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PUBLICATION

Ontario Proposes More Compensation Restraint

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Draft legislation introduced by the provincial government this week proposes further compensation restraint in Ontario.

The *Protecting Public Services Act*, if passed, will mandate further compensation restraint in the public sector and broader public sector. Unlike the last round of restraints, these restraints will also apply to unionized employees.

Non-Union Employees/Employers

In the non-union sector, the government proposes the enactment of the *Public Sector Compensation Restraint Act, 2012*, which will apply to designated employers including:

- the Crown in right of Ontario;
- the office of the Lieutenant Governor of Ontario;
- universities, colleges, boards within the meaning of the *Education Act*;
- every public hospital within the meaning of the *Public Hospitals Act*;
- every board of health within the meaning of the *Health Protection and Promotion Act*;
- every licensee under the *Long Term Care Homes Act, 2007*;
- every community care access corporation within the meaning of the *Community Care Access Corporations Act, 2001*;
- every entity that provides a service directly to the public that is wholly or partly funded by a community care access corporation;
- Hydro One and its subsidiaries;
- every authority, board, commission, corporation, office or organization of persons that does not carry on its activities for the purpose of gain or profit to its members or shareholders and which in 2011 received at least $1,000,000 in funding from the government on Ontario; and
- every other authority, board, commission, corporation, office or organization of persons specified by regulation.

The Act, if passed, will provide for a permanent cap on the salary of certain employees and officer holders to a maximum salary that is twice the amount of the Premier's salary or such other amount as is specified by Regulation.

Temporary restraint measures on compensation, benefits, other perquisites and performance pay are proposed to freeze remuneration. The proposed duration of the restraint measures is the second anniversary of the date of the enactment of the section providing for the freeze.

Unionized Employees/Employers

The legislation proposes the enactment of the *Respecting Collective Bargaining Act (Public Sector), 2012*, to deal with unionized employees. This Act applies to the employers described above and more broadly to trade unions, organizations and associations representing employees.

This Act requires employers negotiating collective agreements after the enactment date to do so in a manner consistent with the province's goals of the elimination of the deficit and the protection of the delivery of public services.

The proposed legislation also provides that the Management Board of Cabinet may issue specific mandates setting out criteria that may be used to determine whether a collective agreement is consistent with the goals of the elimination of the deficit and protection of the delivery of public services. Different sectors, class of employers or particular employees and classes of employees may be subject to different mandates.

The legislation proposes a review process for collective agreements and allows for the Minister to review each collective agreement to determine whether or not it complies with the criteria set out in the mandate. Upon review of a collective agreement, the Minister may confirm it, refer it back to the parties for amendment, or notify the parties that a collective agreement may be imposed by the Minister under the Act.

The Minister may impose a collective agreement if a mandate applies with respect to that collective agreement and if an employer and a bargaining organization have not settled a collective agreement following the expiry of a collective agreement or following the acquisition of bargaining rights by the bargaining organization. The legislation does, however, require that the parties be consulted or given an opportunity to provide comments about the terms of any such collective agreement.

Other Measures

The *Protecting Public Services Act, 2012*, also proposes legislation geared towards interest arbitration in the ambulance services, fire protection services, for hospitals, police services and the TTC.

We will keep you updated on the status of this proposed legislation. In the meantime, please contact Maria Kotsopoulos at 416-593-2987 with any questions about how the legislation will impact your organization.