FTR Now

Ontario Election 2007: A New Public Holiday and More

Date: October 16, 2007

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On October 11th, the Ontario Liberal Party won the provincial election, and will enjoy a majority government led once again by Premier Dalton McGuinty. While much of the media coverage of the election campaign focused on funding for religious schools, all parties published more extensive platforms setting out their vision for the next four years. In this brief Update, we will review some aspects of the Liberal Party's election platform that may be of interest to clients.

A NEW HOLIDAY

Perhaps the most visible change on the horizon is the addition of a new public holiday to the *Employment Standards Act, 2000* ("ESA"). This is the first addition of a public holiday since Boxing Day was added as a holiday in 1989. The holiday will be known as Family Day, and will fall on the third Monday of each February. On October 12th, the Government filed a regulation that creates the new holiday (Ontario Regulation 547/07), which will ensure that it is in place for February 2008.

The addition of a new holiday creates a number of issues for employers that need to be considered, including the question of whether a particular employer must recognize the new holiday. When Boxing Day was introduced as a holiday, some arbitrators found that, where a collective agreement already provided a greater benefit than the ESA (taking into account the new holiday), the employer did not have to recognize the new holiday. While the former statute had a specific greater benefit provision for public holidays that is not duplicated in the current ESA, the same basic principles should apply and the argument may still be available in the appropriate case.

Some relevant factors to consider include the following:

- Does your collective agreement or other contract language obligate you to recognize any new government-created holiday?
- Does your collective agreement or other contract language provide only the statutory minimum holiday entitlements?
- Does your collective agreement or other contract language provide a greater benefit than the ESA even when the new holiday is factored in?
- How will employees react if the new holiday is not recognized?

The answers to these questions will provide guidance as to whether your organization must recognize the new holiday, or whether it may choose not to do so. For federal employers, the new holiday will not apply directly, but may create pressure to establish a similar holiday for your employees.

MINIMUM WAGE CHANGES

One other item of note under the ESA is that the re-election of the Liberals means that increases to the minimum wage will proceed as announced previously by the Government. Thus, the general minimum wage will increase from the current hourly rate of $8.00 to a rate of $8.75 on March 31, 2008, and again to $9.50 on March 31, 2009, and again to an hourly rate of $10.25 on March 31, 2010.

UPLOADING OF SOCIAL SERVICE COSTS

For municipalities, the Liberal platform promises some financial relief with a promise to upload the full cost of both the Ontario Disability Support Program and the Ontario Drug Benefit to the provincial government over the next four years. The Liberals also promised funding for infrastructure repairs and renewal that will be spent over the next 10 years.

SCHOOL BOARDS

Some highlights of the platform related to education include a full review of the current provincial funding formula by 2010, new regulations to govern the food served by school cafeterias, and additional funding for school boards to prepare to provide on-site IBI therapy for children with autism.

BUSINESS

Other highlights of the platform include measures intended to assist the competitiveness of business, including a promise to phase out the capital tax completely by 2010, and to create a new independent agency, Investment Ontario Inc., the mandate of which will be to attract new investment in Ontario.

The platform also included several promises related to attracting professionals and students from overseas, including the creation of the International Ontario Strategy, the creation of the Opportunities Ontario Program to facilitate the immigration procedure, and the expansion of the Ontario Student Assistance Program for foreign-trained professionals.

Also of interest to business is a commitment to create a “toxin reduction law” that will require companies to reduce any emission of toxic pollutants, and the province-wide prohibition on cosmetic pesticide use.

THE HEALTH PLATFORM

A portion of the platform related to the health sector, including promises to hire approximately 7,000 more nurses, as well as to establish fifty more Family Health Teams with a focus on rural and northern Ontario. The Government will also work at creating an electronic health record by 2015 with Ontarians being given control over the personal health information in the record.

If you would like further information on how any of these promised policies may affect your organization, please feel free to contact your regular Hicks Morley lawyer.

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