

REGION OF OTTAWA-CARLETON  
RÉGION D'OTTAWA-CARLETON

REPORT  
RAPPORT

Our File/N/Réf. Your File/V/Réf.	A.1.4.343
DATE	26 April 1999
TO/DEST.	Co-ordinator Corporate Services and Economic Development Committee
FROM/EXP.	A/Regional Solicitor
SUBJECT/OBJET	<b><i>FAIRNESS IS A TWO-WAY STREET ACT (CONSTRUCTION LABOUR MOBILITY), 1999 (RESPONSE TO OUTSTANDING INQUIRY NO. C&amp;E 6(99))</i></b>

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**DEPARTMENTAL RECOMMENDATION**

**That the Corporate Services and Economic Development Committee and Council receive this report for information.**

**BACKGROUND**

On March 31, 1999, Premier Mike Harris announced three steps that the Ontario Government would be taking to address the unequal balance of construction workers and companies working across the Ontario-Quebec border. Premier Harris announced that Quebec companies would immediately be barred from bidding on Ontario Government construction jobs. He also announced that the Government would increase enforcement of health and safety, workers compensation and retail sales tax laws in order to ensure that companies doing business in Ontario would obey all Ontario laws and pay all applicable Ontario sales tax.

The final step announced by Premier Harris was the intention of the Government to introduce new legislation which would create restrictions against working in Ontario for construction workers and companies from jurisdictions that do not treat Ontario construction workers and companies fairly. The draft legislation that has been released by the Ontario Government has a short title of *Fairness is a Two Way Street Act (Construction Labour Mobility), 1999*.

***Fairness is a Two Way Street Act***

The proposed *Act* is divided into five parts. Part I of the *Act* deals extensively with construction contractors. This section requires construction contractors from designated jurisdictions outside Ontario to register with the Jobs Protection Office established under the *Act* in order to bid for

work within Ontario and further bars those contractors from bidding on certain categories of government contracts within Ontario.

In order for a corporation from a designated jurisdiction to register under Part I, it must provide proof of its corporate status and a detailed auditor's statement from a person licensed under the *Public Accountancy Act* certifying that its working capital ratio is at least 1.1 to 1 for the current fiscal year. The corporation must also post security in the prescribed amount of \$10,000.00, pay the fees set by the Director and satisfy any other prescribed requirements. Each registration will be for a one year period and must be renewed annually.

Part I further prevents any contractor required to register under Part I from bidding on Government of Ontario construction contracts and extends that prohibition against bidding to construction contracts of municipalities and all other public entities set out in the schedule to the *Pay Equity Act*. This schedule includes virtually all the municipalities, boards of education, universities, colleges and hospitals within the Province of Ontario. In order to further limit the ability of contractors from designated jurisdictions from working on government projects, Part I also prohibits subcontracting with contractors who are required to register under the *Act* and includes consulting engineering and architectural assignments in the list of prohibited contracts.

Part I contains provisions that provide immunity from legal liability to all persons refusing to award a contract to a contractor or person who is banned from being awarded government contracts on the basis of the prohibitions contained in the *Act*.

Part II of the *Act* sets up a registration system for workers from designated jurisdictions who will be doing construction in designated areas within the Province of Ontario. The Lieutenant Governor in Council has the power to establish such designated areas. It should be noted, however, that if the Lieutenant Governor in Council does not establish designated areas within the Province of Ontario, the *Act* provides that the whole Province of Ontario will be the designated area.

Similar to the contractor registration, workers from a designated jurisdiction must register with the Jobs Protection Office on an annual basis and must satisfy experience requirements and pay applicable fees.

Part III of the *Act* amends licences issued under the *Truck Transportation Act* to prohibit holders of such licences who are resident in a designated jurisdiction from transporting aggregates within the Province of Ontario. This part appears to be designed to ensure that transportation of aggregate materials required for construction will be limited to truckers resident in Ontario.

Part IV of the *Act* deals with retail sales tax enforcement. This section of the *Act* gives inspectors additional powers to ensure that all retail sales tax is paid with respect to construction equipment or material being used on a project within the Province of Ontario. This part of the *Act* provides for inspectors requiring the payment of a security for retail sales tax in cases where the inspector reasonably believes that construction equipment or material worth \$200.00 or more is being brought into Ontario for consumption or use in Ontario where that consumption or use would be liable to tax under the *Retail Sales Tax Act*.

The final part of the *Act* deals with a number of general matters. Part V establishes the Job Protection Office and prescribes the specific authorities and powers of inspectors under the *Act*. This Part also sets out the fines under the *Act*. In general, fines are up to \$25,000.00 for a corporation failing to register or improperly entering into a contract in contravention of the *Act* and similar fine limits of \$2,000.00 are established for a person involved in such contraventions.

In the past, the Ontario Government has made efforts to reach agreement with the Province of Quebec to provide for open access across the Ontario-Quebec border for both construction companies and workers. The proposed *Fairness is a Two Way Street Act* represents the Provincial Government's attempt to enact both registration systems and restrictions on contracting for government work that would parallel restrictions that it believes to continue to be in place in the Province of Quebec. In the event that there are subsequent negotiations between the two Provinces which prove to be successful, the *Act* grants the Lieutenant Governor the power to repeal the *Act*, in whole or in part, by proclamation.

Once the *Fairness is a Two Way Street Act*, 1999 is enacted, Regional Government will not be in a position to award construction contracts to Quebec based contractors, assuming the Province of Quebec is named as a designated jurisdiction under the Act. Quebec based contractors will also not be in a position to work as a subcontractor on any Regional Government construction work. Similarly, Quebec truckers will not be permitted to transport aggregates throughout the Province of Ontario. Based on the immunity provided in the proposed legislation, the Region and its officers and officials will be protected from any liability resulting from any future decisions not to award tenders to Quebec based companies once the *Act* has been formally proclaimed.

*Approved by*  
*E. A. Johnston*

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