

FTR Now

Ontario Budget 2018

Date: April 4, 2018

On March 28, 2018, the Ontario government tabled its 2018 Budget, [A Plan for Care and Opportunity](#) and introduced [Bill 31, the Plan for Care and Opportunity Act \(Budget Measures\), 2018](#).

The Budget outlines key initiatives around retirement security and pension reform, healthcare, education, further initiatives to specifically address gender equality issues, representation of women, and more.

In this *FTR Now*, we highlight the proposals that are of particular interest to employers, benefits plan administrators and human resources professionals.

Prescription Drug Coverage

The government indicated it is eliminating the annual deductible and co-payment for seniors under the Ontario Drug Benefit (ODB) program in August 2019, and introducing a program for people without drug and dental coverage, starting in the summer of 2019. The changes follow recent measures introduced by the Ontario and federal governments aimed at enhancing prescription drug affordability.

The elimination of the deductible and co-payment for seniors under the ODB program is unlikely to affect group benefits plan costs for members who are employed. However, these changes could have a positive expense impact on the prescription drug portion of retiree benefits plans.

Pension Reform

Enhancing Benefit Security: Pension Benefits Guarantee Fund

The Pension Benefits Guarantee Fund (PBGF) provides protection, subject to specific maximums and exclusions, to Ontario members and beneficiaries of privately sponsored single-employer defined benefit pension plans in the event a plan is wound up with insufficient assets to cover benefits. Earlier this year, the government proposed changes to the PBGF to increase coverage from the first \$1,000 per month to the first \$1,500, and to eliminate the age and service eligibility criteria. These changes have been included in Bill 31, which provides for implementation to be made on a retroactive basis to any plan with a wind-up date on or after May 19, 2017. As described within the Budget, the purpose of this retroactive effective date is to extend the enhanced coverage to former employees of Sears Canada.

Additionally, Bill 31 includes an amendment to the *Pension Benefits Act* (PBA) which would require periodic review of the provisions and regulations related to the PBGF, with the first review to be completed within three years of the date the changes come into force and subsequent reviews to be completed every five years thereafter.

Enhancing Benefit Security: Further Reforms

To further enhance pension protection, Bill 31 introduces amendments to the *Financial Services Regulatory Authority of Ontario Act, 2016* (FSRA Act), which provide for the establishment of a new advisory committee dedicated to overseeing issues related to the PBGF. The Budget indicates that the committee will also oversee issues generally relating to pension plans with distressed employers. The advisory committee is to be established by the board of directors of the Financial Services Regulatory Authority (FSRA).

Additionally, the Budget announced the introduction of a mandatory “disclosable events” regime, which will require the disclosure of certain corporate or pension plan events that could potentially affect pension benefit security. By way of example, the Budget suggests that the type of events that would need to be disclosed include significant asset stripping or the issuance of extraordinary dividends. Bill 31 includes amendments to the PBA to implement the disclosable events regime. Under a proposed new section of the PBA, a person or entity will be required to alert the pension regulator as soon as reasonably practicable before or after a disclosable event occurs that could give rise to issues for the pension plan. The PBA will be amended to provide that in some prescribed circumstances, a person or entity could be required to provide the regulator with advance notice of a disclosable event. Important details, including a definition of what constitutes a disclosable event and when advance notice of a disclosable event will be required, will be set out in regulations that have not yet been released.

The Budget indicates that the PBA is to be further amended to introduce a distressed pension plan workout scheme, which is intended to provide more tools to the pension regulator to respond to pension plans with a distressed employer. No proposed amendments to the PBA were included in Bill 31 to implement the distressed pension plan workout. A distressed pension plan workout scheme was adopted under the federal *Pension Benefits Standards Act, 1985* in 2010, which may provide a model for the Ontario government to follow.

The Ontario government will consult on the details of the necessary regulatory amendments to support these proposed legislative initiatives.

Ontario Defined Benefit Pension Funding Reforms

A new funding framework for defined benefit plans registered in Ontario was announced in May 2017, and [amendments were made to the PBA in December 2017](#). The government is continuing to develop regulations to finalize and implement the new funding regime and that feedback received from stakeholders is being considered as part of the final phase of development.

Target Benefit Multi-Employer Pension Plans

The Budget also references the proposed new funding framework for target benefit multi-employer pension plans (MEPPs) that was announced in June 2017. This framework will eventually replace the time-limited funding regulations currently in place for specified Ontario MEPPs (SOMEPPs) whose members are unionized.

The Budget indicates that the government is planning to consult on design features for the new framework in Spring 2018. In addition, temporary funding rules in place for SOMEPPs will be extended to August 2018 in order to allow time for plans to transition to the new target benefit framework.

Regulatory Reform

Financial Services Regulatory Authority

Bill 31 introduces amendments to the FSRA Act respecting the transition from the Financial Services Commission of Ontario (FSCO) to FSRA, which:

- Provide for the establishment of a committee to advise the Chief Executive Officer of FSRA on matters related to the PBGF
- Allow documents that must be provided to or issued by the Chief Executive Officer of FSRA to be in an electronic format
- Provide that the Minister of Finance may order the transfer of operations, activities, assets, liabilities, rights and obligations from FSCO to FSRA.

The Budget identifies April 2019 as the target date on which FSRA will be fully operational.

Cooperative Capital Markets Regulatory System

The Cooperative Capital Markets Regulatory System (CCMR) is an initiative by the governments of British Columbia, New Brunswick, Ontario, Prince Edward Island, Saskatchewan, Yukon and Canada to create a cooperative securities regulatory framework. The CCMR is intended to address the absence of a national securities regulator in Canada.

The purpose of the CCMR is to provide increased protection for investors, strengthen Canada's capacity to identify and manage systemic risk on a national basis, and enable Canada to play a more influential role in international capital market regulatory initiatives.

The Budget includes a commitment from the government to support the CCMR and eventually transition the Ontario Securities Commission to a new Capital Markets Regulatory Authority (CMRA). CMRA is intended to be a single operationally independent capital markets regulatory authority, with an expert Board of Directors, a regulatory division and an adjudicative tribunal, that will administer legislation and regulations under authority delegated by the participating jurisdictions.

Gender Issues

The government continues to address women's issues and focus on the elimination of gender-based violence.

Ending Gender-Based Violence

Bill 148, the *Fair Workplaces, Better Jobs Act, 2017*, amended the *Employment Standards Act, 2000* (ESA) to create a new domestic or sexual violence leave. The 2018 Budget contemplates enhanced support for victims of gender-based violence in the workplace. Specifically, "professional development programs will be expanded to help employers and workers recognize and intervene in situations of violence." Workers in the hospitality sector, postsecondary institutions, subsidized housing and childcare – namely, servers, security guards, housing service managers and early childhood educators – will receive specialized training to help recognize and respond appropriately to signs of domestic abuse or gender-based violence, and to intervene in their workplaces and with their clients.

In an ongoing effort to end gender-based violence, the Budget outlines a comprehensive new strategy, "It's Never Okay: Ontario's Gender-Based Strategy." Up to \$242 million in funding over three years will provide a response framework that includes core and culturally appropriate services including shelters, counselling and sexual assault centres, among other things.

Gender Equality and Women's Economic Empowerment Strategy

The Budget outlines a three-year Women's Economic Empowerment Strategy that will, in part,

- Increase pay and workforce transparency. The government recently introduced Bill 3, the [Pay Transparency Act, 2018](#), legislation that will, if passed, establish requirements relating to the disclosure of information about the compensation of employees and prospective employees. The Budget further proposes a 25% funding increase to support Ontario's Pay Equity Office, among other measures.
- Support women's leadership on boards and women's career advancement in senior management roles. The Budget commits to ensuring that women make up at least 40% of all appointments to provincial boards and agencies by 2019. Businesses are "encouraged" to set a 30% target and to achieve it by 2020 to 2022. The government will also "encourage" firms signing contracts with it to also achieve the 30% target, among other measures.
- Remove systemic barriers preventing full participation by developing a return-to-work program for women.

Healthcare

Numerous healthcare initiatives and program funding increases around access, expanded community-based care and team-

based care, caregiving support, eldercare, and mental health and addiction services are outlined in the Budget. We highlight some of these below.

Personal Support Workers (PSWs)

On February 22, 2018, the Ontario [government launched the first phase of its new PSW Registry](#), focusing on a select number of public sector employers. The Registry of all PSWs in Ontario is targeted for completion by December 2019. The purpose of the Registry is to verify training and education credentials of PSWs, provide oversight and accountability and to ensure compliance with a PSW code of conduct.

Notably, the Budget outlines the government's intention to add 5,500 PSWs to the workforce over the next three years. In conjunction with a new \$180 million investment to expand home care, the government anticipates adding 2,805,00 personal support service hours (the equivalent of 1,400 full-time PSW positions). To facilitate this, the government will enhance PSW training and skills development over the next three years through additional funding. The government will further consult on a retirement security pilot project for PSWs that would provide an initial tax-free savings account contribution on behalf of eligible PSWs, and feature an employer match of up to 2.5% of earnings for additional contributions.

Canadian Blood Services

Bill 31 proposes amendments to the *Hospital Labour Disputes Arbitration Act* (HLDAA) to designate Canadian Blood Services as an essential service. The amendments would prohibit strikes and lockouts, and disputes that could not be resolved at the bargaining table would be referred to interest arbitration for resolution. Currently, Canadian Blood Services is designated as an essential service under the Alberta *Labour Relations Code*.

Healthcare Program Funding Increases

The Budget outlines program expansions and significant program funding increases, including:

- Funding over four years to improve access to a full range of mental health and addictions services for children, youth and adults
- Investments in hospital care and funding over 2018-2019 to increase access and improve wait times, including enhanced specialized care services and a number of major infrastructure projects
- Launch of a new caregiving support organization in 2018
- Increased access to long-term care by adding 5,000 new beds by 2022 and 30,000 new beds over 10 years, as well as achievement of provincial care hour targets
- Improving access to team-based interprofessional care.

Other initiatives relating to improved autism services, an opioid strategy and dementia support are also outlined.

Jobs, Skills and Workforce Development

The Budget proposes a new "Good Jobs and Growth Plan," with almost \$1 billion in funding over three years. Other specific initiatives include:

- Funding for a new and modernized Ontario Apprenticeship Strategy to support transitions into apprenticeship from high school, make the system easier to navigate and make it easier for apprentices to find high-quality jobs upon completion, along with a new Office of Apprenticeship Opportunity
- Funding for the establishment of the Ontario Training Bank, which will serve as a "one-stop shop" for employers, job seekers and workers to access skills training, as well as a refreshed set of programs to aid in talent recruitment and training, skills adaptation and upgrading
- Investment in experiential "hands on" learning, including an extension of the government's Career Ready Fund to

2020-2021

- Funding to support experiential learning opportunities for students and employers, and partnerships with post-secondary institutions and industry.

Education

The government's intention to provide free child care for children aged two-and-a-half to kindergarten beginning in September, 2020 has garnered media attention. Additional Budget measures relating to education include:

- Expanded mental health services for students in high schools
- Starting in April 2020, implementation of a phased-in wage grid in the early years and childcare sector for program staff working with Early Childhood Educators (ECEs) and non-ECE staff working in licensed childcare centres, licensed home childcare agencies, and EarlyON child and family centres
- \$250 million in new funding over three years to eliminate waitlists for special education assessments and improve services in schools
- Funding to hire over 450 new guidance counsellors to help students better prepare for the transition to high school
- Additional funding for capital projects
- A curriculum refresh, including renewed math strategy and career/life training, data learning, wellness, equity and new approaches to learning
- Culturally sensitive childcare.

Bill 31 further proposes amendments to the *Education Act* regarding education services and reverse education services agreements to enable a new Reciprocal Education Approach, to improve access for First Nations students to both provincially funded schools and schools operated by First Nations.

Post-Secondary Education

As noted above, post-secondary partnerships and boosting experiential learning to aid with skills development and career readiness are key components of the government's plan for growing a skilled workforce. In addition, the Budget proposes \$500 million starting in 2020–21 to help renew and modernize Ontario's university and college campuses, and an international post-secondary strategy.

Legalization of Cannabis

The Budget proposes additional measures to prepare for implementing the legalization of cannabis. The measures relate to public health, road safety, education and law enforcement, and include:

- Funding for sobriety field test training for police officers to help detect impaired drivers
- Supports and resources for public health units to help address local needs related to cannabis legalization
- Making information and resources available to educators, parents, guardians and students.

Employer Health Tax

Following an announcement in the [2017 Ontario Budget](#), the government will propose measures to better target the Employer Health Tax (EHT) exemption to small employers, including:

- Restricting the EHT exemption in a manner similar to eligibility for the Small Business Deduction (SBD) under the *Income Tax Act*
- Incorporating federal anti-avoidance rules related to the multiplication of the SBD into the EHT legislation.

The EHT changes are expected to result in over 20,000 Ontario employers paying an average of \$2,400 more in EHT per year.

If passed, legislation to implement these changes would become effective January 1, 2019. There would also be an opportunity for public comment before the anti-avoidance changes are introduced.

Other Legislative Reforms Proposed in Bill 31

In addition to the HLDAA and *Education Act* amendments described above, Bill 31 contains the following noteworthy legislative reform proposals.

Post-Traumatic Stress Disorder and Workplace Safety and Insurance Claims

Schedule 37 of Bill 31 would amend the *Workplace Safety and Insurance Act, 1997* (WSIA) to expand current entitlements to benefits for post-traumatic stress disorder (PTSD) arising out of and in the course of the worker's employment by expanding the presumption to the following six new categories of workers:

- Members of the College of Nurses of Ontario
- Provincial bailiffs
- Probation officers and their direct supervisors
- Special constables
- Members of a police force.

Local Union Trusteeship Rules

Bill 31 proposes amendments to sections of the *Labour Relations Act, 1995* dealing with local unions under trusteeship. Specifically, [Schedule 14](#) of Bill 31 would add a new section 89.1 to prohibit direct or indirect "interference" by a parent trade union or council of trade unions, or the assumption of supervision or control "in such a way that the autonomy of the local trade union is affected." The new section, if passed, would prevent parent unions from removing local union officials or members from office, change their duties or impose penalties without just cause. Applications alleging such interference would be filed with the Ontario Labour Relations Board, which would be broadly empowered to issue orders or such directions as it considers appropriate, including in respect of the continuation of supervision or control of the local trade union, and expedite proceedings.

Construction

[Schedule 14](#) of Bill 31 would also amend the *Labour Relations Act, 1995* and provide Special Rules relating to exemptions from designated bargaining rights in geographic areas 1, 3 or 28, as those areas were set on January 1, 2018.

Should you have any questions or require further information about the Budget, please contact [your regular Hicks Morley lawyer](#).

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