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ONTARIO'S WAGE RESTRAINT PROGRAM: BILL 179

The following analysis of Bill 179 has been adapted from a document prepared jointly by Sack, Charney, Goldblatt and Mitchell, CAUT and OCUFA and represents the best judgement to date as to the meaning of various parts of the bill. Where there are difficulties in interpretations these are indicated in the text. It is clear that a number of ambiguities will have to await regulations from the Inflation Board, or even rulings in actual cases appearing before the Board.

As far as the CUASA Executive has been able to determine, it would seem that members of the bargaining unit whose nominal salaries are \$35,000 or greater will be limited to 5% and they will not be eligible to receive career development increments or scholarly achievement awards. Those earning less than \$35,000 will receive 5% and be eligible for career development increments and scholarly achievement awards provided that the addition of such sums does not push their salaries over \$35,000.

ONTARIO BILL 179: WAGE RESTRAINT AND PRICE MONITORING

On September 21, 1982, the Progressive Conservative Government of Ontario introduced a Bill respecting wages and collective bargaining in the public sector of Ontario as well as a price monitoring system for government-"administered" prices. This report is an overview of the legislation as well as a discussion of its major features, including the more ambiguous provisions, as they relate to the academic staff at Carleton.

This overview is based on the legislation as presented to the Legislature on September 21, 1982. The Bill has not yet been passed and there could be amendments. Also, much leeway is given to the Inflation Restraint Board to make final decisions in many areas. The Cabinet is also given the power to issue regulations and modifications; therefore, we will have to await the decisions of the Board and the issuing of the regulations before being able to answer questions with certainty concerning the specific application of the Act.

INTRODUCTION

The Bill has five sections:

- Part I - Inflation Restraint Board - this section outlines the composition and organisation of the Board which will oversee the Act.
- Part II - Public Sector Compensation Restraint - this is the most important section; it outlines how the wage restraint program will function, who the program covers and what limits are imposed.
- Part III - Administered Prices - this part deals with the review mechanism for provincially administered prices (e.g., Ontario Hydro rates)
- Part IV - Private Sector Monitoring - this part deals briefly with how the Restraint Board will monitor activity in the private sector.
- Part V - General - this is the final housekeeping section.

THE INFLATION RESTRAINT BOARD

The Inflation Restraint Board will have at least 3 members, each of whom can act as the Board. It has been announced that Jack Biddell, the former chairman of Clarkson, Gordon and Ontario's Commissioner on the 1975 federal Anti-Inflation Board, will chair the Board.

Under section 3.(4), the Board may hold hearings but is not required to, nor is the Board required to provide explanations (oral or written) for its actions or decisions.

RESTRAINT PROGRAM

This section details who falls under the legislation, for what period of time and what level of compensation is allowable.

The Act will cover all public and para-public employees of the Ontario government. Each group will have to spend at least one year in the control system.

HOW DOES THE PROGRAM OPERATE?

Since we have a multiyear collective agreement that runs beyond October 1, 1983, it is expected that on May 1, 1983 (our "anniversary date") the salary increases will be 5%.

WHAT IS COMPENSATION?

section 4(d) "compensation" includes all forms of fixed and ascertainable payment, including benefits and perquisites, given directly or indirectly for duties performed;

section 4(e) "compensation plan" means the provisions, however established, for the determination and administration of compensation, and includes such provisions contained in collective agreements or established bilaterally between an administrator and an employee, unilaterally by an administrator or by or pursuant to any act of the Legislature;

section 4(f) "compensation rates" means single rates of remuneration or ranges of rates of remuneration, including cost-of-living adjustments, or, where no such rates or ranges exist, any fixed or ascertainable amounts of remuneration;

There will be difficulty in evaluating some items in the compensation plan if they are changed. For example, if a dental plan is changed, what effect would this have on the compensation rate? The Bill is not explicit as to whether the Inflation Restraint Board must become involved in every change to any compensation plan, but either party can request the Board to compute the value of any such proposed change.

WHAT IS THE ALLOWABLE INCREASE IN COMPENSATION?

The legislation sets out the limits by which compensation rates can be increased in the control year(s). Since we have a collective agreement that specifies a certain compensation rate in force as we enter the initial control year, this rate can in that year be increased by only 5%.

ARE STRIKES BANNED?

Strikes are not explicitly banned by the Bill, but under the Ontario Labour Relations Act we cannot strike during the term of our collective agreement while the no-strike, no-lockout provisions are in force. The strike route is therefore unavailable for us to use to indicate our attitude concerning the effects of this legislation.

IS THERE ROOM FOR NEGOTIATIONS?

The Bill allows for "negotiations" over non-monetary matters and over monetary matters, provided the compensation package is within the limit of the legislation. Our collective agreement can still be changed at any time if both parties agree, but if this affects the compensation package, the Inflation Review Board must agree to the change. In Ontario, both parties to a collective agreement under the Labour Relations Act have a duty to bargain in good faith during the negotiation of a first contract or the re-negotiation of contracts thereafter. This duty does not exist during the control period. The parties can still discuss changes and if both agree they can make changes, but there is no requirement that either party actually consider any proposals.

Premier Davis stated on September 21, 1982 that collective bargaining on non-monetary items may continue, but what the Premier calls collective bargaining is far from real collective bargaining.

ARE THERE EXEMPTIONS?

Under section 17(5), the Board can ask the Cabinet to exempt a group and/or individual from the terms of the Act. The British Columbia restraint legislation, for example, allows an employer to go beyond the restraint limit in order to hire or retain someone for a particular job considered important to the provincial economy. We assume that the Board will develop a policy on such exemptions.

WHAT OF CAREER DEVELOPMENT INCREMENT SYSTEMS?

This is obviously a very important question for academic staff. Under section 12(5), no increase in compensation for or in recognition of a meritorious or satisfactory work performance or completion of a specified period of work experience is possible after September 21, 1982, if the payment of this would bring a person above an annual compensation of \$35,000. It would appear that, aside from the \$35,000 limitation, the CDI system can continue and increments can be included in the 5% allowable increases. This would not apply to an increase that is the result of a promotion (provided the promotion was based on the normal system of promotion in existence before September 21, 1982).

It would appear that if one were promoted from a rank to another (e.g., associate to full professor) and this required raising your compensation rate to the floor of the new rank, then even if the increase needed to bring you to the floor was more than 5%, you would receive it.

WHAT ARE THE POWERS OF THE RESTRAINT BOARD?

The Bill gives the Restraint Board very wide powers to investigate and to force rollbacks and paybacks. Rulings of the Board can be filed with the Ontario Supreme Court to be enforced. The Cabinet is given the power to modify the Act, to make new regulations and to issue clarifications. In general, the Cabinet will be able to change the program as it goes along if it feels this is necessary.

ARE THE UNIVERSITIES AFFECTED BY THE ADMINISTERED PRICES?

The section on administered prices does not directly affect the universities but in his speech in the legislature on the Bill, Premier Davis did announce that tuition fees would be limited to a 5% increase for 1983-84.

WHAT'S BEING DONE?

OCUFA has instituted a broad program of legislative lobbying. They are working actively with other public sector organizations to fight this legislation and its effects. If you wish to assist OCUFA in their lobbying efforts you may reach them at 416-979-2117 or write to 40 Sussex Avenue, Toronto, M5S 1J7.