



# THE EMPLOYERS'Edge BULLETIN

## A PRIVATE MEMBER'S BILL PROPOSES SWEEPING CHANGES TO THE *EMPLOYMENT STANDARDS ACT, 2000*

On June 1, 2009, NDP Employment Standards Critic Cheri Di Novo introduced Private Member's Bill 189. If passed, the bill will make sweeping changes to the *Employment Standards Act, 2000* that could significantly impact employers and their business operations.

The Bill proposes a number of measures that aim to provide workers with additional protection. Most importantly, the Bill will add a new part allowing a person to file a claim for unjust dismissal provided that s/he has completed three consecutive months of continuous employment. In the event that an employment standards officer decides that a person has been unjustly dismissed, the officer will have the power to order the employer to pay compensation to the dismissed employee or to reinstate the person to their previous position, and may order any other thing that is equitable in the circumstances.

If passed, the Bill will also increase the power of employment standards officers regarding complaints and enforcement. Currently, an employment standards officer has the discretion to respond to complaints by making various orders. If enacted, the Bill will require that orders must be made in specific circumstances. Complaints regarding termination as a result of a reprisal will be dealt with under an expedited procedure and the terminated individual may be reinstated pending the resolution of the complaint.

Various amendments are also proposed relating to unpaid wages. The Bill provides that any unauthorized deductions from an employee's wages are deemed to be unpaid wages owing to the employee. Unpaid wages will also earn interest and will constitute a lien that will be charged and secured against the employer.

Additionally, a new section of the Bill will prohibit employment agencies from charging or receiving a fee for employing or obtaining employment for a person or providing information about employers seeking employees. "Employment agency" is defined under the Bill to include a business that provides services for the purpose of finding workers employment with employers or supplying employers with workers."

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Other noteworthy proposed changes include a broader definition of what constitutes an “employee” or “employer”. An employee is defined to include “anyone who works on a personal basis or supplies services on a personal basis in an activity or enterprise, whether a person receives wages directly or indirectly from the employer” and “whether or not the person is employed under a contract of employment.” An employer is defined to include “every entity or person involved in an activity or enterprise who is directly or indirectly responsible for the work of a person in it.” These broader definitions of “employee” and an “employer” may capture employment relationships in which employment agencies supply labour to various companies, and may capture independent contractors.

If enacted, this Bill will have significant implications for employers. Although the Bill has only received First Reading, we will continue to monitor its progress and advise you of its status.