

**TOWN OF MINTO**

DATE: September 14, 2016
REPORT TO: Mayor and Council
FROM: Bill White, C.A.O. Clerk
SUBJECT: Changing Workplaces Review Special Advisors Interim Report

STRATEGIC PLAN:

12.7 Demonstrate innovation in all aspects of municipal business acknowledging the importance of training, succession planning, transparency, communication and team-based approaches to municipal operations.

BACKGROUND

The review commissioned by the Province considered 300 written submissions, and 12 days of public hearings where 200 organizations and individuals spoke on the following areas:

- Broader issues affecting the workplace like globalization, trade liberalization, technology, service sector growth, and changes in standard employment relationships
- How the Labour Relations Act 1995 and Employment Standards Act 2000 address these workplace trends
- Possible changes to legislation given the changing nature of the workforce, the workplace, and the economy.

The focus of the review is on “vulnerable workers in precarious jobs and the need for legislative amendments to address some of the issues facing these workers”. They intend to be “mindful of the interests of employers” while recognizing the “power imbalance” between employees and employer has always required legislation to protect basic employee rights. The review seeks to ensure legislation provides for the following:

1. Decent working conditions defined by a fair income, productive work, security, protection, personal development.
2. Respect for the Law and Consistent Compliance
3. Access for Justice

The report is 304 pages beginning with an Introduction, Guiding Principles, Values & Objectives, and Changing Pressures & Trends. Key sections on Labour Relations and Employment Standards include a review of the history and scope of the legislation, and then an assessment of key issues and options for legislative reform. Comments on the legislation are due by October 14, 2016.

The Labour Relations Act passed in 1995 had several reviews over the year with amendments last made in 2005. It deals with union certification, collective agreements, strikes and lock-outs. As a non-union employer the Town is not directly impacted by legislative changes in this area. While private sector unions are noted to have decreased in the report, public sector unions are active and growing. Options in the area of organization could eliminate the “voting” process in favour of a “card signing” process favoured by national unions, or removing a second vote option available under the Act.

The Employment Standards Act was passed in 2000 and last changed in 2015. It covers hours of work, overtime pay, minimum wage, job-protected leave, public holidays, vacation, termination and severance of employment, equal pay for equal work; and temporary help agencies. Town employment policies, under review, meet or exceed the minimum standards in the Act. The Town's pay equity and job evaluation processes ensure equal pay for equal work rules are met.

Options for new rules that may impact the Town are discussed in the following areas:

1. Hours of work for managers and supervisors

- set a standard requiring overtime be paid for supervisors/managers under a certain pay
- require overtime be paid if a supervisor/manager exercises care and control over 2 or less employees or do not have the authority to hire, fire or terminate
- require overtime be paid where the supervisor or manager does direct manual work rather than work related to management or general business operations

2. Unpaid intern/trainees

- eliminate unpaid intern/trainee positions or require them to be paid
- require employers who use unpaid intern/trainee positions to file a plan with the Ministry

3. Rest periods and work days

- compulsory daily rest period of at least 11 hours, limiting workdays to 12 hours (no exceptions except by regulation)
- 8 hour rest required between two shifts of more than 13 hours combined duration;
- weekly/bi-weekly rest periods: 24 consecutive hours off per week or 48 consecutive hours off per 2 weeks;

4. Benefits for part time employees

- Require part-time, temporary and casual employees be paid the same as full-time employees if holding a position similar to a full time employee with same skills, abilities etc.
- Require pay in lieu of benefits, or some other rated benefit restricted to those earning less than twice the minimum wage
- Limit the number of consecutive contracts an employee may be given part time work

5. Termination of employment

- Eliminate the eight week cap for written notice of termination for employees (an employee with 20 years' service receives 20 weeks' notice instead of 8 weeks)
- Add recurring periods of employment when calculating notice
- Require mandated notice provisions for employees to employers

6. Severance pay, Just Cause

- is paid in addition to termination notice for employees who have severed employment (no cause) from employers with 50 or more staff or payrolls over \$2.5 million
- paid at a rate of 1 weeks' pay per year to maximum of 26 weeks
- option to change number of staff or payroll size to severance pay, or remove or change the 26 week limit, or change the 1 week per year to something higher
- include just cause protection for all employees

COMMENTS:

The biggest workplace change identified is the shift from manufacturing to service and retail industries resulting in "smaller, more flexible and leaner, workplaces" which demand more

highly skilled workers and “flatter hierarchies”. There is also more part time, contract and self-employed which in some cases has little over-riding legislation. Employers seek independence to operate their business in a responsible, fair and efficient manner. Most employers support government enforcing the law against employers who violate the rules, but prefer government interference in the operations is minimal.

Council has repeatedly expressed concerns with growing administrative and reporting requirements to the Province in many programs. There is a good chance this review will result in new legislation which increases reporting requirements and cost to good employers with no real impact on employment conditions for vulnerable workers, which are typically with smaller employers with high turn-over, part time status, and direct vulnerability to international competition.

Town employees are not “vulnerable workers in precarious jobs” as their work allows for a decent income in reasonable working conditions. Full time positions earn competitive benefits including one of the best defined benefit pensions around. The Town reviews its pay policy every four years to ensure pay rates remain competitive within the mid-point of comparably sized municipalities, and provides feedback through its employee committee and its Minto Mettle program.

The Town does have some seasonal and part time workers who do not receive the benefits of full time staff. Town seasonal workers are usually working with construction companies not requiring their services in the winter, or students seeking summer employment. The Town needs to monitor working conditions and wages in these cases, although it should be noted that Town’s succession plan has resulted in them moving into full time employment. The Town has had relatively stable full time employment over the years and has not moved to replace these jobs by contracting out or with part time positions.

As such many of the options contained in the report are not typically directed at employees with employers like the Town. As a relatively small employer the Town is able to develop a one to one relationship with its employees. It is not difficult for any employee to meet with the C.A.O. Clerk or Mayor if there is an issue of importance to be discussed. Staff is close enough to allow “one-off” solutions to help employees through challenging periods all the while maintaining a reasonable standard that ratepayers can afford.

Changes to the Labour Relations Act making it easier to unionize should not be a significant concern to the public sector where unionized work is growing. Unionized workplaces tend to have much less flexibility than non-union, eliminating options for “one-off” or special circumstances in favour of specific rules for the bargaining unit. Making it easier to unionize employers like the Town does not address needs of more vulnerable employees. As such current rules seem sufficient for public sector employees. Changes related to collective bargaining, strikes or lock-outs are not of concern to the Town at this time.

Changes to the Employment Standards Act could have more impact on Town employment costs if managers/supervisors received mandated overtime, part time employees must receive full benefits, or hours of work mandates change dramatically particularly as they apply to employees who plow snow. The Town uses a practical and measured approach to protect employee health and safety when winter blizzard events are declared. This may result in work periods slightly longer than 14 hours followed by rest periods longer than eight. Some flexibility would be beneficial.

Care is required when mandating certain requirements during severance or termination without cause. If there is a severed or frustrated employment situation, termination with full notice and severance pay can be beneficial to the employer and the employee, as they can part ways with reasonable compensation to carry that employee to his/her next job without the stigma of a “cause for termination”. Eliminating that option could see employers simply terminate with cause and argue against severance pay at the Labour Board. As difficult as these situations are on occasion employers need the flexibility to terminate without cause and allowing an employee time to move on to new employment with a fresh start.

The Town supports retaining internship and part time employment practices without change provided they are not used as a means to avoiding creating full time positions where an employer has a designated succession plan in place.

FINANCIAL CONSIDERATIONS:

The Town payroll is in the area of \$2.5 million annually. There are fewer than 50 full time employees.

RECOMMENDATION:

That Council receives the C.A.O. Clerk’s September 14, 2016 report regarding Changing Workplaces Review Special Advisors Interim Report, and that the following comments be sent to the Ministry of Labour:

1. That the Town of Minto request annual reporting or administrative processes not be increased as a result of any changes made to the Labour Relations Act or the Employment Standards Act.
2. That the Employment Standards Act continues to allow for reasonable and safe flexibility in hours of work for winter snow removal employees during a declared winter storm event.
3. That Employment Standards Act provisions for interns and part time employees remain unchanged so long as these positions are seen as training opportunities for the employer or positions that allow for movement within a municipal employers succession plan.
4. That municipal employers retain sufficient flexibility under the Employment Standards Act to deal with restructured, frustrated or severed employment situations with proper notice of termination and severance pay without being limited by just cause provisions.

Bill White
C.A.O. Clerk