



Suite 1070, One Bentall Centre ▪ 505 Burrard Street, Box 42
Vancouver, BC V7X 1M5 ▪ Phone: 604-687-8056 ▪ Fax: 604-687-8074

May 7, 2012

Ms. Guyanne Desforges, Clerk of the Committee
Standing Committee on Finance
Sixth Floor, 131 Queen Street
House of Commons
Ottawa, ON K1A 0A6

Subject: Opposition to Bill C-377

Dear Ms. Desforges:

We are writing on behalf of PBI Actuarial Consultants Ltd. to express our opposition to Bill C-377. PBI Actuarial Consultants Ltd. is an employee-owned company, with offices based in Vancouver and Montreal that acts in the capacity of actuary, and/or investment consultant, and/or general consultant and/or administrator to pension plans and health and welfare trusts across Canada. These plans cover over 180,000 active and retired members and hold approximately \$12 billion in assets.

Our submission is prompted by the adverse impact of the Bill on all of the pension and health and welfare plans (hereinafter "Plans") that are captured by the definition of "labour trusts" of Bill C-377, including the Plans we are currently serving. Furthermore we oppose the disclosure of competitive information that this Bill would impose on our company.

After considering both the text of the Bill and the comments of the Honourable Member for South Surrey-White Rock-Cloverdale, CPC on his introduction at Second Reading, we consider there may be a lack of understanding of the effects of the Bill (including what entities will be captured by the definition of labour trusts, the invasion of privacy of their members that will result and the funds' cost of compliance). The authors of the Bill appear to believe that all labour trusts are funded by union dues, whereas this is not the case for pension and health and welfare plans.

We have witnessed over the years a continual increase in the cost of providing pensions and benefits as interest rates and investment returns have decreased. Additionally, costs have increased due to improved life expectancy, new medical procedures and drug therapies and increased regulatory compliance. Government programs have also been impacted by these factors, as most recently evidenced by the increase in the eligibility age for receiving Old Age Security benefits. We do not need more legislation that takes money away from providing benefits and duplicates existing disclosure requirements or results in an invasion of personal privacy.

The additional costs of compliance with this new legislation will ultimately be borne by plan members and contributing employers, diverting funds that would otherwise be available for the payment of benefits.

We hope the following explanation of those matters will be helpful to the Committee and its consideration of the Bill.

The passage of Bill C-377 will result in the Plans potentially having to disclose members' personal information¹ which, but for the passage of this Bill, Plan trustees are responsible to protect both as a consequence of their fiduciary responsibility and also as required by federal² and provincial³ privacy laws. The compelled disclosure of names, addresses and amounts paid by Plans to its members of amounts over \$5,000, such as retroactive pension and disability pension payments, death benefits and commuted value transfers will be a gross violation of their privacy. The implications of disclosure of payments from health and welfare plans is arguably even more serious as it certainly includes acutely sensitive financial information and may also result in disclosure of personal health information.

From a competitive practice perspective, the disclosure of disbursements to firms serving labour trusts compromises competitive information for our company.

In his speech on the introduction of the Bill at second reading, the Honourable Member for South Surrey-White Rock-Cloverdale, CPC began his introduction by describing the value of union dues deductibility as "a substantial public benefit" and continued "I believe it is only right for the public to know how that money is being spent. Therefore, my Bill would require the public disclosure of the finances of labour organizations." He omitted any mention of labour trusts, whereas Bill C-377 casts a wide definition on this concept. It appears to us that the Honourable Member was unaware that, with very few exceptions, the phrase "labour trust" captures all funds (not just trust funds) providing primarily, but not exclusively, pension benefits, health and welfare benefits and education relevant to employment. These benefits are provided by employee and employer contributions, not union dues. Indeed, "labour trust" is so broad that it clearly captures the many corporate-sponsored funds which cover both union and non-union employees, without any union involvement in their administration.

We also note that towards the end of his remarks the Honourable Member claimed the costs imposed on labour organizations would be minimal:

As I mentioned, using tax software and electronic filing, the costs to labour organizations would be quite minimal. Filing is not a new activity for unions. Unions already file tax returns each year. Much of the information proposed to be collected under this Bill is already required.

¹ S. 149.01(3)(b) "... statements for the fiscal period setting up the aggregate amount of all transactions and all disbursements ... over \$5,000 shown as separate entries along with the name and address of the payer and payee, the purpose and description of the transaction and the specific amount that has been paid or received..."

² *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, in particular Schedule 1, s. 4.3.

³ In British Columbia, the *Personal Information Protection Act*, SBC 2003, c. 6, in particular, s. 6(1).



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We will leave the affected labour organizations to respond to the accuracy of those remarks as they apply to them. But the omission of any reference to the accounting and reporting costs of labour trusts demands response. With respect, as a provider of consulting services to large pension and health and welfare plans, we know that the cost will not be “quite minimal.” We expect the trusts we serve will be required to file 13 of the “included” statements listed in the Bill, none of which are presently prepared in the form described and, obviously, therefore not filed with the Government. Doing so will be an onerous and, in our respectful view, unnecessary expense which will divert substantial funds from payment of employee benefits.

Please reject Bill C-377.

Sincerely,
PBI Actuarial Consultants Ltd.

Tony C.L. Williams
President and Consulting Actuary

Neil M. Ramsden
Actuary

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Copy:

Honourable James Rajotte, Member of Parliament
Chair, Standing Committee on Finance
House of Commons
Ottawa, ON K1A 0A6
james.rajotte@parl.gc.ca

Honourable Scott Brison, Member of Parliament
Vice-Chair, Standing Committee on Finance
House of Commons
Ottawa, ON K1A 0A6
scott.brison@parl.gc.ca

Honourable Peter Julian, Member of Parliament
Member, Standing Committee on Finance
House of Commons
Ottawa, ON K1A 0A6
peter.julian@parl.gc.ca

Honourable Jim Flaherty, Member of Parliament
Minister of Finance
House of Commons
Ottawa, ON K1A 0A6

The Right Hon. Stephen Harper, P.C., M.P.
Prime Minister of Canada
Office of the Prime Minister
80 Wellington Street
Ottawa, ON K1A 0A2

Honourable Lisa Raitt, Member of Parliament
Minister of Labour
House of Commons
Confederation Building
Ottawa, ON K1A 0A6

Honourable Mark Warawa, Member of Parliament
House of Commons
Ottawa, ON K1A 0A6
mark.warawa@parl.gc.ca