tasking inspectors, they'd be putting people's health and safety at risk.

**Ms. Casselman:** You'd have another Walkerton in five or six or eight years, however long that took,

because you simply can't do the job if you load people up with that kind of work. And we know there are governments that think that red tape is something—that this is all these workers do. There's red tape that actually protects people, and that's the kind of work that our inspectors do.

**Mr. Kormos:** Okay. Thank you kindly.

I do want, Chair—the Chairs have changed so quickly.

**The Acting Chair (Mr. Lou Rinaldi):** That's right.

**Mr. Kormos:** I have a couple of minutes. I do want the Hansard from this committee to contain the following comments on my part, because maybe five years or 10 years down the road a student of labour history in the province of Ontario will be working at the Hansard search desk and will be looking up "Casselman" and "OPSEU" and "committee"—

**The Acting Chair:** "Kormos"?

**Mr. Kormos:** I want that student to stumble across this observation, and that is that Leah Casselman has been one of this province's—one of this country's—great labour leaders; that her commitment to a professional, skilled, respected and fully resourced and staffed public service has been exceptional. She has fought some of the toughest battles, and she is held in the highest regard by her membership, by, I say, even some of those who belong to political parties that may from time to time have disagreed with her. New Democrats haven't; we're not in that position.

*Interjection.*

**Mr. Kormos:** We're not in that position. We think a lot of and we treasure and value the role that OPSEU plays. Leah Casselman has been an outstanding personality in this province, and I want that student, 10, 15, maybe even 20 years down the road, when—as the spokesperson, my name will be quite irrelevant. Perhaps there will be some obscure Trivial Pursuit players who will want to test each other with who that guy was from Niagara Centre. But I can tell you this: While our names will be forgotten, Leah Casselman's name will not. She will be remembered by successive generations of trade unionists and public service workers in this province.

**Ms. Casselman:** Thank you, Peter.

**The Acting Chair (Mr. Jean-Marc Lalonde):** Thank you very much, Mr. Kormos. We'll move on to the government side. Mr. Racco.

**Mr. Mario G. Racco (Thornhill):** Let me say that I do agree with the comments that Mr. Kormos made with regard to you, Madam Casselman. I certainly appreciated those comments.

I guess what I wanted to clarify, though, is—and I appreciate the concern that you raised. I want to make very clear, though, that we understand how complex the job of the inspectors is, and there is nothing that we would do to undermine or minimize the importance of the good training those inspectors have. They are highly trained professionals and, as I said, we want to maintain that because it's in everybody's best interests, not just the workers but the businesses and Ontarians. So we appreciate and we certainly have done our best to com-

municate that message to the people affected. But I want to make clear that we certainly appreciate that, and we will do all that we have to do to keep that.

1610

We all know that there are many complex and technical items that our inspectors must be addressing when they go to a location. Again, we want to keep them in the forefront. We know how well-trained the inspectors are. We know that they have to go through formal training, and after that, they also continue learning through other courses that they take to keep up with the changes that we have in our society today. So it's an asset for us that must be kept.

But I also want to stress one of the issues that you raised at the beginning: that you have some concern about the security of jobs and so on. You know very well that we certainly give significant importance to jobs. We made a commitment, for instance, to hiring 200 inspectors in the Ministry of Labour. We have done that, and you know that. Mr. Kormos knows that. What we have done, without getting into the political arena here—under the NDP, the number of inspectors went down. Under the PCs also, the number of inspectors went down. In our time, the number of inspectors went up by 200. So there is a commitment there.

We know that there is a need for additional inspectors. We did hire, and we want to make sure that nobody misunderstands our position. We needed them, and we committed ourselves to it. We did the hiring. There is no intention of cutting jobs. There is no intention of cutting corners. In fact, the intention is honourable, to say “thank you” to our inspectors because they are doing a good job, “thank you” because they are well trained. We want them to keep their professional standards at that level, because, quite frankly, the workplace is getting more sophisticated, more complicated. Those inspectors need to be well-trained for what they are doing. So that should be kept in mind.

In regard to the issue of good training and job security, I think our position has been clear. Of course, if it's not, I'll be happy to hear from you before my time is over.

Certainly, our inspectors, when they go on-site and notice something that in their opinion is not reasonable, and they wish to provide a heads-up to the proper ministry—I think it's the right thing to do. I believe, from what I know, that inspectors are quite content doing that. It's a heads-up. Nobody's asking them to take action in another ministry. They're only being asked, “Could you give us a heads-up,” so that the proper ministry will be able to judge that heads-up and take action if that ministry which is responsible feels that there is a need to do so. Those inspectors are not asked to do really much more than just give a heads-up to the proper ministry. Again, I think it's quite reasonable.

I do have a question for you, if I might. I understand that OPSEU co-sponsored a workshop with the II&E secretariat in October 2006 to discuss the Regulatory Modernization Act with front-line staff. I wonder if you could provide some details about that workshop so that we know more about it.

**Ms. Casselman:** Yes, that actually makes up the written submission that we've provided for you. Those are the comments from the people who attended that workshop. As you can see in the first paragraph, the Regulatory Modernization Act affects 13 ministries, so recognizing that the Ministry of Labour has found funding from the WSIB—maybe you could go back and see if they want to fund an adequate level of staffing for all those other ministries. The Ministry of Labour has staffed up, but we don't have enough meat inspectors or environmental officers or conservation officers; there are big holes out there. If this legislation impacts all of those workers doing all of that work—we're not just talking about the Ministry of Labour.

**Mr. Racco:** You also know that the Ministry of the Environment hired additional inspectors, the Ministry of Revenue added additional inspectors and, in particular, in the Ministry of Agriculture, we had a major increase in inspectors. Are you aware of that?

**Ms. Casselman:** Well, I won't get into a discussion with you about whether or not they're full-time positions or part-time positions with the Ministry of the Environment workers. I do know there are still some holes out there in relation to meat inspection. Clearly, in the Ministry of Natural Resources there is no regulation going on in natural resources. There is no money to put gas in the cars of the conservation officers, so there are big holes out there for the government to fill.

**Mr. Racco:** One of the issues that, unfortunately, we had to deal with was the Walkerton matter. Of course, we did hire additional inspectors for the Ministry of the Environment to address that issue. Certainly that is a step in the right direction.

**Ms. Casselman:** Oh, I'm not disputing that it's a step in the right direction. But it's a system; if there's one leg that's not working, then you're not walking effectively. You're talking about health care and education on the one hand, and yet parks aren't being able to allow kids to come out and get some exercise because the resources aren't there, or our natural resources are not being conserved and protected because they don't have gas to put in their cars to do their work. There are broader issues that will come down to haunt us later on.

We recognize that there are things happening. I guess the luxury of being in the office I'm in is that I get to look beyond the next electoral cycle. I'm looking down to the future to see what might happen to public sector jobs and whether or not this is being packaged up in a way that says, “Gee, we could probably just call them all super-inspectors and cut back by 50% and still look good.” That's our fear, because we look down the road beyond the next electoral cycle to see how legislation is being crafted, whether or not it could be changed—which of course it can be, because this employer's the only one in the province that can change the laws, and does on a regular basis. We're looking back at our history and also looking forward to the future. We anticipate some changes to the legislation. We hope there are some changes to the legislation. We think there are some good

things happening here, but we also have some concerns as well.

**Mr. Racco:** Okay, and that's why we're here, to hear your concerns, and following that, the minister will certainly give leadership in that direction.

I have another question, if I may—

**The Acting Chair:** Your time is up, Mr. Racco.

**Mr. Racco:** If it is, again, I thank you for your time, both of you.

**Ms. Casselman:** I encourage you to read the report at the back of the presentation.

**The Acting Chair:** Ms. Casselman, I want to thank you very much for giving us this written submission. Just keep up the good work here that you're doing for our public service employees.

**Ms. Casselman:** Thank you very much.

**The Acting Chair:** Thanks again.

**Mr. Kormos:** Now, Chair, if I may, on a point of order concerning the warmth in here, I notice that all of my male colleagues but for Mr. Duguid have removed their jackets because it's warm. I would invite and encourage them to remove their neckties as well. It wouldn't offend me in the least, and they will be much more comfortable.

**The Acting Chair:** Should we give you the permission for that?

**Mr. Kormos:** Oh, it's a matter of seniority rights.

**The Acting Chair:** Okay. That will be it.

#### CANADIAN MANUFACTURERS AND EXPORTERS

**The Acting Chair:** The next presenter will be Canadian Manufacturers and Exporters. Could we ask Mr. Ian Howcroft, who is the vice-president of Ontario division—and you are accompanied by Paul Clipsham?

**Mr. Ian Howcroft:** That's right, Chair. Thank you.

**The Acting Chair:** He is the director of policy of Ontario division. Welcome, Mr. Howcroft and Mr. Clipsham. You have 30 minutes. You can take the whole 30 minutes or leave some time for questions or comments at the end. The time left will be divided amongst the three parties.

I want to say also that Mr. Howcroft is one of our members of the SBAO, the Small Business Agency of Ontario. Welcome.

**Mr. Howcroft:** Good afternoon. As the Chair said, my name is Ian Howcroft and I am vice-president of the Ontario division for Canadian Manufacturers and Exporters. With me is Paul Clipsham, who is our director of policy.

CME wishes to thank the standing committee on general government for this opportunity to provide input in your evaluation of Bill 69, the Regulatory Modernization Act. Before I talk about the substantive issues of the bill, I think it is important to highlight a few things about CME and the importance of manufacturing in Ontario.

Canadian Manufacturers and Exporters is the voice of manufacturing and exporting in the province. Our member companies account for over 75% of the total manufacturing output in Ontario and approximately 90% of Ontario's exports.

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CME represents a broad variety of industry sectors, including automotive, plastics, steel, pharma, food, resource-based and high-tech industries. It's important to note that a significant portion, almost 85%, of our members are small and medium-sized enterprises, hence, apropos the Chair's comment about the Small Business Agency of Ontario and our involvement with it. Consequently, CME is well-equipped to represent the voice of manufacturers in Ontario.

Manufacturing comprises about 20% of the province's gross domestic product and contributes about \$300 billion to the Ontario economy annually. Further, the manufacturing sector provides employment to over one million Ontarians directly and almost another two million indirectly.

We have all read the stories and heard the news concerning the challenges that are facing manufacturers. Over the last two years, Ontario has lost over 100,000 jobs and we have experienced about 300 plant closures. Increasing competition, the high dollar, skill shortages and rising input costs have all contributed to the challenges that we are facing. To help deal with these challenges, CME launched our 20/20 initiative, the Future of Manufacturing. It deals with what we must do now to ensure that we have a vibrant and growing manufacturing base in the year 2020. It's also a little play on words to create that perfect or strategic vision for manufacturing, the 20/20 vision. There's a lot to do, including improving the image of manufacturing and making sure that everyone understands how important it is to the economy and how much it contributes to the province.

We're pleased that last week's budget provided for the creation of the Ontario Manufacturing Council, something that CME has been advocating as a vehicle to positively and productively deal with the challenges facing manufacturing. We were also pleased to see the announcement regarding the business education tax, but we were again disappointed that no immediate action was taken to eliminate the capital tax.

On behalf of CME, I would like to thank the committee for this opportunity to express our views on Bill 69. But before I begin the substantive comments to the bill, I would like to express our frustration with the short timing on the hearing process. The period from the initial posting of the public hearings on March 20 to today was about six days. The period from which time we received confirmation that we'd be making a presentation was only one full business day to prepare.

Our procedures dictate that we engage our members on issues of concern, and these timelines did not provide that opportunity whatsoever to engage our members effectively prior to this hearing. Fortunately, CME has been participating in the consultation over the last



months and we were able to put together a presentation that we hope will be of use to the committee. However, extending the duration of the preparation period would enhance the value for future committee proceedings and the democratic process, so we would encourage that to be taken into consideration in the future.

As mentioned with regard to Bill 69, we have been very active on this file and have participated in many meetings with the Ministry of Labour. We've appreciated the opportunity to provide our input throughout that consultation period. We have been supportive of the broad goals and intent of the bill—the reduction of compliance costs for businesses and government and the targeting of worst offenders. However, CME has continued to express its concern with certain components of the bill that go far beyond the bill's policy intent, which could result in unintended consequences to many companies and organizations.

First, I would like to raise our concern with respect to the unnecessarily broad categories of information that may be collected, used and disclosed under the bill. It is essential that the categories of information be limited to those types of information which are actually required to be shared by ministries to assist in effective enforcement. Collection and potential publication of competitively sensitive information and business confidential information should be beyond the scope of this bill.

Further, the provisions of the bill providing for disclosure to the public are also, in our view, far too broad. A company's reputation could be seriously damaged with the publication of an unsubstantiated complaint, which could result in irreparable damage to the company, the employees and the community. Consequently, there should be restrictions in place to ensure that only complaints that have been validated through proper and appropriate due process be considered for publication.

I would also like to raise our concerns with the potential for the creation of the super-inspector position. While this sounds like a reasonable option, we must seriously question how this could work in practice. The technical knowledge and aptitude necessary for someone to conduct this role as intended would be enormous, and thus we feel it would not work in practice.

It's also important to raise the issue regarding the so-called heads-up provision. If an officer notices a problem at a site and will be notifying another official, it is essential that the employer be advised of that issue immediately. This would allow the employer to address the situation right away and prevent it continuing until the next official or officer could attend the site.

I'd now like to turn our presentation over to Paul, who will provide some additional details on our concerns.

**Mr. Paul Clipsham:** Thank you, Ian.

In addition to raising our concerns with the Ministry of Labour directly, CME also participated in a coalition of 12 leading industry associations to develop and identify common concerns and recommendations regarding Bill 69. This group's activities culminated in the development and signing of a letter posted to the EBR outlining

the common concerns and recommendations. I have distributed copies of this letter for your consideration.

I will now briefly outline these concerns, with examples from specific sections of the bill. The consensus of the group was that publication of business-sensitive information respectively was the primary concern for business. Even the limited protections that exist under section 17 of the Freedom of Information and Protection of Privacy Act, FIPPA, appear to be abrogated in section 10 of Bill 69. For example, paragraph 3 of subsection 10(4) currently states: "Information about complaints filed in respect of an organization where the complaint is regarding conduct that may be in contravention of the designated legislation."

Complaints could prove to be unfounded, and if unfounded complaints were published, damage to a company's reputation could be irreparable. We recommend that publication of information be related only to convictions or contraventions under designated legislation that have been validated by judicial process.

Secondly, collection, use and disclosure of business information was of significant concern to the extent that this information could be publicized; for example, subsection 4(8), regarding collection of information about tests or audits, is a concern to business. Tests, for example, can change. A company with a strong track record of success in one test could demonstrate skewed results under a new test. If that new test information is collected, used and publicized without due process to identify, for example, whether it is the test or the company that is in error, there is a risk of unintended damage to a company's reputation.

Further, the collection, use and disclosure of information regarding forms, notes or reports generated in the process of the aforementioned tests, audits or inquiries extends the concern that invalidated subjective information of this nature is neither constructive nor conducive to meaningful inspection and analysis of any company—worst offender or otherwise.

Thirdly, the group agreed that the bill is not explicit enough to ensure relevancy of the information collected, used and disclosed. For example, subsections 4(9), 7(7) and 14(2) of the bill all deal with retroactive collection, use and disclosure of company information. We are deeply concerned that this may lead to collection of irrelevant information and inadvertently result in targeting companies that have a long history of business operations in Canada. For example, a leading company that has existed for over 100 years may have, through its evolution, experienced a contravention that no longer reflects the culture, values, actions or record of that company's performance in recent years. We recommend that limitations be considered to ensure that inspections reflect a company's current or relevant performance.

The coalition also agreed that the so-called heads-up provision had potentially unintended consequences that should be addressed. Alerting a business to an issue immediately is critical to ensuring safety and security at that company.

The group also identified the potential for the super-inspector under section 13 and limited culpability of the crown under sections 15 through 17 as concerns. I encourage you to review the letters for details of these concerns.

Ultimately, there is a great deal of potential for this legislation to be a win-win for business and government if it can achieve the stated intention of reducing duplication in the regulatory compliance activities to which businesses are subject. The link between increased sharing of information among ministries and the reduction of duplication in compliance activities needs to be clearly articulated in the legislation.

In conclusion, Bill 69, the Regulatory Modernization Act, is a very significant piece of legislation. It presents opportunities for improving conditions for the workforce, government and responsible employers. Consideration of the above concerns and recommendations is strongly urged, with a view to corrective action in the interests of all stakeholders.

Setting parameters for publication, collection, use and disclosure of business information is essential. By providing greater clarity on how information may be used, unintended consequences such as those identified can be avoided.

We believe that these concerns and recommendations, if acted on, will enhance the bill further toward the stated intention of “improving protection of the public, workers and environment; reducing duplication in the regulatory compliance activities to which businesses are subject; and maximizing government resources.”

It is our hope that we can resolve these issues and move forward in the spirit of collaboration. We would be pleased to answer any questions you might have at this time.

1630

**The Acting Chair:** Thank you. We have approximately 18 minutes left, and that would give six minutes to each party. Due to the fact that Mr. Kormos has left, I'm going to move to the government side. Mr. Racco.

**Mr. Racco:** I have six minutes, right?

**The Acting Chair:** Yes.

**Mr. Racco:** You raised a few questions, for instance in regard to information that we intend to publish. It's the business community, as you know, that has in fact been raising that concern, because it's the business community that wants to make sure there is a fair playing field and that if there is an industry and/or a company that is not performing as it should, we can take steps to address that concern. That is why we see merit in publishing information. Of course we also know that we have to be extra careful in what information, and I think that's really your concern. We appreciate the importance of the fact that we could affect someone significantly. We certainly have paid, and intend to pay, attention to make sure that doesn't happen. It's not in our interest and it's not in the interest of Ontarians or the business community for that to happen. In fact, the workers who are working for that business could be affected if that is the case.

I also want to make sure you know that we have consulted with the Office of the Information and Privacy Commissioner and the commissioner feels comfortable with the approach we are taking. I think it should give you some degree of comfort that we appreciate the importance that we are doing what we mean to do.

In regard to the superinspector—I already answered that question on the first deputation—the people you represent appreciate the importance of having someone who is quite knowledgeable of the industry, and we do. That is why we're making sure they have training and that the training continues. That is why we are increasing the number of inspectors, to make sure we have enough people to do the job, and that they have the time to get training.

Again, I think we have responded quite reasonably to that concern of the people you represent on the issue. Again, we are not expecting people to go there and do something that's not—we only expect that they report what they notice. They're not there to investigate something else. They're there to do their job, and if they happen to see something that is not their job but in their eyes is not reasonable, then they have the opportunity to call the ministry responsible and say, “That's what we saw.” Then it's up to that ministry to decide what the next step is. So we're not putting any pressure on those inspectors to do more than what, generally speaking, they are doing.

Again, I appreciate your concern; I think it's valid. But I think we have taken the proper steps to address those things.

I have one question or so, depending on the time, that I would like to ask. The question is: In your experience, how often and what types of information are businesses in your industry required to provide to multiple ministries?

**Mr. Howcroft:** I'm sorry. Can you repeat that?

**Mr. Racco:** From what you know, how often and what type of information are the people you represent in the industry, the business community, required to provide to a different number of ministries?

**Mr. Howcroft:** I guess it depends on the issue. There are some that cover several issues, several ministries. If it's a health and safety issue, where we're providing information on a health and safety complaint or a health and safety situation or a health and safety inspection, there's some overlapping with regard to the Ministry of the Environment—some of the information that's required there. It just depends on the situation and the ministries that are involved as to what's required.

We agree with the intent of the bill and don't have problems with the goals and what we're trying to do. As an example, we don't have a problem with the heads-up provision. We don't have a problem with the person who's there letting the appropriate ministry official know about that. What we're trying to make sure happens too is that the employer is told of that. For example, if it was a health and safety issue someone noticed and contacted the Ministry of Labour and they came in a week later, we

would like to think that the employer was aware of that immediately so they could take the corrective action to make sure the workplace is free from any safety issues or concerns, rather than the way the bill is written now, where the employer may not find out about that and may have a situation that continues until the next official who has that expertise comes in for their visit.

**Mr. Racco:** But you would agree with me, though, that the people you represent quite often spend lots of time providing the same information to different ministries.

**Mr. Howcroft:** Yes, and again, we agree with the removal and elimination of duplication as much as possible. Our concern was around having the expectation that you could have a super-inspector be knowledgeable in all areas. There are new health and safety inspectors in Ontario, as you pointed out, but they're not completely trained in health and safety yet, let alone environmental issues and some of the other things that we're concerned may be required of them that seem beyond reason.

**Mr. Racco:** On the same topic of duplication, what are some of the examples of duplication in regulatory compliance activities that you see in your industry? Can you give us some examples?

**Mr. Howcroft:** Do you have any of the examples that were discussed?

**Mr. Clipsham:** There aren't too many specific examples that I could give you at this time, but what we hear from our members is that there is a wide range of regulatory compliance things that they have to go through on an ongoing basis. If there was a mechanism in this bill that would not only break down the silos, if you want to call them that, between ministries but also recognize where there is duplication, find that duplication and then eliminate it, that would be a win for business.

**Mr. Racco:** Okay, and—

**The Acting Chair:** Sorry, the time is up. I will move on to the official opposition.

**Mr. Martiniuk:** Thank you, gentlemen, for your presentation. I'd like to deal mainly, because we only have six minutes, with the particular section that you've raised: paragraph 3 of subsection 10(4) of the act, which reads: "Information about complaints filed in respect of an organization where the complaint is regarding conduct that may be in contravention of the designated legislation" that's set out.

It would seem to me that this is an authorization to the government—not just this government; any government—to publish the fact that complaints have been received. There is in this section or in this act no safeguards that (1) there was any truth to the complaint, or (2)—and the absence of this is amazing—that the complaint was made bona fides. It could be a complaint made by a disgruntled employee. It could be a disgruntled customer. It could be anyone making the complaint, not bona fides but in fact to injure the reputation of a corporation or a business entity.

It seems to me that no government should be broadcasting rumour and innuendo, for that's all that this is,

since it has no safeguards. If we had built safeguards into this in some manner, even a statement that because these complaints were investigated and determined to be bona fides doesn't mean that they're right, then I would feel a little more comfortable, but not much, because there is absolutely nothing in this act to protect any individual against unfair and non-bona fide complaints being made. I think that's a most dangerous situation, and I don't know why it's necessary, quite frankly. There's a whole range of information that will be issued to safeguard the public. This complaint, though, really makes it difficult for myself, as a former lawyer, especially where I thought that in this country and under our Constitution all individuals were in fact innocent until proven guilty.

1640

Here, without any investigation as to the veracity or the bona fides of a complaint, we are about to broadcast this to the public. It could be libellous; it could be slanderous. There's nothing in this act to prevent it. It just seems a really outlandish step, and I don't know why the government would include such a dangerous precedent in the legislation. Do you have any ideas in your discussions with the staff at the ministry why this most dangerous of all provisions was included in this legislation?

**Mr. Howcroft:** No, I don't, but it's an issue we have raised at every meeting we've had with them since we became aware of what was in the bill. We don't think you should be able to publish complaints, particularly those that are unproven, unfounded. We strongly urge that changes be made to ensure that only complaints that are investigated and decisions made—should that information be made public or considered for publication, otherwise you're subject to doing enormous damage to a company's reputation and its economic viability, the employees who work there and the community where the company operates. We continue to raise and have been raising that for quite a while now.

At some meetings we've had, I think we've had a receptive ear to those concerns, but at others we're not as confident that we were being heard on that. But it's something that we can completely agree with.

**Mr. Martiniuk:** Chair, I was wondering if I could direct my question to Mr. Racco. I'm not asking you to answer it, however. Before we should be considering this legislation and this particular odious—and I use the word advisedly—section, surely there should be some explanation or historical background that the ministry has that could assist members of this committee to determine why this provision was even included in this act.

**Mr. Racco:** Mr. Chairman, I will be happy to ask the staff of the ministry to provide that historic information that my friend is asking for. Staff are here. I'm sure that they will be able to satisfy his question.

**The Acting Chair:** Could we have staff to answer Mr. Martiniuk's question? If you would give us your name for our record purposes.

**Mr. John Stager:** My name is John Stager, and I'm the assistant deputy minister of II&E business transformation with the Ministry of Labour. I've been one of the executive leads for the Regulatory Modernization Act.

With regard to the complaint issue, maybe a bit of a premise on the bill in terms of the policy work that we've done: One of the things we've seen as we developed the bill was that complaint information was and is being published by line ministries right now. You see a variety of kinds of complaint information being published by line ministries. For example, in a number of ministries now they will publish information about a series of events that have taken place with a regulated entity in the regulated community.

As part of telling the story about a regulated entity, they may start by saying the initial cause of the circumstance was a complaint by X company or X individuals which led to a series of events, follow-up inspection and possible other kinds of events. So there are ministries that are doing that. In fact, most ministries are using complaint-related information right now in publishing that kind of information.

What this is doing, the intent behind this piece of the publication, is to try and bring some consistency to it, to say that we recognize that it's being done right now. In terms of legal, there is a grey area in terms of the use of complaint information. Really, the premise behind this and the inclusion of it in the bill is to be able to draw from complaint information as part of a broader scenario about compliance and be able to share that broader story about the compliance picture for a regulated entity or a series of regulated entities.

**The Acting Chair:** Thank you, Mr. Stager. I believe you wanted to—

**Mr. Martiniuk:** Excuse me, Mr. Chair. That is the most astonishing explanation I have ever heard since I became a member of this Legislature: the fact that people may be acting illegally now means we should codify it and make it legal. Surely that is not an explanation. That's just a fact as to what is happening now, but that's doesn't excuse why it is put in this legislation in order to regularize and make it legal. It could be that those ministries are acting illegally up to now as far as the freedom of information act.

**The Acting Chair:** Sorry, Mr. Martiniuk. Our time is—

**Mr. Martiniuk:** I'm sorry. Thank you.

**The Acting Chair:** Mr. Kormos, from the third party.

**Mr. Kormos:** I'm sorry I had to leave for a few minutes. I have read your brief. I was drawn to that regulatory power, as was Mr. Martiniuk. Obviously, this is in the context of section 15 as well, which is the immunity section in terms of any civil action. I agree with Mr. Martiniuk. It's one thing to identify complaints in terms of, let's say, classes or areas; it might be of value of understand that there have been a number of environmental complaints around a specific issue. But if the publication of the complaint includes—you're talking about complaints. Let's say, if a charge is laid—because it's public information; I understand that. But you're talking about a complaint as a result of which a charge may not necessarily even have been laid, insofar as I understand and read the regulatory power. That, I agree, is offensive.

Once a charge is laid, it's a public record, the information itself. I'm not sure the ministry has to provide that material; that's another discussion. But I have a concern especially with section 15, because the business community talks about the potential damage that can occur, then, with section 15, which appears to protect anybody who publishes, as long as they're acting in good faith, even perhaps erroneously. It can be erroneous information, as long as it's done in good faith.

If you're in the competitive world of bidding on contracts, international stuff, and international potential partners access these websites in the course of, let's say, due diligence, as they should, this could queer a deal that's worth millions of dollars. That has any amount of great potential. So I find that interesting.

But you wrote your letter, the one you provided us, to the assistant deputy minister. Have you had a reply yet to your July 31, 2006, letter?

**Mr. Clipsham:** Yes. John has been—

**Mr. Kormos:** So this isn't the first time you've heard that comment around the regulatory powers and complaints?

**Mr. Howcroft:** We've had numerous meetings with John and others at the ministry in other capacities as well.

**Mr. Kormos:** So he has been co-operative and forthcoming, right?

**Mr. Clipsham:** Yes.

**Mr. Kormos:** What you're saying now is maybe you'd like the political end, the government, to be as co-operative and forthcoming as a professional civil servant. Is that fair?

**Mr. Clipsham:** Yes. That's a fair statement.

**Mr. Howcroft:** We think it's a positive change to the act that we're trying to get here in the business sense, in the economic sense.

**Mr. Clipsham:** Common sense.

**Mr. Kormos:** Thank you. Thank you, Mr. Martiniuk, for focusing on that.

**The Acting Chair:** Thank you, Mr. Howcroft and Mr. Clipsham. Did I pronounce it properly this time?

**Mr. Clipsham:** You did.

#### CANADIAN FEDERATION OF INDEPENDENT BUSINESS

**The Acting Chair:** The next group will be the Canadian Federation of Independent Business. I believe they've just arrived. If you could come and take a chair. Welcome to the standing committee on general government on this very important issue, Bill 69. You have 30 minutes. You could take the whole 30 minutes or leave some time at the end for comments and questions from the three parties. Whatever is left will be divided equally among the three parties. If you could start with giving us your name for record purposes, and proceed.

1650

**Mr. Satinder Chera:** Thank you, Mr. Chair, and good afternoon, everyone. My name is Satinder Chera, and I'm the director of provincial affairs with the Canadian Fed-

eration of Independent Business. I'm joined today by my colleague Tom Charette, who is the federation's Ontario senior policy analyst.

We appreciate the opportunity to appear before you today to comment on Bill 69, the Regulatory Modernization Act. We think that despite the rosy title it has been given, it could have a potentially devastating impact on small and medium-sized firms in the province, and we'd like to speak specifically about those concerns today.

Before I do that, I think you have all received our kits. I will be speaking from the slide deck that is entitled "The Regulatory Modernization Act and Small and Medium-Sized Businesses." On page 2, our presentation just gives you an overview of what we want to discuss today. I'm going to start off by giving you the status of our members in the province and how they're doing and then get into what we see as a pivotal issue in this bill, which is government regulations and the impact they have on small firms; talk a little bit about the devastating effect that regulations have on the SME sector; give you a few examples; and wrap it up with a series of our recommendations for making this bill more friendly and giving small firms the ability to also take part in making our workplaces safer.

Page 3: I think most of you have already seen our member profile in Ontario. We do cover off most of the sectors in the economy.

Page 4 is our small business barometer, something that we put out on a quarterly basis; the next one will be coming out on Wednesday of this week. This gives you a bit of an overview of our members' expectations and how they've been sliding down or sideways over the past year, which is of course a big concern for us.

Page 5: As you know, we are guided by our members in terms of the issues we tackle and the concerns we bring forward, and the presentation today is very much predicated upon what our members are telling us is a big concern for them. I mention at the outset that government regulations and paper burden are a huge impediment for our members and not something that I think is very pivotal to this legislation before you today.

Page 6: At the outset, let me say that I think we can all agree that regulations are not inherently bad. Our members would agree that they do have a purpose in our society, but individual regulations can be a bad thing if they fail the test of being effective or if they fail the cost-benefit analysis. As well, the sum total of all regulations can be a bad thing if it exceeds government's capability to administer or it exceeds the SME capacity to cope with the burden that has been imposed upon them.

I hear the bells. Should I continue?

**The Acting Chair:** You can continue.

**Mr. Chera:** Page 7, the regulatory burden on small firms: Premier McGuinty made a commitment to our members in the last campaign to reduce the burden that our members face. Unfortunately, the reality is that the burden continues to increase, and these are just a few

examples of the amount of regulations that our members are having to now contend with.

Page 8: There is virtually no attempt to really control or to manage the size of the regulatory workload or the regulatory costs that government imposes on itself and on small business.

Additional regulations continue to pour out from all levels of government. Government regulations far exceed the ability or the capacity of the small business sector to cope by at least an order of magnitude.

Governments have far exceeded their own capacity to administer these regulations, and so, when we get to Bill 69, the short of it is that Minister Peters's plans to ramp up inspection or compliance with all 85 statutes and the some 600 regulations that the province has on the books could very much leave our members looking like sitting ducks. I think that's something that none of us wants, but that's the reality, the impact that this bill is going to have on the SME sector.

What I'm going to do is turn it over to my colleague Tom Charette, who's going to take you through the specific concerns we have with Bill 69 and then round it out with our recommendations.

**Mr. Tom Charette:** Good afternoon, ladies and gentlemen. I'd like to take you through some of the effects of the existing regulation on SMEs. If you want to follow along on the screen here, perhaps it will be a little easier for both of us.

I would like to preface what I'm going to say by saying that we get a lot of phone calls from members who are upset with competitors who aren't in compliance with one thing or another. There's a lot of pressure on us from members to deal with things like the underground economy. When we have tested members occasionally, sometimes at the behest of a government agency, "Would you approve of an amnesty for those who've not been collecting taxes or not paying WSIB premiums or the like?", our members don't like that. They don't even want to go that far to get them in the tent. They think that if you broke the law, you ought to pay for it. I want you to know that although I'm going to try to convince you here that the government has got a lot of work to do in its own backyard before it applies this to small and medium-sized businesses, the basic attitude of our members is, they want to be rule abiders and they want their fellow business people to be rule abiders.

The demographics of the small business or the business sector in Ontario are related to what I'm going to try to convince you of. In the province, over 70% of business units that have employees have less than five, and another 18.5% have between five and 19. The really big units of business, over 500 and such, are a very small fraction of the total business units. How does that come to apply to regulation, or how does it bear on it? Well, at the smallest level, at the 70% to 75% that have less than five employees, the owner tends to work alongside his or her employees during the day, giving speech therapy, working a retail floor, putting up drywall; all sorts of activities. It's only at night that they get to run the busi-

ness and comply with all the many things that government asks them to do, from collecting taxes to abiding by other forms of regulation—things you can do and things you have to do and so on.

A third characteristic is that they can't afford much in the way of professional services. They're not like big units of business. They don't have human resources managers. They don't have site engineers. They don't have environmental engineers. They don't have government relations departments, for goodness' sake. They tend to do it all; we'll show you some data on that. Finally, they have very little cash for professional services because when you buy some of those knowledge areas on an hourly basis, they're really expensive.

Given the demographics and dynamics, we decided, "Let's do a national survey of regulation." We did this at the end of 2005. It's a landmark study. You have a copy of it in your kit. The personal impacts—I'm only giving you the icing on the cake here—that are contained in that study: 79% of owners of firms with zero to four employees and 67% of owners of firms with five to 19 handle regulation themselves. As the firms grow larger in our sample size, the lower and lower that gets. But while the firm is small, the owner is heavily involved. Sixty-seven per cent of all of our members, not just these very small ones, report that it adds significant stress to their lives; 62% say it takes significant time away from family and friends and 52% say they spend a significant amount of time on regulation outside of working hours. That includes filling out GST returns and PST returns and source deductions and all of the paperwork related to all the tax and regulatory systems.

#### 1700

As far as business impacts go, the financial burden falls heaviest on small firms. It amounts to \$8,239 a year for small firms. That compares to \$6,835, from a study of all the OECD countries. This information comes from an OECD study and from our own peer-reviewed study of regulatory costs.

Other business impacts: 54% say that it impedes their ability to compete with larger firms. That's pretty understandable, given those per-employee costs. And 63% say that it significantly reduces their business's productivity.

As a measure of opportunity costs, we asked them, "What would you do if the regulatory costs to your firm were reduced?" Fifty-four per cent said that they would invest in equipment/expansion, 46% would pay down debt, and 28% would hire more employees.

We asked them, "What are the most burdensome regulations you face federally, provincially and municipally?" All of that is in the complete report you have. But provincially: workers' compensation, 60%; PST, 51%; employment standards, 37%; and property assessment, 35%.

The backgrounder to the act and the ministerial statement put a heavy emphasis on scofflaws and firms trying to get a commercial advantage by ignoring regulation. Certainly, there are human beings like this in every field of endeavour. But to be blunt, we believe that govern-

ments have to clean up their own regulatory backyard before they apply such things as the Regulatory Modernization Act to small business. We think government itself is the cause of much of the lawbreaking, and I hope you have the patience to hear us out. Let me give you some examples. I call these "tales from the regulatory trenches."

Take the employment standards poster. The Employment Standards Act requires employers to display a Ministry of Labour poster summarizing employee rights and responsibilities. It added a new sentence in mid-2006 and issued a press release which had no media pickup. Sixty days later, ESA inspectors began issuing \$350 tickets if employers had not replaced version two with the new version three. The lesson here is that in most cases, little or no attempt was made to communicate the existence of a new or changed regulation.

For that reason, we say that the Regulatory Modernization Act is premature. Think about it, ladies and gentlemen: If this change was very, very important, wouldn't government seek to communicate it, publicize it, make sure everybody knew about it? We've got a cynical term for this sort of thing: It's "government pretending to care." "Some interest group wanted that change and we said yes to them, and we'll find the poor devil that happens to get a ministry inspector on his or her doorstep." But really, are we serious when we don't communicate it and publicize it?

This one, if anything, is slightly worse: "60-Hour Work Week Ends Today." This was the title of a ministry news release from March 1, 2005. There was excellent media pickup because there'd been a series of news releases prior to this announcing that it was coming. The title was misleading in the extreme. I called the Ministry of Labour employment standards hotline the next day, identified who I was, and said, quite legitimately, "We're going to get calls from members on this. We want to know the ropes." We did get calls. The response was accurate: It said, "No, no, no. The 60-hour workweek wasn't eliminated. It's not about that at all. The real change is for employers who want to work between 40 and 59, or just below 60. Now they've got a lot of paperwork to do. They've got to get permission. Those are the ones who are affected." Can you imagine a more damaging way of communicating than misleading people? We wrote to the minister; the letter's in your kit. That's one part of the story.

The other part of the story is that if somebody was obsessive and said, "Even though I don't work a 60-hour week ever, I'm going to find out what all this is about," they would have had to absorb 58 pages of explanatory material, the size of a small book, for this change. You know, in the universe of government regulation, this is a small thing. But 58 pages? A lot of regulation is like this. It's beyond the ability of small people to hear about it and then, when you step into that kind of a system, you just don't have the time to do it.

Third example: Employment Standards Act. I was a member of an employment standards task force. There

were a lot of stakeholders. The parliamentary assistant to the Minister of Labour was there. To that gentleman's great credit, he kept asking everybody who made presentations, trying to get the answer to the question: "Are these people who are not abiding by the Employment Standards Act consciously not doing it because they don't want to, or do they not know what their obligations are?"

Finally, we were having a presentation from a young lady who had been a part of a group of random audits, just a benchmark, what compliance was. He asked her: "Is most of the non-compliance purposeful, or is it because companies aren't aware of the rules?" She just burst out: "Oh no, no. They're glad to see us. They appreciate our help. Some of this stuff is complicated, like holiday pay, for example. They thank us for explaining it to them."

Now again, ladies and gentlemen, at this point in time, Ontario regulatory enforcement people across the board know that small businesses, for the most part, are making a genuine effort to comply, but that with all kinds of subjects like occupational health and safety and collecting the retail sales tax for government, and on and on and on, they just can't get it right. There's too much of it, and when you look at individual parts of it, it's horribly complicated.

Even though we've got a little extra time, I'm going to give you one more. This is from Occupational Health and Safety. You don't have it in your kit, but there are two ways to put up eavestrouthing: Two men on a ladder cost \$700; two men on scaffolding, which is a lot more time-consuming, cost \$1,900. A few years ago, the Minister of Labour made that mandatory. A year later, I took the call. A CFIB member from London called us for advice. He said: "Look, I drive around all day, I see my competitors at work. Most of them are not using scaffolding. MOL isn't enforcing the rule. If I quote jobs at \$1,900, I won't get any more jobs; if I quote at \$700, I can feed my family but I'm breaking the law. What should I do?"

That's a real story from a member in London, Ontario. It's outrageous to pass a rule and not enforce it and to put a citizen who wants to be law-abiding in that kind of position. I had to tell him, sympathetically, that I certainly couldn't advise him to break the law, that really this was a question more appropriate for a rabbi or a priest than to a member services counsellor at CFIB, but I promised him I would keep that example front and centre every opportunity I had to lobby on the subject of regulation.

We want you to tread very, very carefully on this—don't assume that because people aren't abiding, they're conscious lawbreakers. The total volume is beyond them when they're that small, and it's so complicated in some cases, you can't get it right.

The Regulatory Modernization Act: What does it do? Well, it brings together the enforcement of 85 statutes and almost 600 regulations. Can we really expect a small business owner to know all of this? Would we, in this room, have anybody who would know half of the 85

statutes by name, or 10% of the regulations by name, or 20%? It's just staggering. I can't imagine how many inches of paper it would involve in printing it all off and then getting interpretive material that the ministries have behind a lot of those regulations, and getting case law. It's just beyond belief.

#### 1710

It allows ministries to share information. From experience, I can tell you we would consider that dangerous. It exposes people to threats. Most of your auditors, most of your inspectors, are decent, professional, well-qualified people. But as in any group of humans—like there are cheaters in business—there are a few bad apples in your workforce too, I can tell you, and those people will use this as a threat.

It authorizes ministries to form teams to target repeat violators. This, my friends, would be totally inappropriate unless we're dealing with a case where somebody is told by somebody in a ministry, "You're not doing this right. You've got to do thus or so," and they persist in not doing it and they persist in not doing it. If that's a definition of a repeat violator, our members would want you to get him or her. But if it's a failing in employment standards and occupational health and safety and a minor error in RST, that's a horse of a completely different colour, and this would be completely inappropriate.

It authorizes ministries to form teams to assist small business. This should be the only thing they can do, and having that in the background to the legislation is not enough. We're going to make a request of you that's more specific than that.

Finally, we're kind of wondering what people mean by publishing information about an organization's compliance record as a deterrent to repeat violations. How do you define "repeat"? We think it's highly prejudicial. In many small communities, the business's reputation is the owner's reputation. Do we publish all kinds of our misdeeds by individuals in this society? I don't think so—with very few exceptions. There are some exceptions, but very few, and they're very controversial.

So we're asking you, please don't put the cart before the horse. The Ontario government has made a modest start in reforming small business regulation. They've created a small business agency. They've put in a website for the autobody repair business to bring all the stuff that applies to it in one spot. They're working on a project for plastics. They've allocated some funds in this year's budget for regulatory reform. But look, the hard part is yet to begin: reducing the amount of small business regulation to an amount consistent with the small business capacity to cope and government's ability to communicate, supervise and enforce.

When you see the picture from our point of view—you can tell from some of those examples, and we've got lots more where they came from—government has exceeded its own ability to administer. This act is a Band-Aid on a symptom. It's the root cause of that symptom that's got to be attacked. The lesson is that applying this act to small firms now amounts to putting the cart before the horse.

What did our survey show that small businesses said they needed?

- simplify existing regulations: 81%;
- reduce the total number of regulations: 72%;
- clearly communicate and make business owners aware of new regulations: 58%;
- improve government customer service: 57%;
- provide examples of compliance; and
- make fewer changes to existing regulations.

What comes through there is the workload and the difficult time people have just even dealing with it. I didn't put the slide in, but one of the saddest tables that we got out of our survey was one where we asked our members, "To what extent, percentage-wise, do you think you're in compliance with everything that the federal government, the provincial government and your municipality expect of you?" They rated themselves very, very highly. They think they're in compliance. That's a reflection of their desire to be law-abiding citizens, but it's also a reflection of their ignorance of everything that's out there that they need to comply with.

They find that the way government tends to communicate is by an inspector, an auditor and a monetary penalty. I submit, ladies and gentlemen, that that's just a wrong way to communicate. If things are that important, you ought to make sure every single person knows about them.

So we're asking you today—we had this in our pre-budget submission; it was one of only two areas that we petitioned the provincial government on this year—to exempt SMEs from the Regulatory Modernization Act until substantial progress has been made. Until then, the government should do the following:

- Reduce the regulatory burden, as promised by Premier McGuinty; actually reduce it. Start with placing a moratorium on all new provincial legislation, regulation and municipal bylaws that would increase the burden on SMEs.

- Establish, as the federal government has done and as several provinces have done, firm regulatory reduction targets and an implementation timetable based on an initial inventory of the current regulatory load.

I really plead with you to be fair. If we go back to that one slide, our members, through us and through other organizations, have been pleading for years for government to help them with this. Please don't bring in a punitive enforcement regime to deal with the problems that afflict them.

Thanks very much.

**The Acting Chair:** Thank you very much. We're left with five minutes. Mr. Kormos had to leave on an urgent issue, so we are going to split in two the five minutes, which will be two and a half minutes per party.

**Mr. Racco:** I certainly appreciated the comments, and I want to make clear that there will be no changes to the laws that apply to businesses through Bill 69. The bill does not create any additional regulatory responsibilities on a business; there are no additional ones. This bill means improved communications; improved communi-

cations means less duplication—which is what your concern was; and less duplication means less headaches for the business community. The bill does that.

I know you have a member sitting on the SBAO, of which I am a member, and the Chair is the chair of that committee. We have done lots of work to in fact achieve what you are asking us to, in particular in the small business section. The chairman, M. Lalonde, has been working hard with a number of PAs in that committee to make major changes because the business community has been asking us to do that. Quite frankly, we see that you are correct, and we are making changes. We are quite proud of the achievement that we have achieved. I believe that next week we are going again in Ontario to speak to people like yourself in small and larger communities so that we can get directly from your members basically what it is that they want us to change. We are responding.

Quite frankly, this bill doesn't add any more red tape. In fact, it is going to modernize what your membership has already done within their industry, within their business.

I want to say that I am certainly pleased with your comment when you feel that—the ministry authorizes teams to assist small businesses. Certainly we see merits in that, and that you agree with us will make us feel even more comfortable on that.

I wanted to ask you a question, if I could, before we go ahead with any other comments. My question to you is, what kind of impact does non-compliance with Ontario laws have on the responsible businesses within your industry?

**Mr. Charette:** I tried to outline that; I'm sorry. Our members want compliance, but the message is that this is to catch bad apples, and there is too much regulation now. The SBAO is a fine organization, and some of the other initiatives are fine. It hasn't gone 1% of the way down the road that we need to travel. It's premature to send—can you imagine teams coming in where a person has three employees, and they come at him from every different angle? Why would you need to send a team in, if it's that simple? There is too much regulation, with respect, Mr. Racco, and it is inappropriate to apply this to small businesses. It's not a help program, if you read the ministerial statement; it's an enforcement program.

**Mr. Racco:** I hear you.

**The Acting Chair:** Thank you. That is it. Time is up, Mr. Racco. I would move on to Mr. Martiniuk of the official opposition.

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**Mr. Martiniuk:** Thank you very much for your presentation. There's very little doubt that this bill does not apply new regulations to business. However, what it does do is expand the enforcement. This bill is also subject to great abuse, because it gives some terrifying powers that inspectors did not have in the past.

However, in your budget presentation you suggested that possibly this bill would exempt small business. Because it does not apply new regulation and all it does is increase the powers of the enforcement mechanism,



have you thought through how a mechanism would exempt small business in particular? I just can't think of any right now.

**Mr. Charette:** Then you just would go into a small business with these teams and share information between ministries and publish records of performance.

**Mr. Martiniuk:** Just exempt it from the whole bill?

**Mr. Charette:** From that enforcement.

Take a look at our regulatory study that's in your binder. There's no human being with a business the size of five, 10, 15, 20 employees who could know all that's expected by all three levels of government, and nobody in government tries to even guess how much workload is out there. Please give it some second thought.

**Mr. Martiniuk:** In applying this particular request, what do you define as a small business? Do you define it by the number of employees? If so, how many?

**Mr. Chera:** Yes. Let me just say that, quite frankly, I think we're missing the point of the arguments that we're making, which is that what this really does is propose to rev up enforcement. That was the key purpose of this legislation. When the minister announced that he was going to bring us in, he said, "We're going to rev up enforcement of 85 statutes and 600 regulations." Our point to you is: How many businesses out there do you know of that know all 600-plus regulations that are on the books right now?

The government has made a commitment to sit down with the small business sector to address the concerns of, "How do we help small businesses comply with regulations?" That's not what this bill does. What this bill does is take a punitive approach: "Let's send out these teams of inspectors and go after businesses that may not know of the regulations that have been imposed, and then say, 'We got you.'" Our recommendation to you is that you need to take a step back; that you need to first address the issue of helping small businesses to comply with the regulations that are currently on the books, because that's not happening today.

Yes, the Small Business Agency is doing a lot of work in terms of trying to address that. We think it should be given the opportunity to finish that work, so at least you get the tools that are out there that are necessary for small businesses to comply with the regulations before you

start sending the inspectors after them. That part, I think—

**Mr. Martiniuk:** This is not my bill, to start with, and that was not the question I asked. I asked a very simple question. We want to exempt, if that's possible—let big business and big government fight it out; that's a fair battle. We want to exempt small businesses. What's a small business? How do you define it?

**Mr. Chera:** I think 20 employees or less, Tom?

**Mr. Charette:** Twenty to 50; 50 is very common—

**Mr. Martiniuk:** Under 50 employees; would that be a reasonable—

**Mr. Charette:** Yes.

**Mr. Martiniuk:** Okay. That's all I want to know.

**Mr. Charette:** The government definition is 500, but in our view, that's—

**Mr. Martiniuk:** Yes. That would be a larger business, in my eyes.

**Mr. Charette:** That's what their definition is.

**Mr. Martiniuk:** Thank you very much.

**The Acting Chair:** I just wanted to say that Judith Andrew from CFIB is part of the SBAO, and the information that she keeps giving us really helps the procedures of the SBAO. We've made a lot of progress in the last year. At the meeting we had at the beginning of 2007, we made a lot of improvements. It's coming.

**Mr. Charette:** Thank you very much.

**Mr. Chera:** Mr. Chair, no one disagrees with that. I think our only point is that with this legislation, all of the work that is being done by the SBAO is going to be put aside. I think that is our major worry here. The government is on the right track in terms of helping to reduce the burden, but this legislation is really in conflict with the work that you folks are doing through the SBAO.

**The Acting Chair:** We appreciate your comments too, and any help that you give us. Thank you very much again for your presentation.

Just before we adjourn, I'd like to say that the deadline for amendments is tomorrow at 4 o'clock. March 27 at 4 o'clock is the deadline for amendments to be submitted to the secretary.

This will conclude our public hearings today. I call the adjournment of this meeting. Thank you.

*The committee adjourned at 1725.*





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