

Submission on Bill 175 —
Ontario Labour Mobility Act, 2009

Ontario Legislative Standing Committee on Justice Policy
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Canadian Union of Public Employees
(CUPE) Ontario

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Over 225,000 Canadian Union of Public Employees (CUPE) members in Ontario work in the public sector. CUPE members work in health care (hospitals, paramedics, long-term care, and home care), municipalities, hydro utilities, libraries, social services (child care, mental health, developmental services and community-based agencies), and in the education sector (early learning, elementary/secondary and post-secondary). Many of these CUPE members are trades workers who are certified to practice their trades; others are professionals who are regulated by various Colleges and Associations in their professional roles.

We are here today on behalf of these members because we have serious concerns about Bill 175: An Act to enhance labour mobility between Ontario and other Canadian provinces and territories.

There are very few—if, in fact, there are any at all—barriers to labour mobility in Canada. Canadian citizens and other residents in Canada are constitutionally guaranteed the right to live and work in any province or territory. The issues around labour mobility that did exist have been voluntarily dealt with through measures such as the Interprovincial Standards Red Seal Program for skilled trades workers.

We think it entirely defensible, in the context of this essential freedom of Canadians to live and work anywhere in the country, that provinces and territories are able to maintain local standards for certifying and regulating their workforce. Bill 175, as it is now written, requires that Ontario regulators, such as Colleges and Professional Associations, have to recognize certifications acquired in other jurisdictions that may have lower standards. Ontarians must have a provincial government that is committed to protecting them, not one that is willing to unnecessarily jeopardize public safety. This increased risk to public safety is further institutionalized in Bill 175's requirement that Ontario regulators "harmonize" their standards with those across Canada. This is code for bringing standards down to the lowest common denominator. This will not benefit Ontarians nor will it increase their confidence that their government is protecting them.

Further, the emphasis Bill 175 places on regulating bodies (which may include Governmental agencies, municipalities, and NGOs, such as the Association of Early Childhood Educators or the College of Nurses) is unrealistic. Such bodies must now investigate certification standards and practices across provinces and territories in Canada and then make informed—and defensible—decisions as to whether and how they will proceed to certify individuals who possess such certifications. Ontario's

occupational and professional regulatory bodies are not equipped to make such assessments and decisions. Many of them—especially non-governmental regulatory bodies such as Colleges and Associations—are funded by voluntary or compulsory fees paid by certified members. The financial burden on these members will certainly increase if Bill 175 passes in its current form. The irony is that Ontario members of regulating Colleges and/or Associations will have to pay higher fees in order to enable these same Colleges and/or Associations to certify those who will be in direct competition with themselves. This is completely unacceptable.

Bill 175 also threatens Ontario's regulatory bodies with fines of up to \$5 million for each instance of denying certification if they cannot justify that denial within a very narrow frame of exceptions. There are numerous problems with this. Private, for-profit, educational institutions, online colleges and so-called "cyber universities" are on the rise. Private certification companies are also on the increase. These entities may be providing poor training or may even be writing out certifications for cash and now Ontario's regulating bodies will have to be on the lookout for these across Canada. Even if a regulatory body were to rule to not grant a certification on health and safety or environmental terms, that ruling may be challenged before a private tribunal. There is evidence to show—from rulings made by similar arbitration tribunals in other instances, such as with regard to NAFTA—that they are opaque in their decision-making and generally recognize very narrow scopes for exceptions. Decisions that have the potential to impact on public safety should not be left up to some private tribunal. We need to ensure that there is transparency in all such processes, and this is one process where there is none of that.

Regulatory authorities in Ontario will not only have to be in compliance with the *Labour Mobility Act* itself, but will also be culpable to sanctions if they are not in compliance with Chapter Seven (Labour Mobility Chapter) of the Agreement on Internal Trade. We are extremely concerned that legitimizing the Agreement on Internal Trade is what Bill 175 is ultimately all about. This "Agreement" is not law and should not—cannot—become law in Ontario in this underhanded way. If the Liberal government intends to give statutory force to the Agreement, they should do so in the proper manner by engaging in a debate with Ontarians about its benefits and disadvantages.

This Agreement on Internal Trade that is being forced upon unwitting residents of Ontario piecemeal is a tool for privatization, trade liberalization and deregulation. This is the very process that brought the

global economy into a recession last year. NAFTA, the North American version of the AIT, is the main reason why we have lost over 200,000 jobs in Ontario between October 2008 and October 2009. Our over-reliance on the American economy has dealt a serious blow to the manufacturing sector in Ontario, a blow from which this sector may never recover. In the face of a jobs crisis of this magnitude, we find it incomprehensible that this government, aided and abetted by the hard-line Conservatives at the Federal level, are trying to push through legislation that will further weaken the little job security that Ontario residents have left. In our view, and in the view of our members, this is entirely unacceptable.

We want to underscore here that our members understand how detrimental this piece of legislation will be, if it passes. Unlike this government, which refuses to engage with Ontarians who are unable to present themselves at Queen's Park, CUPE Ontario has just completed a short tour on the topic of trade across Ontario. With our partners in the Council of Canadians, we have visited eight communities in Ontario: we have gone to talk to Ontarians and listen to their thoughts on the impacts of internal and international trade agreements. And we can report to you that, of the thousands of Ontarians who came out to our events, none have spoken in favour of these trade agreements. The people of Ottawa, Kitchener, Toronto, Sudbury, London, Windsor, Kingston and Hamilton reject these trade agreements because they understand that such agreements are not in the best interests of people, but rather, are designed to benefit corporations.

Unemployment in Ontario is at record heights: the latest Labour Force Survey puts the figure for October 2009 at 9.3%. It is in the context of this that we are suggesting that enacting legislation that will increase competition for jobs and employment in Ontario is, quite frankly, a terrible idea for the people of Ontario. But, this is no doubt a happy prospect for major corporations: increasing competition for jobs at a time of record high unemployment in our province will put downward pressure on wages and benefits. And we need not remind you, given the record numbers of people declaring bankruptcy, and the record numbers of people who are receiving employment insurance, and the even more tragic record numbers of people who are now on social assistance having exhausted their EI eligibility, that downward pressure on wages and benefits is the very last thing that the people of Ontario need if they are ever going to recover from this recession. Unemployment in Newfoundland and Labrador has hit 17% this past month; in PEI, it is at 12%. With figures like these, we can almost guarantee

that passing legislation like this will mean that there will be more competition for jobs in Ontario.

This is not to say that Ontario's jobs should be reserved for Ontarians, it is simply to point out that the alleged skills shortage that we have—or will have—that is being used to justify the speedy passage of the *Labour Mobility Act*, is either fictitious or can be dealt with in much more responsible ways. There are thousands of people in Ontario who are more than willing to take on these jobs. If the concern is that they do not have the skill sets that are necessary, then surely it is much more sensible to retrain some of these unhappily unemployed Ontarians rather than to lower our standards and regulations in order to attract those who may – like the Ontarians who are already here – not be currently qualified to practice their trades or professions in Ontario but who will become so, if this Bill passes.

We also note that passing this Bill may make it impossible for municipalities and other governmental agencies to set up programs to address the specific needs of communities. Preferential hiring from local communities, and similar practices that are designed to achieve social policy goals, may be in jeopardy if the *Labour Mobility Act* passes since such measures may be construed as “barriers to labour mobility.” CUPE Ontario believes very strongly that government procurement and hiring should be instruments of social policy, not just expressions of market forces. Offering preferential hiring for at risk communities, hiring students in the summer months—these are the very policies that we need to be looking to pursue further in the midst of an economic crisis that has impacted some demographics in Ontario more harshly than others.

Further, we are disappointed to note that supporters of this Bill have invoked the plight of foreign-trained professionals—many of them immigrants to Canada—who are unable to practice their professions in Canada as a reason to support this Bill. We want to be clear on this: there is nothing in this Bill that would enable a foreign-trained worker to have her credentials recognized in Ontario or, indeed, anywhere else in Canada. In fact, passing this Bill would cause those unfortunate immigrants to Ontario, whose foreign qualification are not recognized here, to fall further behind in the line for jobs in Ontario. Passage of this Bill would ensure that they would be in line behind not only just those Ontarians who have been certified by regulatory authorities in Ontario, but also behind any other Canadian who has been certified in any other Canadian jurisdiction. This will be the immediate and continued result of prohibiting residency requirements.

The problems with this Bill do not end there. Bill 175 is not even content to simply require that Ontario's regulatory bodies recognize certifications provided by other jurisdictions. This Bill also requires that "every Ontario regulatory authority shall to the extent possible and where practical take steps to reconcile differences between the occupational standards it has established for an occupation and occupational standards in effect with respect to the same occupation in the other provinces and territories of Canada that are parties to the Agreement on Internal Trade...". What the Bill does not spell out is that the only way Ontario can "reconcile" differences when standards are lower in another province or territory is to mirror those lower standards. This Bill, even if passed, will carry no legal weight in any other jurisdiction, so it is hardly as though a regulatory authority from Ontario can ask that another jurisdiction's regulatory authority raise its standards to Ontario's level.

There should be no doubt in anyone's minds: this Bill mandates a race to the bottom in terms of occupational standards and regulations. We are not looking at scenarios where best practices from across Canada form the basis of national standards; we are looking at institutionalizing the lowest standards from across Canada in our own province, notwithstanding the fact that there are historically and locally specific reasons why Ontario's regulatory authorities have set the standards that they have set for all regulated professions and occupations. We believe—as do all of the Ontarians that have participated in our Trade Tour—that Ontario-specific standards and regulations are a net benefit for our province. There is general agreement that Ontario, in the past, has been a strict regulator, and we think that these high standards are safeguards that the public appreciates.

On behalf of more than 225,000 Ontarians, we urge you to vote against this Bill. It is not—in its current form—acceptable to us, nor do we think that amending it will make it more acceptable. Bill 175 is as unacceptable to us as will be any further attempts to give statutory expression to other chapters of the Agreement on Internal Trade. We want to end by noting, once again, that the AIT has no legal standing in Ontario: it is simply an interprovincial agreement and should not be given legal standing in such an undemocratic manner.