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Government budget bill attempts to push through highly concerning OHS changes

Buried in an omnibus budget bill are Ontario proposals for questionable new employer accreditation programs and mechanisms to privatize health and safety standard-setting.

Charles Sousa, Ontario's Finance Minister introduced [Bill 70, Building Ontario Up for Everyone Act \(Budget Measures\)](#) to implement the government budget. It amends 26 different statutes, including unrelated but potentially detrimental legislative changes to the *Occupational Health & Safety Act (OHS)*. As such, **Bill 70 'builds up' everyone but working people.**

Outsourcing standard-setting

Bill 70 passed first reading in the legislature on November 17. The proposed changes to *OHS* add a new definition of health and safety management system (HSMS) and **expand the powers of the Chief Prevention Officer (CPO)** to:

- accredit and set standards for HSMS
- recognize employers who are certified users of a recognised HSMS
- set a validity period for employer recognition and the power to revoke or amend an accreditation or recognition
- request information, records, accounts from any person seeking accreditation
- publish accredited HSMS, standards and recognised employers
- delegate powers, including to anyone outside the Ministry of Labour, related to setting standards for accreditation/recognition *and* training.

Health and safety advocates reviewing Bill 70 have serious concerns. The **perverse irony** this Bill bears the same number as the Bill which birthed Ontario's original *OHS* almost 40 years ago is not lost on worker health and safety advocates. Chief among their concerns is the Bill's **intent to allow the government to privatize the processes for setting and approving standards for health and safety training courses and training providers, in addition to employer accreditation.** Among many questions worker advocates ask, "Would an external or industry-dominated group be trusted to set truly protective standards?"

Employer self-regulation of health and safety

Employer accreditation is often proposed as a way to build and incent employer commitment to health and safety. In theory, an accreditation system would use a government standard to assess a company's

health and safety management program. Companies with acceptable programs would receive government accreditation.

However, proposed *OHS*A changes also position the employer as the sole driver of health and safety management systems (HSMSs). **No mention is made of worker input or joint health and safety committee (JHSC) involvement.** As such proposed changes to *OHS*A effectively ignore recommendations in the 2010 Report of the [Expert Advisory Panel on Occupational Health and Safety](#). Envisioning a broader process that motivates business leaders (not solely based upon financial incentives) and engages workers they wrote, “This includes leadership in the implementation of an effective health and safety management system and the support for the effective operation of Joint Health and Safety Committees and Health and Safety Representatives, along with better training for these representatives”.

The Panel did not envision employer self-accreditation; and yet **many existing industry-lead HSMSs are audit-based, involving self-reporting by internal auditors.** Many are also rooted in behaviour-based safety (BBS) approaches that monitor and seek to change worker behaviour instead of controlling or eliminating hazards. With no information on what an employer accreditation/recognition standard might include, the government is essentially asking for a blank cheque. Changes to *OHS*A set the stage for a potential regulation on accreditation, however regulations are passed without oversight from the legislature.

Two years ago the Ministry of Labour held public consultations to seek input before developing a framework for workplace health and safety prevention programs. Those discussions did not include the contents of an accreditation standard nor an audit method.

Accreditation and enforcement

Equally troubling, in announcing these amendments to *OHS*A, Ministry of Labour senior staff indicated **employers accredited through this possibly self-regulated scheme would be exempt from proactive enforcement by health and safety inspectors** and other “routine burdens.” The Ministry has yet to explain which other health and safety “burdens” may be removed.

Replacing enforcement with health and safety management systems is controversial and certainly unacceptable to labour for good reason. **Research evidence demonstrates worker health and safety is better protected with more not less enforcement.** A recent study by the non-governmental Institute for Work & Health showed enforcement effectively protected worker health and safety. “Employers do take steps to prevent work-related injuries for employees when there are direct consequences to them,” a 2016 [report](#) concluded.

But IWH studies on management systems, which would replace enforcement, show little proven benefit on worker health and safety. “While companies talk about the importance of management and organizational initiatives, such as the presence of a strong safety culture or occupational health and safety management systems to promote good occupational health and safety, little scientific evidence is available to indicate which leading indicators, among many, should be used,” says a 2013 [IWH report on leading indicators](#).

In the Ontario Legislature, opposition **NDP MPP John Vanthof**, has tabled a motion to remove **OHSA amendments from the budget bill**, as well as proposed changes to the *Ontario College of Trades and Apprenticeship Act*. Bill 70 will likely be referred to a committee of the Legislature after second reading, which began November 23. Since Bill 70 contains land transfer tax breaks and other budget promises the **government majority is looking to pass the bill before the Legislature adjourns December 8, 2016**.

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Published by:
Workers Health & Safety Centre
675 Cochrane Drive
Suite 710, East Tower
Markham, ON L3R 0B8
Tel: (416) 441-1939
Toll Free: 1-888-869-7950
www.whsc.on.ca

Executive Director: **Dave Killham**
Director, Information Services: **Loretta Michaud**
Editor: **Ellen Simmons**

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