

Human Resources Legislative Update

Ontario Consults on (Revised) Proposed Amendments to Advisory Committee Regulations

Date: August 29, 2016

The Ontario government is consulting on a revised proposal for amending the *Pension Benefits Act* (PBA) regulations with respect to Pension Advisory Committees (PACs). The consultation is open only until September 12, 2016.

Under the PBA amendments, a PAC can be established by a majority vote of members and retired members if certain conditions are met. The purpose of a PAC is to monitor plan administration, make recommendations to the administrator regarding the plan and promote awareness and understanding of the plan amongst its membership.

[As we previously reported](#), the PBA was amended in 2010 to facilitate the establishment of PACs, however those rules have not yet been proclaimed in force pending release of the regulations needed to implement them. [The government first released draft PAC amendments](#) for consultation in the Fall of 2015. On August 22, 2016, the Ministry of Finance released [revised draft PAC amendments](#) incorporating stakeholder feedback received on the earlier 2015 regulatory proposal.

Among other things, the latest proposed amendments to Regulation 909 would make changes to certain requirements for PACs, to a pension plan administrator's obligations in regard to PACs, as well as changes to the voting processes for establishing a new PAC. Specifically, the proposed amendments in respect of ongoing PAC requirements would:

- reduce the required minimum size of a PAC from five individuals to four individuals
- prescribe a minimum of two PAC meetings per year that an administrator must attend (unless the PAC determines one meeting is sufficient in a given year) to discuss the administration of the pension plan and "matters of interest to beneficiaries"
- require the administrator to provide "reasonable" administrative assistance to the PAC with respect to preparation and distribution of an annual report of its activities, and to provide the report to all beneficiaries (including active, former and retired members and other beneficiaries)
- expand the exemption from the PAC provisions to include plans that are administered by any type of governing body if at least one of the members is selected by plan members or a union acting on their behalf. This is in addition to the exemptions for jointly sponsored pension plans and multi-employer pension plans established pursuant to collective agreements
- exempt PACs that are established before the PBA amendments come into force from the PBA requirements for the composition of a PAC for a period of six months to allow time for transition.

The proposed Regulation 909 amendments with respect to voting and establishment of a PAC would:

- extend the prescribed period of time within which an administrator must provide notice of a vote to establish a PAC and distribute prescribed materials and information with respect to the vote to members and retired members from 60 days to 90 days
- focus the material prepared by members, retired members or trade unions required to be sent by the administrator in connection with a vote to establish a PAC on the purpose of a PAC
- prescribe the permissible methods for conducting a secret ballot vote on the establishment of a PAC to include in-person or electronic voting or distribution and collection of ballots by mail
- when a vote to establish a PAC has been unsuccessful, extend the period of time before an administrator is required to provide assistance in conducting another PAC vote from two years to three years
- include former members of the pension plan in distribution of information about the outcome of a PAC vote.

