



2024 ORBC Fall Conference

**The Balancing Act: HR Issues Impacting
DS Budgets in 2024/2025.**

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Presentation At-a-Glance

1. Legislation Update
2. Collective Bargaining Trends and compensation expectations
3. Pay Equity Preparedness
4. Pension and Benefit trends, options and obstacles
5. Closures and Layoffs
6. New Revenue Sources– Preparing for J2B

Legislation Update



Working for Workers 4

- Received Royal Assent in March 2024.
- Many of its provisions took effect on June 21, 2024.
- Key Provisions with financial consequences:
 - Clarification on trial periods = employment.
 - Alternate vacation payment agreements where the employee receives their vacation pay on a pay period basis need to be made in writing.
 - Direct deposit payments must be made to an account selected by the employee and in the employee's name.
 - Job Postings
 - Must include wage range and AI usage – not in force yet)
 - Cannot include requirement for Canadian Experience
 - Consultation on a new, 27-week serious or critical illness leave, matching the federal Employment Insurance benefit.

Working for Workers – Part 5

- New, proposed legislation – introduced May 6, 2024 (Bill 190)
- Current status – 2nd reading complete
- Key proposed amendments with financial consequences:
 - Increasing fines for *ESA* violations:
 - Maximum fine doubled from 50k to 100k.
 - Penalty for repeat offenders caught contravening the same *ESA* provision three or more times increased from \$1,000 to \$5,000.
 - Restricting employer right to request medical certificates for eligibility to sick leave
 - Consultation on presumptive coverage for post-traumatic stress in support workers who regularly experience traumatic situations in their jobs – may include DS support workers.
 - More job posting/processing requirements
 - Posting to indicate if the position is vacant
 - Post interview disclosure of status

WHAT'S NEW WITH SICK LEAVE? (pt 1)

CURRENT LAW

- Federal Law – 10 paid sick days
- BC – 5 paid sick days
- Ontario – 3 days unpaid sick leave under ESA (for illness, injury, medical emergency of the worker) CAN ask for medical certificates to verify eligibility for unpaid sick days [s.50]

PROPOSED LAW

- Employers cannot require an employee provide a certificate from a qualified health practitioner – Ontario government has indicated employers will still be able to request other forms of evidence, such as attestation.

WHAT NOW WITH SICK LEAVE?

IN PRACTICE

- Plan now to make your existing sick leave language broad enough to insulate you from claims to additional paid sick time
- Most policies/CBAs are even more restrictive
- Medical certs are a deterrent for abuse but typically unreliable
- Outstanding questions about:
 - notes for access to sick pay?
 - notes for accommodation purposes?
 - attendance management?

MINIMUM WAGE INCREASES

- New changes effective October 1, 2024
- Minimum wage will increase from \$16.55 to \$17.20 per hour (3.9% increase)
- Student minimum wage will increase from \$15.60 to \$16.20 per hour
- Homeworkers minimum wage will increase from \$18.20 to \$18.90 per hour (applies to students who are homeworkers) – NOT domestic workers
- Review compliance for overnight flat rates

WHAT'S ALL THIS ABOUT TEMP AGENCIES?

Long Standing Requirements

- THAs must treat their workers as employees
- Must have WSIB
- Must record hours and provide info
- THA clients liable for non-payment

JULY 1ST

- THAs must be licensed
 - [Licensing for temporary help agencies and recruiters | ontario.ca](#)
- Fines and penalties for using unlicensed THA and recruiters

RECOMMENDATIONS

- Survey your THAs
- Check the registry
- Revise your contracts

WHAT'S THE FUSS AROUND MANDATORY OVERTIME?

THE LAW

- ESA says employees can't be required to work beyond 8 hours or their scheduled hours in a day, without agreement. [s.17(1), s.17(2)]
- Exceptions for "emergencies" in "essential services" [s.19]
- BUT.....

IN PRACTICE

- Common expectation that employees are expected to stay
- Collective agreements typically address this – unions agree
- Employment contracts and policies

TRENDS

- Increased demands for supervisors/managers to relieve stuck shifts
- Increased expectations around compensation
- Increased accommodation requests

“NEW” RULES FOR VACATION PAY?

THE LAW

- ESA says employees are to receive vacation pay on the payroll before the time at which they take vacation. [s.36(1)]
- Paying vacation in another way needs to be in writing. [s.36(4)]

IN PRACTICE

- Vacation paid on each pay (for PT/Casual)
- Vacation banked and paid out on demand (for PT/Casual)
- Vacation paid on the payroll date applicable to the date that vacation is taken (for FT/Salaried/some PT)

WHAT’S THE FUSS?

- Contracts/CBAs/policies (something with a signature) needs to confirm the payment timing.

Collective Bargaining Trends



Wage Restraint Law “Bill 124” is Struck Down as Unconstitutional

- ***Ontario English Catholic Teachers Assoc. v. His Majesty, 2022 ONSC 6658***
 - Bill 124 declared unconstitutional with immediate and retroactive effect.
 - Bill found to have violated protections for collective bargaining and the right to strike in the *Charter of Rights and Freedoms* in a way that was not justifiable.
 - ONCA appeal dismissed.
 - No SCC appeal.

Different Types of Re-openers

- Single Trigger = Repeal
- Double Trigger = Repeal + new funding
- Double Trigger with conditions = Repeal + new funding that exceeds existing or that is specific for wages
- Consequences =
 - Meet to discuss
 - Meet to try to negotiate
 - Negotiate
 - Apply the increase

In Practice....

- PCE applies to the same time period
- No new money
- Bigger increases than pre-Bill 124 anyway
- Most re-opener discussions rolled into subsequent rounds of negotiations
- No current non-HLDAA arbitration awards reported
- No new funding to address Bill 124
- New funding not tied to wages so....
 - Single and double trigger re-openers may apply

Wage Reopener Awards

Union	Employer	Additional Increases
SIEIU	Summit Housing and Outreach Program	<u>Term: September 2020–August 2023</u> September 2020: 1% additional increase (2% total) September 2021: 1.5% additional increase (2.5% total) September 2022: 2.5% additional increase (3.5% total)
CUPE	Broadview Foundation (Chester Village)	<u>Term : January 2022–December 2023</u> January 2022: 3.5% additional increase (4.5% total) January 2023: 3.5% additional increase (4.5% total)
SEIU	Participating Hospitals	<u>Term: January 2022–December 2023</u> Year 1: 3.7% additional increase (4.75% total) Year 2: 2.5% additional increase (3.5% total)
UFCW	Revera Long Term Care Inc. O/A Sara Vista	<u>Term: September 2021–August 2023</u> September 2021: 3.5% additional increase (4.5% total) September 2022: 3.5% additional increase (4.5% total)

Compensation at the Bargaining Table

- Big expectations for “catch up” post Bill 124
- Viewing \$3.00 as irrelevant
- Initial demands of:
 - \$5/hour ?!?
 - Increased paid time off (sick, covid, vaca, Truth and Reconciliation)
 - Premiums for overnights and weekends
 - Increased pay for public holidays and forced stay situations
- Expectations of 3% per year
- Settlements involve 1.5%/year if you're lucky, plus sizeable signing bonuses
- Some as high as \$1/year



Examples Reported:

- **CUPE Agreements**

- Stipends in early years + larger end term
 - Ex. CL Kincardine, CL Guelph, CL Windsor
- Annualized increases
 - Rygiel, CL Essex, Bethesda

- **OPSEU**

- Stipends in early years + larger end term
 - CL North Perth, CL Tillsonberg,
- Large recurring annualized increases
 - CL North Bay, Reena

- **SEIU**

- Significantly delayed negotiation – demands for 3% per year – rejection of stipends – no strike mandate



Pay Equity Preparedness



Pay Equity Refresher

- Pay Equity
 - Proxy Pay Equity
 - Job to Job
 - Achieving and Maintenance
- Best Practices
 - Understand current pay equity status (achieved or in maintenance?)
 - Any changes in circumstances?
 - Maintain current and up-to-date-records and records of any adjustments issued in each year for various job classes

Pay Equity & Approaches to Offering Proposed Increases

- Trends in proposed increases for non union positions such as Directors/Managers based on new evaluations
- Important to assess the impact of these increases on other positions and their pay equity lines
- Varied approaches to offering proposed increases tied to different levels of liability
- Also, consider impact of PCE

Pay Equity Update

- ***Glen Hill Terrace Christian Homes Inc. v. CUPE Locals 2225-06/12 and 5110***
- The issue to be determined by the Pay Equity Tribunal was what processes and procedures should be directed to ensure that female job classes continue to have access to male comparators for the purpose of pay equity maintenance.
- However, question of appropriate comparator not addressed.
- Recent decision opens the door to:
 - Internally pay equity if now have internal male dominated comparator
 - New comparators in sector

Pension and Benefit Trends



Benefit Trends

Banking and Paying out Vacation

- Short staffing has resulted in large banks
- Increased pressure for carry over
- Calculation of payouts

Banking Sick Time

- Pressure for more time
- Pressure for carryover and payouts

Banking Lieu Time

- Managing overtime
- Pressure for lieu time
- Pressure for larger banks and long periods for use

Benefit Trends cont.

Benefit/Pension Cost Escalation

- Benefit plan increases
- WSIB imbedding

Cost Containment

- Drug Caps
- Generics
- WSIB Alternatives
- Pension alternatives

Closures and Layoffs



Closures and Layoffs

- Agency's forced to close/merge programs and sell homes in order to make payroll
- Be mindful of:
 - Advance notice requirements
 - Structure of bumping procedure
 - Any "right" to payouts
 - Recall rights

New Revenue Sources- Preparing for J2B



New Revenue Sources – Preparing for J2B

- Mind your collective agreement restrictions:
 - Contracting out
 - Bargaining unit work
 - Job postings
 - Transfers
 - Seniority based assignment of work and shifts
- Consider new classifications
- Consider your contracts and forms

Questions?