

CONSTRUCTION LAW CHANGES IN ONTARIO

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Provincial Government Bills

Bill 135 Energy Statute Law Amendment Act, 2016

(Bob Chiarelli, Minister of Energy)

While the Bill, which was introduced last fall does not have a direct impact on construction contractors, it will have an impact on the design and operation of commercial, institutional and multi-unit residential buildings. The Bill, if passed would require owners of designated buildings having more than 50,000 sq. ft. of floor area to report on energy and water usage, and authorize regulations which would require building owners to prepare and submit plans to improve on water and energy efficiencies. The Ministry has already indicated the type of regulation likely to come into force, which would require reports to be filed commencing in 2017.

- First Reading October 28, 2015
- Second Reading December 1, 2015
- Referred to Standing Committee on General Government December 1, 2015 and considered by the Committee on February 22, 24 and 29, 2016
- Reported back to the Legislature without amendment on March 1, 2016
- Ordered for Third Reading March 1, 2016.

Bill 163 Supporting Ontario's First Responders Act (Posttraumatic Stress Disorder), 2016

(Kevin Flynn, Minister of Labour)

The Bill amends the *Workplace Safety and Insurance Act, 1997* regarding posttraumatic stress disorder. A new section provides first responder workers who are diagnosed with posttraumatic stress disorder to benefits under the Act. The new section creates a presumption that posttraumatic stress disorder in those workers arises out of and in the course of the workers' employment, unless the contrary is shown.

- Royal Assent April 6, 2016.

Bill 172 Climate Change Mitigation and Low-carbon Economy Act, 2016

(Glen R Murray, Minister of Environment and Climate Change)

The legislation creates a new statute which establishes a framework for caps on carbon emissions and the trading program and pricing associated with exceeding prescribed limits. The Act provides for three categories of participants in the cap and trade program: mandatory participants, voluntary participants and market participants. Participants must be registered. Regulations will contain the details of who is required to register and who is

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permitted to apply for registration. The Act also provides for agreements and regulations for prescribing the role and transactions of other jurisdictions.

- First Reading February 24, 2016
- Second Reading debated March 1, 2, 3, 7, 8, 9 and 10, 2016
- Second Reading carried March 10, 2016 and ordered referred to Standing Committee on General Government
- Consideration of the Bill by the Standing Committee on March 21 **and April 4, 6, 11, 13, 18 and 20, 2016.**
- **Additional Committee time is scheduled for May 2, 3, 4 and 5, 2016.**

Bill 173 Jobs for Today and Tomorrow Act (Budget Measures), 2016 (Charles Sousa, Minister of Finance)

The legislation carries out specific changes identified in the February 25, 2016 fiscal budget and would impact more than 34 statutes. One of the new statutes is an Act dealing with carbon trading and pricing, which was introduced as Bill 172 on February 24, 2016.

- First Reading February 25, 2016
- Second Reading debated February 29 and March 2 and 9, 2016
- Second Reading carried on March 10, 2016 and referred to the Standing Committee on Finance and Economic Affairs
- Considered by the Standing Committee on March 22 and April 6, 2016
- Reported to the Legislature without amendment April 7, 2016 and Ordered for Third Reading.
- **Third Reading debated April 12, 2016**
- **Third Reading carried April 13, 2016**
- **Royal Assent April 19, 2016.**

Bill 186 Ontario Retirement Pension Plan Act (Strengthening Retirement Security for Ontarians), 2016

(Mitzie Hunter, Associate Minister of Finance)

The legislation establishes the Ontario Retirement Pension Plan (the ORPP). The expectation is that if the federal government agrees to enhance the CPP, this Legislation will never come into force, but the Ontario government is looking to have a framework ready to launch if the federal enhancement to CPP does not come through. No formal deadlines are set in the draft legislation. If the Bill does come into force, it will require contributions from employees and employers roughly equal to 1.9% of pensionable earnings for employment relationships that do not

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have a separate workplace pension plan.

- *First Reading April 14, 2016*
- *Second Reading debated April 20 and 21, 2016*

Private Members' Bills

Bill 2, Workplace Safety and Insurance Amendment Act (Post-Traumatic Stress Disorder), 2014

(Cheri DiNovo, NDP, Parkdale -- High Park)

Bill 2, if passed would create a rebuttable presumption relating to post-traumatic stress disorder affecting emergency response workers, so that if an emergency response worker suffers from post-traumatic stress disorder, the disorder is presumed to be an occupational disease caused during employment. While Bill 2 would have no direct impact on construction workers, it would represent a precedent in terms of presumption that a debilitating condition was caused by employment unless otherwise proven.

- First Reading July 7, 2014

Bill 11 Radon Awareness and Prevention Act, 2014

(Shafiq Qaadri, Liberal, Etobicoke North)

This bill creates the Radon Awareness and Prevention Act, 2013 and amends the Building Code Act, 1992 with respect to radon. The new Radon Awareness and Prevention Act will establish the Ontario Radon Registry which will include a publicly accessible map showing radon levels in various parts of the Province. The government must ensure that the radon level in every provincially owned dwelling is measured and that remedial action is taken, if necessary. Similarly, owners of enclosed workplaces are required to ensure that the radon level in an enclosed workplace is measured and that remedial action is taken, if necessary.

- First Reading July 10, 2014
- Second Reading July 17, 2014
- Referred to Standing Committee on General Government July 17, 2014
- As of ***April 24, 2016*** no meetings of the Standing Committee have been scheduled to address this Bill

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Bill 22 Employment Standards Amendment Act (Greater Protection for Interns and Vulnerable Workers), 2014

(Peggy Sattler, NDP, London West)

The Bill, if passed would amend the Employment Standards Act, 2000, to deem additional individuals receiving training to be employees for the purposes of specified parts of the Act. New requirements are imposed on employers with respect to certain individuals receiving training, including the requirement to provide information, the requirement to provide a day off work on a public holiday, and the requirement to provide vacation without pay. The Bill also amends the Act with respect to allegations about violations of the Act so that allegations may be provided to the Ministry either anonymously or through a third party.

- First Reading July 22, 2014

Bill 43 Learning Through Workplace Experience Act, 2014

(Peggy Sattler, NDP, London West)

The Bill, if passed would amend the Ministry of Training, Colleges and Universities Act to establish the Advisory Council on Work-Integrated Learning such as the work co-op programs offered by many Technical Schools and Colleges. See Bill 64 for a similar Bill by the same member that has proceeded to Standing Committee Review.

- First Reading November 20, 2014

Bill 44 Highway Traffic Amendment Act (Clearing Vehicles of Snow and Ice), 2014

(John Yakabuski, PC, Renfrew–Nipissing--Pembroke)

The Bill, if passed would amend the Highway Traffic Act to create a new offence of failing to clear accumulations of snow and ice on motor vehicles and trailers if such accumulations would pose a danger to other vehicles on public highways. Fines for operators of commercial vehicles will be double those of private motor vehicles.

- First Reading November 20, 2014

Bill 48 Restoring Planning Powers to Municipalities Act, 2014

(Jim Wilson, PC, Simcoe -Grey)

This Bill, if passed would amend the Planning Act to reverse the effect of the amendments made to the Act by the Green Energy and Green Economy Act, 2009. Those amendments exempted renewable energy projects such as wind turbines from many local controls if the projects complied with certain provincial requirements.

- First Reading November 26, 2014

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Bill 60 Tarion Accountability and Oversight Act, 2014

(Jagmeet Singh, NDP, Bramalea–Gore--Malton)

This Bill amends various statutes to provide oversight of Tarion Warranty Corporation (the corporation that administers the Ontario New Home Warranties Plan Act). The Bill will also extend Tarion's objects to include the primary object of serving as a consumer protection agency. Tarion will be required to publish a directory of home builders on the Internet, and the directory must contain specified information about each builder's performance. The definition of "home" in the Ontario New Home Warranties Plan Act is amended to include units in conversion condominiums, and warranties in respect of specified matters related to condominiums are extended from one year to five years. The Auditor General is given the authority to audit Tarion's operations.

- First Reading December 10, 2014

Bill 62 Fairness in Labour Relations Act (Bargaining Units and Certification of Trade Unions), 2014

(Jim McDonnell, PC, Stormont–Dundas--Glengarry)

This Bill amends the Labour Relations Act, 1995 to implement a number of changes including: A) a trade union is no longer required to include a written description of the proposed bargaining unit in an application for certification; B) the Board is required to hold a hearing when determining whether to direct a representation vote under section 8; C) the Board is prohibited 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; D) removes certain exemptions against striking that currently exist under section 79 for workers in the construction industry; and E) at present, if a complaint alleges that an employer or employers' organization has contravened the Act with respect to employment practices, the burden of proof lies with the employer, that burden is now on the complainant. The most prominent change is a right of appeal so that a party affected by a decision of the Board will have a right of appeal to the Divisional Court in accordance with the rules of court.

- * First Reading December 10, 2014

Bill 64 Protecting Interns and Creating a Learning Economy Act, 2015

(Peggy Sattler, NDP, London West)

Similar to Bill 43, this Bill would amend the Ministry of Training, Colleges and Universities Act to establish the Advisory Council on Work-Integrated Learning such as the work co-op programs offered by many Technical Schools and Colleges. It would also amend the Employment Standards Act to deem

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additional individuals receiving training to be employees for the purposes of specified parts of the Act such as the requirement to provide a day off work on a public holiday and the requirement to provide vacation without pay.

- First Reading February 17, 2015
- Second Reading February 19, 2015
- Referred to the Standing Committee on the Legislative Assembly February 19, 2015
- ***As of April 24, 2016*** there have been no meetings of the Standing Committee to address this bill

Bill 99 Safer Roads and Safer Communities Act, 2015

(Taras Natyshak, NDP, Essex)

This Bill would amend the Highway Traffic Act to authorize local municipal councils to require the use of safety cameras in construction zones and community safety zones. All prior references to photo radar and red light cameras would become 'safety cameras'.

- First Reading May 11, 2015

Bill 133 Workplace Safety and Insurance Amendment Act (Permanent Partial Disability Supplements), 2015

(Laura Albaneses, Liberal, York South - Weston)

This Bill would amend Workplace Safety and Insurance Act, 1997 so that any pension a worker is eligible for under the Old Age Security Act (Canada) does not reduce the worker's permanent partial disability benefits for pre-1985 and pre-1989

- First Reading October 27, 2015
- Second Reading October 29, 2015
- Referred to Standing Committee on General Government October 29, 2015
- ***As of April 24 2016*** no meetings of the Standing Committee have been scheduled to consider this Bill.

Bill 143 Employment Standards Amendment Act (Temporary Help Agencies), 2015

(Malhi Harinder, Liberal, Brampton -- Springdale)

This Bill would amend the Employment Standards Act, 2000 to establish a licensing regime for temporary help agencies and to require them to pay their employees at least 80 per cent of the amount the agency charges its clients for the employees' services. It also requires employers to ensure that no more than 25 per cent of the hours worked by their employees are performed by assignment employees.

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- First Reading November 18, 2015
- Second Reading December 3, 2015
- Ordered Referred to Standing Committee on Justice Policy December 3, 2015
- ***As of April 24, 2016*** no meetings of the Standing Committee have been scheduled to consider this Bill.

Bill 165 Licensed Home Inspectors Act, 2016

(Han Dong, Liberal, Trinity -- Spadina)

This Bill would create a new statute and regulatory framework for persons undertaking home inspections. Homes are broadly defined and can include condominiums and multi-use buildings. The bill leaves most of the 'teeth' to the yet to be written/published draft regulations. It is not known whether the recent CSA A 770 standard would be adopted as mandatory and it is not known whether existing professionals such as engineers or architects would be partially or wholly exempted.

- First Reading February 22, 2016
- Second Reading March 3, 2016
- Ordered Referred to Standing Committee on Regulations and Private Bills March 3, 2016
- ***As of April 24, 2016*** no meetings of the Standing Committee have been scheduled to consider this Bill.

Bill 177 Domestic and Sexual Violence Workplace Leave, Accommodation and Training Act, 2016

(Peggy Sattler, NDP, London West)

This Bill would amend the Employment Standards Act, 2000 to provide employees with the right to a paid leave of absence if they have experienced domestic or sexual violence or if their child has experienced domestic or sexual violence. The paid leave would last for a reasonable time, up to 10 days per calendar year, to permit seeing a doctor, going to a victim services organization or meeting with a lawyer. The leave lasts for a reasonable time or for a time provided by regulations made under the Act.

- First Reading March 8, 2016
- Second Reading March 10, 2016 and Ordered Referred to the Standing Committee on Justice Policy
- ***As of April 24, 2016*** no meetings of the Standing Committee have been scheduled to consider this Bill.

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Pending Proclamations of Bills

Not-for-Profit Corporations Act, 2010

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

Regulations

(reflects contents of the Ontario Gazette through to **April 23, 2016**)

Ontario Regulation 345/15

OCCUPATIONAL HEALTH AND SAFETY ACT

This regulation, which was published in the December 12, 2015 edition of the Ontario Gazette, imposes new training requirements, shoring and safety procedures for various forms of “rotary foundation drill rig” operations including machines used for pile driving and tunnel boring machines. Most of the new regulation comes into force as of January 1, 2016 while several other sections will not come into force until July 1, 2016.

Ontario Regulation 346/15

OCCUPATIONAL HEALTH AND SAFETY ACT

This regulation, which was published in the December 12, 2015 edition of the Ontario Gazette, amends the definition of “Acceptable atmospheric levels” in the confined spaces regulation 632/05 to address atmospheric contaminants. This Regulation comes into force on July 1, 2016.

Ontario Regulation 347/15

OCCUPATIONAL HEALTH AND SAFETY ACT

This regulation, which was published in the December 12, 2015 edition of the Ontario Gazette, adopts certain Ministry codes of practice as mandatory in relation to worker exposure to biological or chemical agents. This Regulation comes into force on July 1, 2016.

Ontario Regulation 381/15

OCCUPATIONAL HEALTH AND SAFETY ACT

This regulation, which was published in the December 26, 2015 edition of the Ontario Gazette, mandates new hearing protection requirements against hazardous sound levels. This Regulation comes into force on July 1, 2016.

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Ontario Regulation 29/16

PROFESSIONAL ENGINEERS ACT

This regulation, which was published in the February 27, 2016 edition of the Ontario Gazette, amends certain inspection requirements in relation to the construction, alteration or demolition of buildings as well as evaluations related to drinking water systems, environmental site assessments and tower crane inspections and comes into force on July 1, 2016.

Ontario Regulation 64/16

ONTARIO WATER RESOURCES ACT

This regulation, which was published in the April 16, 2016 edition of the Ontario Gazette has been in force since March 29, 2016, simplifies and streamlines requirements for obtaining water taking permits for construction dewatering projects.