

CONSTRUCTION LAW CHANGES IN ONTARIO

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Provincial Government Bills

- Bill 11 Attracting Investment and Creating Jobs Act, 2011**
(Brad Duguid, Minister of Economic Development and Innovation)
The Bill would require the Minister of Economic Development and Innovation to continue the Eastern Ontario Development Fund and to establish and continue the Southwestern Ontario Development Fund to promote regional economic development in eastern Ontario and southwestern Ontario.
- First Reading November 29, 2011
 - Second Reading carried March 5, 2012
 - Referred to Standing Committee on General Government March 5, 2012
 - Consideration of the Bill by the Standing Committee on General Government, March 21 and April 2, 2012
 - ***Third Reading debated May 2 and 10, 2012***
- Bill 55 Strong Action for Ontario Act (Budget Measures), 2012**
(Dwight Duncan, Minister of Finance).
The purpose of this Bill is to implement the Ontario Provincial budget as tabled in the Legislature on the afternoon of Tuesday March 27, 2012.
- First Reading March 27, 2012
 - ***Second Reading debated May 1, 7 and 10, 2012***
- Bill 75 Ontario Electricity System Operator Act, 2012**
(Chris Bentley, Minister of Energy).
The purpose of this Bill is to amend the Electricity Act, 1998 and combine the functions and activities of the Ontario Electricity System Operator and the Ontario Power Authority. This in some respects is a small roll back of the Electricity Act, 1998 which under the PC party split the large organization previously known as Ontario Hydro into several distinct organizations, including the Ontario Power Authority, each with narrower and distinct functions.
- First Reading April 2, 2012
 - ***Second Reading May 3, 2012***
 - ***Ordered Referred to Standing Committee on Finance and Economic Affairs***

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Private Members' Bills

Bill 8 Ontario One Call Act, 2011

(Robert Bailey, PC, Sarnia Lambton and Paul Miller, NDP, Hamilton East-Stoney Creek).

This Bill is identical to Bill 180 in the previous legislature which had received all party support for second reading but died on the order paper in June 2011. If passed, Bill 8 would require all private utilities and municipalities to become members of Ontario One Call, a not for profit call centre that accepts and relays utility locate requests for construction contractors and homeowners who plan to excavate any part of a road way or other public right of way. Ontario has had a voluntary utility call centre since the early 1990's however contractors are still required to make up to 11 separate phone calls to non-participating utility operators to ascertain the location of buried works prior to excavation. Mandatory one call has been in place across the US for over a decade, and the mandatory participation of all utilities and municipalities will greatly simplify the utility locate request process for construction contractors.

- First Reading November 24, 2011
- Second Reading December 1, 2011
- Referred to the Standing Committee on General Government December 1, 2011 and consideration of the Bill by the committee on April 4, 2012, **23, 30 and May 1, 2012**
- **Ordered for Third Reading May 1, 2012**

Frank Zechner made a presentation to the Standing Committee on General Government at the 2:30 time slot on April 23, 2012 on behalf of the Ontario General Contractors Association supporting Bill 8.

Bill 15 Ontario Society of Professional Engineers Act, 2011

(Monte Kwinter, Liberal, York Centre).

The purpose of this Bill is to continue the Ontario Society of Professional Engineers and provide it with an advocacy/lobbying role to promote the practice of professional engineering and represent the interests of Professional Engineers in the Province. If passed the bill would not have any impact on the rights, obligations, qualifications or requirements related to the practice of engineering in Ontario, including the qualifications required to be a licensed professional engineer pursuant to the Professional Engineers Act, R.S.O. 1990 c.P.28.

- First Reading November 30, 2011

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Bill 20

Hawkins Gignac Act (Carbon Monoxide Detectors), 2011

(Ernie Hardeman, PC, Oxford).

The purpose of this Bill is to amend the Building Code Act, 1992 to require owners of residential buildings that contain a fuel-burning device or a storage garage to install carbon monoxide detectors in the buildings and to maintain them in operating condition. The Bill sets out installation requirements and requires the detectors to conform to the standards that are prescribed by the regulations made under the Act. Intentionally disabling a carbon monoxide detector is prohibited.

- First Reading December 6, 2011
- Second Reading March 8, 2012
- Referred to Standing Committee on Social Policy March 8, 2012
- Consideration of the Bill by the Standing Committee on Social Policy March 26 and April 2 and 16 2012
- Ordered for third reading April 17, 2012

Bill 31

Red Tape and Regulatory Review Act, 2011

(Randy Hillier, PC, Lanark--Frontenac--Lennox and Addington)

The PC party has been introducing a regulatory relief bill under similar names almost every year since the McGuinty Government was first elected in 2003. If passed, the Bill would establish a new Legislative Committee to review every legislative bill regarding the regulatory burden that it would create. The Bill would also slow the Regulation making process in that the Committee would require at least 60 days notice to review any new regulation and to propose amendments to it. The Bill also provides for emergency regulations that can bypass the committee but such regulations would only remain in force for a maximum of 90 days.

- First Reading December 8, 2011

Bill 43

Insurance Amendment Act (Elements in Classifying Risks for Automobile Insurance), 2012

(Mario Sergio, Liberal - York West).

The purpose of this Bill is to restrict the risk criteria used by insurers to calculate auto insurance policy premiums as the following: the driving record of the insured, age of the driver and the type of vehicle driven. Premiums could not be varied on the basis of the address of the insured. Curiously, quantity of annual travel would not be a significant criteria to set premiums.

- First Reading March 7, 2012

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- Bill 45** **Insurance Amendment Act (Elements in Classifying Risks for Automobile Insurance), 2012**
(Jagmeet Singh, NDP - Bramalea - Gore - Malton).
The purpose of this Bill is very similar to that of Bill 43 to prohibit the use of the geographical region in which an insured person resides as an element in classifying risks for a coverage or category of automobile insurance. The criteria under this Bill would be primarily: the driving record of the insured, number of years of driving experience and distance travelled, but age of the driver and type of vehicle would not be recognized as significant criteria for rate setting purposes.
- First Reading March 7, 2012
- Bill 52** **Ontario Forestry Industry Revitalization Act, 2012**
(Victor Fedeli, PC, Nipissing).
Bill 52, if passed would amend the *Building Code Act, 1992* and code so that the code no longer prohibits a wood frame construction for buildings more than 6 storeys high. The Bill would not prevent the building code from imposing requirements on or prohibiting specified classes of wood frame buildings. The Bill appears to be intended to increase demand for wood as a framing component in buildings. Interestingly the Bill is silent on the type or source of wood, so in theory it could increase demand from BC timber and not necessarily wood sourced from Ontario. The Bill would not mandate the use of wood, simply allow the owner and designer the choice of whether or not to specify wood as a framing material.
- First Reading March 22, 2012
 - Second Reading April 19, 2012
 - Referred to Standing Committee on Regulations and Private Bills
 - ***Consideration of the Bill by the Standing Committee May 9, 2012***
- Bill 54** **Fire Protection and Prevention Amendment Act (Retrofitting of Retirement Homes with Automatic Sprinklers), 2012**
(Paul Miller, NDP - Hamilton East - Stoney Creek).
The purpose of this Bill is to require the retrofitting of Retirement Homes with Fire Sprinkler systems by no later than January 1, 2018.
- First Reading March 26, 2012

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Bill 61

Ontario's Wood First Act, 2012

(Bill Mauro, Liberal - Thunder Bay Atikokan).

The Bill would require the use of wood for certain buildings that receive provincial funding. Like Bill 52, Bill 61 would also amend the *Building Code Act, 1992* and code so that it no longer prohibits a wood frame construction for buildings more than 6 storeys high. Bill 61 takes the choice away from the owner and designer if provincial funding is involved, but like Bill 52, Bill 61 appears to be silent on the type or source of wood, so in theory Bill 61 could increase demand from BC timber and not necessarily wood sourced from Ontario.

- First Reading April 4, 2012
- Second Reading April 19, 2012
- Referred to Sanding Committee on Social Policy April 19, 2012

Bill 62

Legislative Oversight of Regulations Act, 2012

(Rick Nicholls, PC - Chatham - Kent - Essex).

The purpose of this Bill is to require that all new consolidate regulations be subjected to an additional cost/benefit assessment of whether or not the regulation would add a cost to business or government and if there was an added cost, the Regulation would require passage similar to a Bill.

- First Reading April 4, 2012

Bill 64

Costing of Public Bills Act, 2012

(Randy Hillier, PC - Lanark - Frontenac - Lennox and Addington).

The purpose of this Bill is to require that the Minister of Finance prepares a detailed and comprehensive costing analysis for each public bill that receives first reading. The report must provides an estimate of the financial cost to the Government of any proposal in the bill and the methodology used in the costing analysis.

- First Reading April 4, 2012

Bill 77 *Labour Relations Amendment Act (Fairness for Employees), 2012*

(Taras Natyshak NDP, Essex)

The Bill amends the Labour Relations Act, 1995 to: a. Permit a trade union to ask the Ontario Labour Relations Board to require an employer to provide the union with a list of employees in a bargaining unit that could be appropriate for collective bargaining; b. Authorize the Ontario Labour Relations Board to direct that representation votes be held at a neutral site, electronically, or by telephone; c. to authorized the Ontario Labour Relations Board to

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direct the settlement of a first collective agreement by arbitration; and d. Extend the current successor rights provisions to the contract services sector.

- *First reading April 30, 2012*
- *Second reading May 3, 2012*
- *Referred to Standing Committee on Finance and Economic Affairs May 3, 2012*

Bill 78 *Defending Employees' Rights Act (Collective Bargaining and Financial Disclosure by Trade Unions), 2012*
(Randy Hillier, PC, Lanark--Frontenac--Lennox and Addington)
Bill 78 is targeted at restricting the collection of union dues by trade unions and restricting the uses of union dues that it does collect. The Bill limits regular union dues of a member of a trade union to dues that relate to collective bargaining and no other purpose, unless the member specifically authorizes the union to include amounts for such other purpose. The trade union is prohibited from requesting the employer to deduct from the wages of any employee who is a member of the union any amount in excess of the employee's regular union dues. The Bill also requires a trade union to file a yearly statement with the Minister setting out the dues that are payable to it under the agreement and particulars of its expenses incurred during the year, with a breakdown given of expenses of \$5,000 or more.

- *First reading May 1, 2012*

Bill 79 *Labour Relations Amendment Act (Equal Rights for Employees in Ontario), 2012*
(Taras Natyshak NDP, Essex)
Bill 79 would amend the Labour Relations Act to: a. Extend the option to have applications for certification dealt with without a vote to all trade unions not just construction trade unions; b. Add further restrictions on the right of employers to discharge or discipline employees; and c. Require the Minister to prepare and publish a poster providing information about labour relations in Ontario and require employers to post the poster in conspicuous places in the workplace.

- *First reading May 1, 2012*

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Bill 83 ***Metrolinx Amendment Act, 2012***

(Jonah Schein NDP, Davenport)

The Bill amends the Metrolinx Act, 2006 to ensure that any passenger railway system established between downtown Toronto and Toronto Pearson International Airport is not powered by diesel fuel.

- First reading May 03, 2012*

Bill 84 ***Labour Relations Amendment Act (Ontario Labour Relations Board), 2012***

(Randy Hillier, PC, Lanark--Frontenac--Lennox and Addington)

The Bill amends the Labour Relations Act, 1995 to remove the stated purposes of the Act and removes the power of the Board to determine its own rules and procedures, which would instead come in the form of general regulations. The Bill also provides a right of appeal to the Divisional Court in accordance with the rules of court and makes members of the Board as well as certain board and Ministry staff compellable witnesses in an appeal or on a judicial review of the Board's proceedings.

- First reading May 7, 2012*

Bill 85 ***Defending Employees' Rights Act (Certification of Trade Unions), 2012***

(Randy Hillier, PC, Lanark--Frontenac--Lennox and Addington)

The Bill amends the Labour Relations Act, 1995 to prohibit the Ontario Labour Relations Board from certifying a trade union as the bargaining agent of the employees in a bargaining unit unless a representation vote is held among the employees.

- First reading May 7, 2012*

Bill 87 ***Workplace Safety and Insurance Amendment Act (Alternate Insurance Plans), 2012***

(Randy Hillier, PC, Lanark--Frontenac--Lennox and Addington)

Bill amends the Workplace Safety and Insurance Act, 1997 to allow an employer to opt out of the WSIB system and participate in a private sector insurance plan, if the alternate plan offers benefits to the employer's workers that are comparable to those offered by the insurance plan as it exists under the Act. The Bill also repeals the 'mandatory independent operator' amendments to the Act which would not come into force until January 1, 2013.

- * First reading May 8, 2012*

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Pending Proclamations of Bills from Prior Sessions

Environmental Protection Amendment Act (Greenhouse Gas Emissions Trading), 2009

Royal Assent December 15, 2009 however the key provisions have not yet been proclaimed in force.

Not-for-Profit Corporations Act, 2010

Royal Assent October 25, 2010. Most of the Act has not yet been proclaimed in force.

Occupational Health and Safety Statute Law Amendment Act, 2011

This statute amended both the Occupational Health and Safety Act and the Workers Safety and Insurance Board Act. Most parts have been proclaimed in force as of April 1, 2012. A few parts of the bill dealing with new standards or requirements that are to be specified in the regulations have not yet been proclaimed, likely to allow time for the regulatory text to be drafted and approved.

Ontario College of Trades and Apprenticeship Act, 2009

The provisions establishing the College came into force on July 5, 2010. Various provisions dealing establishing and enabling the Board of Directors of the College came into force on May 1, 2011. Other sections related to the actual operation and structure of the College, including its Objects came into force as of January 1, 2012, however the remainder of the Act, including provisions related to compulsory trades, is not yet proclaimed.

Open for Business Act, 2010

Royal Assent October 25, 2010. Most of the environmental approvals changes (Schedule 7) came in force as of October 31, 2011. The balance of Schedule 7 has not yet been proclaimed. With respect to amendments to the Construction Lien Act, the definition of the term "improvement" was amended upon the date of Royal Assent. The requirements for an 'affidavit of verification' to 'preserve' a registered lien pursuant to section 34, was abolished as of July 1, 2011, but most of the other changes to the Construction Lien Act (Schedule 2) have not yet been proclaimed in force.

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Regulations

Ontario Regulation 47/09

Workplace Safety and Insurance Act, 1997

This regulation, providing the criteria for exempting of executive officers in the construction industry will come into force on January 1, 2013.

Ontario Regulation 397/11

Green Energy Act, 2009

Published in the September 10, 2011 edition of the Ontario Gazette. This regulation imposes on municipal service boards, hospitals and post secondary education institutions the obligation of preparing and publishing by July 1, 2013 a Energy Consumption and Greenhouse Gas Emissions Template including calculations of energy usage for the year 2011. This publication will be the basis for what type of efficiency measures and energy retrofits may be required and implemented.