

Some good news for franchisors, but not out of the woods: Ontario's proposed changes to employment and labour laws could still impact franchising

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Authors: [Andraya Frith](#), [Dominic Mochrie](#), Paul Kotschorek

The Ontario government has responded with surprising speed to the Final Report from the *Changing Workplaces Review* (the Final Report) by introducing Bill 148, the *Fair Workplaces, Better Jobs Act, 2017* on June 1, only eight days after the release of the Final Report on May 23, 2017. Bill 148 is intended to implement certain recommendations made in the [Final Report](#).

In a positive development for franchisors and franchisees, Bill 148 does *not* include measures to adopt the more drastic recommendations in the Final Report that were specifically directed at franchise systems. In particular, the draft legislation does not reflect the recommendation that multiple franchisees of the same brand operating in the same geographic area be required to bargain together centrally with local employees towards one collective bargaining agreement, and that an "employer bargaining agency" made up of representatives of the franchisee employers represent the franchisees at the bargaining table with the union.

However, franchisors and franchisees should be aware that among the proposed changes to the *Labour Relations Act* in Bill 148 are measures that may increase the number of union drives and successful applications for certification:

- The amendments would allow the Ontario Labour Relations Board to change the structure of bargaining units within a single employer making it easier for employees of a single employer operating multiple businesses to be certified as one bargaining unit. This proposed change could impact multi-unit franchisees and franchisors with multiple corporate stores in close geographic proximity to each other.
- It would be open to trade unions in the building services, home care and community services, and temporary help agency industries to apply for certification without a representation vote. Rather, the Labour Relations Board would have the discretion to certify the union if it is satisfied that more than 55% of the employees in the bargaining unit are members of the trade union. However, the Labour Relations Board would also have discretion to dismiss applications for certification without a representation vote where it finds, upon application of an "interested person," that there is evidence that such application does "not likely reflect the true wishes" of the employees.
 - It is important to note that "building services industry" is broadly defined, and includes

cleaning services, food services and security services – segments of the economy that are commonly serviced by franchised brands.

- Where no trade union has been certified as bargaining agent and no collective agreement is in place, a trade union may apply to the Labour Relations Board for an order for an employer to provide a list of its employees. If successful, the trade union can use the list in its campaign to establish bargaining rights.

Beyond the above-mentioned labour law developments, franchisors and franchisees should also be aware of the numerous other proposed changes to the Ontario labour and employment law regime that will directly impact all small businesses, including new shift scheduling rules, equal pay for equal part-time work provisions, and an increased minimum wage (to \$15/hour by January 1, 2019). For more details on these proposed changes affecting all employers, read the Osler Employment and Labour Group's [update on the Ontario government's recommendations](#).

[Bill 148](#) was referred to committee on June 1, 2017. We will continue to monitor these developments and provide future Updates.

Webinar

The Osler [Employment and Labour Group](#) is holding a webinar to discuss the impact of the changes proposed by Bill 148 in greater detail. The webinar is scheduled for Tuesday, June 20 from 12:00 pm – 1:00 pm EST and again on Thursday June 22, from 8:00 a.m. – 9:00 a.m. EST and 3:00 p.m. – 4:00 p.m. EST If you are interested in taking part please email seminars@osler.com.