



ONTARIO MUNICIPAL HUMAN RESOURCES ASSOCIATION

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Sent via email: CWR.SpecialAdvisors@ontario.ca

Ontario Ministry of Labour
Changing Workplaces Review, ELCPB
400 University Avenue, 12th Floor
Toronto, Ontario M7A 1T7

**RE: Submission on Interim Report of Changing Workplaces Review - Personal
Emergency Leave**

Dear Special Advisors,

The Ontario Municipal Human Resources Association (OMHRA) is pleased to have the opportunity to respond to the review on Changing Workplaces – Personal Emergency Leave.

For the last 50 years, OMHRA has been the premier professional association representing over 400 active human resources, labour relations, and senior management professionals employed within the local public sector in Ontario. Our members are employed in municipalities, local boards and commissions. Our members provide timely human resources advice and assistance to their respective Councils, Boards, Management Teams and Commissions.

Within the scope of the Changing Workplaces Review (the "Review"), we consulted our membership on the specific topic of Personal Emergency Leave (PEL) and we have included many of the comments we have received herein for consideration/discussion.

As you will see from our submissions below, we address each of the four questions put to us through the consultation process.

The consensus feedback that we received from those members who participated was that the Status Quo should remain in place unless any regulations regarding PEL address some of the obstacles associated with a breakdown of the entitlement as contemplated by the interim report. To the extent that the government concludes that change is necessary, the only change upon which there was universal consensus among our members was an interest in the government explicitly identifying those workplace entitlements that would constitute an off-setting entitlement against the current PEL entitlement in the Act. This could be done without segmenting or parsing out PEL into discrete entitlements like sick leave and bereavement leave.

As you can appreciate, our membership is diverse. Our member municipalities vary in size, including very large municipalities and municipalities who employ less than 50 staff.

The feedback that we received is that there may not be a problem in search of a solution. While segmentation of the entitlement appears initially attractive, like so many policy matters generally, the devil is in the details. Listed below are some of the issues that our members identified as barriers to the successful implementation of any segmentation of the PEL entitlement and, correspondingly, any subsequent effort by employers to rely upon their existing entitlements to successfully advance a greater right or benefit argument under such a regime.

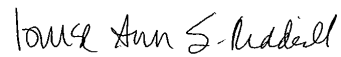
- Would the common practice of requiring a waiting period/post-probation period threshold for sick leave entitlements be a barrier to advancing an effective greater right of benefit argument even where the sick leave entitlement is significantly richer than the minimum standard?
- What would any new regulation propose to do with respect to those employees, particularly part-time employees, who are provided pay-in-lieu of benefits where their compensation accounts, in part, for an alternative to paid sick leave. Would any new regulation segmenting entitlements address this as a legitimate alternative so that employers could successfully advance a greater right or benefit? To be clear, some employers "paid in lieu" intentionally covers paid leaves of absences such as bereavement/sick days and personal paid days in its calculation of the percentage in lieu of benefits (which is a total compensation approach not merely covering the traditional medical or dental benefits).
- Concern was raised about the implications of reconciling existing collective agreement leave entitlements with any new entitlement such as one that takes on the appearance of something akin to "personal days." Employers would be confronted with having to implement a new entitlement in addition to those already freely negotiated given the Act's clear prohibition from contracting out from under the minimum standards of the Act.
- Concern was also raised about the impact any new leave entitlement would have on operations should the Province lower the qualifying threshold below 50 employees. As we note above, a significant number of Ontario's municipalities employ fewer than 50 employees. Those same municipalities deliver very critical services and they rely upon the availability of their dedicated staff in order to deliver important local services such as the safe treatment of water and seasonal snow removal. As a result, the consensus view of the members who were consulted recommended the status quo with respect to the entitlement threshold. In the alternative, we would not recommend lowering the threshold without further consultation occurring with the small employer community so that the Province could better understand the implications associated with a change in this regard.

As a result of the feedback that we received, our recommendation is that government should take the time necessary to further explore the implications that any changes in this area would have on the issues noted above. Change for changes sake is not recommended, particularly if any change does not advance our members' ability to successfully avail itself of the greater right or benefit provisions of the Act. If these issues are not addressed, the only outcome of the contemplated changes would see more municipal employers confounded by their inability to use the greater right or benefit provisions of the Act against the backdrop of a more greatly expanded set of statutory entitlements.

Finally, if future consideration is being given to either the provision of paid medical notes or paid illnesses days, we would request consultation to discuss the financial implications to municipal employers.

OMHRA appreciates the opportunity to table its comments during the Changing Workplace Review and we thank you in advance for your consideration of our comments and concerns which we have tabled as a precursor to further discussions as appropriate to explain our position. We are available to discuss these concerns and explore solutions to the problems that we have outlined at your convenience.

Yours truly,



Louise Ann S. Riddell
President, OMHRA

cc
Board Director Members