

Tory bill on union expenses could trip up businesses in the process

By Sean Tucker and Andrew Stevens, Special to National Post - Oct 15, 2012 9:31 AM ET

For decades activist shareholders, trade unions, and, more recently, Wikileaks activists have demanded greater transparency from business and governments. Indeed, one of the functions of democracy is to shed light on how political and business decisions are made in society. Transparency also helps to keep those in positions of power accountable to the public. This is the thrust behind Conservative Member of Parliament, Russ Hiebert's, Private Members' Bill, C-377, which could potentially deliver what these groups have long sought: a template and rationale for legislation that would compel Canadian businesses to disclose financial and other critical information to public scrutiny.

Bill C-377, *An Act to Amend the Income Tax Act (labour organizations)*, if passed, would require unions to publically disclose an unprecedented amount of financial and other information about their activities on the Canadian Revenue Agency's website. Not surprisingly C-377 is opposed by organized labour who see it as principally anti-union. However, in the face of such criticism, the bill's sponsor has argued that "If there is an ideology, it is based on the principle that organizations that receive public benefits should be accountable to disclose how they use those benefits." According to Heibert, the primary public benefit enjoyed by unions is that their members can deduct dues from their personal income, thus depriving the public treasury of over \$400 million of dollars in lost revenue.

Mr. Heibert's public benefit argument is problematic for several reasons. Many businesses receive substantial direct and indirect benefits through the *Income Tax Act* and other federal government programs but disclose little or no information to the public. If Hiebert's chief motivation is to ensure the financial accountability of organizations that benefit from taxpayer supported initiatives, why restrict C-377 to trade unions? Why not extend this transparency model to private businesses and professional associations? An MP inspired by accountability, and not an anti-union animus, should settle for nothing less.

Imagine a medium-sized engineering firm that receives any of the following federal government benefits: \$5,000 to subsidize the salaries of post-secondary graduates under the federal Youth Employment Program, \$35,000 for eligible research and development activities under the Scientific Research and Experimental Development (SR&ED) Tax Incentive Program, or \$50,000 under the Canadian Innovation Commercialization Program. These are all part of the government's Economic Action Plan. The business equivalent of Heibert's law would require this firm to publicly disclose senior management salaries and *all transactions over \$5,000, with both the payer and payee being identified*. But, the extent of accountability would reach even further under Hiebert's bill.

Though C-377 references the level of financial transparency required of registered charities as a model, the bill demands far more information. For example, the government would define and require reporting on over a dozen categories of business-related activities and require senior managers to report on all political and lobbying activities. The costs associated with reporting, of course, would be borne by the business and non-compliance would result in a fine of \$1,000 per day. And, because the scope of disclosure mandated by C-

377 is not proportional to the size of the public benefit, all businesses would be treated equally. All of this would be taking place as business associations are lobbying for fewer government regulations.

The thought of legislation targeting businesses may seem far-fetched. Most certainly it would be contentious if a future federal NDP government were ever to consider it. However, Mr. Hiebert and his allies at LabourWatch would have already provided a blueprint for such a law and securing public support. Why should businesses that receive the same or a greater degree of support through the tax system be treated any differently than trade unions? The now defunct Electro-Motive Diesel facility in London, Ontario, which was a beneficiary of favourable tax provisions, could easily be held up as an example supporting a corporate transparency bill.

There is also the question of supposed public support for transparency legislation. Consider that weeks before the introduction of C-377, Nanos Research released a poll, sponsored by LabourWatch, claiming that “83% of Canadians agreed with mandatory public financial disclosure for both public and private sector unions on a regular basis.” This result has been widely publicized by the proponents of C-377, particularly Merit Canada and the Canadian Federation of Independent Business (CFIB). What the Nanos report failed to publicly disclose until months after its release is that those polled were conditioned with information before responding to a statement about the need for union financial disclosure. Specifically, they were told by Nanos, “As you may know, public and private sector unions do not pay taxes, the union dues of unionized employees of the private and public sectors are tax deductible and their strike pay is not taxable. In addition, tax payers pay the wages of civil servants and, therefore, fund their union dues.”

Here is one possible business-oriented question that might provide an equally dubious result:

“As you may know, businesses that receive federal subsidies and tax credits are not required to publicly disclose detailed financial information about their activities. Despite receiving taxpayer support, some of these businesses are not obligated to provide any employment or public benefit. For instance, Electro-Motive Diesel received a portion of a \$5 million benefit through changes introduced in the 2008 federal budget. Less than two years after receiving the tax benefit, the company shut down its Canadian plant, which resulted in 700 Canadians losing their jobs.”

Next, interviewees are presented with the question: “It should be mandatory for businesses to publicly disclose detailed financial information on a regular basis.” It’s not hard to imagine the responses and how the result might inform an anti-business agenda and muster public support for business transparency legislation.

Though manipulative, the Nanos-LabourWatch polling formula – presenting one-sided information and then asking a question that is sure to elicit a socially desirable response (who isn’t in favour of financial transparency anyway?) – would likely also be effective in capturing popular support for businesses disclosing financial information. Armed with favourable polling results, groups would then lobby government or a private member to draft legislation. It might only be a matter of time before the NDP releases a white paper titled “Paths to Transparency”.

The passage of C-377 leaves the door open to future legislation that would target businesses for the same purpose – financial transparency. Such a law would undoubtedly have severe economic consequences and would be a target for associations like the CFIB and its members. The law would also be as short-sighted as C-377. Mr. Heibert and his LabourWatch friends may have just opened Pandora’s Box.

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