

COLLEGE OF TRADES:
AN IMPOSSIBLE INSTITUTION

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1.0 PREFACE

The trades in Ontario are about to go under new management. Whereas the trades in Ontario used to be governed by a variety of different government bodies and pieces of legislation, a new body—the Ontario College of Trades—has been instituted by the government of Ontario to modernize the trades in this province.

But, as is often the case with new management promising sweeping change, many questions remain.

Cardus’s recent publication, *Where is the Research? The Uneasy Case for Moving to Compulsory Certification in Ontario*, shows a troubling lack of research or evidence on which decisions regarding whether trades should be compulsory or voluntary could be made. The decision to move forward with the College of Trades—and the systems by which it would adjudicate such questions—are based on “instinct, backed up by anecdotal evidence.”¹

It has become clear, since we’ve published our research paper, that there remain significant misunderstandings about the ground on which the College of Trades is built, even from those who are intimately acquainted with it.²

That the decision to create an entirely new and large piece of government infrastructure is made on such grounds—that is, in the absence of any compelling research—and that such misunderstandings persist even while the College is being created and implemented, is cause for careful consideration regarding the structure’s ability to provide a solid legal and regulatory environment for Ontario’s trades. As we ask in *Where is the Research*: is Ontario moving forward with a new piece of infrastructure before we have solid designs in place?

The question is not simply academic. The trades are an integral part of Ontario’s economy. Trades are involved in the building of our water systems, schools, and hospitals; the baking of the bread that we buy in the grocery store; the plants that manufacture our goods; and the vehicles and roads by which all of these things are transported. Legislation that affects the trades affects Ontario’s economy as a whole; and it affects our daily lives.

¹ Armstrong report, p. 2.

² <http://www.dcnonl.com/article/id44585>

2.0 EXECUTIVE SUMMARY

The objective of this paper is to understand how the College of Trades might accomplish its stated objectives. What sort of structure will be realistically required to fulfill the promises that have been made with the College's creation?

We begin by reviewing the hard data regarding the trades in Ontario: the various sectors, participants, and overall economic footprint. This is followed by summarizing the identified difficulties facing the trades in Ontario which constitute the argument for creating the College. The timeline of events, debates, and the context which led to the eventual creation of the College of Trades sets the stage for our analysis.

The main section of the paper reviews the College in more detail; in particular its scope, governance structure, funding structure, and disciplinary powers. In the acknowledged absence of directly applicable data, we consider these dimensions of the College in comparison to other professional colleges in Ontario as well as other institutions performing similar functions to those intended to be performed by the College of Trades.

The results of this comparison do not provide optimism that the College will be able to achieve its objectives within the financial constraints it has promised. Its scope dwarfs other professional colleges, both when considered in the context of raw numbers (overall size) but also in terms of its complexity. In virtually all aspects of its mandate, the College will require a significantly greater capacity to achieve its objectives than is currently in place. This capacity will necessarily be drawn from the industry itself.

The governing structure of the College has been set up to include over 600 positions at various levels. There is reason to be concerned that the capacity required to keep all of these committees functioning effectively—in terms of hard infrastructure, but also administrative support—will be significant. We also find that, for its size, the governance structure of the College is surprisingly unrepresentative and likely to favour compulsory trades. Concerns are also raised about the transparency of the College's governance, particularly on the key issues which led to its creation: applications for compulsory certification and determination of ratios.

In examining the disciplinary powers and structures of the College, we find that the legislation provides far-reaching powers which will impact individual workers' abilities to maintain their livelihoods. It seems inevitable that the administration of these powers will develop into a quasi-judicial body which again will require significant resources, and will almost inevitably be burdensome for individual workers to access. Finally, we examine the financial structure of the College. In light of its expansive mandate and the inevitable resources the College will require, it is unrealistic to expect that the College will be financially self-reliant based on the current scope of its membership. This means that either the costs for individual workers will increase significantly or that the College will have a self-interest in expanding the number of compulsory trades, not for public interest reasons, but because the resources for its own infrastructure require it. The College contains a structural conflict of interest which will have a direct impact on its judgment of the key question of compulsory status for certain trades.

We conclude, given all of this, that the College is an impossible institution, which provides no evidence to suggest that it will solve Ontario's very serious issues with its trade and apprenticeship system.

3.0 INTRODUCTION—THE TRADES IN ONTARIO

The trades in Ontario are extremely diverse in character, cover a very significant portion of the province’s workers and employers, and contribute a large portion of the province’s economic activity.

There are a total of 157 unique trades or skill sets that fall under the jurisdiction of the College of Trades.

While it is difficult to distinguish the exact criteria on which distinctions between the sectors are made, and while it is impossible to determine exact numbers within each sector,³ the trades are divided into four main groups—construction trades, motive trades, service trades, and industrial trades.

The construction sector is comprised of trades which appear to roughly align with the Ontario Labour Relations Act’s definition of the construction sector. The Act states that the construction sector is “determined by work characteristics and includes the industrial, commercial and institutional sector, the residential sector, the sewers and watermains sector, the roads sector, the heavy engineering sector, the pipeline sector and the electrical power systems sector; (“secteur”).”⁴

This sector is comprised of 43 trades which perform construction work in the sectors listed above, ranging from architectural glass and metal technicians to plumbers, carpenters, electricians, painters, brick masons, and others.⁵

The motive sector is comprised of trades working on machines that move people or goods from one location to another. This sector includes trades ranging from automotive service technicians to agricultural service technicians, marine engine technicians, heavy duty equipment technicians, and others. There are a total of 21 trades in this sector.⁶

The industrial sector is predominantly made up of trades responsible for the manufacturing of large and small goods, machinery and products (for instance, tool and die makers and optics technicians) but also includes, for instance, technicians working on railway cars and elevators. This sector includes 54 trades,⁷ and, as one might imagine, represents a huge proportion of Ontario’s GDP.

The service sector, consisting of 39 trades, contains perhaps the greatest diversity of trades practiced. This sector includes trades which work in as fields as disparate as child care, agriculture, hairstyling, information technology, and hardware store sales.⁸

In summary, the trades are an extremely broad and varied part of the Ontario economy. While the lack of data makes it impossible to accurately determine the economic contribution made by the trades to Ontario’s overall GDP, cross referencing the trades covered under legislation today shows that they are deeply embedded in the structure of Ontario’s economy. The proposed membership of the College of Trades—which includes both workers and employers—contains the bulk of the workforce and employers in sectors contributing well over 50% of Ontario’s total GDP. And every sector listed in the graph below is directly affected by the vitality of the trades in Ontario; either directly or through its reliance on the infrastructure, goods and services produced by such tradespersons and their employers.

3 The Armstrong report notes that the primary source of data on apprenticeship and journeypersons, the Registered Apprenticeship Information System (RAIS) “does not provide any data by industry sector” nor is it “possible to determine a one-to-one relationship between Canadian Classification and Dictionary of Occupations (CCDO) and National Occupational Classification (NOC-S) occupational titles, which makes it very difficult to use apprenticeship data along with other data to do any analysis.” Armstrong, p. 163.

4 OLRA, 1995 Sec. 126, p. 1.

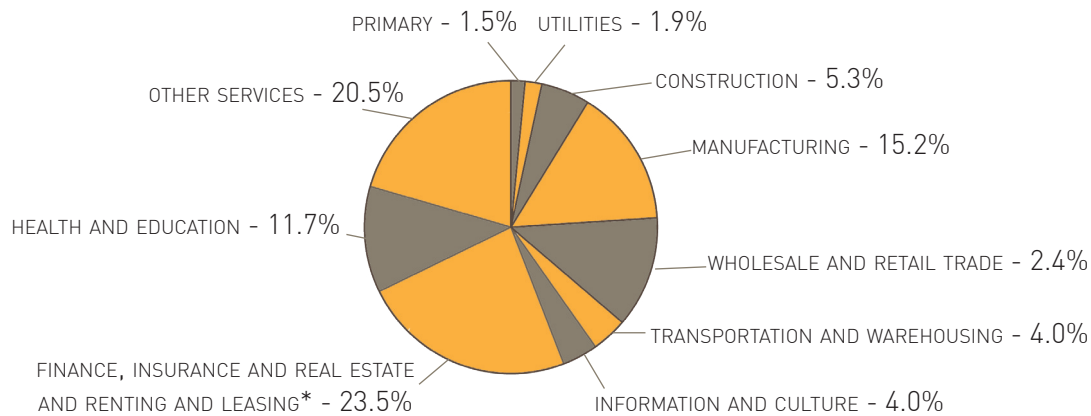
5 <http://www.collegeoftrades.ca/en/construction-sector>

6 <http://www.collegeoftrades.ca/en/motive-power>

7 <http://www.collegeoftrades.ca/en/industrial-sector>

8 <http://www.collegeoftrades.ca/en/services-sector>

STRUCTURE OF THE ONTARIO ECONOMY, 2010 ⁹ PER CENT SHARE OF GDP



*INCLUDES OWNER-OCCUPIED DWELLINGS.

3.1 CONCERNS ABOUT TRADES IN ONTARIO

It is not surprising, therefore, that government should be concerned with the trades as part of its mandate to further the public interest. Indeed, the Ontario government notes that “an adequate supply of skilled workers is vital to Ontario’s competitiveness and its ability to attract foreign investment.”¹⁰

But there is increasing concern about the vitality of the trades in Ontario. Labour supply, apprenticeship registration and completion rates, and other concerns have been expressed by a wide variety of industry stakeholders.

LABOUR SUPPLY

Take the construction trades as an example. A recent Construction Sector Council Labour Market Information report suggests:

In Ontario, the annual number of new entrants is less than total retirements and mortalities, and additions from outside the industry and province are required to meet local demands. Reliance on in-mobility will become greater as the age profile of the workforce grows older. Competition for workers from other industries and recruiting for projects in other provinces will challenge the industry to maintain its share of new entrants and to retain skilled workers.¹¹

The concern about adequate supply and training of skilled labour in the trades in Ontario extends well beyond construction.

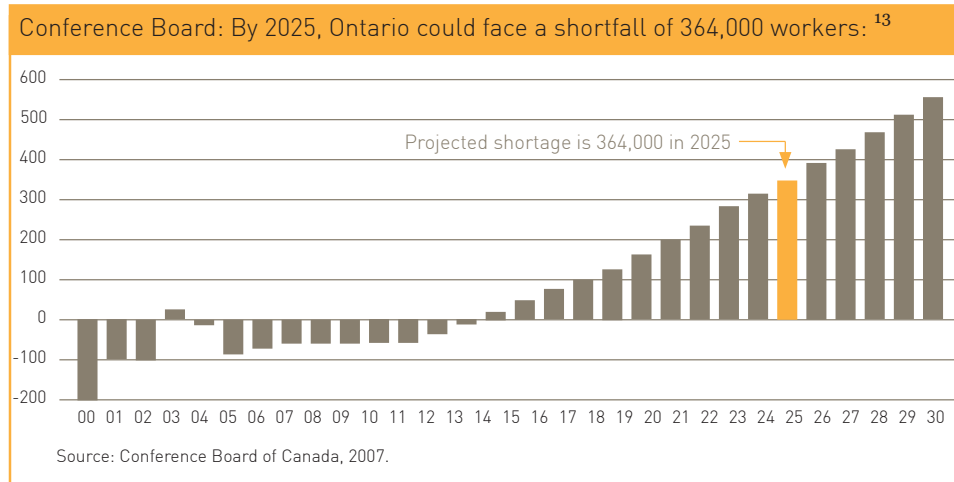
A report written in 2007 by a broad coalition of industry associations alongside leaders in business, education, and labour outlined the wide scope of the problem:

⁹ Ontario Economic Accounts, First Quarter of 2011. Ontario Ministry of Finance July 2011

¹⁰ Ministry of Training Colleges and Universities. Background Paper prepared for Compulsory Certification Review. November 2007, p. 6.

¹¹ Construction Sector Council. Ontario Construction Looking Forward 2011-2019 Highlights, p. 2. For the full report, which includes methodology and data, please see CSC etc.

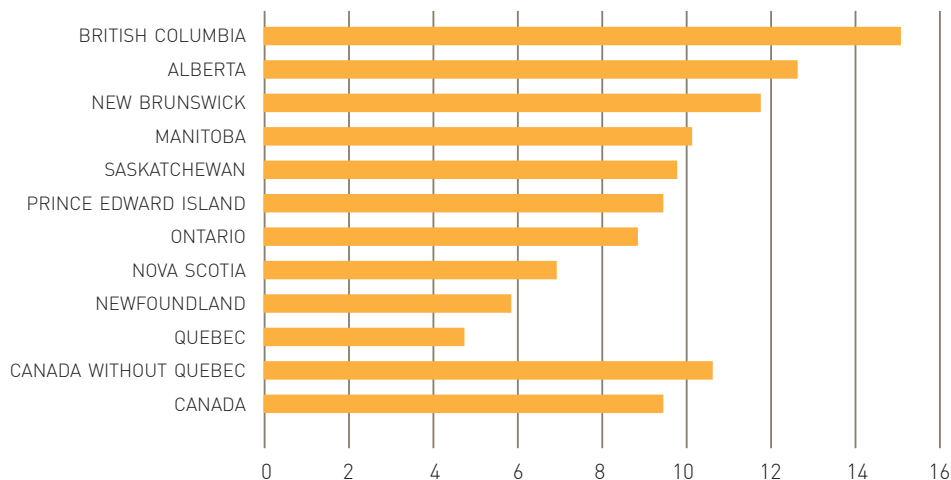
Ontario will face a shortage of more than 360,000 employees by 2025[.][T]he first barrier to a robust recovery will be the lack of skilled workers available to small business. For example, shortages of tradespersons would reduce the capability of small and medium enterprises (SMEs), inhibit the revitalization of the manufacturing and resource sectors, and discourage value-added tourism. It would also jeopardize government priorities such as infrastructure renewal and environmental protection.¹²



APPRENTICESHIP COMPLETION RATES

One of the key concerns with regard to labour supply is the completion rates of registered apprentices. While a direct comparison of apprenticeship completion rates is almost impossible to achieve, the numbers that are available—which are admittedly dated—suggest that Western Canada, particularly British Columbia and Alberta, are trending higher with regard to apprenticeship completions.

CHART 9: APPRENTICESHIP COMPLETION RATE BY PROVINCE, 1997¹⁴
(AS % OF TOTAL REGISTRATION)



¹² Workforce Requirements: Recession and Recovery. Ontario Workforce Shortage Coalition, p. 1.

¹³ Ibid.

¹⁴ Sharpe, Andrew. *Apprenticeship in Canada: A Training System Under Siege?* Dec. 16, 1999, p. 24.

While the numbers are dated, and while certainly no direct connection can be made between their apprenticeship systems and the rates of completion (as Armstrong notes, there are many variables which affect completion rates), as a basic observation, Alberta and British Columbia's rates are significantly higher than Ontario's. More recent comparative data suggests that provinces which are moving away from greater regulation of the trades (for example, British Columbia, where all compulsory trades were removed in 2004) and towards lower ratios are *maintaining completion rates which are higher than Ontario, and in fact leading the country*. Even in the absence of a compelling causal relationship, the correlation deserves greater examination.

COMPLETED APPRENTICES ¹⁵			
JURISDICTION	CANDIDATES	PASSED	PERCENT
CANADA (INCLUDES TERRITORIES)	31,886	19,806	62%
BRITISH COLUMBIA	3,769	2,576	68%
ALBERTA	8,206	5,314	65%
SASKATCHEWAN	1,380	1,007	73%
MANITOBA	1,247	822	66%
ONTARIO	12,867	8,168	59%
QUEBEC	318	66	21%
NEW BRUNSWICK	1,070	671	63%
PRINCE EDWARD ISLAND	186	123	66%
NOVA SCOTIA	914	584	64%
NEWFOUNDLAND	807	390	48%

SOURCE: ANNUAL INTERPROVINCIAL RED SEAL STATISTICS, 2006

OTHER CONCERNS

The impending labour supply problem is perhaps the most pressing issue facing the trades, but other, related issues have also been brought to the fore. A literature review of the apprenticeship system released by the Higher Education Quality Council of Ontario suggests multiple issues. These include:

1. Barriers to entry into the apprenticeship system, including
 - a. Negative attitudes towards apprenticeshipLack of information on apprenticeship for students and employers
 - b. Perception of employer costs
 - c. Unique barriers facing aboriginals, women, immigrants, and those with disabilities
2. Issues with system performance, including
 - a. Apprenticeship focus limited to trades in industries which are “stagnant” or declining
 - b. Inflexibility of program delivery
 - c. Lack of emphasis on soft skills
 - d. Low completion rates
3. External factors, including
 - a. Vulnerability to variations in the business cycle
 - b. Concerns about competitor employers “stealing” tradespersons once they have completed their apprenticeships

¹⁵ B.C. and Yukon Territory Building and Construction Trades Council. *Overview of the Alberta Apprenticeship System*. 2007, p. 8.

4. Regulatory issues, including
 - a. Apprenticeship/journeyperson ratios and
 - b. Lack of jurisdictional coordination¹⁶

Legislation relating to the trades in Ontario is also relatively dated and complex, with multiple pieces of legislation addressing the trades. One major piece of legislation—the Trades Qualification and Apprenticeship Act—dates from the 1960s, while the last attempt at reform took place over twelve years ago.¹⁷

According to the review, with impending labour shortages and an apprenticeship system which many are concerned was stuck in the 1960s, various industry associations, unions, and employers suggested that the system of trades in Ontario needed to be modernized.

¹⁶ Stewart, G. (2009). *Apprenticeship Training in Ontario: Literature Review and Options for Further Research*. Toronto: Higher Education Quality Council of Ontario, p. 7-11.

¹⁷ The TQAA was renamed as such in 1990, but its content stems from legislation given assent in 1964. For a brief but helpful history of trades legislation, see Background Paper prepared for Compulsory Certification Review. November 2007, p. 7.

4.0 THE RESPONSE: COLLEGE OF TRADES

In May 2007, Hon. Christopher Bentley, then Ontario's Minister of Training Colleges and Universities, announced the government's intention to review the trades, assuming that the question of compulsory certification was central.

We want to make sure our apprenticeship system continues to meet proper safety standards, provides value to consumers, and serves the needs of our growing economy. That's why we're taking a look at compulsory certification.¹⁸

Following this announcement, the government announced the appointment of Tim Armstrong to conduct a review of compulsory certification in Ontario.

4.1 THE ARMSTRONG REPORT

Tim Armstrong was appointed by an Order-in-Council in April, 2007 to conduct a broad study on the topic of compulsory certification. His report, submitted to the Hon. John Milloy, Minister of Training Colleges and Universities, was submitted one year later in April, 2008.

The report was notable for two main reasons.

First is the conspicuous lack of research mustered to support the report's generally positive posture towards the expansion of compulsory certification. Cardus' earlier paper on this subject, *Where is the Research? An Uneasy Case for Moving from Voluntary to Compulsory Certification*, noted "it is clear that the lack of existing research is a primary premise of Mr. Armstrong's conclusions."¹⁹

Armstrong's review of the literature pertaining to compulsory certification, a review of over 100 submissions by industry stakeholders, and a comparison with other jurisdictions did not reveal any clear research which might buttress claims on either side of the debate of whether compulsory certification would be a net positive or negative with regard to the ten criteria on which the question of public interest is being met.²⁰

Armstrong's report, in fact, says so in as many words:

Although available data may assist in validating (or contradicting) instinctive inferences, there is no empirically accurate, formulaic way in which to come to irrefutable conclusions about the relative merits of compulsion vs. voluntarism in the designations of apprenticeable trades.²¹

Nonetheless, even in light of significant and widespread differences of opinion within the industry, "instinct, backed up by experiential evidence"²² led Armstrong to lean in favour of compulsory certification.

¹⁸ Statement released by Hon. Christopher Bentley, May 16, 2007. <http://news.ontario.ca/archive/en/2007/05/16/McGuinty-Government-to-Review-Whether-to-Expand-Compulsory-Certification-in-Skil.html>

¹⁹ *Where is the Research*, p. 7.

²⁰ The ten criteria, as listed in the Armstrong report are as follows: "the likely effect of compulsory status on health and safety, registrations, completions and consumer protection; the economic impact on employers, apprentices, training institutions and government; the journey/person/apprentice ratio impact; the functional complexity of a trade for which compulsory status is sought; the safety hazards associated with the performance of the trade's functions; the environmental enhancement ramifications, if any, of conversion to compulsory status; the description of the elements of the trade and whether distinctions are warranted between core and peripheral elements in determining the appropriate contours of the trade's description; whether there are unique features of all or some of the sector(s) in which the trade operates which might affect the appropriateness of compulsory status for sector(s) or a portion(s) thereof; whether compulsory status would have a detrimental effect on crosssector, inter- or intra-provincial labour mobility; and the nature of the grandparent provision for existing workers in the trade." Armstrong, p. 6-7.

²¹ Armstrong, p. 59.

²² Armstrong, p. 97.

Second, and most importantly for the purpose of this paper, was the Armstrong Report's key recommendation:

[T]hat the Ministry consult with stakeholders with the objective of establishing a new, all-trades governance institution—the College of Trades—whose functions would include the establishment of expert panels to consider applications for compulsory certification and provide advice to the Minister; to engage in certification enforcement; to raise the profile and status of the trades; and provide for periodic review(s) of ratio provisions.²³

4.2 WHITAKER REPORT

On the heels of the Armstrong report, the government announced its intention to move forward with the implementation of Armstrong's recommendation to create a College of Trades. It appointed Kevin Whitaker and made him "responsible for developing the College's governance structure, scope and mandate framework."²⁴

Whitaker's report was presented to Hon. John Milloy on May 1, 2009 and served as the blueprint for the piece of legislation which would create the College of Trades. As with the Armstrong report, Whitaker conducted a comparison of other jurisdictions within Canada and internationally and conducted consultations with industry stakeholders prior to making recommendations on the structure, governance and mandate of the College of Trades. There are a number of salient points which emerge from a review of the Whitaker report.

First, the report notes continued industry concern with the ability to fairly adjudicate between claims on the question of compulsory certification. He states:

During the consultation, we repeatedly heard that the processes of determining applications for compulsory/restricted status and ratio disputes were unclear, opaque and overly politicized. These criticisms were consistent with the information provided to Tim Armstrong during the period of his earlier review and report.²⁵

Second, the report provided the first glimpse of the scope, mandate, jurisdiction and financing of the College of Trades.

On the topic of scope, Whitaker states, "The Ontario College of Trades at its largest incarnation would become the largest self-regulating body in the country," with a conservative estimate of over 620,000 members including current journeypersons, apprentices, and employers.²⁶

In addition, the Whitaker report suggests that the size of the College might expand beyond that. While Whitaker recommends that the College would begin with the categories listed above, he recommends a long-term expansion of the College:

While this expansive scope of membership will certainly present significant obstacles to registration, over time, the College of Trades will be perceived as a "brand" of quality. Those in the voluntary/unrestricted trades who are uncertified/unregistered will come to understand that

²³ Armstrong, p. 3-4.

²⁴ Kevin Whitaker. College of Trades: Report of the Advisor to the Minister of Training, Colleges and Universities, May 1, 2009 available at http://www.tcu.gov.on.ca/eng/collegeoftrades/CollegeofTradesFinalReport_EN.pdf, p. 4.

²⁵ Whitaker, p. 68.

²⁶ Whitaker, p. 27. Other estimates are significantly higher. The background paper for Armstrong's report suggested that, as of 2006, there were 697400 journeypersons, over 70000 registered apprentices and 27300 employers, for a total of well over 700,000 potential members. See *Backgrounder*, p. 5.

membership in the College of Trades is “value added.” Potential members will conclude that they are better served through participation in the College of Trades, rather than continuing on the outside. The College of Trades should be able to decide whether other categories of membership are either appropriate or necessary and then have the ability to create the type of membership which responds to particular circumstances. Membership should be cast as broadly as possible with the long term objective of capturing all trades.²⁷

On the topic of governance, Whitaker also notes potential pitfalls:

All College models reviewed share a “public interest protection” mandate. There is an inherent tension, whether real or perceived, between a College’s duty to protect the public’s interest while also having a duty to its membership and to its profession. Boards try to counter this through the use of a selection process/orientation program to ensure that boards act in a responsible, collective way.

We will explore his recommendations for governance and how it was enacted in law in the next section of the paper.

Whitaker also made recommendations on the financing of the college. He states that “members shall pay an annual fee of approximately one hundred dollars which may over time be varied by the College.”²⁸

He also notes a number of key business considerations which will have an impact on both governance and financing:

The quicker that an organization can get to revenue certainty the quicker it can get on with the business of being a College . . . So much of the initial College agenda such as outreach, raising its profile, raising funds, achieving membership targets and meeting a high profile communication and public relations challenge are similar to creating a new business venture.²⁹

²⁷ Whitaker, p. 73.

²⁸ Whitaker, p. 74.

²⁹ Whitaker, p. 28-29.

5.0 COLLEGE OF TRADES ACT, 2009

On May 13, 2009, Hon. John Milloy introduced Bill 183, The Ontario College of Trades and Apprenticeship Act. Bill 183 was passed into law by assent of the lieutenant governor in October, 2009. This section of the paper will review the Ontario College of Trades and Apprenticeship Act, 2009 (hereafter OCTAA) and will concentrate on four key aspects of the legislation that are common to all professional colleges in Ontario: each college must establish its scope and jurisdiction, outline its means of discipline, create a structure for self-governance, and establish means of financing the college's work. These four factors will be evaluated in comparison with the activity of other regulatory colleges, as well as the activities of other industry associations, trade unions, educational institutions, and other stakeholders in Ontario which are also pursuing the goals articulated for the College of Trades.

5.1 SCOPE AND JURISDICTION

OCTAA provides a sixteen point mandate for the College of Trades under the overarching duty to protect the public interest.³⁰

The first objects are:

1. To establish the scope of practice for trades.
2. To regulate the practice of trades.

The scope of practice is a definition of the work of a given trade. The scope of practice of various trades is established via regulation which is proposed by the College and approved by the Minister of Training, Colleges and Universities. There are 157 trades included in the College of Trades. For instance, the regulation outlining the scope of trades in the service sector defines the scope of practice of a “special events coordinator” as the following:

The scope of practice for the trade of special events coordinator includes assisting in the coordination and execution of events such as meetings, conferences and conventions, sporting events, fundraising events, festivals, consumer and trade shows, incentive programs, product launches and weddings.³¹

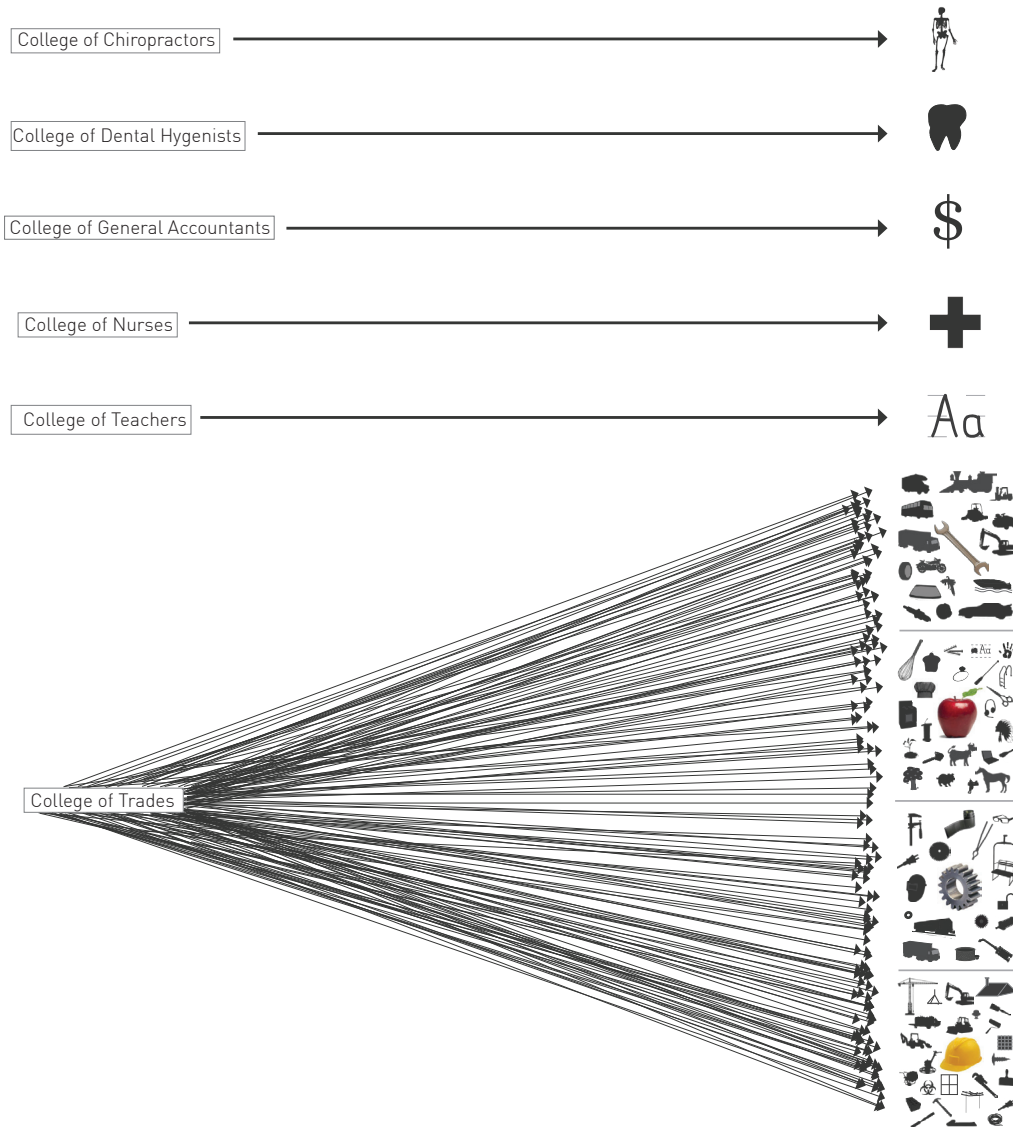
In addition to determining the scope of trades, the College is also empowered to determine and enforce *how* those trades are practiced through regulation.

Whereas, for instance, the College of Teachers is responsible to establish the scope and regulate the practice of teachers, the College of Trades is responsible to establish the scope and regulate 157 professions prescribed as trades in Ontario. The graphic below indicates the complexity of scope in comparison with other professional colleges in Ontario.

³⁰ “The College has a duty to serve and protect the public interest in carrying out its objects and its functions under this Act.” Part III, Section 10 OCTAA.

³¹ <http://www.collegeoftrades.ca/images/stories/278.pdf>, point 37.

PROFESSIONAL COLLEGES IN ONTARIO—COMPARISON OF RESPONSIBILITY



The most profound implication of this complexity is the necessity of creating the capacity to deal with research, discipline, and promotion of such a wide variety of trades. A significant amount of institutional infrastructure will be required to successfully meet its objects. This will have significant cost implications as well.

The College is also given the following objects:

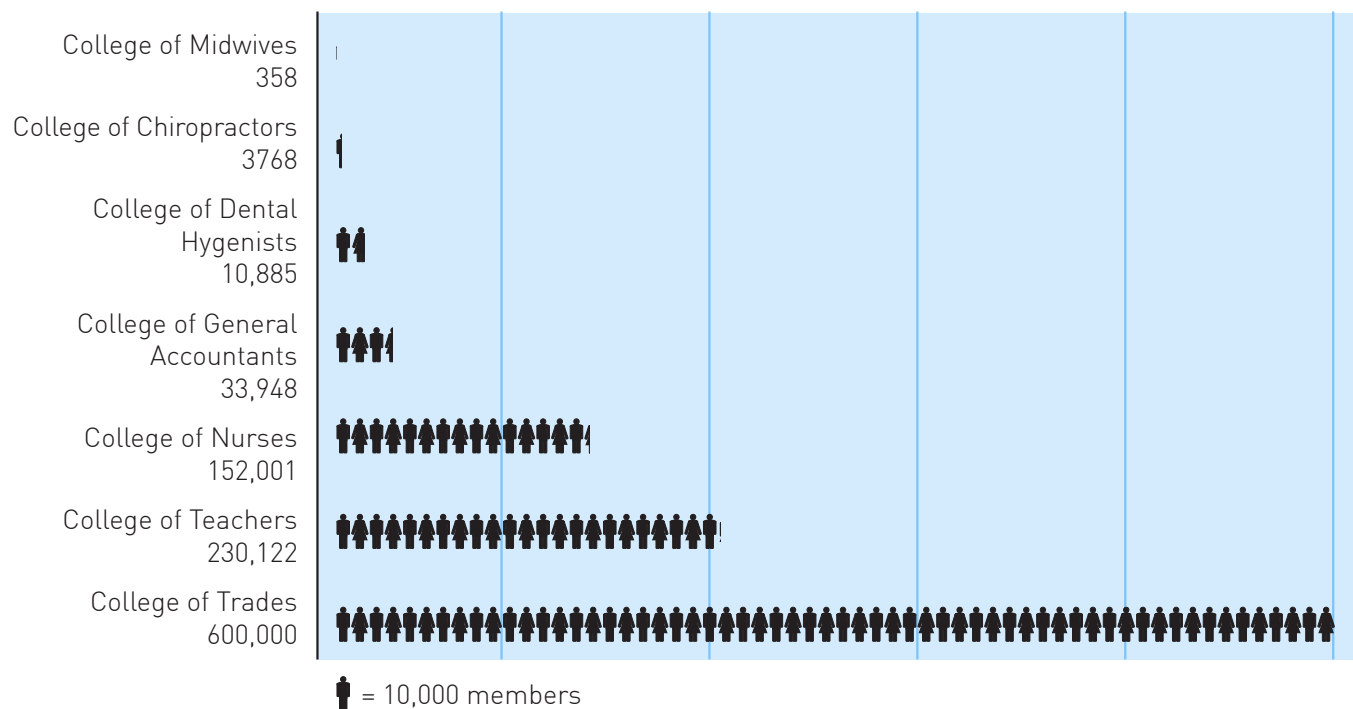
3. To govern the members of the College.
4. To develop, establish and maintain qualifications for membership in the College.
8. To maintain a public register of its members.

Section 28 (1) of OCTAA suggests that every person who holds a certificate of qualification, or who holds a statement of membership, is a member of the College.³² It provides for four classes of membership:

³² OCTAA 28 (1).

“journeypersons, apprentices, those who employ journeypersons or sponsor or employ apprentices and such other classes of membership as may be prescribed by a Board regulation.”³³

With this membership criteria, at its inception, the College of Trades would have 620,000 members; a staggering number. The Whitaker report, using data from the MTCU, estimates that, as of 2008, there are 470,000 journeypersons, 115,000 active apprentices and approximately 35,000 employers.³⁴ That number comprises almost 10% of Ontario’s workforce.³⁵ If the desired outcome of increasing the number of journeypersons and apprentices is achieved, whether in voluntary or compulsory trades, this number could increase significantly. One can only speculate on the infrastructure that would be required to manage such a diversity of programs. Prior to the College of Trades, the largest professional college in Ontario—the College of Teachers—has approximately 232,000 members.³⁶ The graph below provides some comparative perspective on College size.



Institutions have a natural tendency to grow. The College is structured with the recommendation to pursue growth, and is given the legislative authority to do so. Unlike, say, the teacher’s college which has a very narrow membership focus, Whitaker recommends that “membership should be cast as broadly as possible with the long-term objective of capturing all trades.” And, the OCTAA enables the College to do so through its ability to make certain trades compulsory.

It is very difficult to determine the exact numerical implications this might have for the size of the College of Trades’ membership. The exact number of Ontarians working in the trades is so difficult to

³³ OCTAA 36 (1). This is corroborated by the College of Trades webpage: “Members will include all apprentices, certified workers (journeypersons—certificate of qualification holders) in compulsory trades and voluntary trades and employers who employ journeypersons or who sponsor and/or employ apprentices.” See <http://www.collegeoftrades.ca/en/frequently-asked-questions>

³⁴ See Whitaker, p. 16. Stats Canada data on registered apprentices in Ontario suggests that the numbers today might be higher. For instance, in 2009, there were 146,859 registered apprentices. See Statistics Canada *Table 477-0053 – Registered Apprenticeship training, registrations, by age groups, sex and major trade groups, annual (number)* CANSIM (database), <http://ww5.statscan.gc.ca/cansim/a01?lang=eng> (accessed August 11, 2011) for more details.

³⁵ According to Stats Canada Data, as of 2007, there were 6.8 million Ontario workers. College of Trades membership estimates, 620,000, are drawn from the same year, and is equal to 9.1% of Ontario’s workforce.

³⁶ See Appendix I for comparative data.

determine because many people working in the voluntary trades do not—for whatever reason—begin or complete the process of registering. As Armstrong notes in his report,

Overall, whether dealing with voluntary or compulsory trades, it is generally agreed that a relatively small percentage of the workforce have opted to obtain certification. Taking two unrestricted trades under the ACA, Cook and Baker, only 18.9% and 6.3% respectively, I am told, have certification.³⁷

At present, only 21 of 157 trades require a certificate of qualification to perform the work. It is clear, whether because of cost, complication, or any other disincentives, that the majority of workers in the voluntary trades choose not to register and complete their certificates of qualification. The College is intended to rectify this problem. Whitaker's report suggests that, "over time, the College of Trades will be understood to 'stand behind' the quality of work performed by skilled tradespersons. This 'branding' of the College's certification will add to the value and prestige of the Trades, which should in turn, increase enrolment and the status of the Trades."³⁸

However, it is equally plausible, given that the current measures of value and prestige which objectively measure skill through schooling and testing (e.g., certificates of qualification) are all but ignored by many in the trades, that workers will see the cost and complication of applying for both certificate of qualifications and membership as further disincentives to joining.

That said, if similar registration rates (i.e. below 20%) are assumed for the 87% of trades which are currently voluntary, and if we likewise assume that the College of Trades governing council proceeds to fulfill Whitaker's recommendation to make membership in the College compulsory for all trades regardless of certification, it is plausible to extrapolate massive, almost incomprehensible, numbers for College membership. At present, almost 10% of Ontario's workers would fall under the College's jurisdiction; an expanded membership would encompass significantly more. The question of whether the workers would freely choose to do so in the absence of regulation remains unanswered.

The objects also empower the College:

5. To issue certificates of qualification and statements of membership to members of the College and renew, amend, suspend, cancel, revoke or reinstate those certificates and statements as appropriate.
7. To establish apprenticeship programs and other training programs for trades including training standards, curriculum standards and examinations.
9. To determine appropriate journeyman to apprentice ratios for trades subject to ratios.
10. To determine whether a trade should have compulsory certification status.
12. To address compliance issues in respect of matters within the jurisdiction of the College.
14. To work with other governments in Canada and the Minister with respect to the interprovincial standards program for apprenticeship and with respect to qualifications required for trades.

These objects are likely to have the most profound impact on individual workers and their employers. Section 37 prescribes that individual workers must apply to the Registrar in order to be certified. In order to be certified, they must "apply for it in accordance with the Board regulations and by-laws; meet the registration requirements prescribed by Board regulations for registration as a journeyman;

³⁷ Armstrong, p. 71.

³⁸ Whitaker, p. 59.

and pay the required fee.” The application process for employers and other classes of membership is similar.³⁹ Section 37(4) also provides grounds on which the registrar can refuse to issue a certificate of qualification or of membership in the College—both of which are required to perform work as a tradesperson or an employer. These include conduct which “affords ground for belief that the applicant will not perform his or her duties as a journeyman [or member] in accordance with the law.”

These powers are wide ranging and directly implicate the livelihood of Ontario tradespersons and their employers. The OCTAA also sets out grounds and procedure by which applicants can appeal.⁴⁰ This will necessitate the creation of a quasi-judicial body within the College itself.

The public requirement for due process—particularly with regard to individual’s livelihoods—will place a significant cost burden on individual employees and employers (since they must pay for travel, legal fees and the potential of temporary or permanent loss of the ability to work), but also the College.

There are also more subtle affects on the livelihoods of employers and workers. There is a plausible scenario that membership in the College of Trades will be required as a criterion for pre-qualification on public works projects. It is not difficult to conceive of the province using this as a means of promoting the College and “adding value” to members in this way. Were such a requirement be put in place, it would in effect act as a *coercive* incentive to grow the College’s membership.

The College of Trades also contains an object unique to colleges in Ontario: “the promotion of the practice of trades.”

It is unclear how this will directly affect individual employees, but again, significant institutional infrastructure will be required to achieve this goal for all 157 trades. It is likely that media advertising, representation at trade shows, colleges and high schools as well as various other materials will be required, along with the organizational and material costs which are required for successful promotion. The scope of the trades also presents the College with the difficulty of ensuring that each section of its membership receives equitable focus.

Promotion of the trades is also a responsibility maintained by the Ministry of Training Colleges and Universities. It is unclear whether the College’s promotion will be redundant in light of the continued promotional work by the MTCU, or vice-versa. One might also question how the College and the Ministry will work with the various trade associations and industry groups who are also significantly invested in the promotion of their industry.

15. To conduct research in relation to trades.⁴¹

Virtually all parties involved in the trades—from government, businesses, and think tanks to Whitaker and Armstrong themselves—admit that the data on trades are severely lacking. The Higher Education Quality Council of Ontario suggests: “There is a clear need for Ontario-specific apprenticeship research to better understand how this postsecondary pathway is and isn’t working for Ontario’s students.”⁴² That said, the acknowledgement by Armstrong and others suggests that much of this work would need to be done from the ground up. The current data sets, largely done by Statistics Canada, do not meet the needs of Ontario’s trades. The creation of an “in-house” research focus would be an expansive project, as it would require analysts, data collection methods, and a range of infrastructure to maintain it.

³⁹ OCTAA 37 (1)(2).

⁴⁰ OCTAA Section 39-40

⁴¹ A full list of the objects can be found in the OCTAA, Part III, Section 11 (1).

⁴² Stuart, p. 15.

5.2 DISCIPLINE

Discipline is a key aspect to any self-regulating college. As Armstrong notes,

A statutory or regulatory requirement for compulsory certification will not be fully effective unless there are enforcement mechanisms—accompanied by meaningful sanctions—that are sufficiently comprehensive to deter widespread contravention.⁴³

Armstrong’s report suggested that the lack of enforcement was one of *the key issues* facing those in the compulsory trades. In fact, one of the key objectives of his recommendation to form a new college of trade was to provide a mechanism which could “engage in certification enforcement.”

There are four separate organs empowered to enact or investigate matters of discipline within the College.

The first is the complaints committee, which is appointed by the board to “consider and investigate written complaints regarding the conduct or actions of members of the College made by any person, [provided that it is related to] professional misconduct, incompetence or incapacity on the part of a member.”⁴⁴ The complaints committee is empowered among other things to compel individuals to appear before it, or direct the matter to a discipline committee.

The discipline committees have significant powers. They are empowered to hear and determine matters directed to them by the complaints committee, by the board, or by an individual seeking to be reinstated or to have discipline removed. They are empowered to suspend, revoke, or place terms on certificates of qualification and membership in the College, levy fines, issue reprimands, and to publish their decisions in official publications.

The Act also provides for committees which are empowered to determine if members are physically or mentally fit to carry out their professional responsibilities. These committees are empowered to revoke or place terms upon an individual’s certificate of qualification.

The Act also provides for the Registrar of the College to empower investigators and inspectors which can “inquire into and examine the conduct or actions of the member to be investigated as the conduct or actions relate to the matter the Registrar sought to be investigated in appointing the investigator.”⁴⁵

This is a broad scope. It will take considerable infrastructure to not only deal with administrative matters relating to compliance with the law, regulations or bylaws of the College but also the front-line work issues that include (but are not limited to) whether staffing complements are organized within the approved ratios, or with proper certification, health and safety or other such matters.

It is clear that the mandate for enforcement is enhanced under the College of Trades. What is not clear is how it will effectively execute such enforcement.

Even if the number of compulsory trades remains status quo, it is clear that increased enforcement and adjudication capacity, and therefore increased financial resources to support that capacity, is necessary.

That capacity will not be limited to an increase in the number of inspectors. The College has the power to revoke certificate of qualification for workers, or membership for employers, for a broad variety of matters. The powers outlined in the Act are not simply limited to ensuring that a worker on site is carrying her or his certificate of qualification. It is a power over the livelihood of an individual or, in the case of an employer whose membership is revoked, the livelihood of a number of individuals. As such, and as the legislation provides, due process must be followed, and a body of jurisprudence must be

⁴³ Armstrong, p. 51.

⁴⁴ OCTAA 44 (1).

⁴⁵ OCTAA 53.

established to ensure equitable and just decisions. Such a process will resemble and potentially overlap with the decisions made in, for instance, jurisdictional disputes at the Ontario Labour Relations Board. Cases aimed at individual workers call into question their ability to defend themselves, as it is difficult for most people to afford legal counsel for a protracted dispute.

It is helpful here to consider the rationale for discipline set out by other professional colleges in Ontario. Most discipline policies of other colleges are intended to deter, prevent, and punish those whose incompetence or maliciousness will directly harm an individual or the public. Teachers, for instance, are given a great deal of authority over young citizens of the province and the abuse of that authority can be linked to definite and real harm to vulnerable individuals. Likewise, incompetence or abuse by medical doctors or engineers has a direct impact on public safety. Further, the lines of responsibility in such professions allow those investigating the discipline to more easily locate the source of malfeasance.

While similar things can be said for many of the trades, particularly the compulsory trades, it is not true of all, or even the majority of them. A hairstylist, for instance, which is a compulsory trade, might be incompetent, but the results of a bad hair cut differ by wide degrees from the results of an incompetence electrician. But even in the case of an electrician or a plumber, the environment in which she or he works is often a complex environment, involving many colleagues and many different trades working in the same space over a period of time. In the case of the electrician, there are other authorities in addition to the individual (i.e. building inspectors, engineers, owners) who are legally held responsible in the case of incompetence or error, and who might have directed the work to be done in such a way by the worker. In many cases, these same authorities can discipline the given worker, or employer for their actions.

5.3 GOVERNANCE

The College of Trades was introduced “to ensure that industry has a more prominent role in recruitment, governance, certification and apprenticeship training.”⁴⁶ Its governance structure is intended to be at arm’s-length from the governments of the day, and to be truly representative of the trades which it is intended to govern.

OCTAA provides for a board of governors which acts as the highest governing body of the College. The Board of Governors is comprised of 21 members. Four of these members are drawn from each of the four sectors—construction, industrial, motive power and service sectors—with another four members representing the general public and one member representing the colleges of applied arts and technology.⁴⁷ These members, in turn, elect a chair.

Beneath the Board of Governors are four divisional boards which are intended to “advise the Board on issues relating to trades within their respective sectors and perform such other functions as may be assigned by the Board.”⁴⁸

Each divisional board is related to each of the four sectors as prescribed by the Minister’s regulation,⁴⁹ and is comprised of four members from the sector it represents, plus a member of the Board of Governors corresponding to that sector. The member of the Board of Governors acts as the Divisional Board’s chair.

46 Hon. John Milloy, introduction of Bill 183: http://www.ontla.on.ca/web/house-proceedings/house_detail.do?Date=2009-05-13&Parl=39&Sess=1&locale=en#PARA557.

47 Section 13(1).

48 Section 19(2).

49 Those regulations are as follows: 1. Ontario Regulation 175/11 Prescribed Trades and Related Matters 2. Ontario Regulation 275/11 Scope of Practice - Trades in the Construction Sector 3. Ontario Regulation 276/11 Scope of Practice - Trades in the Industrial Sector 4. Ontario Regulation 277/11 Scope of Practice - Trades in the Motive Power Sector 5. Ontario Regulation 278/11 Scope of Practice - Trades in the Services Sector. These also provide for the scope of practice of each individual trade.

Beneath the divisional boards are trade boards corresponding to individual trades. There are 31 trade boards in the service sector, eleven in the motive power sector, 41 in the industrial sector and 29 trade boards in the construction sector.⁵⁰ Each trade board is comprised of either four, six, eight, ten or twelve members. The trade boards are to “advise the divisional board for its sector on issues relating to the trade or group of trades in relation to which it was established and make recommendations, relating to the trade or group of trades in relation to which it was established, to the divisional board.”⁵¹

In total, there are 615 board members at three levels within the College.

Most professional colleges in Ontario have governance structures which included officials elected from among the membership. The governance structure outlined above is not elected, but appointed by an appointments council which is provided for in Section 63 of the legislation. The appointments council is responsible for exercising the functions of the Board of Governors until it is in place, and filling all 615 positions in the College.

One additional aspect of the College’s structure is the review panels. Section 21 provides for review panels to be appointed by the board to “conduct reviews and make determinations on journeyperson to apprentice ratios and on classification of trades as compulsory and voluntary trades.”

These panels are to perform the work which was the primary basis for the College of Trades—reviews of compulsory certification and determination of journeyperson to apprentice ratios.

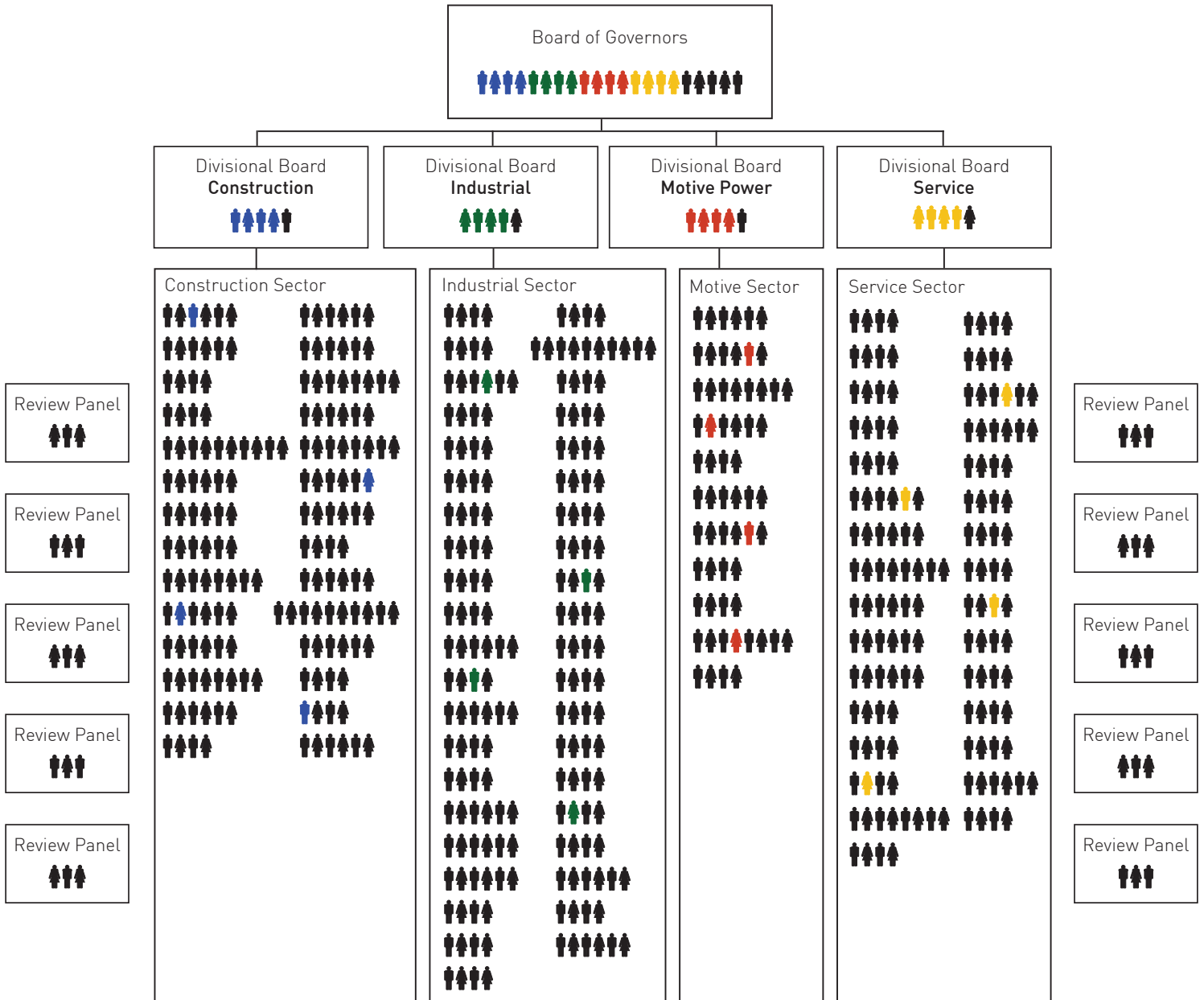
These review panels, empowered to make recommendations on these central and, as noted above, hotly disputed issues are comprised of a very small sample of constituents: three members. One member is appointed directly by the Board of Governors and two others are appointed by the divisional board “for which the trade that is the subject of the review belongs.”⁵² Further information about the criteria by which review panel members will be appointed, or of the qualifications required in order to act as a review panelist, is not available or forthcoming. That such an important and critical part of the College’s mandate is shrouded from public scrutiny and not subject to objective criteria is of serious concern. This is particularly true as the legislation suggests the decisions made by these panels are final and not subject to appeal. The criteria by which these panels are to review applications for ratio changes or changes to certification status was supposed to be released in May of 2011, but this has been postponed twice with no reason provided. As per regulation, they are now expected to release the criteria in January of 2012, a full year after original stakeholder consultations were held.

The graph on the following page provides some perspective on the size of the College’s governing structure.

⁵⁰ For a full roster of boards, please see <http://www.collegeoftrades.ca/appointments/appointments.html>.

⁵¹ OCTAA Section 20 (1)(2).

⁵² OCTAASection 21 (4).



Section 16(1) of the legislation mandates that meetings of the Board of Governors be open to the public, (subject to routine provisos of personnel matters, litigation etc.). However, this requirement does not come into force until a day proclaimed by the Lieutenant Governor. The establishment of review panels, determination of membership classes and fees, discipline and other key matters are also subject to the same delay. Currently, all appointments, and deliberations on key matters such as the results of consultations pertaining to compulsory certification criteria, ratios, membership, and fee levels are removed from the eye of the public and the eyes of those directly affected by the College’s activity. In fact, it is plausible to suggest that to date the College has been neither open nor forthcoming with *any* information of importance to the trades.

As noted above, deliberations about criteria for deciding whether trades should be compulsory or voluntary, as well as deliberations about ratios, have not been open to the public eye. Nor have appointments for key board positions—which were supposed to have been made in the spring of 2011—been

publicly announced. In fact, virtually every significant decision to be made by the appointments council has been delayed (with little reason offered as to why), or postponed indefinitely.⁵³

The College also has yet to conduct consultations on another structural issue: membership fees and classes of members. On May 11, 2011, stakeholders were informed that consultations were to take place across the province in the month of May. Strangely, these consultations were almost immediately “deferred until further notice” two days later. An email dated May 13, 2011, informed stakeholders that “until further notice, that the Ontario College of Trades is deferring the focus group consultation sessions for which you previously received a notification.”⁵⁴

Whereas the Act seems to suggest a governance body open to public scrutiny, the reality has thus far been a body removed from the view of not only the public, but from the very sectors which it claims to represent.

5.3 FUNDING STRUCTURE

The College of Trades is intended to be a self-funding College. Its webpage suggests, “The College will be funded on the basis of its own revenues, which will come from membership fees.”⁵⁵

Section 37 and subsections 1 and 2 provide the College with the means of collecting fees from its members. Registration, as a journeyman or as a member in another class is conditional upon application, meeting registration requirements as set out by the College, and by the payment of fees required under the bylaws of the College. The Act, therefore, allows the College to determine who must become a member, as well as determining the fees which it will levy on those members.

This is in line with Whitaker’s recommendation that “the College of Trades [should] take responsibility for establishing an ongoing fee structure.”⁵⁶ Other professional colleges in Ontario have fee structures by which they fund their activities. The fees range from a low of \$70 (Certified Management Accountants) to a high of \$1785 (Law Society of Upper Canada). The average cost of membership in an Ontario professional college is \$639, with a median cost of \$500.⁵⁷

In addition to recommending responsibility for setting fee structures, Whitaker recommended that “any new fee structure should not add an additional burden to employers or journeymen.”⁵⁸

Given the expansive mandate, scope, and governance structure of the College, significant questions remain about how Whitaker’s recommendation that the fee structure be net neutral for members (in comparison with current fees) will be met. The College has not indicated at what level the fees for its members will be set, nor has it shown that the fee level recommended by Whitaker (approximately \$100/member⁵⁹) will be sufficient to allow the College to fulfill its objects in a way that will be cost efficient. The preceding summary of the mandate and complexity facing the College raises significant questions regarding this.

What can be noted is that the current cost for journeymen to maintain their certification is approximately \$60.00 per three years. Two implications flow from this. The first is that it is virtually

53 Appointments and compulsory certification/ratification criteria were originally to be announced in the Spring of 2011. This was pushed back until July 5, 2011 and later pushed back, by regulation until January, 2012. The regulation allowing this postponement can be found here: <http://www.collegeoftrades.ca/images/stories/279.pdf>

54 Email from College of Trades, May 13, 2011.

55 <http://www.collegeoftrades.ca/en/frequently-asked-questions>

56 Whitaker, p. 74.

57 See Appendix 1 for a data on membership fees and college expenses.

58 Ibid.

59 Whitaker, p. 74.

impossible, even at one hundred dollars, to ensure the College's fees will be cost neutral to tradespersons. Second, it is fair to ask whether the recommended fee will be sufficient to achieve the College's vast mandate and the plethora objectives it must achieve to be successful or if it will be forced to levy fees which will exceed—perhaps significantly exceed—the current cost borne by tradespersons and employers in Ontario.

Another possibility is that the College will seek an expansion of its fee base in order to achieve its objects. The possibility of this is inherent within the Act itself and, seen in light of Whitaker's recommendation that "membership should be cast as broadly as possible with the long term objective of capturing all trades," suggests that an expansion of the fee base is a plausible scenario.

The Act allows the College to determine both its membership and its fees. Even if membership were to remain restricted—as is presently the case—to tradespersons holding certificates of qualification, a scenario in which the fee base is expanded is possible.

One of the main objects of the College—indeed the primary rationale for its creation—is as a means of determining which trades should be considered compulsory. Given the low rates of registration for non-compulsory trades (mentioned above), and the virtual impossibility of maintaining a register of those workers and employers who work outside of the apprenticeship system, it is plausible to suggest that *the College has a financial interest in expanding the number of compulsory trades*. In the absence of clear criteria and evidence by which the College shall determine compulsory versus voluntary certification, the possibility that trades will be made compulsory for the purposes of funding the College's activities should give us pause. That this potential conflict of interest is inherent in the Act should give us even greater reason for pause.

While it is not clear why consultations relating to two of the most important aspects of the College—membership classes and fee structures—were postponed indefinitely, the background paper provided alongside the original consultation invitation sheds some light on the very complex issues which the College faces⁶⁰ and again calls into question the feasibility of the College achieving its goals without increasing the cost burden on tradespersons in Ontario.

It is also difficult to conceive of the College being cost neutral for tradespersons and employers given the capacity that the College will require to successfully achieve its objects. Essentially, the government has downloaded its responsibility for properly regulating the trades, along with the financial resources required to do so, onto the trades. In short, *the financial resources for regulating the trades would be drawn directly from the pockets of tradespersons and employers rather than from general provincial coffers*. Costs previously borne by the public will be expanded and placed directly on those in the trades.

⁶⁰ The backgrounder contains 14 questions on pertaining to membership and another 11 referring to modes of collection. See Appendix II for the full list of questions. One question not raised is the possibility of an unequal burden borne by trades whose earnings are on the lower end of the range of money earned by workers in the trades. For instance, a membership fee of \$150.00 would place a significantly heavier burden on a hairstylist earning, say, \$17.00/hour than it would for an electrician who earns well over \$30.00/hour.

6.0 ANALYSIS

The College of Trades began as an attempt to find solutions to the problems with Ontario's system of trades.

But solutions are difficult to find in the recommendations of the College's architects, or in a close review of the legislation itself. Any clear solutions are blurred by a massive institution.

The College's scope is more expansive than any other professional college in Ontario, as are its membership, goals, and complexity. That scope includes promotion, curriculum and standards setting, enhanced enforcement and a variety of other responsibilities, all of which are currently in the hands of the government or executed privately by associations, unions, colleges and other stakeholders. It is difficult to conceive that the trades themselves will be able to absorb these additional responsibilities at the cost that journeypersons currently pay to acquire and maintain their certificates of qualification.

Likewise, its governance structure, containing four key levels and 615 members, is equally massive. While certainly it is impossible to judge how this institution will work, early indicators, including the fulfillment of fundamental objectives (i.e. appointments, criteria for ratios/compulsory certification, membership classes and fees) suggest that the ability of the College to respond quickly and effectively on the issues requiring its attention will be severely limited.

The fact that the governance structure of the College has thus far been removed from public scrutiny—by legislation—and given that the bulk of trades will be denied a direct say in their future as they must first pass through a series of governance rungs (which are themselves limited in their representative character), it is unsurprising that key stakeholders are hinting of major problems on the horizon. In consultations leading up to the creation of the College, Sid Ryan, then president of CUPE Ontario, stated: “these colleges are an unnecessary regulatory requirement for workers in the public sector, who have already met the requirements and criteria required by employers and acquired the necessary provincial certifications relevant to their job class.”⁶¹

Irene Harris of the Ontario Federation of Labour, in her presentation to the committee considering governance, stated bluntly:

We think it's cumbersome. It also is not one that is allowing industry players who are actually involved in the trades and in apprenticeship to really take control over what is going on in those sectors. That should really happen within the College structure. Consequently, we are opposing the whole structure of the board and the way they've got the appointments council set up, and really urge you to consider the tripartite structure.⁶²

The governance structure of the College, while ostensibly giving the industry a lead in making decisions about its own future, actually favours certain segments of the industry at the expense of others. There are many sectors in Ontario's trades economy that exist in a largely unorganized state. The fact that many of the trades—particularly those which are currently listed as voluntary—remain a loose coalition of employers, employees, and associations would suggest that the governance structure of the College of Trades will not be as representative as it claims to be. Trades that have a higher degree of organization for labour relations purposes will as a consequence be better positioned to assume leadership in such a college. This is true as a matter of organizational dynamics but undoubtedly will be furthered by the natural political interests that they would have. Regulations regarding who is able to work (or not) in a trade have a direct impact on the supply of labour, which is always a significant factor in the market and

⁶¹ Submission by CUPE Ontario to Government of Ontario: <http://www.cupe.on.ca/a1598/CUPE%20Ontario-%20Submission%20on%20a%20proposed%20College%20of%20Trades.pdf>, p. 2.

⁶² http://www.ontla.on.ca/web/committee-proceedings/committee_transcripts_details.do?locale=en&Date=2009-09-17&ParlCommID=8855&BillID=2193&Business=&DocumentID=24296#P459_117082.

bargaining position for a sector. While these interests are legitimate, the fact that not all of the College’s proposed 157 trades are similarly organized, when paired with the College’s proposed governance structure, means it is almost a certain consequence that the governance of the College will be dominated by members (be they journeyman, apprentices, or employers) who will have a particular set of interests.

The College might more accurately be called “the College of Compulsory Trades.” It is likely that voluntary trades—which are in the majority—will be dominated by the minority of trades which are compulsory.

Moreover, significant concerns about the financial feasibility of the structure remain. As we note, the recommendation that the College not add additional financial burden upon members remains an unlikely scenario.

The fact that the College is intended to be a self-funding structure suggests that what will take place is at root a transfer of the financial responsibility for trades governance from the provincial government onto tradespersons and employers. The College’s proposed funding structure bears similarity to a new tax on a sector which is already struggling to maintain its vitality and attract new participants.

As we note above, there is an inherent conflict posed in the case of the College’s need to expand its financial base. The College is able to expand its own base through the legislative tools inherent in the Act, namely the determination of membership classes, fees, and the ability to designate trades as compulsory. In fact, there are governance and financial reasons for doing so. As noted above, the desire to be more representative of all trades—including currently voluntary trades—might lead the College to require broader membership, or designate more trades as compulsory.

All of these inherent problems exist outside of the question of whether or not the College will be effective in achieving its purpose of increasing the prestige of the trades and ensuring a rise in apprenticeship registrations, ensuring an adequate labour supply, consumer protection, ensuring a positive impact on the economic vitality of Ontario, its employers and its workers, and their health and safety.

Armstrong—now the Chair of the College’s Appointments Council—notes in his original report that disputes about governance of the trades indicates

philosophical differences between those who believe that “too much” regulation (i.e., the “compulsory” requirement) tends to distort the natural and self-adjusting operation of the labour market, as opposed to those who believe that unregulated market forces are incapable of ensuring that training will be introduced to ensure competent work and safe practices.⁶³

That such an important and wide-reaching piece of legislation has been enacted without any significant and wide-ranging debate about exactly such philosophical differences, and accompanied by evidence to back up competing claims, is surprising.

College proponents also fail to note the roles which non-government and non-market institutions have played in improving Ontario’s apprenticeship system. What has not been adequately accounted for in the discussion to date is the extent to which a significant portion of the mandate given to the College is already taken up by other organizations. Take, for example, the Ontario Workforce Shortage Coalition. The Coalition is made up of a diverse group which includes chambers of commerce, industry associations, labour unions, and educational institutions. Their work on surveying labour supply and their broad consultation with municipalities and other stakeholders—in other words, a research function—exceeds much of the work done by business or government alone.

⁶³ Armstrong, p. 17.

Likewise, on the issue of trades promotion and increasing the prestige of skilled trades in Ontario, organizations such as the Ontario General Contractors Association routinely make promotion of their trades an integral part of their work.⁶⁴ Associations such as the Ontario Civil Construction Careers Institute⁶⁵ are additional sophisticated examples of the initiative shown within the trades to promote careers, safety, and quality. Trade unions, colleges, and other groups all participate in trades promotion as a way to increase their profile and provide a grassroots connection to the trades, and they often do so in tandem with government.⁶⁶

On safety standards, environmental enhancement, and consumer protection, there are a wide variety of organizations which perform such functions even in the absence of a regulatory college. Consider, for instance, the checks and balances against inadequate homebuilding through municipal permits and contracted home inspections (by owners), as well as the Tarion New Home Warranty Program, something mentioned by Armstrong in his report.⁶⁷ Such checks exist in other industries as well: builders must abide by the Ontario Building Code; roads and other infrastructure must be designed and approved by engineers and architects who are themselves subject to strict self-imposed regulations. Reasons for why such multi-faceted and effective programs could not be expanded across the trades, or even an evaluation of what is being done in the trades at this time to achieve some of the objects set out by the College, were not weighed in Armstrong's report.

Perhaps part of the challenge that has faced those responsible for implementing this College of Trades is the conflicting nature of the mandate. A College historically has been understood as a means to provide a trade with the opportunity to regulate itself. Much of the infrastructure has been set up to look like this, with categories of membership and internal disciplinary structures established for these purposes. The framework is also set up so that this can be self-funded. Yet, the impetus for this College and future funding sustainability of this College rests with the thousands of workers who for their own reasons have chosen not to become journeypersons in their work even though that opportunity already exists for them. It is clear that the financial requirements of the organization can only be realized if significant numbers of them become members of the College. This would seem most likely to happen by their trades being made compulsory, and these decisions will not come from any of the governance structures that exist but rather from a three-person panel set up with the power to make non-appealable decisions.

What currently is a provincial government power, for which elected officials can be held accountable, is being off-loaded to a non-accountable board of three persons given authority to make decisions of far-reaching impact on workers in particular occupations who are presently not members of the College.

This seems a far-cry from industry self-regulation.

64 For instance, the OGCA participates in outreach promoting the construction trades in high schools and other locations, going so far as to produce multimedia resources for the purpose.

65 See http://www.occci.ca/about_occci.php.

66 Examples include a major conference hosted by CUPE in 2008, and the ongoing work of other unions, and industry associations, and by Ontario colleges through trades fairs, etc.

67 Armstrong, p. 38.

7.0 CONCLUSION

The College of Trades has been enacted into law, but significant questions remain as to whether or not it will bring enough value for the institutional and financial burden it will impose upon the industry. A survey of the history of the College and the legislation creating it, as well as a close examination of the plausible scenarios leading from the legislation, suggest that the Ontario College of Trades will not solve, and might even worsen, the problems with trades in Ontario.

No objective criteria has been presented to suggest that the College will achieve any of its goals. It remains a question of determining whether the “instincts” of its creators will be validated.

All of the issues presented in our review of the College (the inherent tensions in the legislation, the massive size and scope of the College, its failures on transparency and meeting deadlines for criteria on key issues such as membership, fees, compulsory certification and ratios, the need for expanded capacity to achieve its disciplinary and promotional and research goals) suggest that the College of Trades is an impossible, and unnecessary institution.

The administrative and regulatory complexity and financial footprint of the College seem to run directly contrary to the Ontario government’s wider “Open for Business” initiative. The key focus of the initiative: “[the creation of] a streamlined, and focused regulatory environment that delivers results for business, while protecting the public interest”⁶⁸ seems to have been forgotten with the creation of the College of Trades.

Such institutions should not continue simply because of bureaucratic inertia, but must exist or be scuttled based on the likelihood of their ability to effectively and efficiently achieve goals in line with public interest.

68 http://www.ontariocanada.com/ontcan/1medt/downloads/ofb_overviewMay2011_en.pdf

APPENDIX 1 - FEES, MEMBERS, COST PER MEMBER OF ONTARIO PROFESSIONAL COLLEGES

College	# of Members (Active/Good Standing)	Total Expenses of College (\$)	Cost per member	Fee per member
College of Teachers	230122	\$33,203,000	\$144	\$120
College of Medical Radiation Technologists	6643	\$2,915,534	\$439	\$531
Certified Management Accountants	25000	\$29,448,000	\$1,178	\$70
College of Nurses	152991	\$29,022,631	\$190	\$132
Ontario Association of Engineering Technicians and Technologists	16000	\$4,718,400	\$295	\$224
College of Dental Hygienists	10885	\$2,883,530	\$265	\$250
Ontario College of Social Workers and Social Service Workers	13852	\$4,373,295	\$316	\$270
Chartered Accountants of Ontario	33948	\$31,762,000	\$936	\$280
College of Physicians and Surgeons of Ontario	29350	\$41,242,120	\$1,405	\$297
College of Chiropractors	3768	\$3,741,291	\$993	\$325
Professional Engineer Ontario	80000	\$20,228,337	\$253	\$372
Association of Ontario Land Surveyors	703	\$134,402	\$191	\$395
Collge of Dietitians	2952	\$1,496,426	\$507	\$500
College of Massage Therapists	10000	\$5,870,654	\$587	\$560
College of Physiotherapists	6844	\$4,367,957	\$638	\$635
College of Psychologists	3348	\$2,356,793	\$704	\$795
College of Optometrists	1712	n/a	n/a	\$900
Ontario Association of Architects	5011	\$4,259,556	\$850	\$913
College of Opticians	2751	\$2,259,971	\$822	\$1,017
College of Dental Technologists	484	\$764,250	\$1,579	\$1,259
College of Chiropodists	502	n/a		\$1,300
Royal College of Dental Surgeons of Ontario	8643	\$18,427,101	\$2,132	\$1,760
Law Society of Upper Canada	45695	\$183,292,000	\$4,011	\$1,785
College of Pharmacists	12386	\$10,382,909	\$838	n/a
Certified General Accountants of Ontario	28000	\$35,332,000	\$1,262	
			Average Cost	\$893
			Median Cost	\$704
				\$639
				\$500

APPENDIX II – BACKGROUND PAPER FOR COLLEGE OF TRADES STAKEHOLDERS

Sent by Prism Economics (Toronto, Ontario) on behalf of the College of Trades, May 11, 2011

ISSUES SURROUNDING MEMBERSHIP FEES FOR THE COLLEGE OF TRADES ONTARIO COLLEGE OF TRADES

BACKGROUND ON THE COLLEGE

ORIGIN OF THE ONTARIO COLLEGE OF TRADES

In 2007, Ontario commissioned the Compulsory Certification Review Project with a mandate to consider the impact of expanding compulsory/restricted certification under the Trades Qualification and Apprenticeship Act and the Apprenticeship and Certification Act, 1998, with particular reference to the ramifications for health and safety, the registration of new apprentices, the rates of completion, consumer protection, economic impact and other relevant factors. The Ontario College of Trades and Apprenticeship Act, 2009, which received royal assent on October 28, 2009, established the College of Trades as an arms-length self-governing institution to promote the skilled trades and modernize the apprenticeship system of Ontario.

The Ontario College of Trades has the mandate and powers to regulate all approved trades in Ontario, and will perform standard regulatory functions such as:

- Issuing licenses and certificated of membership
- Protecting the public interest through investigation and discipline mechanisms
- Setting standards for training and certification
- Conducting research and collecting relevant data to support future apprenticeship and certification policies
- Removing barriers and increasing access for internationally trained workers
- Direct activities of adjudicative Trade Panels.

The Ontario College of Trades will be operational in late 2012. The College of Trades is consulting widely on important matters related to the implementation of the College in order to provide stakeholders with an opportunity to provide input on them.

GOVERNANCE OF THE ONTARIO COLLEGE OF TRADES

An Appointments Council has been established to serve as the transitional Board of Governors. The enabling legislation sets out that the Board of Governors will be composed of 21 members appointed by the Appointments Council in accordance with the following:

1. Four members from each of the construction, motive power, industrial and service sectors. Two of the members for each of the sectors shall be selected as employee representatives and two shall be selected as employer representatives.
2. Four members shall be selected as representatives of the public

3. One member shall be selected as representing the colleges of applied arts and technology.

The Board will be advised by four Divisional Boards, one for each of the construction, motive power, industrial and service sectors, on matters relating to trades within their respective sectors. Each

Divisional Board will be composed of five members appointed by the Appointments Council. The Board of Governors may establish a Trade Board for a trade or group of trades in a sector to advise the Divisional Board for its sector on issues related to its trade or group of trades.

ONTARIO COLLEGE OF TRADES FOCUS GROUP CLASSES OF MEMBERSHIP IN THE ONTARIO COLLEGE OF TRADES

BACKGROUND

ABOUT THE ACT:

The Ontario College of Trades and Apprenticeship Act provides for three classes of membership in the College:

- (1) journeypersons,
- (2) apprentices, and
- (3) persons who employ journeypersons or who sponsor apprentices.

The Act also empowers the Board of Governors of the College to establish other classes of membership.

COMPARING THE ONTARIO COLLEGE OF TRADES TO OTHER REGULATORY BODIES:

Regulatory bodies take different approaches to the classes of membership question. Professional Engineers Ontario, for example, has four classes of licensure. The Ontario Professional Foresters Association has seven classes. Conversely, the Ontario College of Teachers has opted for a single membership class.

IMPORTANT IMPLICATIONS FOR INDUSTRY:

Classes of membership are a critical foundation piece for the College of Trades. Each class of membership may be associated with a specific fee. The Ontario College of Trades will have to be self-sustaining and will not receive any funding from the province. Fees collected will enable the College to fulfill its mandate to operate the qualifications and registration system for the trades in Ontario, and to promote the trades.

ISSUES:

There are a number of issues that need to be considered when determining how to structure membership in the College. These include, but are not limited to:

For employers of tradespersons and apprentices:

- Should there be one membership class and one fee for all employers, regardless of size or should there be different classes based on the number of tradespersons and apprentices employed?
- If there are different membership classes based on the number of tradespersons and apprentices employed, how many classes should there be?
- How should the College take account of situations where the number of tradespersons and apprentices employed fluctuates depending on the volume of work?
- Should employers that are only casual or intermittent employers of tradespersons, or training providers be required to register with the College?

Small Businesses and Self-Employed Tradespersons

- What is the appropriate membership class for a small business that is operated by a working tradesperson, i.e., the owner of the business is also “on the tools”?
- What is the appropriate membership class for an “independent operator”, i.e., a tradesperson who works as a sub-contractor?

Sponsors of Apprentices

- Should all employers of tradespersons automatically be deemed eligible as sponsors of apprentices or should there be a separate membership class for sponsors of apprentices?
- Should there be a separate membership class for committees, etc. that sponsor an apprentice?

Tradespersons

- Should there be separate membership classes for compulsory and voluntary trades? Should this depend on whether the College increases its enforcement of requirements for a C of Q in the compulsory trades?
- Should there be a separate membership class for inactive or retired journeypersons who wish to retain their status with the College so they can work on an occasional basis?
- How should journeypersons or apprentices who are unemployed or not working by reason of illness or accident be treated?
- How should long spells of unemployment be dealt with?
- How should persons who hold multiple Certificates of Qualification be treated?
- How should out-of-province employers or journeypersons be treated?

ONTARIO COLLEGE OF TRADES FOCUS GROUP APPROPRIATE FEE COLLECTION MECHANISMS

BACKGROUND

The Ontario College of Trades will need to implement efficient and effective approaches to fee collection to minimize the financial and administrative burden on employers, apprentices and journeypersons.

There are a number of issues that will need to be considered. These include, but are not limited to:

Employers:

- Should employers' fees to the College be invoiced and collected directly by the College or should the College seek to 'piggy-back' on other payment channels, e.g., Corporate Income Tax, WSIB?
- For new businesses, should there be an option to register with the College at the time that a new business is registered.
- Should employers have the option to pay membership for multiple years rather than annually?
- Is web-based registration and fee payment a viable option for employers?

Tradespersons and Apprentices:

- Is payroll deduction a viable option?
- Is web-based registration and fee payment a viable option?
- Is kiosk-based registration and fee payment a viable option?
- Is invoice and cheque payment a viable option?
- For tradespersons who belong to craft unions, would it be viable or appropriate to integrate College fees with union dues?
- For apprentices, would it be viable or appropriate to integrate College fees with trades school tuition?
- Should tradespersons and apprentices have the option to pay membership for multiple years rather than annually?

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