



Staff Report

Report To: Dan Best, Chief Administrative Officer
From: **Megan Goss, Human Resources Coordinator,
Assistant to CAO**
Date: November 20 2017
Report: HR 03.17
Subject: Bill 148, Fair Workplaces, Better Jobs Act, 2017

Recommendations:

That South Huron Council receive the report of Megan Goss, Human Resources Coordinator and Assistant to the CAO regarding Bill 148, Fair Workplaces, Better Jobs Act, 2017 for information.

Purpose:

To provide information to South Huron Council regarding Bill 148, Fair Workplaces, Better Jobs Act, 2017 and possible financial, and operational impacts to the Municipality of South Huron.

Background and Analysis:

On June 1st, 2017 Bill 148, Fair Workplaces, Better Jobs Act, 2017 (Bill 148) was given its first reading in the Ontario Legislative Assembly. On September 11th, 2017 it was given second reading and on October 18th was referred to the Standing Committee on Finance and Economic Affairs for further consideration.

Bill 148 is as a result of a study initiated in 2015 by the Minister of Labour called the Changing Workplaces Review. The review was meant to consider broader issues affecting the workplace and assess how the current labour and employment law framework addresses these issues. The review focused mainly on the Employment Standards Act, 2000, Labour Relations Act, 1995 and Occupational Health and Safety Act.

The proposed amendments that Bill 148 would bring forward that would impact the Municipality of South Huron include:

1. *Minimum Wage*- Bill 148 seeks to increase minimum wage from \$11.60 per hour to \$14.00 per hour effective January 1, 2018 and then an increase to \$15.00 per hour on January 1, 2019. Minimum wage increases would also impact student wages and liquor server wages.
2. *Scheduling*-
 - a. *Shift/work location*-changes to employee rights regarding shift and work location change requests.
 - b. *Call-in/on call*- Employers would be required to pay employees (including managers and supervisors) a minimum of three hours of regular wages per every 24 hour period when they are on-call, regardless of whether or not they work or how many times they are called in during that period. This will exclude fire services, utilities and winter maintenance staff.
 - c. The Bill proposes changes to minimum call in pay, pay in lieu of notice for the cancellation of a shift and entrenches employees' right to refuse a request to be on call.
3. *Personal Emergency Leave*- proposed changes to medical documentation and the requirement to provide two (2) paid personal emergency leave days, and eight (8) unpaid personal emergency leave days per year as opposed to the current stat which is ten (10) unpaid days.
4. *Domestic or Sexual Violence Leave*- Would be a new unpaid leave entitlement, available if an employee or the employee's child (under 18) experiences domestic or sexual violence or the threat of domestic or sexual violence.
5. *Pregnancy and Parental Leave*- In the case of employees who have miscarriages or still-births, an increase in available pregnancy leave from six (6) weeks to 12 weeks. In addition, parental leave would increase by 26 weeks.
6. *Family Medical Leave*- currently, employees are entitled to an eight (8) week unpaid leave of absence. This would increase to 27 weeks, where the family member has a serious medical condition with a significant risk of death occurring within a 52 week period.
7. *Child Death Leave and Crime-Related Child Disappearance Leave*- The proposed change is to create two separate leaves with entitlements for child death leave (regardless of whether the element of crime is present or not) and for crime-related child disappearance leave. Each leave will be subject to a maximum of 104 weeks.

8. *Paid Vacation*- An increase to three (3) weeks or 6% of regular wages excluding vacation pay where an employee has been employed with the same institution for five years or more.
9. *Public Holidays*- Bill 148 proposes changes to both the calculation and qualification for statutory holidays, as well as required documentation.
10. *Equal Pay for Equal Work*- Currently, employers are required to pay males and females the same wages when they perform the same work. Bill 148 would expand this protection to all employees regardless of classification.
11. *Overtime Pay*- Bill 148 would require employers to assess the type of work performed during the overtime, and apply the corresponding wage rate to the type of work.
12. *Employee/Contractor Status*- the *ESA's* minimum standards only apply to "employees", and do not apply to "contractors". The Bill would create a reverse onus so that employers will have to prove that a "contractor" is not actually an "employee" under the *Employment Standards Act* and therefore not covered by *ESA*.
13. *Self Help Requirement*- Bill 148 would remove the "self-help" requirement and allow employees to make complaints to the Ministry of Labour without first trying to speak with the employer.
14. *Record Keeping*- Bill 148 seeks to increase employer record keeping obligations regarding, works schedules and changes made, when employees worked, their rate of pay and the amount of vacation pay earned.
15. *Penalties and Remedies*- Bill 148 would allow employment standards officers the ability to impose penalties by selecting a penalty within a pre-determined range which could apply to both corporations and individuals. In addition, Bill 148 allows the Ministry of Labour to publish the violating employers' information.

The Association of Municipalities Ontario (AMO) released a letter to all members on October 31, 2017 requesting municipalities to connect with their MPP's regarding their estimated financial impact for Bill 148. AMO is advocating for the following key amendments.

- An exemption for municipal and local board employees who are required to be on call to provide statutory public safety services. This needs to include supervisory and managerial staff as well.
- An exemption for volunteer firefighters for matching pay to full-time firefighters.
- Specific reference that Bill 148 requirements do not override other statutory obligations that municipal governments are required to provide public safety.

Similarly to AMO the Ontario Association of Fire Chiefs (O AFC) are also advocating to the Minister of Labour for an exemption for volunteer fire fighters among other amendments.

On November 15th, the Minister of Municipal Affairs and the Minister of Labour issued a joint letter advising municipalities that their fire, utilities and winter maintenance services would be exempt from the 3 hour on-call rule and 96 hour on call rule.

Operational Considerations:

Generally the Municipality of South Huron is situated well to address many of these proposed changes from an operational stand point based on the current proposals. Many proposed changes would simply require an update to the Personnel Policy or a new policy within the Personnel Policy to be developed to become compliant. In other cases, the Municipality is already meeting or exceeding the proposed minimum requirements. However, a fulsome assessment of the operational impacts are difficult to determine at this time as the Bill is still in committee and still lacking in some of its definitions.

South Huron's Strategic Plan:

Section 6.2.1 of the Municipality of South Huron 2015- 2019 Strategic Plan identifies key priorities and strategic directions. The following elements are impacted by the proposed legislative changes outlined in this report:

- ✓ Keep taxes and user fees affordable to maintain existing population and encourage new growth
- ✓ Administrative Efficiency and Fiscal Responsibility

Financial Impact:

A fulsome assessment of the financial impacts are difficult to determine at this time as the Bill is still in committee and still lacking in some of its definitions.

Legal Impact:

Currently there is no legal impact as this proposed legislation has not passed. However, should Bill 148 pass in its current form the Municipality would need to alter policies and procedures to become compliant.

Staffing Impact:

Currently, there is no staffing impact as this proposed legislation has not passed. However, should Bill 148 pass staff time would have to be dedicated to making the policy and procedure updates to bring the Municipality into compliance, implement and provide staff training on the changes.

Policies/Legislation:

Municipality of South Huron Personnel Policy
[Employment Standards Act, 2000](#)

Consultation:

- [AMO- Call to Action Letter](#)
- [Ontario Association of Fire Chiefs- Bill 148](#)
- [Association of Municipalities Ontario Bill 148- *Fair Workplaces, Better Jobs Act, 2017* Submission to the Standing Committee on Finance and Economic Affairs, July 19th, 2017](#)
- [The Changing Workplaces Review-Summary Report](#)
- [The Changing Workplaces Review- Final Report](#)

Related Documents:

Respectfully submitted,

Choose an item.