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Drummond Report Recommends Changes to Interest Arbitration and Establishment of Labour Relations Information Bureau

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On February 15, 2012, the Ontario Government released the report of the Commission on the Reform of Ontario's Public Services (the "Report"). The Report, titled *Public Services for Ontarians: A Path to Sustainability and Excellence*, and often referred to as the "Drummond Report" spans well over 500 pages and details recommendations for sweeping changes across the broader public sector ("BPS").

[The Report can be read in its entirety at http://www.fin.gov.on.ca/en/reformcommission/chapters/report.pdf. A somewhat less daunting 140 page Executive Summary can be found at http://www.fin.gov.on.ca/en/reformcommission/chapters/executive-summary.pdf.]

Of specific interest to those of us in the labour and employment community is chapter 15 of the Report which deals with labour relations and compensation. This chapter sets out the importance of effective labour relations in a BPS that includes over one million employees, 70 per cent of whom are unionized (by striking comparison, only 15 per cent of the workforce in the private sector are unionized). The challenge identified for the Government is to work cooperatively with the BPS to restrain expenditures, particularly with respect to wages. Interestingly, there is no recommendation for a wage reduction or freeze across the BPS, but rather increased productivity, efficiency and improved service delivery is promoted.

The Report goes well beyond issues regarding wages. Four key principles are identified as integral to ensuring governments, employers, employees and employee representatives are able to work together to effectively deliver public services. These principles are:

1. A balanced, effective and transparent system;

2. Preference for negotiated collective agreements over settlements or outcomes that are legislated or arbitrated;

3. Accountability and responsibility for labour relations and service delivery outcomes distributed across governments, employers, employees and bargaining agents; and

4. Recognition that system changes are part of a larger vision, in which labour relations play a part, but are not an end in themselves.

Keeping these guiding principles in mind, 15 specific recommendations related to labour relations are made. It is, of course, impossible to fully describe each recommendation in detail here. Instead, the recommendations are grouped together in order to highlight key areas of focus and to give a sense of where we can expect reforms.

Recommendation 15-1: Designating Essential Services

Ontario has the highest percentage of BPS employees in Canada designated as “essential”. There is recognition in the Report of the difficulties inherent in attempting to determine which services really are “essential”. Accordingly, the creation of an independent working group is suggested. This group would consider and determine which BPS occupations and industries should be placed in this category.

Recommendations 15-2 through 15-4: Reforms to Interest Arbitration

A great deal of focus in the chapter is placed on reforms to interest arbitration. While the notion that the system is “broken” is rejected, there is an acknowledgment that significant changes do need to be made to improve timeliness, efficiency and transparency. Changes to how cases are assigned and monitored, and emphasis on mediation ahead of arbitration are included in the Report. Further suggested changes include: establishing a tribunal or commission to manage a roster of independent arbitrators; setting time limits so that decisions are not out of sync with the current environment; developing well-defined, objective criteria for arbitrators to use in their decision making; requiring written, electronically published decisions; requiring arbitrators to focus only on the issues presented to them by the parties; providing centralized support for arbitrators; and implementing measures to enhance the quality of arbitration services being provided.

Recommendations 15-5 through 15-10: Increased Effectiveness in the BPS

The mechanisms to measure productivity within the BPS are identified as lacking. As noted, wage freezes are not a focus of the Report. Instead, a zero budget increase for wages costs is recommended, with increases in individual wages tied more directly to productivity and offset by efficiencies that can be found. The option of exploring modifications to the “bumping” provisions in collective agreements is suggested, as such provisions are identified as a potential roadblock for progress in improved service delivery and efficiency. Increased authority for the Ontario Labour Relations Board with respect to merging and combining bargaining units is also

suggested, as is a move towards more centralized or consolidated bargaining. There is also a caution in the Report against dismissing privatization and amalgamations out of hand, as such options can be critical to successful reforms.

Recommendations 15-11 through 15-15: Improved Transparency & Accountability

To improve transparency, it is recommended that a Labour Relations Information Bureau be established. This Bureau would collect and disseminate data, useful for negotiations and for measuring productivity. A comprehensive benchmarking system is also suggested for compensation, benefits and pension tracking. Greater accountability for leaders within the Ontario Public Service ("OPS") is suggested, but the importance of appropriate compensation and encouragement for these leaders is also highlighted. It is emphasized that leaders throughout the OPS, and the BPS, must have the tools and ability to put the right people in the right place, and this includes being able to dismiss those who fail to meet job requirements.

Conclusion

How far the Government will go in terms of implementing the recommendations in the Report will be the source of much speculation and media attention over the coming months. In the covering letter to the Report, the Chair calls on the Government to engage in broad consultations related to the fiscal and economic challenges identified. No doubt input from the legal community, employers, employees and bargaining units will be essential to effective labour relation changes. If you have any questions arising from the labour relations issues raised in the Report, please contact the author or one of the members of our Employment and Labour Group.