



## **Bill 124 – The Protecting a Sustainable Public Sector for Future Generations Act, 2019**

To: Presidents and All Members  
From: Harvey Bischof, President

### **For Information**

On June 5, 2019, the Ford government introduced Bill 124 that will enact the *Protecting a Sustainable Public Sector for Future Generations Act, 2019*. The purpose of the Act is to limit increases in public sector compensation to 1% per year over a three-year period.

The Bill will affect the vast majority of OSSTF/FEESO members when implemented. Since it applies to all school boards, universities, and colleges, it will apply to all OSSTF/FEESO members in the public education, Catholic education and French language education systems, as well as at universities. The only OSSTF/FEESO members who will not be directly affected are those who work for private employers, specifically the Bargaining Units in District 34.

### **The Moderation Period**

The Bill imposes a three-year “moderation period”, during which increases in compensation are limited. The beginning of the moderation period varies depending of the status of a Collective Agreement on June 5, 2019.

- a) If a Collective Agreement is in place on June 5, the moderation period begins the day after the Collective Agreement expires.
- b) If no Collective Agreement is in place on June 5, because it has expired and no new agreement has been reached, the moderation period begins on the day following the expiry of the previous Collective Agreement.
- c) If no Collective Agreement is in place on June 5, because a first Collective Agreement is being bargained, the moderation period begins on the first day of the new Collective Agreement.

For Bargaining Units in school boards covered under the *School Boards Collective Bargaining Act*, this means that the moderation period will begin on September 1, 2019 and end on August 31, 2022. For any OSSTF/FEESO Bargaining Units that are currently negotiating their first Collective Agreement, the moderation period will start on the first day of the new agreement.



For other OSSTF/FEESO Bargaining Units, except those in District 34, the moderation period begins at the expiry of their current Collective Agreement where one is in place, or the expiry of their last Collective Agreement if it has expired. The moderation period in all cases will end three years after the date that it starts.

### **1% Limitation During the Moderation Period**

The Bill places a 1% limit on increases on salary and compensation during each year of the moderation period. The definition of compensation is broad, and includes salary, benefits, perquisites and all forms of non-discretionary and discretionary payments. Perquisites are any incidental payments, privileges, etc. in addition to salary and benefits. The 1% limit is calculated as an average of increases in existing and new compensation entitlements for all employees covered by the Collective Agreement.

The 1% limit does not apply to increases based on an employee's length of employment, an assessment of the employee's performance, or the successful completion of a program or course of professional or technical education. Therefore, OSSTF/FEESO members can move on a salary grid without it counting toward the 1% limit.

The 1% limit also does not include any increases in the cost of providing benefits that existed on the day before the moderation period started. Therefore, any increase in employers' contribution to existing extended health and dental benefits plans will not count toward the 1% limit, as long as the benefits provided by the plans remain unchanged.

In order to prevent employers from trying to circumvent the legislation, Bill 124 prohibits employers from providing compensation either before or after the moderation period that compensate employees for amounts they did not receive because of the limits imposed during the moderation period.

### **Exemptions and Restrictions**

The Minister is given the authority to exempt any Collective Agreement from the application of the Act. Furthermore, the Act prevents the Ontario Labour Relations Board, arbitrators, and other tribunals from making a decision on whether the Act or an order made under the Act is unconstitutional or conflicts with the Human Rights Code.

### **Conclusion**

Bill 124 is broad and far-reaching, and places limits on OSSTF/FEESO's ability to freely bargain compensation with employers. The Bill was introduced to the Legislature on June 5 and will not be passed before it resumes its business in late October 2019. However, the Bill is worded in such a way that, when passed, it will apply retroactively and retrospectively to June 5, 2019, and therefore any agreements made after that date would be subject to its provisions.

OSSTF/FEESO is considering options for addressing this Bill and will update members on future developments.

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