

**ONTARIO NURSES' ASSOCIATION**

**SUBMISSION**

**ON**

**Bill 254**

**TO**

**THE STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY**

**March 30, 2021**



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## **1. Introduction**

*“The flood of money that gushes into politics today is a pollution of democracy.”*

-Theodore White

The Ontario Nurses’ Association represents 68,000 registered nurses (RNs) and health-care professionals in all health-care sectors.

ONA welcomes the opportunity to provide the Standing Committee on the Legislative Assembly with recommendations on Bill 254.

ONA is committed to supporting the establishment of a fair and transparent regime for the regulation of election and pre-election advertising spending. We believe the rules governing election finances should be based on the promotion of two basic principles: fairness and the promotion of diverse opinions. To this end, the government must endeavour to reduce the outsized influence of deep pockets on elections. In equal measure, the government must safeguard the ability of a diverse array of voices and perspectives to meaningfully contribute to the public discussion, as voters contemplate their ballot box decision. These are essential ingredients to the goal of strengthening our democracy.

In Ontario, we can be proud of the regime that, since 2016, bans corporate and union donations to political parties, maintains a low cap on individual donations and provides a public subsidy to political parties based on their popular support. These measures go a long way to remove “the flood of money...into politics,” which previously polluted our democracy. While we can be proud of this achievement, we cannot be complacent or worse, turn back the clock on this progress.

Unfortunately, Bill 254 takes Ontario’s election laws in the wrong direction. The legislation, as worded, engenders two realities: first, it favours political parties with wealthier donors and, second, it poses significant challenges to compliance for fair-minded third parties hoping to meaningfully contribute to the political debate before and at election time.

In this regard, ONA will outline below some major reservations about the possible consequences of the legislation, as written, as well as questions arising from the obvious ambiguity of some of Bill 254’s provisions.

## **2. ONA’s concern: fairness**

The Ontario government’s decision to lift the cap on individual donations in Bill 254 is one of our two greatest sources of concern. The one time doubling of the individual contribution limit to campaigns for one year from \$1,650 to \$3,300 is just plain wrong. This measure will help political parties that enjoy donors with deeper pockets, enhancing the advantage of money in Ontario politics.

Moreover, based on the contribution disclosure reports made by Elections Ontario, at the current time, this measure will overwhelmingly favour the governing Ontario PC party. Three months before the pandemic struck, on December 16, 2019, *Queen’s Park Today* reported that for 2019, 12,000 donors to the Ontario PC party had contributed an average of \$384.00 each. Meanwhile, approximately 30,000 donors to the Ontario NDP had donated an average of \$45.00 each.

ONA is a declared and demonstrably non-partisan trade union. It is for that reason that we raise concerns about fairness in the electoral process.

The data published above by Elections Ontario confirm that the value of individual donations to the governing Ontario PC party are on average *8 times* more than individual donations made to the Official Opposition.

In other words, the pool of donors for the governing party is likely much wealthier than the pool of donors for the Official Opposition, contributing to the Ontario PC's higher total revenue.

While this difference is entirely legal under the existing Ontario Finances Act, Bill 254 will likely exacerbate this trend as a small number of wealthy donors contribute even more every year in tax deductible donations. More money from high-income individuals tilts the playing field and erodes fairness in the system.

The provision that raises the cap on candidates' contributions to their own campaigns, from \$5,000 to \$10,000, is yet another measure that erodes fairness by giving a monetary advantage to wealthier candidates.

### **3. ONA's concern: diverse voices**

With respect to a diversity of voices and perspectives, Bill 254 creates confusion for third party advertisers that may prohibit their involvement altogether. The last-minute measure to lengthen the non-election spending period, while maintaining the spending cap, for third parties from 6 months to 12 months, creates confusion for diverse stakeholders throughout the province. With the next Election Day legislatively scheduled for June 2022, the 12-month non-election period stipulated in Bill 254 is set to commence within the next 6 weeks. Third parties who have already planned advertising on broadly defined "public interest matters" over the next 6-months, unrelated to the election, are now questioning whether those dollars will count against the new 12-month cap.

As Ontario enters the third wave of the COVID-19 pandemic, the public deserves to hear the perspectives of nurses and health-care professionals on "public interest matters" that affect us all. However, this legislation blurs the lines by lengthening the non-election period, meaning ad spending that broadly discusses health-care and nursing issues could be inadvertently caught by this legislation. The ensuing confusion risks public awareness campaigns on critically important issues to the general public, as we collectively struggle to overcome the pandemic.

The legislation's ambiguous language defining situations of collusion poses yet another unnecessary deterrent to third party involvement. In particular, the suggestion of collusion between third parties that "share a common advocacy, cause or goal," without further precision, is irresponsibly vague. In a healthy democracy, there should be an ecosystem of advocacy groups that surround broad issue areas or sectors such as health care, the environment or economic development. Oftentimes, those advocacy groups, representing different interests, "share a common advocacy, cause or goal," simply because their diagnosis of problems facing the sector is the same. Family councils, seniors' groups and health-care unions might well agree on the root causes of the crisis in long-term care – and say so publicly.

While ONA agrees that these third parties should not collude to circumvent the spending cap, this legislation muddles matters rather than clarifying them. This is specifically true with respect to common vendors and common contributors.

Because of the ambiguity of the language, third parties are left wondering whether their authentically independent and rule-abiding campaigns could be inadvertently caught by the legislation because of a shared vendor or ongoing contribution to another third party.

While the government has the duty to create a clear path for stakeholders to comply with the law, the provisions on anti-circumvention with respect to the rules of collusion add more confusion. They risk meaningful participation of third-party voices.

To make matters worse, with such short timelines, it is extremely unlikely that the Elections Ontario Handbook for third parties will be ready before the 12-month non-election period comes into force. As a consequence, the Ontario government will expect third parties to comply with a set of rules before delivering the completed rule book. This is unwise and risks further deterring third-party stakeholders from engaging at all.

As a final observation, the combined effect of lifting individual contribution limits to political parties and restricting third party spending risks engineering an outcome where political parties, supported by deep-pocketed donors, dominate the advertising spending in the lead up to the election, at the expense of less affluent parties and stakeholders. This is an outcome that would undoubtedly pollute our democracy.

#### **4. ONA recommendations**

In light of our concerns raised above, and in the spirit of strengthening Ontario's democracy, ONA delivers the following recommendations to the members of the Standing Committee on the Legislative Assembly:

1. Reverse the increase in the cap for individual donations, by preserving it at \$1,650 per person per year. Study the pros and cons of increasing the limit yearly at the rate of inflation.
2. Restore the non-election period for third party advertising to 6 months, as currently defined, or raise the cap on spending over the 12-month period.
3. Clarify in legislation the terms to prevent circumvention of the collusion rules, to improve the ability of third parties to comply. Or postpone the application of the 12-month non-election period until the Handbook has been made public and a grace period given for third parties to understand the rules and take measures to apply them and comply with them.
4. Clarify in the legislation that third parties who run manifestly independent campaigns, yet who happen to share a common vendor and a common advocacy goal, cannot be found to be colluding.

#### **5. Conclusion – more questions than answers**

Due to the lack of clarity in the legislation, ONA also requests that the provincial government publicly answer the following two questions pertaining to this legislation, in the interest of improving the conditions for good faith compliance.

1. How does the government expect third parties to effectively comply with the new election law, if the Elections Ontario Handbook comes out after Ontario enters the 12-month non-election period?
2. Will ongoing advertising campaign spending on general “public interest matters,” such as the COVID-19 pandemic, impact the new 12-month “non-election” advertising spending cap?

We look forward to the government providing answers before the proposed legislation proceeds through the legislative process. Thank you for the opportunity to engage on this proposed legislation. We trust we will have the same opportunity to engage fairly in the next provincial election.