

FTR Now

Ontario Budget 2017

Date: May 2, 2017

On April 27, 2017, the Ontario government tabled its 2017 Budget “[A Stronger, Healthier Ontario](#)” (Budget) and [Bill 127, Stronger, Healthier Ontario Act \(Budget Measures\), 2017](#) (Budget Bill), omnibus legislation designed to implement some of the proposals contained in the Budget.

In this *FTR Now*, we highlight key proposals that are of particular interest to employers, human resources professionals and pension plan administrators. These proposals include:

- introduction of universal drug coverage for all children under the age of 25 effective January 1, 2018
- various initiatives relating to the regulation of registered pension plans
- new financial commitments for workplace and training initiatives
- changes to Ontario’s workers’ compensation regime to provide benefits for work-related chronic or traumatic mental stress.

These key Budget announcements are summarized in further detail below.

- [Prescription Drug Coverage for Children and Youth](#)
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Prescription Drug Coverage for Children and Youth

The Budget announced the government’s intention to establish “OHIP+: Children and Youth Pharmacare”, a new prescription drug coverage program for Ontario children and youth under the age of 25 effective January 1, 2018. Under the program, all prescription drugs covered under the Ontario Drug Benefit (ODB) formulary will be provided free of charge to Ontarians up to and including age 24, regardless of family income. There will be no deductible and no co-payment.

This new program will provide some cost relief to employers who provide group prescription drug benefits to employees’ eligible dependents, by making the government the “first payer” for young Ontarians’ eligible prescription drug expenses. Employers that provide prescription drug benefits coverage to eligible dependents should review their plan to determine whether any changes are necessary to reflect the new government program and to confirm whether their plan will or should provide any coverage that is supplementary to the government program.

Pension-Related Initiatives

In addition to various pension-related initiatives that had previously been announced, the Budget announces new proposed changes to the Ontario *Pension Benefits Act* (PBA) and provides an update on certain ongoing pension-related initiatives:

Defined Contribution (DC) Pension Plans. DC plans represent a growing share of workplace pension plans. A key concern

relating to DC pension benefits is that the plan member will outlive his or her retirement savings (longevity risk). The Budget indicates the government's intention to consult with stakeholders with a view to modernizing the regulatory framework for DC pension plans to enhance disclosure, reduce longevity risk and better protect DC plan members. The Budget also signals the government's intention to consult with stakeholders and the federal government with a view to developing new ways for DC plan members to efficiently draw retirement income.

The payment of variable benefits directly from a DC pension plan allows retirees to retain their account in their former employer's plan and potentially benefit from investment fees lower than those available to them as a retail investor upon transfer of their DC account balance to a personal retirement savings vehicle. Pursuant to a 2015 Ontario budget bill, the PBA was amended to make it possible to pay variable benefits directly from a DC pension plan, and to ensure that owners of DC variable benefit accounts have certain portability rights.^[1] Those provisions have not yet been proclaimed into force pending the issuance of implementing regulations, which the Budget indicates will be developed this Spring. The Budget Bill includes amendments to the PBA to clarify the treatment of variable DC benefits as family property in the event marriage breakdown, and to clarify the death benefit that is payable after the death of an owner of a DC variable benefit account.

Defined Benefit (DB) Pension Plan Funding Review. Lead by David Marshall, former Workplace Safety and Insurance Board President and CEO, the government engaged in public consultations throughout 2016 regarding potential changes to the funding framework for DB pension plans.^[2] The Budget indicates the government's intention to announce guiding principles for a new DB pension plan funding framework later in Spring 2017, with draft regulations to be released for public consultation in Fall 2017. Based on this timeline, it is possible that the new DB funding framework could be effective in early 2018. Measures to support the transition to a new funding framework will be implemented in this Spring.

Target Benefit Plans Framework. The government intends to develop a limited framework for target benefit multi-employer pension plans (MEPP) to replace the funding regulations currently in place for specified Ontario multi-employer pension plans (SOMEPP) with unionized members. Draft regulations are expected to be released in the Fall. The Budget also indicates that the government will continue to explore options for a target benefit MEPP framework for plans that do not currently meet the SOMEPP criteria.

Missing Beneficiary Requirements. The Budget expresses the government's intention to address the challenges caused by unlocatable pension plan beneficiaries. Among other things, the government will instruct the Superintendent of Financial Services (Superintendent) to develop a policy for administrators on the steps that they should take to locate missing beneficiaries. The Budget also signals the government's intention to amend the PBA to authorize the Superintendent to waive the requirement for plan administrators to provide periodic benefit statements to unlocatable plan members. The government will consider further initiatives relating to unlocatable pension plan beneficiaries, including the establishment of a public registry for unclaimed pension benefits.

Public Sector JSPM Mergers. To facilitate pension plan mergers for public sector employers who wish to merge their single employer pension plan with an existing jointly sponsored pension plan, the Budget Bill includes amendments to the PBA to clarify the applicable asset transfer rules.

Administrative Monetary Penalties. The Budget indicates that regulations to implement administrative monetary penalties (AMP) under the PBA will be released for consultation this Spring.^[3]

Expanded Powers for the Superintendent. The Budget Bill proposes to amend the PBA to authorize the Superintendent to order a plan administrator to provide plan beneficiaries with specified information, or to hold a "town hall"-type meeting to discuss specified matters with plan beneficiaries and/or other interested persons.

Financial Services Regulatory Authority (FSRA). As part of the transition to FSRA, Ontario's proposed new financial services and pension regulator,^[4] the Budget announced that FSRA's board of directors is expected to be appointed this Spring, and that FSRA's mandate and governance structure will continue to be developed through 2017.

Employer Health Tax Anti-Avoidance Measures

The Budget proposes measures to prevent businesses from using a series of associated legal entities to take advantage of the *Employer Health Tax* (EHT) exemption multiple times. The proposed measures will be effective no earlier than January 1, 2018. Additionally, the government will review other methods and structures by which some employers avoid paying EHT, to ensure that EHT relief is targeted to small employers.

Employment and Labour-Related Initiatives

Changing Workplaces Review. The Budget states that a final report of the Changing Workplaces Review, which is reviewing the *Labour Relations Act, 1995* and the *Employment Standards Act, 2000*, is expected in Spring 2017. The Budget is silent on whether any changes will be made to provincial legislation in light of the recent proposals in the Federal Budget 2017 to extend parental benefits to 18 months.

Managing Compensation. There are no specific changes to the issue of managing compensation. Pursuant to the *Broader Public Sector Executive Compensation Act, 2014*, designated employers continue to be required to develop, publicly consult and then post executive compensation programs. The Budget states that where any proposed program is not reasonable, the government will redirect that employer to revisit the program. It also states that in the coming year, negotiations will be undertaken within key areas of the public and broader public sector, such as health care, postsecondary education and social services. The government will focus on a public-sector labour relations framework that will deliver bargaining outcomes that are consistent with current public-sector wage trends.

Workplace Safety and Insurance. The Budget Bill would amend the *Workplace Safety and Insurance Act 1997* (WSIA) to provide benefits for chronic or traumatic mental stress which arises out of and in the course of employment. This would be a significant change from the current statutory entitlement, which only allows benefits for traumatic mental stress where the stress is an “acute reaction to a sudden and unexpected traumatic event.”

New rules would be created for the method of determining payments for loss of earnings under section 43 of WSIA. Among other things, the amendments would provide the Workplace Safety and Insurance Board with authority to establish policies with respect to the interpretation and application of WSIA, evidentiary requirements for establishing entitlements to benefits, and adjudicative principles to be applied for the purpose of determining entitlement.

Whistleblowing under the *Securities Act*. The Budget indicates that the government will amend securities law to provide for a civil cause of action for whistleblowers where a reprisal is taken against them contrary to securities or commodity futures law.

Training and Workplace Strategies

Highly Skilled Workforce (HSW) Strategy. The government intends to gather stakeholders (employer, educators, labour and others) as part of a Planning and Partnership Table to develop the HSW Strategy. This strategy is being developed in light of globalization and technological changes to provide opportunities across the educational spectrum, to unemployed workers and to those employed workers looking for new skills.

Career Kick-Start Strategy. The government will invest close to \$190 million over the next three years in initiatives aimed to create 40,000 new opportunities for K-12 and postsecondary students as well as graduates. Employers will be provided with the opportunity to “help train and equip an emerging workforce.” Among other things this will include establishing a \$68 million Career Ready Fund to help postsecondary institutions and employers create more opportunities for postsecondary students.

Apprenticeships. The government has stated its intention to work with key partners to identify ways to modernize the apprenticeship system.

Workers with Disabilities. The government has reaffirmed its commitment to develop a provincial employment strategy to help more people with disabilities connect to job opportunities and for more businesses to connect to an underutilized labour pool.

The Budget also contains a number of health- and education-related initiatives. Specifically with respect to education, the government has indicated its intention to cap class sizes for Full Day Kindergarten at 30 students in 2017-2018, which will be further reduced to 29 students in 2018-2019.

We will continue to monitor these Budget initiatives and keep you informed of program details as they emerge.

Should you have any questions about the Budget and how it might impact your organization, please contact [your regular Hicks Morley lawyer](#).

[1] See our April 28, 2015 *FTR Now* titled "[Ontario Budget 2015](#)"

[2] For further details, see our July 26, 2016 *FTR Now* titled "[Marshall Consultation Paper on Ontario Pension Solvency Funding Framework Released](#)"

[3] For further details regarding the introduction of AMPs to the PBA, see our November 21, 2016 *FTR Now* titled "[Ontario's Bill 70: The New Face of Pension Regulation Revealed](#)"

[4] For further details, see our November 26, 2016 *FTR Now* titled "[Ontario's Bill 70: The New Face of Pension Regulation Revealed](#)"

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