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Court Strikes Down Ford Government's Wage-Limiting Law for Public Sector Workers

In June 2019, the Ontario government introduced legislation called the *Protecting a Sustainable Public Sector for Future Generations Act, 2019*, also known as Bill 124. The Act limited wage increases for approximately 780,000 public sector workers in the province of Ontario to 1% per year for a three-year period. ETFO's ability to negotiate fair and reasonable salary increases for our members was negatively impacted by Bill 124 during the 2019 round of bargaining.

In response, a group of public sector unions – including ETFO – challenged Bill 124 in court, arguing that the legislation violated the *Canadian Charter of Rights and Freedoms*. In a landmark decision released today, Judge Markus Koehnen of the Ontario Superior Court of Justice found Bill 124 “to be

contrary to section 2(d) of the *Charter*, and not justified under section 1 of the *Charter*.” In his decision, Justice Koehnen writes, “If responsible fiscal management justified limiting collective bargaining in an ordinary, unremarkable environment, it would mark the end of collective bargaining in the public sector.”

As ETFO continues to engage in the central bargaining process that includes government representatives, having the Ontario Superior Court of Justice overturn Bill 124 demonstrates to the Ford government that a fair collective agreement must be reached at the bargaining table and not through legislation.

Bill 124 Remedy

Sections 32 and 34 of Bill 124 attempt to immunize the government against any remedy for a breach of *Charter* rights that resulted from the Act. Justice Koehnen found this to be “constitutionally invalid” saying, “Legislation that seeks to preclude individuals from challenging state action in court effectively treats the government as above the law. Such legislation is inconsistent with Canada’s constitutional structure.”

Nonetheless, the parties had requested that Justice Koehnen defer the matter of remedy to another hearing. As a result, a decision regarding remedy for those negatively affected by Bill 124 - including ETFO members - has not yet been issued.

ETFO has issued a [media release](#) about the Ontario Superior Court of Justice striking down Bill 124.

It should be noted that the Ford government has indicated its intention to appeal the Ontario Superior Court of Justice’s decision to overturn Bill 124.

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