FTR Now

Highlights of the 2024 Ontario Budget

Date: April 3, 2024

On March 26, 2024, the Ontario government tabled its 2024 budget, "Building a Better Ontario" (Budget) and Bill 180, *Building a Better Ontario Act (Budget Measures), 2024* (Bill 180).

In this *FTR Now*, we highlight information contained in the Budget and Bill 180 that is of broad interest to employers, human resources professionals and pension plan administrators.

Permanent Target Benefit Framework

Work to establish a target benefit framework has been underway for many years. In 2023 the Ontario provincial government led two consultations on the implementation of a permanent legislative framework for multi-employer pension plans (MEPPs) providing target benefits. The permanent framework would replace temporary funding regulations for Specified Ontario Multi-Employer Pension Plans (also referred to as SOMEPPs) set to expire at the end of 2024. For further details on the initial consultation process, please see our *FTR Now* of May 4, 2023, Ontario Government Consultation on Permanent Framework for Target Benefit Plans and our *FTR Now* of September 15, 2023, Ontario Pension Plan Update: Ongoing Consultations of Interest.

If passed, Bill 180 would amend the yet-to-be-proclaimed provisions of the Ontario *Pension Benefits Act* (*PBA*) and proposes new provisions that support the implementation of a target benefit plan framework under the *PBA*. The target benefit plan framework will be of interest to employers that participate in a MEPP.

Consistent with the most recent consultation paper, the draft legislation sets out the following:

- A target benefit plan must be a multi-employer pension plan established pursuant to a collective agreement or trust agreement.
- Target benefit plans would be required to establish a funding and benefits policy, governance policy and communications policy. A prior amendment to the *PBA* that was not yet in force required only funding and governance policies, such that the requirement to establish a communications policy is new. The government would prescribe deadlines for plan administrators to file these policies for both new target benefit plans and MEPPs that are converted to target benefit plans.
- Plan administrators or other prescribed persons would be required to provide the Chief Executive Officer (CEO) of the Financial Services Regulatory Authority of Ontario (FSRA) "any information" that the CEO requests for the purpose of ascertaining whether the plan's provision for adverse deviation complies with the *PBA* and its regulations.
- Plan administrators of eligible MEPPs would be required to engage in good faith consultation about a proposed conversion to a target benefit plan with any trade union that represents members of the pension plan as well as any other association that, to the knowledge of the administrator, represents members, former members or retired members of the pension plan in negotiating in respect of plan terms.
- Regulations may specify circumstances in which target benefits may be reduced and may prescribe rules relating to how a target benefit is to be reduced, including prescribing any restrictions, limitations or conditions on the reduction.
- In respect of asset transfers from a target benefit pension plan, the assets under the original target benefit plan that are transferred to a successor plan would be required to be used to provide target benefits in the successor plan.

Other items of note in the draft legislation include the following:

- If passed, Bill 180 would establish a new subsection of the *PBA* which provides that if any of the new or existing criteria fail to be satisfied such that the benefits cease to be target benefits, prescribed rules would apply. However, at this time, rules have not been prescribed.
- In a departure from a prior amendment to the *PBA* that had not come into force that provided that target benefits were to be determined in part with reference to plan contributions and interest thereon, Bill 180, if passed, would amend the *PBA* to provide that target benefits must be determined in part with reference to the value of the assets of the pension fund, except as prescribed by regulation.
- If passed, Bill 180 would amend provisions of the *PBA* relating to proposals to convert certain benefits provided by MEPPs to target benefits. The requirement to provide notice of a proposed conversion and of an application for consent would be repealed. The requirement to consult with trade unions about the proposed conversion would be modified to include a requirement to consult with any other association that negotiates plan terms on behalf of active, former or retired members. This provision addresses the fact that the term “trade union” is defined under the *PBA* with reference to a trade under the *Labour Relations Act*, *1995* and does not capture uncertified associations that represent members. MEPPs that were registered in a designated jurisdiction immediately before they were registered in Ontario would have five years from the day on which the plan was most recently registered in Ontario to apply for consent to convert to target benefits.

Additionally, the Budget announces that the government is drafting proposed regulations to support the target benefit framework, which will be made available for review in the summer of 2024. The government intends for the permanent target benefit framework to come into effect on January 1, 2025.

Fire Protection Grant

The government will launch the Fire Protection Grant by investing $30 million over the next three years. This is an application-based grant for municipal fire departments to fund the acquisition of personal protective equipment and decontamination tools to mitigate the long-term effect of exposure to fire-related contaminants and chemicals.

Film and Television Tax Credit

The Budget proposes to alter the rules for the Ontario Computer Animation and Special Effects Tax Credit, an 18% refundable corporate income tax credit available to companies that undertake computer animation and special effects activities on eligible film and television productions in Ontario.

The government proposes to remove the “tethering” requirement that currently applies to the tax credit, requiring an eligible film or television production also to be certified for either the Ontario Film and Television Tax Credit or the Ontario Production Services Tax Credit in order to qualify. Instead, this requirement would be replaced with new eligibility rules, effective for computer animation and/or special effects work that commences on or after March 26, 2024.

Specifically, a qualifying corporation would be required to incur a minimum of $25,000 in Ontario labour expenditures for each film or television production for which the credit is claimed (in the year of the claim or cumulatively with the prior year). Once this threshold is met within up to two tax years for a production, expenditures related to the production in those years and any subsequent years would be eligible for the credit. Instructional videos, music videos, gaming videos, and certain other types of productions would be excluded from eligibility for the tax credit.

Ontario Infrastructure Bank

The Ontario Infrastructure Bank was introduced in the 2023 fall economic statement, the “2023 Ontario Economic Outlook and Fiscal Review,” (Statement) to help fund large-scale infrastructure projects across the province through investments by Canadian public-sector pension plans and other institutional investors. The Budget indicates that the province has allocated an initial $3 billion to the fund, as proposed in the Statement.

If passed, Bill 180 would enact the *Building Ontario Fund Act, 2024*, which continues the Ontario Infrastructure Bank under the name of the Building Ontario Fund.

We will continue to monitor the progress of Bill 180 and any other developments relating to the Budget that may be of interest to employers, human resources professionals and pension plan administrators.

Should you have any questions about the Budget, please contact your regular Hicks Morley lawyer.