



The Side-effects of Essential Services Legislation

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Thank you very much for the opportunity to address this issue. I would like to discuss the results of my research on the effect of essential services designation on wages, strike length, the eventual outcomes of strikes and briefly compare the essential services model with other means of negotiations.

In my research, I find that essential services designation results in an average 13 percent premium in the negotiated nominal wage increase (Dachis 2008). The effect on the level of wages is different, leading to an increase of up to 0.8 percent in the average hourly wage. This suggests that if the TTC was declared an essential service, instead of wage increases of 2.75/3/3.25 percent over the last three years, wage increases would have been in the range 3.1/3.4/3.67 percent. The likely result would have been wage costs that were \$6 to \$7 million higher in a given year and around \$23 to \$25 million higher over a three-year contract. These values would likely escalate over time as negotiated increases escalated.

Some workers in a bargaining unit will be affected by essential services legislation while others will not be. Likewise, the existence of an essential service law does not mean it will be enforced in the same manner or have the same framework as essential service legislation in other provinces. In what follows, I have defined an essential service designation to apply to any strike or wage negotiation in a year after any essential service legislation was passed.

As the City Manager's report notes there are a number of different models for ensuring public service delivery. A "no strike" model is different from an essential services designation as no legal strike action is allowed. I did not report the results of how banning strikes increases wage costs in my original report, but my results do show that banning strikes has a similar effect of increasing wages.

Since 1977, there have been around 671 strikes where an essential service designation applied compared to 2,522 strikes that were not classified as essential, and very few strikes, approximately 41, where strike ban legislation existed. Based on these numbers alone, one could deduce that an essential service designation does not guarantee there will be no strike activity.

In cases where there is an essential services designation, strikes are approximately 38 percent longer than in similar locations and sectors where such legislation is not in place (Table 1). While these may indeed be partial strikes, strikes are substantially longer in sectors where essential services legislation applied. Using the TTC as an example, over the life of the last three-year contract, instead of approximately 2.5 days affected by strikes, there would have been more like 4 days of partial strikes. This is likely because both the union and the employer know that the economic and political costs of a partial strike are lower than a full strike and both sides have less incentive to return to the bargaining table.

Table 1: Effect of Essential Service and Strike-Ban Legislation on Strike Length

	Percentage Change in Length of Strike
Essential service designation	37.3**
Strike ban	-130.4*
Observations	3170
R-squared (percent of variation explained by controls)	0.219
Other controls: year strike starts, province, season, union, provincial unemployment rate and provincial real wage	
Statistically significant with **95% confidence , *90% confidence	
Sources: Adell, et al. (2001); HRSDC "Collective Bargaining Dispute Resolution Process in the Public and Parapublic Sectors in Canada"; Provincial legislation as interpreted by author; HRSDC "Work Stoppages" and CANSIM Tables 281-0021, 282-0001, 281-0008, 282-0074, 326-0021.	

Table 2: Effect of Essential Service and Strike-Ban Legislation on the Likelihood of Special Provincial Legislation, Court Order or Provincial Labour Board Ending Strike

	Increase in Odds of Provincial or Court Order to end Strike
Essential service designation	2.78**
Observations	3170
Pseudo R-squared (percent of variation explained by controls)	0.265
Other controls: year strike starts, province, season, union, provincial unemployment rate and provincial real wage	
Statistically significant with **95% confidence	
Sources: Adell, et al. (2001); HRSDC "Collective Bargaining Dispute Resolution Process in the Public and Parapublic Sectors in Canada"; Provincial legislation as interpreted by author; HRSDC "Work Stoppages" and CANSIM Tables 281-0021, 282-0001, 281-0008, 282-0074, 326-0021.	

While strikes in sectors with essential service designation are longer, it is also true that the end result is often that these strikes are ended with either special provincial legislation or a court or labour relations board order to stop the strike (Table 2). According to my estimates from HRSDC strike outcomes, strikes where there is an essential services designation are 2.78 times more likely to end up being ended by legislation or the courts versus being negotiated between parties or via an arbitrator. A similar result was found in Hebdon and Mazerolle (2003) who found that mandatory arbitration led to employer-employee negotiation impasses being up to 20.7 percent more likely. While strike ban legislation is indeed successful in reducing the length and likelihood of strikes – as opposed to essential services legislation – it increases the likelihood of other types of disputes as well.

The end result with essential services legislation for the TTC will likely be the same as with the current situation: strikes are still likely to be ended by provincial decrees rather than free negotiations between the City and the union, as well as be longer at a higher cost to the citizens of Toronto.

While some may say that essential services legislation is a cost-effective way to ensure service provision in that the direct costs of higher wages to the City may seem small in comparison to the economic costs of disruption, the fact is that essential services legislation has side effects and costs that must be considered in weighing this decision. Thank you.

References:

- Dachis, Benjamin. 2008. "No Free Ride: The Cost of Essential Services Designation." C.D. Howe Institute e-brief. September.
- Hebdon, Robert, and Maurice Mazerolle. 2003. "Regulating Conflict in Public Sector Labour Relations The Ontario Experience (1984-1993)." *Relations Industrielles/ Industrial Relations*, vol. 58, No 4. 667-686.