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Thursday 7 March 2002

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Jeudi 7 mars 2002

Standing committee on public accounts

Public Sector Employees' Severance Pay Disclosure Act, 2001

Comité permanent des comptes publics

Loi de 2001 sur la divulgation des indemnités de cessation d'emploi des employés du secteur public

Chair: John Gerretsen
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

COMITÉ PERMANENT DES COMPTES PUBLICS

Thursday 7 March 2002

Jeudi 7 mars 2002

The committee met at 1330 in room 151.

PUBLIC SECTOR EMPLOYEES' SEVERANCE PAY DISCLOSURE ACT, 2001

LOI DE 2001 SUR LA DIVULGATION DES INDEMNITÉS DE CESSATION D'EMPLOI DES EMPLOYÉS DU SECTEUR PUBLIC

Consideration of Bill 53, An Act requiring the disclosure of payments to former public sector employees arising from the termination of their employment / Projet de loi 53, Loi exigeant la divulgation des versements effectués aux anciens employés du secteur public par suite de la cessation de leur emploi.

The Chair (Mr John Gerretsen): I'd like to call the meeting to order. Good afternoon, everyone.

Today we're here to deal with Bill 53, An Act requiring the disclosure of payments to former public sector employees arising from the termination of their employment. It's Mrs Bountrogianni's private member's bill that's here for debate and for public input, and we'll start off with an opening statement by Dr Marie Bountrogianni.

Mrs Marie Bountrogianni (Hamilton Mountain): Thank you, Chair, and I thank the committee for meeting today to discuss this bill, Bill 53. I know it's a very busy time for everybody. I really appreciate it and I believe I speak for the majority of the public when I say the public appreciates democracy continuing despite our busy schedules elsewhere.

Bill 53, as the Chair said, is An Act requiring the disclosure of payments to former public sector employees arising from the termination of their employment. This is my second attempt to bring accountability to this issue. I tabled another bill about two years ago which was much more detailed. It was criticized as very bureaucratic: there were term limits; there were phases. It was modelled after a British Columbia bill which basically had a lot of limits, a lot of steps and a lot of bureaucracy. I admitted that and, although the bill died when the Legislature was prorogued, I thought if I brought forward a simpler bill perhaps the chances of it passing would increase.

This bill is basically an extension of the government's sunshine law which was passed a few years ago which states that public employees making over $100,000 a year should have their salaries published every April for the public to know how much they are making and who is making that money. My bill states very similarly that public sector executives who make over $100,000 in severance should have that information public upon termination.

This has nothing to do with interfering with contracts. This information would be made public after a contract is signed, although I'm very interested in what the privacy commissioner would have to say about that aspect and any other aspect of the bill, as well as my colleagues around the table.

Why this bill? First of all, I had very little idea of the amounts of severances going out to public sector executives in this province before a local issue in my hometown of Hamilton came up almost two years ago when a hospital was slated for downgrading and then eventual closure. We won that fight in Hamilton, and to the credit of the government, they came through and gave money for the hospital to remain open. There were many challenges, but that part of the fight was won.

What came to the fore was a lot of information that wasn't public that we had to obtain or that reporters had to obtain through freedom of information on the severance packages for some of the CEOs. The famous one is the Dr Jennifer Jackman severance of $1.8 million when she left on unfavourable terms from the hospital at a time when we were laying off nurses. This was the mid-1990s. But there were many, many more, and the issue here isn't so much the amount of money but the fact that, as taxpayers, as citizens, we didn't have the right to pick up the phone and ask Chedoke—at that time it was called Chedoke—"How much is this executive leaving with?" And we still don't have that right. That is the part that I find very undemocratic and unaccountable.

Now, we're hoping this will have implications for the amounts of money, because if these boards know that the public will have the right to ask that question, perhaps they will be more careful when drawing up the contracts. No one is saying that people shouldn't be making good salaries or good severances; they should be reasonable and they should be made public.

When we did some research for my initial bill, and then for this bill, we found that this was pervasive in the province. I'll give you a few examples from my hometown and also from across the province. I won't mention names but I'll mention positions. The Ottawa Transition Board, for example, bought out a former acting regional

chief for $600,000; a former commissioner of engineering and public works, $408,000. I want to remind the committee that this information was not readily available. It had to be obtained through freedom of information. Just very recently in Hamilton, a former city manager: $359,000, we think, because that did eventually go the courts. City of Toronto, a former chief administrative officer: $500,000; Hydro-Ottawa, a former secretary-treasurer and director of finance: $309,000; and very recently—this was published all over the papers—a former Ontario hospital CEO: $750,000.

The Ottawa Sun published an interesting article which talked about what can be obtained for $750,000. It can obtain health care for 426 people between 15 and 44 years old for one year. It can obtain 27 defibrillators for the city or a nuclear medicine camera, valuable for diagnosing strokes, Alzheimer's, coronary artery disease and other ailments. One severance package could have covered one of these for a year.

Getting back to Hamilton, very recently a former president of Mohawk College received a severance. Again, we don't have the right to find out how much she received. She left, I believe, two years before the end of the contract, not on favourable terms. Morale was very low.

I want to emphasize that I'm not criticizing the individuals themselves who receive these monies. It's human nature to look out for yourself. I know from my profession that you can rationalize deserving anything. Particularly if there's bad blood in your organization and you feel like you're forced to leave, you can rationalize that you deserve any amount of money. These people are not breaking any laws. They've got their contracts, and if they're let go or they're forced to go, they're going to take care of themselves and they do. They're not wrong. The law is wrong and that is what I'm trying, and my caucus is trying, to remedy here. I must say that this bill passed with unanimous consent and I thank members on all sides of the House for supporting the bill.

A couple more examples: a Windsor Regional Hospital former CEO, $675,000 in severance; another one, $250,000. There were a number of amalgamations over the past few years and these amalgamations led, of course, to many people taking severances. We know some of them from freedom of information but we don't know the majority. The biggest one that I could find, aside from Dr Jennifer Jackman in Hamilton, was a former CEO of Ontario Hydro: $942,000. I can't imagine that. This isn't IBM, Pepsi-Cola or Coca-Cola, where shareholders agree to give vast amounts of money in these contracts. This is us. We are the shareholders here. At a time when we could be using these millions, at least in my community and I'm sure across the province, for other reasons—for health care, for education—we are basically giving an open ticket to public boards to say, "Well, if the easy way out is a bigger payout, let's get rid of this person." What they really should be doing is being very careful when they're hiring, because it's our money and that money can be better spent in other areas.

In Hamilton alone it was $2.5 million in golden handshakes and that's only in the hospital sector. That does not include the education sector.

I'd like to cite some media quotes:

"The public's right to know about matters involving taxpayers' money is neither a privilege nor a favour. It's a right, one that needs to be enshrined in law.

"Elected officials have the privilege of spending public money and have the responsibility to do so wisely."

"Severance payments given to public sector managers are often so enormous as to be in the public interest."

"Severance packages that collectively add up to millions of dollars require scrutiny. The agreements to pay them require accountability."

"Once and for all, let's end secret severances.... Queen's Park has the means."

That was from the Hamilton Spectator.

The Ottawa Citizen in March 2001 said, "Severance payments to municipal employees have created a firestorm of protest from Ottawa residents."

The Toronto Star in February 1992, so obviously this isn't a new problem: "Cash strapped St Michael's Hospital is dumping its highly paid and highly touted new president for a rumoured $360,000 in severance pay."

My colleague Caroline Di Cocco also cited some examples in Sarnia of some obscene severance packages, which led, by the way, to her bill on openness, which I know has passed by your committee.

1340

Mr Wettlaufer, from the government side, when debating my bill in the House, cited some research. He looked into the laws in British Columbia, Alberta, Quebec and Ontario. "In British Columbia, for instance, there is no specific legislation, but BC's Freedom of Information and Protection of Privacy Act covers the issue. The Information and Privacy Commissioner has held that severance packages constitute remuneration or discretionary benefit of a financial nature under the act and, as such, disclosure of the amount is not an unreasonable invasion of personal privacy. Alberta also has no specific legislation, is also covered by the province's Freedom of Information and Protection of Privacy Act," which states that it does not "constitute an unreasonable invasion of the employee's personal privacy and that disclosure was therefore permitted.

"Quebec also does not have a specific statute." But personal information is allowed, including the amount of severance to be made public, and is disclosed.

In our act, certain severances and salaries are disclosed; the ones I'm talking about are not, and that is simply what this bill is trying to address. It's not a new bill. There are a lot of similar bills out there. It's basically closing a loophole where accountability is suffering.

Again, I'd like to just cite from the debate on the sunshine law back in 1995, from the Tories' bill on the sunshine law, what the then privacy commissioner talked about. He said, regarding that law, that the public needs to scrutinize transaction of public bodies "when such

scrutiny is necessary and appropriate." Access to general records "is one of the public's most powerful tools for exerting democratic controls over public institutions. In challenging times such as these, the public's ability to scrutinize the workings of government must remain a vital part of a democratic process.... 'To be well governed is to be well informed.'" That's from Mr Tom Wright, privacy commissioner of Ontario back in 1995 when presenting at the committee for the sunshine law.

If there is anything in this bill that requires changing or amending, I would be very pleased to hear it. I do hope that it does pass. Again, it's a simple bill. Simply put, severances over $100,000 need to be made public. This will, I believe, make public boards more accountable with our money. It will increase morale in public institutions, particularly at a time when, again, people are being laid off or may be laid off. It's much more difficult to accept job loss when you hear about these golden handshakes. So this is also an issue of morale, it's an issue of accountability, it's an issue of good management. We need, I believe, to be role models on the government side, and this will trickle down to the public boards and institutions.

Again, I thank the committee for meeting today. I know it's a very busy day for everyone and a very busy time for everyone, and I appreciate you keeping your schedules. There was some talk that it might change. I appreciate that it wasn't changed, and I look forward to the presentations, questions and comments.

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

The Chair: We have a number of presentations on the bill today. The first presentation will be by the Office of the Information and Privacy Commissioner of Ontario. I believe that Mr Tom Mitchinson, the assistant commissioner and head of tribunal services, is with us this afternoon. Good afternoon.

Mr Tom Mitchinson: Good afternoon. Thank you, Chair.

The Chair: If you'd like to make an opening statement or comment, then there may be some questions.

Mr Mitchinson: Sure. I just have a few comments to make. I think it's clear from the quote the member just read from the former commissioner's letter that the Information and Privacy Commissioner does not see rights to privacy as absolute rights, in any context. The right to privacy is an important value that society recognizes as such, but it's not an absolute value, and certainly in the context of public funds it is a relative value that must be balanced against basic public accountability expectations.

So there is nothing inherently flawed in the bill in the sense that it represents anything other than an effort to try to find the balance between public accountability and privacy. It obviously weighs in favour of accountability by definition. That's a decision, obviously, for the Legislature to make, whether they feel in the circumstances that the public accountability expectations should outweigh in principle, as opposed to depending on circumstances, which is what I think we're facing now, when the interests need to be balanced under the statute.

I think there's a clear precedent for this approach to be taken, and that's the act that the member made reference to on the salary side. It's clear that at that time the Legislature decided that the public accountability expectations for salaries over a certain amount of money outweighed any privacy interests that existed in that information. So it's not dissimilar in this case from the decision made at that time.

I thought it might be useful to speak very briefly to our experience with this issue, because we do have some. It has come before us. In some instances, as the member mentioned, certain information is disclosed and, in other circumstances, it's not. It's very fact-specific. It's dependent on argument, it's dependent on context, depending on the ability of the requester to make information public, depending on whether or not the payment has raised public policy considerations in a local community. It's fact-specific, as opposed to absolute. That's why you're seeing, as you made reference to, that sometimes information is disclosed and sometimes it's not. That's the personal information aspect of it.

The other time we encounter it is only under the municipal statute, the Municipal Freedom of Information and Protection of Privacy Act. It has an exemption claim in it, section 6(1)(b), which allows for the protection of information that was the substance of deliberations of an in camera meeting. As long as it's a properly constituted in camera meeting—and that would apply under the Municipal Act or under the Police Services Act or a number of institutions that exist at the municipal level, and often personnel-related matters are in fact the things that are discussed in in camera meetings—then, under our statute, you never get to personal information, because if it's a properly constituted in camera session where the record is dealt with, then it's an exemption claim that would apply to everything that would be covered by that meeting.

That's the other place we encounter it. So to some extent, the clarity that would be provided by this law would, I think, ensure a level of consistency that may not be possible under the current law. That's not to say that the current law is wrong at all, it's just that it results in inconsistency depending on facts and circumstances.

One thing we do encounter often on severance-related issues is that severances usually have a number of components to them, not just the amount of money. We find that requesters are interested in not only the amount of money; they're interested in whatever else formed part of a severance package. I would anticipate, if this bill is made into law, that that won't necessarily mean we're not also dealing with ongoing interest in other records that relate to severance, but presumably you know that.

Also, I think you use the term "termination" in section 3 of your bill. We often deal with so-called severance arrangements that emerge from a variety of contexts. I think "termination" is one; "redundancy" is another.

There are a number of terms there that we encounter which speak to the sort of circumstance you're trying to address. I think you should maybe be aware that the use of the word "termination" may have a meaning that is more narrow than you intend, or whatever.

That's really all I have to offer. I'm happy to answer any questions committee members have on this.

1350

The Chair: We'll start the questions with Ms Martel, and then the government side and then go over to you, Mrs Bountrogianni.

Ms Shelley Martel (Nickel Belt): Thanks, Tom, for coming in today. If you were to cover a broader range of possibilities where severance would be applied, you would use what terminology, "termination," "redundancy"? What else would the commission suggest to cover, if not all of the possibilities, most of the possibilities?

Mr Mitchinson: I think you should get your own advice on the right word. I think it's a legal issue. Words like "separation" are probably broader than "termination." There is some language that, if you wanted to, you could encompass more with than "termination."

Ms Martel: You're right when you say it's not just an issue of money, because there may be other bonuses etc that would be covered. In your opinion, as the act is currently written, does it cover remuneration in the broadest sense, or is there a possibility that the employer would only provide wages, per se, and exclude other information that would also be related to a golden handshake?

Mr Mitchinson: My reading of this bill is that it is money only, and that's defined in a similar way that the salary is under the Income Tax Act. Is that right? So it's just money.

Ms Martel: If you wanted to cover a broader range—and I apologize, because I don't know the provisions well enough of the government's line, including, "It's only money." Assuming it's only money that is referenced in that bill as well, what other definition, then, could you provide that would take it beyond money to other possibilities of remuneration that don't include just dollars?

Mr Mitchinson: What we are usually asked for, what's a common request that we would get, would be for the agreement: the separation agreement, the termination agreement. That's generally what we're dealing with. That's usually where we see things beyond the financial side.

Ms Martel: If this act were amended to ask for a termination agreement or a separation agreement, would the office have any concerns in that regard?

Mr Mitchinson: Again, I just think there's a rationale for a decision which establishes accountability expectations as outweighing privacy. So I don't see it as being fundamentally different, whether it's the amount of money that's paid out or it's the amount of whatever the package is that's provided. On a policy level I don't see a distinction there.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): This disclosure that we talk about—coming to you, Marie, if you don't mind—when do you see that happening? Should it be when the contract is signed, should it be after the employee leaves, should it be after they accumulate the $100,000, even though it may not be $100,000 as they leave? What sort of timetable are we looking at in terms of this disclosure?

Mrs Bountrogianni: At present, the way the bill's written, it would be upon termination. However, if this committee would like to amend it so that it's open at any time after the contract is signed—again, this is not interfering with any contract directly. Perhaps ethically it's interfering with the contract in that people would be a little more careful in signing, but this is after the fact. At this point, it's upon termination. Quite frankly, I don't think most people really want to know or care to know severance packages of people who are there doing their work. It's when there is a disturbance, when there's bad blood, when there's questionable performance and then they're let go and they don't have the right to ask, that most people get very upset.

It's not about us wanting to know private information on everyone, what they make and that. Even though we should have the right to know, most people don't want to know that. But when there are particularly questionable terminations, people do feel their rights have been trampled on when they don't have the right to ask.

Mr Gill: You mentioned, Mr Mitchinson, that some of these contracts at the municipal level are in camera, so the public doesn't get to see or know about them. I know Ms Di Cocco's bill sort of makes the public meetings—

Mr Steve Gilchrist (Scarborough East): It's Mrs Bountrogianni's.

Mr Gill: No, another bill we talked about talks about having more access—nothing should be in camera. Do you have any concern about that?

Mr Mitchinson: Let me just back up here a little bit. Open meetings laws are common statutes in the United States that complement open records laws. So they are looked at as very much part of the whole kind of accountability framework of the public sector. I think that, generally speaking, when those laws have been enacted, they've very comprehensively looked at the issues of public access versus operational concerns of municipal institutions and police institutions and have come up with a fairly detailed process for determining what should be in camera and what shouldn't be in camera and a right of appeal of that determination. I think that we as an organization have no problem with the idea that there are certain things that should be done in camera. It's much the same as at the provincial level, where there's a mandatory exemption claim for records that relate to the substance of deliberations of cabinet.

There's no issue as to whether or not some level of confidentiality should exist, no matter what the public body is. I think it's just a matter of whether it's clearly defined and whether it's consistent, I guess, with broader issues of public accountability.

What happens under law, as it is presently, is that if the record itself was created in the context of the in

camera session, then that's the end of the story. The record itself is automatically exempt if the institution were to claim that exemption. So there's no sort of balancing of interests, if you will. It basically has said that if it's in that context, then it has nothing to do with the personal information per se that's included in the severance agreement; it's to say that any record created in that context by definition should be protected from disclosure when balanced against accountability. The balance there is between the confidentiality to do business as an institution against accountability for disclosure, as opposed to the privacy of the government accountability, a balancing that would exist outside of that context.

Mr Gill: I know the title says "former public sector employees." There are cases, as you know, where somebody is a public sector employee and—whatever term you want to use: redundancy or termination or separation or downsizing or re-engineering—they are let go and, the next day, they are hired in public service again.

Mr Richard Patten (Ottawa Centre): As a consultant.

Mr Gill: No, not always. So they are not really public servants. Where do you go from there? When do you disclose? Is there a concern of double-dipping?

Mrs Bountrogianni: Are you asking me this question?

Mr Gill: I'm asking for any clarification. But it may be something to look at.

Mrs Bountrogianni: It's a very good point, because that happens frequently. In fact, if we had the records of those, before we hired them, of how many severance packages they got across the province, that may affect our hiring decisions. So perhaps "former" shouldn't even be in the title. That's something we can discuss, perhaps, in clause-by-clause. That's a very good point.

Mr Gill: My concern—again, not as a criticism but from a suggestion point of view—is that you don't want to be limiting well-qualified people coming to the public service. In the private sector, they don't have to disclose; in the public sector, they have to disclose. So it's something one should always be on the lookout for.

Mrs Bountrogianni: May I respond to that now?

The Chair: Sure.

Mrs Bountrogianni: That is the criticism on the other side of this bill, that we can limit good applicants because of that privacy issue. I understand that. However, if you have gone through and done the research that I've done and looked at the public uproar over not knowing, that gets more publicity than the actual severance package. The uproar about not knowing and the guessing of the amounts colours and brands that executive to a larger extent, in my opinion, than "Here's what he's getting."

Of course people are going to complain; people complain about everything. We know that as politicians. Then it's accepted or not. But the fact that we don't know—and there are rumours, sometimes from the hundreds of thousands to millions. You know how that can start and end. Everyone still thinks we all have pensions, even though we don't.

Mr Patten: We don't?

Mrs Bountrogianni: No, we don't. You might, Mr Patten, but I don't, that's for sure.

Interjections.

Mrs Bountrogianni: Let's not get into that. I don't think anyone here wants to get into that.

But that public perception sometimes colours those executives more than the public just knowing the amount. Whatever outcry there is will be there and it will be done with. But not knowing often keeps those newspaper articles going and going and going, until that person basically has to leave town. So I think that's a moot argument in many ways.

I also believe that when you are serving the public, you have that choice, and many of us here have that choice. Many of us here made twice and more the amount of money we're making here. We probably question why we did that, but we made that conscious decision to make less money to serve the public. So I would like to think that there are applicants out there for these positions who also make that conscious decision, because there are advantages and disadvantages in each realm, private and public. But I have heard that criticism. I'm taking it into account, which is another reason why this is a very light bill. I hate to admit it, but it's very light. It basically says this detail should be public.

1400

The Chair: Any other questions from the government side?

Mr Gill: Again, just a suggestion: perhaps the disclosure should be at the signing of the contract level so that it's really public, rather than a year after the fact and nobody can do anything about the future contracts or anything.

The Chair: Anyone else? No? Any questions or comments of the privacy commissioner from the official opposition side?

Mrs Bountrogianni: Thank you very much for your presentation. I appreciate your comments. I would like to ask you to comment on the level of consistency right now. I understand there are some severance packages, for example, or some areas where we are allowed to ask for everything. Which areas are those in the public sector?

Mr Mitchinson: You're allowed to ask for anything in any of them.

Mr Gill: You may not get it.

Mr Mitchinson: Yes. I think that, setting aside the closed-meeting issue, if it's strictly a personal information issue, then there's a section in the act which basically says that someone else's personal information is a mandatory exemption claim so that no one is entitled to it, subject to certain exceptions that are in the act. One of the strong presumptions of an unjustified invasion of privacy is a financial transaction or something that relates to someone's income and assets. So there is a strong sense that the information should not be disclosed beyond the person whose information it is.

You then get into a balancing where, if public scrutiny is a consideration, then that can be factored into the mix. There's what we refer to as a public interest override, which also applies in a certain context, but you're dealing there with exceptions, not the norm. So that's why you will see that a lot of times it is not released because it's a mandatory exemption claim. It's an uphill battle for anyone to get access to other people's personal information in that context.

One of the times you would see it being disclosed would be if there was an issue in the community and there was some need to disclose the document for the purposes of substantiating the public scrutiny of the institution—whether they've done a good job. That can be a strong argument, often made by a member of the media and that sort of thing. That's why it's fact-specific and circumstance-specific, and that's why you see the distinctions.

Also, there's the issue of consent. There are some circumstances where the individual will consent to certain parts of their severance package being disclosed. That's another time where you might see it, where in some contexts, it would not be accessible at the end of the day under the law, but because the person has consented to disclosure, then it's disclosed. People do that.

Mrs Bountrogianni: I've noticed that has occurred in a couple of instances.

Mr Mitchinson: Yes. People do that.

Mrs Bountrogianni: From what I'm hearing, perhaps in clause-by-clause we could change section 3. We could change the word "terminated," and perhaps upon termination, the termination agreement, or whatever we decide to call it, would be made public rather than just the fact that, yes, they got $100,000, but no mention of the car, the house or whatever other bonuses we may not know of.

Would you have difficulty with having an agreement made public?

Mr Mitchinson: As I was saying to Ms Martel, I think it's your decision. I don't think the accountability rationale is any different. I think the plus side of a scheme like that would be that people would not then be coming under our statute to get the rest of the stuff that is part of the severance package. In that way, I guess there's some sort of finality to it, if you will. But it's not consequential to us. We can work within either system. It's fine.

Mrs Bountrogianni: That's good to hear. I'm not naive enough to think this will solve all the democratic problems of severances. My motivation was that if it was simple it might get passed, and it was a good beginning for disclosure. Thank you very much.

The Chair: Mr Hastings, did you have a question?

Mr John Hastings (Etobicoke North): Yes, I have a question for the assistant privacy commissioner. In section 3, dealing with the availability of this information without charge, what exactly is your understanding of the practice in the other provinces that Ms Bountrogianni referred to in her opening remarks: Quebec, Alberta and particularly the federal government? What is the practice with regard to charging for this kind of information under their privacy and freedom of information acts?

Mr Mitchinson: Most privacy and freedom of information acts have a request fee, which would be nominal. I think ours is $5. I think that would be the norm, around the $5 mark, to make a request under the act.

All legislation has a scheme of fees that cover certain activities such as photocopying charges, search fees, preparation fees, that sort of thing. Then there are some jurisdictions—and if Ontario is not the only one, I'm having trouble thinking if there is another—where there's actually a fee for an appeal. In Ontario, if you are denied access, you have to pay to appeal that decision to our commission: $10 if it's a personal information request and $25 if it's a general records request. So there are fees in any system, I guess.

We've argued, and it's been in our annual reports a number of times, that we think the fee system in Ontario is out of line, generally, with fee systems that are present in other freedom of information schemes. I know that under the laws you are referring to, the freedom of information laws in these other jurisdictions, they would not have as much of a fee system in place as we do in Ontario.

I think a very common provision within a fee scheme that would apply, I would say, in all instances to address this type of record is that the first period of search time in all jurisdictions except Ontario is free. It used to be that way in Ontario; the first two hours of search time was free to a requester. That is not the case any more. Now search times are chargeable from the beginning. So in BC or any of those other jurisdictions you're referring to, perhaps there would be a photocopy fee for the document itself, but that would be it. It would be a nominal charge. In Ontario, we would find that some jurisdictions would be charging search time and preparation time for these documents as well, so the fees would be higher.

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Mr Hastings: Are you telling me that Ottawa—if I go and make a request for the first time under the general records provision of their act, I'll get two hours free?

Mr Mitchinson: When you say "two hours," it makes me pause.

Mr Hastings: For the first time?

Mr Mitchinson: When you say, "Is there some time free?" I would say, "Yes, there is."

Mr Hastings: If somebody was on a fishing expedition, and they wanted severance disclosures for a number of people, let's say in the education world or the health care world, would that come under a general records provision or under each specific name that presenter had requested? How would you handle that?

Mr Mitchinson: The term "general record" is a term of art under freedom of information law. It means any request for documents that isn't a request for your own personal information. So anything in this context would be a general records request unless you, for some reason,

were asking for information about your own severance, which is highly unlikely. It would always be a general records request.

Mr Hastings: Do you think there's any potential precedent being set here that when you have no fee for the first time, the first hours, and maybe some nominal cost for photocopying, then that could become a potential case by other requesters for information outside the disclosure of severance, and they could take it to court, if it were passed in the format it's presented in now in section 3?

Mr Mitchinson: If it's passed in the format it's presented in now, the only thing it would cover would be the $100,000 payment. If you wanted anything else, it would come under our statute and would be subject to our fee scheme. So there wouldn't be any impact on our statute beyond the narrow scope of this provision.

Mr Hastings: Thank you.

The Chair: Anyone else? No? Thank you very much, Mr Mitchinson.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION, LOCAL 240

The Chair: Next we have Mr Fred Deys, a member of OPSEU local 240.

Mr Fred Deys: Thank you very much. I'm the president of OPSEU local 240. I represent the faculty, librarians and counsellors at Mohawk College in Hamilton and Brantford. In many ways today, I think I represent all the staff at the college, and I want to thank the committee for the opportunity to present our views on this legislation and to thank Dr Bountrogianni for putting the proposed bill forward.

As a result of a recent experience we were involved in at Mohawk College, I've come to appreciate how a public institution like the college could have benefited from this legislation. Our college could have avoided a costly and disruptive experience had this legislation been available prior to our hiring a new president in April 1997.

Some time after the new president's tenure began, it became clear that a mistake had been made. Even though the board has now resolved the situation, we would like to ensure that other institutions are protected from similar experiences. Oddly enough, our support for this legislation is not in order to discover the details of the former president's severance package. Instead, our support stems from a perceived need for future employers to be able to access this important information prior to making hiring decisions.

Had our board had access to severance information, they would have had knowledge of previous settlements that may have influenced their hiring decision. It became clear only after the fact, initially from old newspaper clippings and then from formal and informal inquiries that were made, that at least one and perhaps more previous employers had paid severance or other types of settlements to the individual. We are convinced that this information was difficult for the then board to obtain, and thus it had no way of knowing some basic facts about the individual's employment history. Many of us believe that if the board had had this kind of information, it likely would have made a different decision.

Let me emphasize that not all people who receive a termination settlement are poor choices for future employment; however, hiring decisions should be made understanding the basic work history. In many cases, an individual can explain rationally and effectively to a prospective employer the circumstances surrounding a termination. Those who cannot ought to be concerned.

Our goal is to help public institutions gain as much information as necessary to hire the most suitable candidate to lead an organization. Hiring the wrong person is something that organizations inadvertently do from time to time. These unfortunate mistakes can be made at any level of the organization, and although they're costly, the impact is limited at the lower levels of the organization. The same cannot be said when dealing with senior managers such as presidents, vice-presidents or CEOs of colleges, universities or hospitals. The quality of service and productivity can be severely eroded by a poor choice. Public confidence in these important institutions is also at stake.

If you review our written submission, you will read in more detail our rationale for supporting the bill. We have three reasons for support, which I think have been alluded to already this afternoon. One is public accountability, which I think is clear to everyone.

The second is that when boards or other public service sector employers are faced with the need of settling with someone, they're often at the distinct disadvantage of not knowing what a range of proper severance is. I think lawyers will tell you that for non-unionized employees it normally falls in the range of three or four weeks of severance per year of service, but the high-profile terminations we've heard about earlier today do not fall into that range. In most cases, individuals with no more than three to five years with an organization are reportedly being given at least one to three years of severance pay. I think volunteer boards or public sector employees don't always understand what the normal range of severances is, and I think this would help.

The third is the recruitment one, which I think would have helped our college. This kind of information, we believe, is crucial for public sector employers and public sector institutions to make good judgments and good decisions when they hire people in the upper end of the organization, and the rationale is explained on the third page of our submission.

In addition we would like to respectfully make some suggestions for some minor changes. Again, some of them have been addressed here as well, and they're also listed in the submission.

We'd like to suggest that you clarify the definition of what should be included in the severance payout to be reported, so that institutions cannot make the payout in an alternate form so disclosure can be avoided.

Secondly, we think the definition of termination needs to be clarified, so that institutions cannot simply report these as retirements, or other words that have been used here this afternoon, again to avoid disclosure requirements.

Lastly, there has been some talk about the timing of the disclosure. I think the bill suggests that the disclosure be made as the payments are made on a year-to-year basis. We'd like to suggest that the entire payout amount, regardless of the time frame of the payout, be reported at the time of termination and not in the years the payments are made, as I understand the legislation would suggest.

With those clarifications, we're confident that the bill will meet its intended purpose.

This is a brief submission from us, but we'd like to strongly urge the committee and the Legislature to adopt the bill with these suggested revisions.

The Chair: Comments and questions from the government side?

Mr Gill: We do appreciate your time this afternoon, Mr Deys. Under your local 240, what is the range of normal severance these days, at a higher level versus a lower level? Is there a standard?

Mr Deys: My members are covered by a collective agreement. Our collective agreement contains severance provisions for those who are severed from the college. Those provisions are anywhere from, if memory serves me, 11% for a three-year employee—that is, 11% of a year's salary for a three-year employee—up to a maximum of 49% or 51%. So even employees who have been at the college for up to 20, 25 or 30 years get no more than six months' severance if they're severed.

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Mr Gill: You don't have the three to four weeks per year unlimited provision sort of thing?

Mr Deys: No. My understanding is that's the common law, if you will, or that's what the courts are routinely providing to people who are not covered by collective agreements.

Mr Gill: In terms of good hiring practices, one would think the standard practice would be that a prospective employer would go back to the previous employer, or somebody there, and try and get references. I haven't heard too many cases where you have actually looked at the private or public sector on how many times somebody has been fired, because they're so subjective; you don't know what the causes might have been. Unless somebody lists the cause specifically, how do you know what the cause was? That should not be subjected to hiring practices. That's my opinion.

Mr Deys: The truth of the matter is that many times when some of these high-profile individuals are severed from their employment, they have a termination settlement with their previous employer that includes non-disclosure and other disclosure components, and those components normally make it very difficult for prospective employers to get anything other than a pat answer about that particular employee; there's no way to know whether there was severance involved. You get almost no information on some of these situations. I think prospective employers do have a right to some basic information about the circumstances surrounding previous employments. That is just in the best interests of finding the best people to lead these institutions.

Mr Gill: This methodology will not work if the person's coming from the private sector.

Mr Deys: That's right. Our experience is that on the list that was read out by Dr Bountrogianni earlier there are those, particularly in the public sector, who will go from public sector employer to public sector employer. It's almost a sport, if you will, for some. If the applicant is coming from the private sector, we can't tell as much about the history, I'll grant that, but I'm not sure that's an argument why we ought not to invoke this legislation.

Mr Gill: Maybe my colleagues have questions.

The Chair: Anyone else? No? Ms Bountrogianni.

Mrs Bountrogianni: I actually see Mr Gill's point. In fact, sometimes having broad experience from various public sector backgrounds is a good case for getting the job. However, in some of the cases that I mentioned, and there are three that I can think of—and today's not a witch hunt, so I'm not mentioning names—it was found out after the fact when they were dismissed from Hamilton that this was not the first time they were dismissed from a public sector institution. Again, no one knew how much severance these individuals received, but they did receive severance and then receive severance, and then received severance again, in some cases three times—in one case I know for sure three times.

If you're not ashamed of what you've done, why not make it public? If you've done a good job somewhere, you've got a great termination agreement with all sorts of letters saying, "This person did a great job, they did their job and they've moving on," that's actually a badge of honour, versus very tight-lipped people when they give references. People are very careful and almost afraid when they give references because of—I don't know what the term is; everybody likes to sue everybody—the legal implications. I'd like to take care of a little piece of that with this legislation.

You commented better than I ever could to Mr Gill's point about the private sector. It's true, we don't, but is that any reason to make the public sector any more or less accountable? I think that's a separate issue, at least for the time being.

Ms Martel: I'd be very happy to move an amendment or have an amendment agreed to that would provide for disclosure in the private sector too; then we could get around this and there would be no problem here today. I'm not sure Mr Gill was seeing this as a reason not to support this bill, that it didn't apply to the private sector, but that might be one way, because I think those disclosures would be interesting too.

Mr Gill: I voted for the bill in the Legislature. I voted for it.

Ms Martel: In terms of the private sector, though, if you wanted to really end people's concern and make it very public, you could also do that.

You've obviously followed what has gone on in your neck of the woods, which leads you to come here. Have there been specific incidents, though, at the college that were part of this? I apologize if I didn't know who some of those people were. Is it also a specific incident at the college that had you come forward today to be supportive of this bill?

Mr Deys: In April 1997, we hired a new president. Despite some fiscal challenges that we had at the time, we were all hopeful, we were all positive. Things began to concern a number of people in the college community. Over the next year or two they became progressively worse. I'm quite confident when I say that many put the responsibility for that on the new president. The board has since rectified the situation. The contract was terminated prior to the end of the first five-year term, but as time went on it became obvious to us that the individual in question had been severed from at least one previous public sector position and perhaps as many as two or three—we're not sure because it's very difficult to get information—and that there were settlements—at least one and perhaps more—with the previous public sector institutions that the individual was at. We tried to access that information through the Information and Privacy Commission, but we didn't meet whatever criteria were necessary at the time, so we had no way of finding out exactly what the packages looked like; nonetheless, we understand there's at least one and perhaps more.

When the board finally made the decision and things were settled last year, it became obvious to me, from reading the newspaper and from watching some other situations in Hamilton, that this wasn't just a one-time occurrence. We've had the same thing at least twice in the hospitals. We've had a CAO of the municipality who was in the newspaper a lot again. I don't understand those situations as well. We've had a president of the university also have their time cut short and severance packages discussed in the paper.

In our particular case, the reason I'm here is because I honestly believe that if there was some repository like there is with public sector salary disclosure, where these things—I can go to the Internet and find the public sector salaries. If there was a way that any of us could access this information about all the packages and the values of all the packages over the last X years in Ontario in the public sector, I think the board of the day—and I wasn't on the board—perhaps would have made a different decision, but at least they would have been aware of the severances and would have perhaps been more diligent in trying to understand why those severances took place.

As it is, I think the termination agreements and the severance agreements that are typically signed include so much non-disclosure that even doing the due diligence now leads you nowhere, leads you to people who are just going to give you a pat answer, that the person "was employed here from 1994 to 1997." I think the scales are somewhat imbalanced at the moment. The public sector employers and the institutions don't have the information I think they need to make the right decision, and that's what brought me here.

The Chair: Thank you very much, Mr Deys, for your presentation.

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ONTARIO PUBLIC SERVICE EMPLOYEES UNION, LOCAL 273

The Chair: Next we have OPSEU local 273. Debbie Mattina will be presenting. Welcome.

Ms Debbie Mattina: I apologize. I normally would do this off the top of my head, but I've had a couple of family crises this week and I almost cancelled coming, but because I believe very strongly in this, I took the day to come down. Also, I would like to thank you for the opportunity to speak here and for the opportunity to have witnessed the swearing in of our new Lieutenant Governor. It's a very memorable day for me.

To get on with the reason why I'm here, I've come to speak to you today in my capacity as the vice-president of OPSEU local 273. This local represents almost 800 registered medical technologists employed with the Hamilton Health Sciences. Provincially, OPSEU represents over 20,000 health care workers. I suspect that most of you wear many hats, and in order for you to understand where I am coming from, perhaps it would be helpful if I let you know about some of the hats I have worn.

Not so long ago I chaired the committee to save the Henderson Hospital, which is one of the four sites operated by Hamilton Health Sciences. This hospital was targeted for downsizing and loss of emergency services. Hamilton and area residents rallied around this cause, collecting some 75,000 signatures and mounting a series of forums and rallies that were truly remarkable in their determination and tenacity. Our struggle crossed all social, economic and political lines. As citizens and taxpayers, we were unwavering in our commitment in support of our hospital. I feel that today I also represent this group of seniors, men and women, children, businessmen, labourers, doctors and nurses, people of all walks of life, and most especially the patients, who resolutely demanded accountability for their health care.

About this time last year I was sworn in as a member of the board of directors of the United Way from Burlington-Hamilton-Wentworth. In April of last year, I was approached by the Hamilton Health Sciences Foundation and asked to explore the possibility of pursuing a joint fundraising campaign. The foundation fundraises to provide for equipment and patient comfort items while the United Way, as you know, fundraises to support a number of community agencies and services. My employer seconded me to the United Way, and in conjunction with my counterpart at the foundation we mounted a very successful fundraising campaign in the hospital. The hospital was awarded the campaign of the year from the United Way. The employees of Hamilton Health Sciences pledged over double their previous donations,

and I am very proud of this achievement. These people give care with their expertise, with their hands, with their hearts and with their wallets. They know the services they provide are vital, and so they dig down deep, emotionally and financially, to support the community they serve.

Along with these hats, I am currently a wife, a mother, a daughter, a medical radiation technologist, a taxpayer, a citizen and an advocate. I speak to you today with a passionate conviction that Bill 53 must be passed into law.

This next section of course is information that you all know, but again it goes to the background.

Health care in Ontario is funded by both provincial and federal tax dollars. Over the course of the last number of years, those dollars have become increasingly more difficult to access. The province has demanded of the institutions that it funds a process of restructuring. Ostensibly, the restructuring was implemented in order to rein in escalating health care costs and to make the hospitals more fiscally responsible. To that end, hospitals were closed, some downsized and others merged in order to comply with new fiscal guidelines set out by the Ministry of Health for the province of Ontario. I believe in fact that it is now against the law for a hospital to even run a deficit.

Hospital workers have suffered through enormous upheaval, perpetually high stress levels and an ever-growing workload during this unprecedented time of change. We've done it to conform to the fiscal limitations imposed upon us by the provincial government. Patients routinely wait several days in emergency departments for beds to be admitted to, patients are discharged sicker and quicker and there appears to be a critical shortage of qualified medical personnel. All of these situations could be relieved by more dollars, yet we continue to throw obscene amounts of money into severance packages for exiting executive officers.

During the restructuring process in Hamilton, there were at least five severance packages—in fact, I'm only going to speak about five that I know of—to top executive officers of Hamilton Health Sciences alone. Those packages ranged from approximately $280,000 to an estimated $800,000 and totalled nearly $2.4 million. That amount of money was paid out with no accountability to the taxpayers of this province. Not only was there no accountability, but according to current law these taxpayers have no right to know at all how many of their tax dollars went into paying out these packages.

I've so far only discussed the very top of the severance package pyramid. One of the things that we found occurred at Hamilton Health Sciences during the merger scenario—and ideally when reorganizing occurs the object is to re-emerge with the most efficient, financially responsible and most talented organization possible. That should be helped along by the availability of a number of qualified incumbents to apply for each position. However, the process becomes somewhat skewed when personnel are retained not because of their talents but because of the size of their severance packages. Then we end up with program directors who have no idea of the program they are directing and managers who have no idea of the operational needs of the areas they manage. The number of zeros in the severance package determines the successful applicant, not the qualifications and performance evaluations.

Although simply requiring that public sector severance packages in excess of $100,000 be disclosed does not guarantee that obscene amounts of money won't be offered ever again, it does require the boards of those facilities to take responsibility and become accountable for the packages they negotiate. Public scrutiny makes for a powerful conscience. The reality is that the days of unlimited spending are over. The dollars must be utilized in such a manner as to provide as much value for the patients as possible. The massive golden handshakes devalue our health care dollar and diminish credibility as responsible, caring administrators of our health care system.

If this government is serious about the image it is trying to project and consistent with the message it has delivered on health care reform, it must support this bill. How can the public accept the delisting of services, the reduction of beds and programs and the downsizing and closure of hospitals as being a necessity of tax and health care reform? I say that happens not very easily if the very government whose initiatives endorse these efforts refuses to make public the information on a common practice that clearly usurps millions of health care dollars each year.

I recognize of course that severance packages are a valid and necessary component of the competitive job market in every facet of the private and public sectors. I would, however, have a great deal of difficulty understanding why $2.4 million, enough to fund approximately 40 nursing and technologist jobs for a year, got up and walked out the door without the public having any right to know where it went. If this has occurred in the hospital sector in Hamilton alone during the course of reorganization and represents only those severance dollars for five top officers, what is the cost provincially across all sectors and why don't I as a taxpayer have a right to know?

I urge you to exercise your jurisdiction and enact into law Bill 53. Thank you for the opportunity to express my opinions here today.

The Chair: Thank you very much. Where did we start last time? The government caucus. We will start with Mrs Bountrogianni.

Mrs Bountrogianni: Thank you very much, Ms Mattina. I understand what you meant, but I would like the committee to understand what you meant by saying that the number of zeros in severance packages is what often led to someone getting the job or not. Could you discuss that a little more?

Ms Mattina: Sure, I can discuss that. We went through a merger process in late 1996, probably 1997, where the former Chedoke-McMaster Hospital merged

with the Hamilton Civic Hospital to become the Hamilton Health Sciences Corp, at that time; "Corp" has since been dropped. At that particular time, obviously there was an abundance of managerial positions that needed to be vacated because they couldn't duplicate everything.

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Jennifer Jackman was one of those persons, and her associate Pamela Reid. They both exited, taking severance packages. The other incumbent CEO did apply for the job and did not get it. He exited as well. But in the next echelon down, you had two VPs of finance, two VPs of medicine, two VPs of this program and so on. What happened then was that in trying to get rid of these people, what became the primary consideration was how big the severance packages were, right? We were facing last year, as you know, a $100-million deficit in Hamilton. You can't send somebody out the door with half a million dollars if you can send somebody else out the door with $100,000.

Unfortunately, what we saw happening was what we called the Mac attack affectionately in the health care system in Hamilton. Routinely, most of the managerial positions out at Mac had larger severance packages than the Hamilton Civic Hospital's administrative people did, so they were let go in favour of McMaster people. It happened in my own department. I ended up with a manager who had no idea what diagnostic imaging was all about. He stayed less than a year, took a severance package and left. That happened throughout the hospital. We ended up with people who were administrators but they didn't necessarily administer in diagnostic imaging or in nursing or whatever. It's just that they had this huge severance package, and if you're an administrator you can be an administrator anywhere, and then rely on the department manager, per se, to bring in the expertise. To me that's simply not an appropriate way to determine who's going to run the coop kind of thing.

Mrs Bountrogianni: Just before I give it to Mr Patten, again, the effect of this bill won't be to solve that problem immediately, but it may be over the years, when people get used to the idea that the public is watching and wanting to know and will eventually know. Those sorts of agreements will be more carefully laid out and signed and therefore that would be prevented, because there would be more equality among the different sites. It was so skewed in Hamilton as to who was paid what at one site, who was paid what at another. I actually felt for management when they had to go through that process. It was difficult for all sides, management and the unions. But I thank you for clarifying that.

Ms Mattina: Could I just clarify that one a little bit further? Again, in the Jennifer Jackman and Pamela Reid case, there was actually a clause that tied the two severances together, which the public was not aware of. If Jennifer Jackman left as the CEO, then Pamela Reid had the right to also leave and follow her, and that was written into her severance clause. The public should have been aware of that. Jackman had imported her from their previous place of employment in the first place. It was in Pamela's contract, or at least that's what was reported, that if Jennifer Jackman left, then Pamela Reid also had the right to take the severance package and follow her. To me, if those facts had been public knowledge, the board that agreed to those terms would have, I'm sure, scrutinized that deal a lot better than they did and been much more diligent in determining what was best for the hospital and the patients as a whole.

Mr Patten: Likewise, I don't think this changes the bill at all, but you've identified a very important aspect, and that's the hidden costs. We know what the costs of mergers are in the aggregate. You wonder, how come this is so expensive? You see it's because of severances, this kind of thing, the detail on that, but you illuminated this particular point and I think it's extremely valid. At some point, surely, there should be guidelines for public institutions related to severances, because in certain instances at the managerial level, of course, some of these things are confidentially negotiated to begin with, where if anything happens in this particular contract beforehand, let's negotiate what kind of a deal might occur. So as we have severance arrangements for our public service, we don't have them likewise for our public institutions, per se. By "public service" I mean the government. I just wanted to reiterate that because that's a very good question.

Ms Mattina: If I may, I would like to make one comment. One of the impacts that I really didn't get a chance to say too much on—I just touched on it—is the impact on the staff. I mentioned how they fundraise, how they work hard, how they're working with the increasing workload and stress levels. I work as a union counsellor. I help people find solutions. I go to people who are having problems and refer them. I have never seen as many problems in the health care sector as I've seen these last few years under the weight and the burden of restructuring and the tax-dollar crunch. I see patients waiting in hallways and nurses breaking down. I see technologists going off on stress leaves. Our sick time incidences are increasing dramatically and the morale just falls through the floor when you hear the size of these packages that people are getting and you can't get a nurse to work in emergency or you can't take a day off to go to the doctor or to be with a parent who is sick or a child who is sick because there's simply no staff there and no money there to help you out. I think what we're seeing is that the infrastructure in the hospitals is simply crumbling under the weight of this.

These severance packages, the dollars that could be utilized so much better in patient care, are flying out the door at phenomenal rates, and we don't even have the right to know what's happening. So when you hear about it, as Marie alluded to earlier, through the press and how it's pumped and it's day after day after day, it has an enormous impact on the people who work in that sector and on the services that they provide. As both a taxpayer and a citizen, and a sometime patient, I want to know why the dollars are going there and who they're going to and if it's justified that that money goes out like that.

With public scrutiny, you are going to make people more accountable in what they do, and that's the long and the short of the whole argument.

Mrs Bountrogianni: Back in the mid-1990s, when the huge debacle of Jackman and her friend, because they were personal friends as well as associates, was published, a lot of people were asking for their funding donations back. They were actually calling up and saying, "I want my cheque back. I did not donate $500 in order to go to her severance." So that has an impact on fundraising as well.

Ms Mattina: Actually, in that respect, that was the reason why the hospital itself approached me. As you may well understand, being a union executive I'm not always the best friend of the administration at the hospital. They approached me. They called me down to the VP's office and asked me, because I was very high profile in Hamilton at the time with the Save the Henderson, if I would help them to raise dollars for the foundation, simply because they knew the impact of what had happened in Hamilton had dropped their donations through the floor and they couldn't raise money. They asked me if I would join up with them and bring my credibility and my support from the public with me in order to raise dollars for the foundation. I did agree to do that and we did have a very successful campaign, but it's not near what it would have been prior to this whole debacle about severance packages.

Ms Martel: Thank you for coming today. I have one question that involves, I guess, the board's responsibility, because you mentioned that had the board known of the linkage between the severance packages, perhaps things would have been dealt with differently. I'm going to assume that the board was responsible for the agreement.

Ms Mattina: I don't think I said the board.

Ms Martel: So did I misunderstand you?

Ms Mattina: I think that had the board been required to release that information, they would have been more responsible in the deal that they made. Obviously they knew about the link; they made the contract. In fact, that whole board is now gone. There was no confidence in them and the board has being released and dissolved and, as you well know, Ron Mulchey was sent in as supervisor and so on. So it's just another big piece of the pie, but definitely the board did know about the package. They arranged the package. My point was meant to be that if the public had known about such arrangements, they probably never would have happened. Somebody would have thought better of the idea and put the brakes on.

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Ms Martel: Having said that, in the legislation we have before us some of those details would still only come out afterwards. But I guess your perspective is, if you start a process where that disclosure begins, then from the outset boards would be making wiser decisions about who they're hiring and the kinds of agreements they are reaching because at some point this may be disclosed if there is an unhappy situation that results in a separation.

Ms Mattina: Absolutely. I mentioned that I am now currently on the board of the United Way, and I can tell you that foremost at every board meeting is the public's perception of how much money we spend in order to fundraise. Consequently, the cost of fundraising at the United Way has dropped significantly over a number of years because of the public scrutiny about how much money it costs us to raise dollars. We are now currently, at the United Way, one of the lowest in costs for the purposes of fundraising, in some instances as much as 10 cents on the dollar lower than other fundraising initiatives. It is strictly the public pressure put on the board to be responsible for the dollars that they're spending, and I believe it would happen elsewhere.

The Chair: Government members?

Mr Gill: I guess one of the concerns is not only the amount of severance but also the conditions, how different people are tied in. I think that's your concern.

Ms Mattina: I think the whole package deserves some scrutiny, whether it's the dollar value or whatever. I just think that with some public scrutiny in terms of how much is being put out there—there was some mention of a house and a car and so on. If that's part of the package, that should be disclosed too, because it has a definitive dollar value. I don't have any real interest in what personal relationships are. However, I do have an interest that if you go, the other goes, and that costs me double. If that were part of the deal for all public sector severance packages, the costs escalate pretty rapidly.

I would like to see more disclosure. I'm happy with the start. I'm happy with the idea of just getting the monetary value, the dollar value out there. I think the rest will follow. Most people don't have their spouse or their partner or their friend that comes along. I think that was an isolated incident.

Mr Gill: Continuing with what Ms Martel said, would you rather see the conditions and the package ahead of time, rather than after the fact?

Ms Mattina: I think my preference would be ahead of time, although I think the same effect would happen even if it were after the fact, because eventually, as I say, it comes right down to the boards being responsible. Like I say, in Hamilton the board was just dismissed. If you start making deals that are not appropriate, I don't think you're going to last very long. You won't stay on the board. It won't take long for the boards to get the idea that they have to pay attention to what's going on and what the public wants and that enormous severance packages are not appropriate.

You asked a question earlier about severance packages. We again have severance packages. As medical radiation technologists, if we leave, it's two weeks per year of service. However, it's limited to a maximum of half a year. If I walk out with six months' seniority—I have to have three years in to get any, but after 13 years you've reached your maximum and that's it, and I think

that's appropriate. Six months to find a job is appropriate. Three years to find a job is not appropriate.

Mr Gill: How long, do you think—it's somewhat related. How long do the search firms take to find a president of a hospital, let's say, since we are on hospitals? Any idea?

Ms Mattina: I would think the norm is probably around six months to a year. It goes out, it gets published, usually within Canada first and then, if there are no interested parties, they'll go worldwide. I would think the norm would be six months to a year and the interview process probably would take several months once a number of applications had been received.

Mr Gill: This $2.4-million severance: how many people were involved in that?

Ms Mattina: Five.

Mr Gill: The maximum was $1.8 million, I think somebody said?

Ms Mattina: I think that's what she was offered, but I think she took $800,000. There was a real firestorm over that one, and I think she ended up with $800,000. I know there were lawsuits and countersuits, and I believe the final figure ended up around $800,000.

Mrs Bountrogianni: We paid for those lawsuits too.

Ms Mattina: Yes, sure.

Mrs Bountrogianni: That's not included in the $2.4 million.

Mr Gill: I think my colleague might have some more questions.

Mr Gilchrist: Thank you very much for your presentation here. It really is heartening to see this is an issue where there is agreement on all sides. It is pure waste when any dollars are spent that aren't necessary.

You mentioned there was a cap in your forced retirement severance condition of half a year. While I respect the fact that Ms Bountrogianni has, in the second version, tried to bring in a less complicated act, I'm wondering whether at the same time it would be appropriate to put limitations on the term of severances.

In a marketplace where, if you're qualified, you'll have no trouble—particularly in your profession—getting a replacement job somewhere in the province, is a six-month standard appropriate, or even being doubly generous, one year, in the statute limiting the ability for anyone in the public service to get more than a one-year severance amount? Would that be a responsible step for us to take?

Ms Mattina: From my position it certainly would. I have no problem with that whatsoever. To be realistic, it would have to be compared to what's out in the private sector, because we don't want to end up with all of the private sector throwaways. We do want to have good management, and in fact it's crucial to the effective operation of our hospitals, and I'm sure our colleges too. However, if you do cap it, I think it would have to be something that would have to be revised or reviewed from time to time. Obviously inflation and market forces and so on work on things like that.

But if you cap it in terms of, as you say, a half-year or a year, whatever the industry standard would be, I would think that would be quite acceptable.

Mr Gilchrist: Would one of the things you would be comfortable taking as the direction for that number, whether it's six months or one year, be court rulings? We have under the Employment Standards Act a rule that says you're entitled to one week for every year of service. It's my understanding that even today judges are loath—it's a very rare circumstance, even with the best of cases and you absolutely were fired for the worst of reasons or no legitimate reason, that a judge would go as high as one month for a year of service.

Phrased that way, if that is the upper limit that you would ever win in court, if we knew that was the worst-case scenario anyway—if you take us to court because you don't like the way the hospital board is dealing with you, the most we're going to lose is one month for a year of service—wouldn't it be responsible for us to put that in statute? And you're right; as the head of the Red Tape Commission, I can tell you that we believe very much in sunset laws. We should be forced every five years to look at everything on the books. Would that be an appropriate standard for us to take: whatever judges believe is the rule of thumb?

Ms Mattina: Who am I to overrule a judge? I'm sure that there are lots of precedents out there to look at; there is certainly lots of direction that you could get from case law or cases that have been settled in the past. My point is simply, it's your job as the legislators of this province to deal with where you set that limit. I'm just saying to you that, as the taxpayer, as a public service employee, I think it is my right to know what those things are. How you come to that end and what you finally put on it has to be better than what we have right now. Right?

Mr Gilchrist: I agree. Thanks, Debbie.

The Chair: Thank you very much for your presentation and comments.

That's the last presenter we have.

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COMMITTEE BUSINESS

The Chair: Under normal circumstances, this matter would now go back to the committee for further discussion and we would set out the rules by which amendments to the bill, if any, would be made—the time limit. That would normally happen at our next meeting, whenever that is, whenever the House comes back. That's how I propose to deal with it unless there are any comments from anyone to that.

There's one other item on the agenda—Mr McLellan is here—and that deals with the report writing. He just wanted to have a very brief discussion about that. Could you come forward, please?

Interjection.

The Chair: We're not going to talk about the reports themselves, but just about the manner in which the reporting is going to be done.

Have you got any comments, Ray? Would you like to start this off?

Mr Ray McLellan: Yes, I think that what I'd like to briefly get instruction on is where we're going in terms of reports we want to have prepared and, secondly, the format as well.

In terms of the actual items that we want to report on, it seems to me that we would probably start with our chapter 3 items. We had five chapter 3 items. If you want me to refer to those quickly—I have a list of them here. If you want me to hand that out, maybe that might help. I'll wait for that to be handed around.

It would seem to me that we would want to deal with the food industry program, 3.01; 3.03, which is integrated justice; 3.05, the violence against women program; 3.07, the community reinvestment fund; and 3.11, the road user safety program—those five, and then whether or not we would want to get into the chapter 4 follow-ups. In the past we haven't dealt with those and we've left Hansard to stand as the record of our deliberations of findings on those items.

One other item that we had talked about—and the Provincial Auditor might want to comment—dealt with chapter 1. We had the Ontario Innovation Trust and also we dealt with the public accounts. Mr Peters might want to comment on that particular item on auditing procedures.

Mr Erik Peters: If you will, just one option on that is to let Hansard stand as the report. That would be an option. But it strikes me maybe we should separate the two. One is to have a report on Ontario Innovation Trust and to separate it out from chapter 5. I think those were different issues that were discussed in those two. My recommendation would be to at least have a report on chapter 1, Ontario Innovation Trust.

The Chair: Can I suggest that we do the chapter 3 items in the order that they were presented to the committee over the past three weeks? Then, following that, we follow it up with the report, with possible recommendations on chapter 1. That's normally the way it would be dealt with.

Mr Gilchrist: In terms of the recommendations, though, are you suggesting that you would be recounting things that have already been put forward, or are you suggesting that there needs to be another meeting to review the report that you were talking about producing here today and affording each of the parties an opportunity to make final recommendations?

The Chair: There's no question about it: each one of these reports would come back by way of a draft report from the researcher and then it would be discussed by the entire committee and amendments would be made.

The second issue—I think the more important issue—that you wanted to talk about was the nature of the report. In the past, the reports have always been very lengthy, and the suggestion has been made that we stick strictly to the recommendations, perhaps with one or two cogent reasons as to why we're making that recommendation, so that we end up with reports that are much shorter than they have been in the past and, in effect, make the auditor's report an appendix to the report rather than a regurgitation within the report itself.

Mr Gilchrist: That makes a lot of sense.

Mr Gill: Yes, it makes sense.

The Chair: Ray, did you want to make some comments on that?

Mr McLellan: That's something we've talked about for the last number of years, to get away from these long reports, which take a very great deal of time to get through.

I've had a chance to look at the federal reports on public accounts, and also the UK—I have copies if you're interested—and it seems to me that both of those, the federal jurisdiction and Westminster, stick really to conclusions and recommendations. They seem to be able to get through fairly complex items that I've looked at here within six or seven pages. That's my feeling: to move toward that format, if the committee's in agreement.

The Chair: Is there any comment on that?

Mr Patten: I thought we had already agreed we'd be doing that. I like the idea because I think it's easier to read, and when people discover it's easier to read I think more people may read it. If they want any further detail, they can always go to the appendix.

The Chair: Just for the record, we hadn't quite agreed on that. We had agreed that the report that Ray presented before the hearings would be shortened, and this is just a continuation of that, the final report being a shortened version as well.

Any other comments? Ms Martel? No. The government side?

Mr Gill: I think we actually took the liberty of doing a bit of that the other day when we said they shouldn't be full of appendices, but we're going to talk about exhibits and we're only going to attach the limited information. So we're in full agreement with that.

The Chair: Anything further?

Ms Martel: I want to follow up on the report that remains outstanding, which is the Ministry of the Environment, because that information is due tomorrow and I haven't seen it yet. So I'd like to know if it has arrived and, if not, are we scheduling that report, then, for the first meeting when we next sit?

The Chair: I would suggest that at the first meeting we have once Parliament's recalled we deal with the manner in which we are going to deal with the bill that was discussed today, plus finish off the environment report. With respect to the other report that's still outstanding, I understand that's to go to the subcommittee for final approval.

Interjection: That's right.

The Chair: Is that fine? Anything else? No. We stand adjourned, then, until the next meeting.

The committee adjourned at 1507.

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Substitutions / Membres remplaçants
Mrs Marie Bountrogianni (Hamilton Mountain L)
Mr Garfield Dunlop (Simcoe North / -Nord PC)
Mr Steve Gilchrist (Scarborough East / -Est PC)

Also taking part / Autres participants et participantes
Mr Richard Patten (Ottawa Centre / -Centre L)
Mr Erik Peters, Provincial Auditor

Clerk / Greffière
Ms Tonia Grannum

Staff / Personnel
Mr Ray McLellan and Ms Margaret Drent, research officers,
Research and Information Services