FTR Now

Premier McGuinty Announces His Resignation and Prorogues the Legislature

Date: October 16, 2012

In an unexpected development, Premier McGuinty announced yesterday that he will be resigning as Premier of Ontario and as leader of the Ontario Liberal party. Premier McGuinty also announced that he asked the Lieutenant Governor of Ontario to prorogue the Legislature, which now appears to have occurred. While both announcements will come as a surprise for most of us, it is the latter decision that will have the more immediate impact on employers, especially those in the Broader Public Sector ("BPS"). This *FTR Now* discusses the prorogation and its impact on employers in the BPS.

PROROGATION

When the Legislature prorogues, it brings to an end the current session and results in all Legislature business ceasing. Any Bills that are before the Legislature "die on the order paper", which means that they will not pass and would have to be reintroduced in a future session of the Legislature. Moreover, any Committee business also comes to an end.

For example, Bill 30, the *Family Caregiver Leave Act (Employment Standards Amendment), 2012,* had passed Second Reading and was to have been considered by the Standing Committee on Social Policy. However, with the prorogation of the Legislature, Bill 30 effectively no longer exists and cannot be passed in this session. Depending on how matters develop, the Government could choose to reintroduce the Bill, but it would need to go through the full legislative process again.

It is important to emphasize that, while the Legislature will not be meeting, the Liberal Government still retains power in Ontario, and will continue to govern the affairs of the province. That is, the prorogation of the Legislature does not automatically mean that an election will be called. That decision would presumably rest with the next Premier, unless the minority Government is brought down earlier by the opposition.

STATUS OF COMPENSATION RESTRAINT INITIATIVES

The prorogation of the Legislature also means that the Government will not be introducing the *Protecting Public Services Act, 2012* ("PPSA") at the present time. As we discussed in detail in our *FTR Now* of September 27, 2012 ("Ontario Proposes Significant Changes to Wage Restraint and Collective Bargaining in the Broader Public Sector"), the PPSA would have enacted new compensation restraint measures for the BPS, would have imposed a new provincially mandated collective bargaining regime, and would have also made changes to the interest arbitration process that applies to various portions of the BPS.

In his announcement, Premier McGuinty stated that the Government intends to use the period of prorogation to continue to negotiate with public sector unions to achieve a negotiated wage freeze, and would also continue to consult with the opposition parties to determine what form of a legislated wage freeze they would support. Thus, while there will not be any new legislation at this time, it appears that the Government is currently committed to achieving a wide-ranging wage freeze for the BPS.

The other effect of prorogation is that the current compensation restraints set out in other legislation remain in place. Thus, for certain organizations in the BPS, Part II.1 of the *Broader Public Sector Accountability Act, 2010* ("BPSAA") with its restrictions on "designated executives" and the limits imposed by the "performance pay envelope" for non-bargaining employees, remains in force for the indefinite future.

In addition, the *Putting Students First Act, 2012* ("PSFA") remains in effect for the school board sector. We do highlight, however, that the changes proposed by the PPSA for directors of education, superintendents and senior board officials (detailed in our *FTR Now* of October 1, 2012) will not be taking effect, and the status quo remains in place.

GOING FORWARD

In some respects, Premier McGuinty's announcements mean that it is back to "business as usual" for the BPS, which can again focus its attention on compliance with the existing BPSAA and PSFA compensation restraints. However, yesterday's developments are likely to usher in a period of uncertainty for the BPS, as it tries to ascertain the Government's future direction.

This task will be made more difficult by the uncertainty over who will next lead the Liberal Party and become Ontario's next Premier. At the time of writing, it would appear that Premier McGuinty will continue in his position until a new leader is chosen. Moreover, it also appears that the Government does not intend to recall the Legislature until there is a new Premier. This could mean that the Legislature will not sit for an extended period of time, nor is it possible to predict with certainty in which direction the new Premier will take the Government.

We will continue to monitor these events as they unfold, and will update our clients as developments occur that are of particular interest for employers.

If you have any questions about any of these matters, please contact your regular Hicks Morley lawyer.

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