

MANITOBA FEDERATION OF LABOUR

Bill 26 – The Accessibility for Manitobans Act

Presentation to the Standing Committee on Social and Economic Development

October 29, 2013

The Manitoba Federation of Labour, the MFL, is pleased to share its views with this Committee on Bill 26, the Accessibility for Manitobans Act.

For those of you not familiar with the MFL, we are chartered by the Canadian Labour Congress to represent the interests of CLC affiliated unions in Manitoba and their 96 thousand members. Because those numbers include persons with disabilities and because we advocate on Workplace Safety and Health and Workers' Compensation issues, there is a great deal of interest in Bill 26 within our ranks.

Let me say at the outset that we commend the NDP Government for introducing what has been described as: *“historic because it is one of only a very few occasions over the last 50 years that any government in Canada has moved to comprehensively address disability and accessibility rights. The Bill is landmark because it sets out an entirely new and potentially powerful legislated framework to promote and protect the human rights of the 200,000 Manitobans with disabilities.”*

In its response to Recommendations of the Accessibility Advisory Council published in march of this year – the government outlined a clear agenda to prevent accessibility barriers by using this Bill to layout a framework for the development and implementation of accessibility standards leading to a barrier free society.

Analysis of Bill 26 by the Persons with Disabilities community identifies its strong point, among them the following:

- That Persons with Disabilities should have barrier-free access to those things that will give them equality of both opportunity and outcome.
- That the responsibility for preventing and removing barriers to accessibility rests those who create and perpetuate them and not with those faced by them.
- That the whole range of disabilities are addressed, not just physical disabilities.
- It enables the enactment of accessibility standards by regulations that specify what barriers must be prevented or removed and that will apply to all sectors.
- It centralizes the development of accessibility standards in one single council.
- It makes one specific minister responsible for the overall implementation of the proposed legislation.
- It requires that public sector bodies, including municipalities, develop and publish accessibility plans addressing the identification, prevention and removal of barriers.

- It provides mechanisms for the active enforcement of accessibility standards enacted under this proposed law.
- It provides for administrative penalties for non-compliance and maximum \$250,000 fines for parties found guilty of an offence under the new law.
- It requires an independent and comprehensive review of the effectiveness of the proposed law four years after it is passed and every five years thereafter. All reports from the reviews must be made public.

These highlights are the tip of the spear that Manitobans will use to take away the unfairness and injustice long faced by persons with disabilities across our province

One of the community organizations that the MFL counts among its social justice allies is Barrier Free Manitoba. Its analysis of Bill 26 identifies a number of areas where a good Bill can be made better. In support of that organization, I'd like to echo a few of them here and urge the government to take them to heart:

We are concerned by Bill 26 enable real action by does not require the government to take action with definite timelines. For example, similar legislation that was enacted in Ontario in 2005 sets a deadline of 2025 for Ontario to achieve full accessibility.

Barrier Free Manitoba points out that reliance on the good will and intentions of past governments has not resulted in systemic reform. Bill 26 should be amended to establish a duty that moves beyond a requirement for more plans and reports.

Clause 3(1) in the Bill reads as follows:

What is a barrier?

3(1) For a person who has a long-term physical, mental, intellectual or sensory impairment, a barrier is anything that interacts with that impairment in a way that may hinder the person's full and effective participation in society on an equal basis.

We recognize that this is the phrasing used in Article 1 of the United Nations Convention on the Rights of Persons with Disabilities.

But Barrier Free Manitoba points out that the Government's last policy document accepted the recommendation from the Manitoba Accessibility Advisory Council that Bill 26 would use a definition of disability that embodied "an inclusive, broad meaning of impairment, including long-term physical, mental, intellectual, invisible, episodic or sensory impairments."

It is not clear to us that the current wording of Bill 26 meets this inclusive approach to disability.

In so far as the development of standards is concerned, the advice we receive is that the Minister should be required to meet a specific time period in order to publicly respond to recommendations on a proposed accessibility standard from the council.

And further, the Minister should be required to give public, written notice to the council if the terms of reference of an accessibility standard are withdrawn.

These amendments will lead to predictability and accountability in the standard development process, and that they will promote the best decisions in a transparent way.

There is a concern about clause 6(4). It reads:

Private residences excluded

6(4) An accessibility standard may not impose any requirements on the owner or occupier of premises that contain one or two dwelling units.

If the intention is that that accessibility standards developed under this law will not apply to private, owner-occupied single or duplex housing units being used exclusively for residential purposes, then it should say so. In its current form, it could also be interpreted to exclude commercially owned and operated one or two dwelling unit properties, with no accessibility standards applied.

And finally, in support of Barrier Free Manitoba we suggest that the timing of the Minister's release of the first plan as required in clause 5(3) be moved from the 2015-2016 fiscal year to no later than April 1, 2014.

There are long-term benefits associated with this important initiative that have been documented elsewhere. In Ontario, a team headed by Dr. Kevin Stolarick, Research Director of The Martin Prosperity Institute at the University of Toronto the impact of five standards through which the Accessibility for Ontarians with Disabilities Act (AODA), 2005 was implemented.

The study reviewed the economic impact of increased accessibility on individuals, on markets, and on social units. It was found that there are opportunities at all three levels to realize substantial economic gains by removing barriers to people participating fully in the province's economy.

The most significant gains will be realized in workplaces and schools. Enabling increased workforce participation among persons with disabilities (PwD) will not only increase their individual and family income, but it could also increase the GDP per capita in Ontario by up to \$600 per annum, or in provincial GDP terms, \$16 to \$18 billion.

Enabling people with disabilities to achieve parity with the general populations average educational could mean an additional boost to Ontario's GDP per capita of up to \$200. The bottom line is, when society tolerates barriers to accessibility the result is large pools of untapped human capital that could help drive the provinces prosperity.

Businesses can benefit from these standards in three ways. First, increased access to retail and tourism opportunities would result in accelerated growth in these sectors. Second, there is the capacity to support accessibility-focused businesses able to serve global markets which are grappling with the same challenges. Third, our universities, colleges and other institutions can help educate the next generation of workers and develop new intellectual property that can prepare businesses to compete in the growing number of markets defined by accessibility requirements.

The point must be made that there are costs associated with doing nothing and tolerating the current social exclusion. Continued exclusion means significant costs from the entire province through increased health care demands and poverty related social problems. These costs are borne by persons with disabilities, their families and the communities they live in.

The study concludes with the following assessment: *“What we have learned, however, leads us to conclude that every day that people who want to learn cannot, people who want to work do not, and businesses that wish to serve these markets must wait to see what will be required, Ontario is losing extremely valuable contributions from its citizens. Releasing the constraints that limit full participation in the economy will create a significant force for economic growth.”*

My final thought on this is we should all remember that the measures we take to remove barriers to accessibility for persons with disabilities can benefit everyone in society. Among those examples:

- Curb cuts enable people with mobility challenges to more easily transition from sidewalks to the road surface. Those same curb cuts help parents pushing strollers and people using hand-dollies.
- Elevators and escalators are used by the people moving boxes, either by hand or on carts.
- Closed captions on television are meant to assist the hearing impaired – but they are only the fourth largest group in society who use them. The largest group is people exercising in gyms. The second largest is sports bar patrons watching their favorite sport while they interact with their friends. The third largest group of people using closed captioning is those watching television in bed so as to not disturb their sleeping partner.

It is plain to me that everybody comes out ahead with the Accessibility for Manitobans Act.

Thank you.

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