

Alberta Federation of Labour



**Submission to
the House of Commons
Standing Committee on Finance
on Bill C-377**

October 18, 2012



Submission to the House of Commons Standing Committee on Finance on Bill C-377

October 2012

Introduction

The Alberta Federation of Labour (AFL) is a voluntary association of unions and employee organizations that have banded together to achieve common goals. These goals include the protection and strengthening of wages, pensions, and safe workplaces.

We strive to achieve these goals through education, lobbying, and politics. The membership of the Federation determines these means through direct and democratic processes at conventions and council meetings. As such, the AFL is accountable to the unions affiliated to the Federation, just as those unions are accountable to their members.

We are in favour of transparency and are happy to support new disclosure rules through amendments to Alberta's *Labour Code*. Union members have a right to information about their union's administration. Most unions have provisions in their constitutions about sharing financial information with their members, but this information should not be available to the broader public. For example, information on strike funds and organizing funds could give employers or competing unions an unfair advantage during labour disputes or organizing drives.

But Bill C-377 isn't about transparency. It's about weakening the ability of unions to advocate effectively on behalf of their members. It's also about weakening a strong voice in civil society that offers alternatives to Conservative policies.

Bill C-377's onerous and intrusive reporting requirements will increase costs to unions and amount to an attack on the right-to-associate. These costs will undermine the ability of unions to represent workers as they'll be forced to divert resources from collective bargaining and servicing to reporting and filing forms with the federal government.

We view Bill C-377 as another example of the Harper government's tactic of marginalizing, defunding, and otherwise demonizing progressive voices in Canada. Consider some of the progressive groups that the Harper government has attempted to silence through budget cuts or outright attacks: women's groups, scientists, charities devoted to environmentalism, aboriginal groups, and lesbian, gay, transgender, bisexual and queer rights groups.

However, Bill C-377 is more dangerous than previous examples of the Harper government silencing dissenting and progressive voices and as such deserves special attention.

Freedom of Expression and Freedom of Association

Firstly, Bill C-377 is dangerous and deserves special attention because it targets activities that are protected by the *Canadian Charter of Rights and Freedoms* and it seeks to do so with organizations that are independently run outside of the public sector.

Lobbying, political and labour organizing and collective bargaining activities are protected under the *Charter's* protection of freedom of expression under section 2(b) and freedom of association under section 2(d).¹ Provisions within Bill C-377 requiring detailed statements on spending for political activities, lobbying activities, organizing activities and collective bargaining activities could be unconstitutional.

Disclosure

Secondly, this Bill is dangerous and deserves special attention because it will force the disclosure of a far wider range of information from a far wider range of groups and organizations than the Bill's boosters publicly acknowledge.

Member of Parliament Russ Hiebert (South Surrey-White Rock-Cloverdale), the sponsor of the Bill, has carefully cast it in the light of "union" disclosure, but he's failed to mention, both in the House and in public, that it would require more than just 'trade unions' to disclose their finances and activities.

Police and firefighters' associations, Crown prosecutors' associations, doctor associations, faculty associations, and many other groups would be required to conform to the Bill's extremely onerous and invasive reporting requirements. Mr. Hiebert and the Bill's private-sector boosters like the Merit Contractors Association have failed to mention this critical point and seem content to let these thousands of groups get blindsided by C-377 should it become law.

We ask that the Standing Committee on Finance consider carefully and get a true accounting of the range and scope of groups that could be affected by this Bill should it pass.

There is even some question as to whether organizations representing employers' interests would be subject to C-377 should it pass in its present form.² Again, this is something that Mr. Hiebert and C-377's boosters have not acknowledged.

Low Wage Agenda

Thirdly, this Bill is dangerous and deserves special attention because this Bill is also part of what we see as the Harper government's low-wage agenda. "Labour organizations play a valuable role in society, representing and defending the rights of workers to health and safety on the job and ensuring that they have proper compensation for the work they do," according to MP Hiebert, and we are in complete agreement with this statement.³

Which leads one to ask: if a Member of Parliament truly believed this statement, why would he introduce a Bill that goes beyond 'disclosure' and into the realm of extremely onerous and invasive reporting? Our only conclusion is that one of the goals of the Bill is to divert union resources usually devoted to protecting workers' wages, pensions, and working conditions through bargaining and advocacy to accounting and dealing with red tape. The goal is clear: undermine unions in the work they do protecting wages, benefits, and working conditions.

¹ Canadian Bar Association, "Letter to Finance Committee: Bill C-377 – *Income Tax Amendments* (requirements for labour organizations), September 2012, <http://www.cba.org/cba/submissions/pdf/12-52-eng.pdf>

² Canadian Bar Association, "Letter to Finance Committee: Bill C-377 – *Income Tax Amendments* (requirements for labour organizations), September 2012, <http://www.cba.org/cba/submissions/pdf/12-52-eng.pdf>

³ MP Russ Hiebert, House of Commons *Hansard*, December 5, 2011

In this respect, we see Bill C-377 as a plank in the Conservative government's agenda to depress Canadians' wages. Other planks include changes to the Employment Insurance Program designed to force unemployed Canadians into low-wage jobs, extending the work life of Canadians by changing the age people are eligible for Old Age Security from 65 to 67, and changes to the Temporary Foreign Worker Program allowing employers to bypass Canadians looking for work and to pay the workers under this program wages up to 15 per cent less than Canadians earn.

Impact on Pensions and Benefit Plans

Finally, this Bill is dangerous and deserves special attention because of its potential impact on pensions and benefit plans. "Labour trusts" would be required to submit the similarly onerous and intrusive – and therefore expensive – reports to the Conservative government as "labour organizations" would be forced to. Complying with the Bill's provisions will be so expensive that health, pensions, and other returns to workers – both union and non-union – will be decreased. This is another odious aspect of Bill C-377 that Mr. Hiebert and its boosters have failed to mention.

The Bill defines "labour trust" as "a trust or fund...that is established or maintained in whole or in part for the benefit of a labour organization, its members, or the persons it represents."⁴ This broad definition would capture benefit funds that has any unionized beneficiaries, including public-sector plans and any public or private funds with union funds therein.

The Multi-Employer Benefit Plan Council of Canada (MEBCO) notes that, "These funds have fixed contribution rates and fixed resources, and therefore, the cost of compliance will necessarily result in smaller benefits for workers."⁵

For a case study into how far reaching these ill-conceived reporting provisions are, one needn't look further than the anti-union Merit Contractors Association (Merit), private-sector champions of Bill C-377.

Earlier this year, Merit launched a national campaign in support of Bill C-377 complete with a website⁶, news releases, and opinion pieces in newspapers across Canada. But nowhere in Merit's campaign in favour of Bill C-377 do they mention the Bill's damaging effect on pensions and benefits of unionized and non-unionized workers, including their own workers.

The funds Merit has set up for the benefit of its workers would get captured under Bill C-377 and be subject to its extremely onerous and invasive reporting requirements.

Merit is predominantly a non-union company, but there are a few nominally unionized shops involved with it. As such, Merit has funds "in part for the benefit of labour organizations,"⁷ and, as per the wording of the Bill, those funds would be subject to the onerous, intrusive, and expensive reporting requirements.

Merit's registered retirement savings plan (RRSP) has union money in it: the Collective Bargaining Agreement (CBA) between Alpine Heating Ltd. and Independent Air Handlers Employee's Association allows for those unionized workers to have some of their wages put into Merit's RRSP administered by Royal Investment and Savings.⁸

⁴ Bill C-377, *An Act to amend the Income Tax Act (requirements for labour organizations)*, 1st sess., 41st Parliament, 2011, 149.01(1)

⁵ <http://www.mebco.org/index.php/submissions/54-federal/health-canada/35-ministers-ltr-c-377-1>

⁶ <http://www.uniontransparency.ca/>

⁷ Bill C-377, 149.01(1)

⁸ Collective Bargaining Agreement between Alpine Heating Ltd. And Independent Air Handlers Employee's Association, August 1, 2012,

The Merit's group insurance plan would also be affected by C-377's onerous reporting requirements: the CBA between Canem Systems Ltd. and CANEM Systems (Edmonton) Employees Association has money invested in the "Group Insurance Plan underwritten by the Merit Contractors Association."⁹

Merit's "Hour Bank Benefit Plan" would be subject to C-377: the CBA between Cana Service Ltd. and Cana Services Employees Association shows that the company will "pay 100% of the Hour Bank Contributions" for the benefit of those unionized workers.¹⁰

This "Hour Bank Benefit Plan" is run by Mercon, Merit's "comprehensive and affordable medical, dental and insurance program."¹¹ Mercon's sole director is Stephen Kushner, who is also President of the Merit Contractors Association.

According to the letter of Bill C-377, as director of Mercon, Mr. Kushner's "gross salary, stipends, periodic payments, benefits (including pension obligations), vehicles, bonuses, gifts, service credits, lump sum payments, other forms of remuneration and, without limiting the generality of the foregoing, any other consideration provided, and a record of the percentage of time dedicated to political activities and to lobbying activities"¹² will be required to be submitted to the government and posted on the Canada Revenue Agency website.

As a professed supporter Bill C-377, we're sure Mr. Kushner didn't set out to include his own activities captured under the rubric of 'transparency.' Furthermore, we hope for the sake of Merit's workers that he didn't set out to deliberately undermine those workers' benefit plans by having the same onerous reporting requirements he wants applied to unions applying to workers with the contractors affiliated with Merit. But what we are sure about is that if passed, this Bill, in its goal to undermine labour unions as a strong voice for workers, will have far-reaching and dangerous effects that even its most ardent supporters either don't understand or are willfully ignorant of.

The ramifications of C-377 on pensions, health, and other benefits could be profound and detrimental to the tens-of-thousands of workers and retirees receiving benefits or planning for their retirement. And not just unionized workers, as illustrated by the above example of Merit Contractors Association. If part of a fund is for the benefit of a labour organization, as defined by the Bill, the entire fund, its directors, trustees, officers, and staff will be captured in C-377's sweeping requirements should it pass in its present form.

<http://employment.alberta.ca/apps/cba/docs/60249-2012-08-01-2014-07-31-CBA-FOIP.pdf>

⁹ Collective Bargaining Agreement between Canem Systems Ltd. And CANEM Systems (Edmonton) Employees Association, June 2011,

<http://employment.alberta.ca/apps/cba/docs/60460-2011-06-01-2014-05-31-CBA-redact.pdf>

¹⁰ Collective Bargaining Agreement between Cana Service Ltd. And Cana Services Employees Association, January 1, 2012,

<http://employment.alberta.ca/apps/cba/docs/60454-2012-01-01-2014-06-30-CBA-redact.pdf>

¹¹ Merit Contractors Association, "Benefit Plans," <http://www.meritalberta.com/dnn1/ProgramsServices/BenefitPlans.aspx> accessed October 16, 2012

¹² Bill C-377, 149.01(3)(b)(vii)

Conclusion

We urge Members of Parliament to vote against this Bill.

It is our view that Bill C-377 is not about transparency. Rather, it's about weakening the ability of unions to advocate effectively on behalf of their members and weakening a strong voice in civil society.

Bill C-377's onerous and intrusive reporting requirements will increase costs to unions and these costs will undermine the ability of unions to represent workers as they'll be forced to divert resources from collective bargaining and servicing towards accounting and bureaucracy. In this respect, Bill C-377 amounts to an attack on the right-to-associate, a right protected under the *Canadian Charter of Rights and Freedoms*. Likewise, political and lobbying activities are protected under the *Charter*, yet Bill C-377 targets them by requiring disclosure on those activities.

It will force the disclosure of sensitive information on the inner workings of unions that could be used against them during bargaining, strikes or lockouts, or organizing drives by employers or rival unions.

It is clear to us that this Bill amounts to an attack on the labour movement as a whole, and yet, should this Bill pass in its present form, the results will be profound and detrimental to a large cross-section of Canadian society. There are likely thousands of 'labour organizations,' as defined by the Bill, that will be caught flatfooted by C-377's disclosure requirements.

Furthermore, there are likely hundreds of thousands of workers and retired workers – both unionized and non-unionized – that will see their benefits and pensions reduced in order to pay for the costly, arduous, and insidious reporting requirements.

Mr. Hiebert, the sponsor of Bill C-377, concedes that, "Labour organizations play a valuable role in society, representing and defending the rights of workers to health and safety on the job and ensuring that they have proper compensation for the work they do."¹³ The benefits labour organizations provide Canadians are self-evident, by MP Hiebert's own admission, so we must question why Mr. Hiebert would sponsor a Bill that is clearly designed to undermine the ability of unions to act on behalf of their members and advocate for a progressive vision of Canada through politics.

For these reasons, we again urge Members of Parliament to vote against Bill C-377.

TC/GM:kp*cope458

File: G:\Research\Briefs\2012\2012 Oct 18 AFLSubmission to the House of Commons Standing Committee on Finance on Bill C-377.docx  
Thursday, October 18, 2012

¹³ MP Russ Hiebert, House of Commons *Hansard*, December 5, 2011