

FTR Now

Ontario Budget 2014 and the Provincial Election – Voting Requirements and More

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Last week saw significant developments at Queen’s Park that will be of interest to all employers in Ontario. On Thursday, May 1, 2014, the Ontario government introduced its 2014 Budget, entitled *Building Opportunity, Securing Our Future* (the “Budget”). On the same day, the government introduced Bill 194, the *Building Opportunity and Securing Our Future Act (Budget Measures), 2014* (“Bill 194”), omnibus legislation that was designed to implement some of the proposals contained in the Budget.

The following day, the NDP announced that it would not support the Budget, joining the Progressive Conservatives in opposition to the government. In response, Premier Wynne requested the dissolution of the Legislature, which was granted by the Lieutenant Governor. As a result, instead of a Budget debate, there is now a general election scheduled for Thursday, June 12, 2014.

In this *FTR Now*, we will review these developments and what they mean for employers.

THE 2014 ONTARIO BUDGET

As a result of the dissolution of the Legislature, neither the Budget nor Bill 194 remain before the Legislature. Some of the key proposals that had been in the Budget included:

- the creation (proposed for 2017) of the Ontario Retirement Pension Plan, a mandatory public pension plan (similar to the Canada Pension Plan) for employees in the province who do not participate in a “comparable” workplace pension plan;
- an announcement to introduce framework legislation in the Fall for the introduction of Pooled Registered Pension Plans – workplace defined contribution pension plans administered by financial institutions instead of employers;
- amendments to the *Pension Benefits Act* (“PBA”) to permit single employer pension plans (primarily in the public sector) to convert to jointly-sponsored pension plans;
- a proposed amendment to the *Insurance Act* to require employers who provide long term disability benefits to insure them (subject to possible prescribed exemptions); and
- a proposed income tax increase on high income earners – a 1% increase for those whose taxable income is between \$150,000 and \$220,000, and a 2% increase for those with a taxable income between \$220,000 and \$514,090.

THE DISSOLUTION OF THE LEGISLATURE

As noted above, with both opposition parties signaling that they would not support the Budget, Premier Wynne requested that the Legislature be dissolved, which was granted by the Lieutenant Governor on Friday, May 2, 2014.

When the Legislature is dissolved, it brings to an end the current Parliament, and results in an election. All Legislative Assembly business comes to an end, including any ongoing Committee business. Importantly, any Bills that are before the Legislature “die on the order paper,” which means that they will not pass (absent being reintroduced in some form by the next government). In addition to the Budget Bill (Bill 194) itself, other Bills that we had been tracking that have died on the order paper include:

- **Bill 179 – Public Sector and MPP Accountability and Transparency Act, 2014** – which would have (among other

things): permitted the government to introduce compensation restraint frameworks for the broader public sector; introduced a new Patient Ombudsman; extended the authority of the Ontario Ombudsman to include municipalities, school boards and publicly-assisted universities; and given the Provincial Advocate for Children and Youth ombudsman-like powers to investigate matters relating to children and youth who are involved with a children's aid society;

- **Bill 165 – *Fair Minimum Wage Act, 2014*** – which would have resulted in annual increases in the minimum wage based on increases in the Consumer Price Index;
- **Bill 151 – *Strengthening and Improving Government Act, 2014*** – which would have amended the PBA to reverse the impact of the Ontario Court of Appeal's 2012 decision in *Carrigan v. Carrigan Estate* on the payment of pre-retirement death benefits in situations where a pension plan member who dies with a common law spouse remains legally married to but is separated from a prior spouse; and
- **Bill 146 – *Stronger Workplaces for a Stronger Economy Act, 2014*** – which would have amended a number of employment-related statutes, including the *Employment Standards Act, 2000*, the *Occupational Health and Safety Act* and the *Workplace Safety and Insurance Act, 1997*.

THE 2014 ELECTION – EMPLOYEE RIGHTS TO TIME OFF FOR VOTING AND OTHER PURPOSES

The provincial election will be held on **Thursday, June 12, 2014**. For most of the province, voting hours will run from 9:00 a.m. to 9:00 p.m. For electoral districts that lie "entirely west of the meridian of 90° W. longitude" (i.e. in the Central Time Zone), voting hours will run from 8:00 a.m. to 8:00 p.m. Under the *Election Act*, all employees who are eligible to vote in the election are entitled to three consecutive hours during voting hours on election day to cast their vote.

Where an employee's hours of work prevent him or her from having the three consecutive voting hours required by the *Election Act*, the employee may request additional time off for voting to provide the required three consecutive hours off. If an employee makes this request, the employer is required to grant it. The time off is paid.

Note that where an employee has three consecutive hours that fall within the voting hours and fall outside of his or her work hours, there is no obligation to provide paid time off from work.

Example 1: Employee A lives in Kingston, and works from 9:00 a.m. to 5:00 p.m. The employer would have no obligation to provide time off work, even if requested, as the voting hours continue for four consecutive hours after the end of A's work day.

Example 2: Employee B also lives in Kingston, and works from 7:30 a.m. to 7:30 p.m. Employee B does not have a three consecutive hour voting period outside of work hours. Therefore, if requested by the employee, the employer must provide sufficient paid time off work to provide B with a three consecutive hour voting period.

The statute says that the time off "shall be provided at the time of day that best suits the convenience of the employer." In Example 2 above, the employer could allow Employee B to leave work at 6:00 p.m., as this would provide B with a three-hour block of time to vote, from 6:00 p.m. to 9:00 p.m.

Where an employer must provide time off to an employee so that he or she can vote, the employer may not make a deduction from pay nor impose any form of penalty. Rather, an employee must receive full pay for the day, and this obligation applies regardless of the basis upon which an employee is paid.

A second feature of the Ontario *Election Act* is that it requires employers to provide unpaid time off to employees who are appointed as returning officers or poll officials. The leave must be granted, without penalty, where the employee makes the request at least seven days' prior to the leave commencing. Employers may not deduct the leave from the employee's vacation entitlement.

For more information about the Ontario Budget or your obligations under the Ontario *Election Act*, please contact [your regular Hicks Morley lawyer](#).

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