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Responsibility for Nortel's disabled workers on feds' shoulders: report

Posted on [Wed, Jun 1, 2011, 7:12 pm](#) by [BJ Siekierski](#)

A report released Wednesday insists the Conservative government amend federal bankruptcy laws to redress Nortel's failure to protect its former employees' disability insurance.

"In the case of Nortel, the failure to protect the disability insurance funded by assets in the Nortel HWT (Health and Welfare Trust), has caused severe financial and emotional stress to some 360 disabled Nortel employees and their 160 children," says the report prepared by Diane Urquhart an independent financial analyst fighting for disabled former Nortel employees.

The report spreads blame around between Northern Trust — the third party trustee for the Nortel HWT, Sun Life — the administrative services provider, bankruptcy lawyers paid by Nortel, the bankruptcy court, and the federal and provincial governments.

The job of fixing the problem, though, rests squarely on the federal government, Urquhart's report says.

"The federal government should not condone lower business costs being achieved through the provision of bogus disability insurance. It has a responsibility to provide security for its most vulnerable disabled citizens," the report says.

One possible solution is an \$80 million relief payment, which has also been proposed in the past, but the report argues it's preferable to see the Companies' Creditors Arrangement Act and the Bankruptcy and Insolvency Act amended.

These amendments, it stresses, would avoid putting the burden on the Canadian taxpayer.

To date, the federal government has been unwilling to tinker with either act; they've justified that inaction on the advice of government lawyers who say making the laws apply retroactively is impossible, and the cautions of banks and bankruptcy lawyers who say it's simply inadvisable.

Last winter, Urquhart met with then House leader John Baird. The answer he gave her at the time was similar to the one he gave Ralph Goodale in question period last December.

“Regrettably, the reality is we cannot legally and constitutionally make laws that apply retroactively,” Baird told the Commons.

Urquhart says Baird claimed to be going on the advice of industry Canada lawyers, but that Supreme Court case law says otherwise, quoting a 2005 decision that stated there is no such restriction outside of criminal law.

Nonetheless, Urquhart is optimistic that with a majority in place the Conservative government will be less reluctant to act on the file, which she says was wrongly lumped together with the concerns of Nortel pensioners creating a treacherous political minefield.

“We’re optimistic that perhaps we can persuade Mr. Harper — now that he doesn’t have to worry about the seniors voting,” she said.

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