

October 2016

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## ***COCA DISCUSSES REYNOLDS/VOGEL REPORT WITH AG***

Following our careful review of the Reynolds/ Vogel Report on the modernization of the Construction Lien Act and prompt payment for construction projects in Ontario, COCA sent a letter to the Attorney General of Ontario recommending that:

- That the government implement the recommendations of the Reynolds/Vogel Report as a package and not “cherry pick” on an a la carte basis
- That the government retain Bruce Reynolds and Sharon Vogel as consultants in the legislative process to ensure that their vision is implemented by the legislation.
- That the government continue to draw upon the expertise of the Advisory Group in the legislative process.
- That the government keep its commitment to table a bill in the spring and move it forward expeditiously.

In a meeting with representatives from COCA on October 24th, Attorney General Yasir Naqvi made the following points:

- That he confirmed with all members of the Advisory Group that the Reynolds/Vogel Report is a consensus report
- That he had already met with a number of stakeholder groups and that there appears to be general support for the Reynolds/Vogel Report
- That he has engaged Reynolds and Vogel to continue to provide advice through the legislative process
- That he would like to continue to engage the Advisory Group and some members have already agreed
- That he is preparing a legislative framework that he will present to cabinet in order to receive authority to proceed with the drafting of legislation
- That legislation will be introduced in the spring 2017 session, i.e. before June 1, 2017
- That he would like to see the legislation passed by the end of the fall 2017 session, i.e. before December 14, 2017

- That there will be a transition between the current Act and the new one, that the legislation will not take effect immediately upon Royal Assent
- That there is a great deal of detail work to be done in the next six weeks and that COCA is invited to provide further input

Special thanks to the chair of COCA's Construction Lien Act Reform Task Force Ted Dreyer of Kitchener based law firm Madorin Snyder LLP, TCA director and Task Force member and Advisory Group member Glenn Ackerley of Weir Foulds LLP in Toronto and COCA chair and Task Force member Gary van Bolderen of Dutch Masters Construction Services in Barrie for making time to meet with Minister Naqvi.

## ***CONSTRUCTION EOS AND THE NEW RATE FRAMEWORK***

When Bill 119 Workplace Safety and Insurance Amendment Act, 2008 (mandatory coverage for construction) was introduced, the government back then believed that construction was a high risk business and that it was full of a lot of nefarious employers making every effort to avoid paying WSIB premiums. The main thrust of Bill 119 was to address contractors who structured their businesses such that their workers were set up as Independent Operators who were exempt from WSIB coverage. The Bill was designed to capture all the workers who were masquerading as Independent Operators and as such were exempt from WSIB coverage. That was the main theme of the legislation.

But Bill 119 also unfairly attacked Executive Officers (EOs) in the construction industry. Before Bill 119, Executive Officers in all sectors, including construction, were exempt from coverage. However, Bill 119 cast a wide net and it dragged construction EOs into the WSIB system while EOs in all other sectors remained exempt from coverage.

After Bill 119 was passed into law, the WSIB was obliged to follow the law. But the WSIB realized the inequity that Bill 119 caused with regard to mandatory coverage for construction EOs and under pressure from the construction industry, created a new construction Rate Group specifically for construction EOs, Rate Group 755 with a low premium rate to reflect the low risk associated with an EOs work.

This fix did not address the unfairness caused by Bill 119 completely but it minimized it and the construction industry was mollified.

Because this unfairness still exists today and will continue to exist in the new rate framework as it is currently proposed, i.e. construction EOs are statutorily obliged to participate in the system while the EOs of every other sector are not, COCA and other industry interests have asked the WSIB to allow RG 755 to be continued in some shape or form in the new rate framework. We are optimistic our request will receive a sympathetic response.

## ***BEST TIMES TO MEET WITH YOUR MPP***

The best time to schedule a meeting with your MPP is when the Legislature is not sitting. This includes during scheduled constituency weeks as well as during the summer and winter recesses.

The next constituency week is scheduled for the week of November 7th.

The Legislature rises for its winter recess on December 8th and returns on February 21, 2017.

In the spring session of 2017 constituency weeks are scheduled for the weeks of March 13th, April 17th and May 22nd.

The Legislature rises for its summer recess on June 1st and returns on September 11th.

It's important for construction associations to meet with their local MPPs regularly to keep them informed about industry activity, issues and concerns and to build healthy working relationships.

## ***BILL 45 ELECTION STATUTE AMENDMENT ACT***

Bill 45, Election Statute Law Amendment Act 2016 was introduced in the Ontario legislature by Attorney General Yasir Naqvi on October 19th. If passed, the Bill will among other things:

- change the date for scheduled provincial elections from the first Thursday in October to the first Thursday in June.
- require the Chief Electoral Officer to create a provisional register of 16 and 17 year olds who request that their names be added to the register. These persons would be transferred to the permanent register of electors when they reach voting age.
- Allow the Chief Electoral Officer to issue a direction requiring the use of vote counting equipment during an election and modifying the usual voting process to permit the use of the equipment.
- Prohibit the owners of multiple-residence buildings from refusing access to candidates and their canvassers. An administrative penalty scheme is created to deal with violations.
- Make changes to the nomination, registration and endorsement processes for candidates under the Election Act and Election Finances Act.
- Allow candidates to have the surname they use ordinarily, rather than their legal surname, printed on ballots.
- Make changes to the rules respecting advance polls.
- Eliminate the first advertising blackout period for unscheduled elections, set out in the Election Finances Act
- Amend the Representation Act, 2015 to establish a Far North Electoral Boundaries Commission with a mandate to review the electoral boundaries of Kenora-Rainy River and

Timmins-James Bay and make recommendations about the creation of one or two more ridings in that geographic area.

## ***HESSION APPOINTED TO WSIB BOARD OF DIRECTORS***

Mr. Raymond Hession has been appointed to the Board of Directors of the Workplace Safety and Insurance Board. According to his bio posted on Bloomberg, Hession “has been the Chairman of eHealth Ontario since December 2009. Mr. Hession also serves as Chair of Innovation Advisory Board - Service Ottawa. He has extensive experience in governance in the private, public, community service and health sectors over the past 35 years, including Chair, HLB Decision Economics prior to being acquired by HDR. He served as Founding Chair of the Agency for Cooperative Housing; founding Chair of the Ontario Health Quality Council; Chair of the Board of The Ottawa Hospital/The Rehabilitation Centre of Eastern Ontario and the Royal Canadian Mint, among many others. He serves as Director of HDR, Inc.”

Mr Hession was vetted by the Standing Committee on Government Agencies on October 18th and is being briefed by WSIB officials prior to his first meetings on October 26th and November 10th.

## ***H2H SUCCESS TO DATE***

A recent article in the DCN reported the following about the success of Helmets to Hardhats:

- 5,336 serving and released/retired military members who have registered online since the Helmets to Hardhats website was officially launched on Sept. 18, 2012
- 523 recorded successes of veterans transitioning to construction jobs

## ***MOF RELEASES Q2 RESULTS***

The Ontario Ministry of Finance recently released second quarter economic accounts. According to the Ministry of Finance release:

- Ontario’s real gross domestic product (GDP) increased by 0.2% in the second quarter (April to June) of 2016, after rising 0.8% in each of the previous two quarters.
- Household spending, government expenditures and business investment advanced in the quarter, but a decline in exports softened overall economic growth.
- Nominal GDP increased 0.4% in the second quarter. Compensation of employees rose 1.1%, while the net operating surplus of corporations declined 0.9%.
- Economic production, measured on an industry basis, advanced 0.2% in the second quarter. Output in the services sector (0.6%) led the gain, which was partially offset by a decline in the goods sector (-1.3%).
- Ontario was among several jurisdictions that experienced moderating growth in the second quarter. All G7 countries except the U.K. and U.S had lower real GDP growth in the second

quarter compared to the first quarter of 2016.

- Modest employment growth continued in Ontario, while other indicators have also advanced, pointing to steady growth in the province's economy.
- External conditions remain favourable for Ontario with low interest rates and oil prices, a still-competitive exchange rate and improved financial market stability.

For more information click on <http://www.fin.gov.on.ca/en/economy/ecaccts/#1>

## **OCTOBER FORUM POLL**

The most recent Forum poll of 1124 randomly selected Ontario voters published on October 21st revealed the if an election were held at the time the poll was taken the Progressive Conservatives would receive 43% of the votes cast, the Liberals 24%, the NDP 23%, the Greens 8% and 2% would choose Other. Vote shares for the parties have not changed significantly in the past month.

Other poll results include the following:

- Translating the poll results to seats in the legislature, the PCs would hold 72, the NDP 24 and the Liberals 11
- Premier Wynne's net favourable score (approve minus disapprove) is negative 63.
- 45% of Liberals approve of Premier Wynne and 40% disapprove.
- Patrick Brown's net favourable is + 3; 49% don't know him well enough to have an opinion

Andrea Horwath's net favourable +12. And her approval among New Democrats is more than one half (55%).

Read more at: <http://poll.forumresearch.com/post/2617/pcs-lead-in-ontario/>.

## **OTTAWA- VANIER BY ELECTION UPDATE**

The by election in Ottawa-Vanier which was caused by the resignation of former Attorney General Madeleine Meilleur will be held on November 17th. Squaring off in what is widely considered a Liberal stronghold are:

- Liberal Nathalie Des Rosiers, a dean of law at the University of Ottawa
- NDPer and retired civil servant Claude Bisson who is the brother of MPP Gilles Bisson
- Conservative Andre Marin was the former Ontario Ombudsman
- The Green Party candidate Raphaël Morin, a geographer and environmentalist

## ***NIAGARA-WEST GLANBROOK BY ELECTION UPDATE***

The by election in Niagara - West Glanbrook is scheduled for November 17. Until his resignation on September 16th, former Ontario PC leader Tim Hudak had represented the riding since 1995. Barring a major campaign blunder, most believe the Tories should hold onto the seat.

However, perhaps in a backlash over Patrick Brown's flip flop on the sex ed curriculum during the recent by election campaign in Scarborough-Rouge River, the Tories elected 19 year old Brock University student Sam Oosterhoff as their standard bearer. Described as a social conservative and anti-abortionist, Oosterhoff defeated party president and former MP Rick Dykstra who is believed to be close to Brown and regional councillor Tony Quirk who had been endorsed by Hudak.

The NDP are running former Hamilton police officer and former Hamilton Police Association president Mike Thomas, a 56 year old Binbrook native who retired in 2014.

Carrying the Liberal banner is Hamilton lawyer and mediator Vicky Ringuette.

The Green Party of Ontario's candidate is retired banker and fisheries nominated candidates Donna Cridland,