

January 2017

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## **ONTARIO CLA REFORM AND PROMPT PAYMENT UPDATE**

We've been told by sources in the Office of the Attorney General that legislation pursuant to the Reynolds/Vogel Report on reform of the Construction Lien Act and the problem of delayed payments in the industry will not be introduced until late May 2017. We've been told that the complexity of the issue will require all this time to get the Bill right. But all Bills have their complexities. Could it be that modernizing the Construction Lien Act, introducing a real time dispute resolution system and making sure that general and trade contractors are paid in a timely way for work that's been completed without dispute is just not a high priority for the Ministry of the Attorney General and this government?

The Legislature is in recess from May 19<sup>th</sup> to May 28<sup>th</sup> and again from June 2<sup>nd</sup> to September 10<sup>th</sup>. If the Bill is introduced in late May it's highly unlikely it will pass second reading and be referred to Committee for review before the summer recess. That makes the passage of the Bill into law before the end of 2017 questionable.

All we can do is keep the heat on.

## **BILL 84 PROPOSES TO AMEND WSIA**

*Bill 84, Medical Assistance in Dying Statute Law Amendment Act, 2016* was introduced in the Ontario Legislature on December 7, 2016 by the Minister of Health, Eric Hoskins. If passed, it will amend the *Coroners Act*, the *Excellent Care for All Act, 2010*, the *Freedom of Information and Protection of Privacy Act*, the *Vital Statistics Act* and the *Workplace Safety and Insurance Act, 1997*. The amendments to these various Acts are proposed in response to the Federal *Criminal Code* legislation dealing with medical assistance in dying. Readers of this newsletter will be most interested in the WSIA amendments.

If passed, the proposed amendments to the *Workplace Safety and Insurance Act, 1997* will provide that a worker who receives medical assistance in dying is deemed to have died as a result of the injury or disease for which the worker was determined to be eligible to receive medical assistance in dying.

It's not yet known if the last employer of a worker who qualifies for and chooses assisted death will be denied an experience rating rebate which he otherwise would qualify for because of the WSIB's current fatal claims policy or under the new rate framework once it is in place, will be assessed the fatality surcharge. These outcomes would be unfair to employers.

## **HEALTH AND SAFETY SYSTEM TRANSFORMATION**

There are rumours flying around that high level consideration is being given to a merger of the health and safety associations. The idea is not a new one and the general thinking behind it is that the costs saved by merging various corporate functions such as IT, HR, accounting, executive leadership and governance could be spent on the front lines of prevention, addressing the needs of the sectors and employers who need help. As the thinking goes, under the transformed system, information and data would be used to determine where the money would be spent.

The prevention budget would focus on the sectors and employers where the accidents are occurring and not according to the historic allocations to HSAs. Because construction is responsible for a significant proportion of the critical injuries and fatalities, more money might be allocated to construction. However, construction critics of transformation assert that a merged system would become large and bureaucratic and would lose its connection with our industry. None of these rumours has been confirmed.

None of the details is known so it's far too early to consider taking a position on transformation.

## **OCOT CONVENES STAKEHOLDER ROUNDTABLE**

Pursuant to the passage of the Bill 70 legislative amendments to the *Ontario College of Trades and Apprenticeship Act, 2009*, the Ontario College of Trades will be convening an in-person roundtable with stakeholders to consult on the following items:

1. a new trade classification review process and criteria,
2. ratio review process and criteria,
3. program evaluation process and
4. a compliance and enforcement policy.

COCA will be represented at the roundtable which is being held in Toronto on January 27<sup>th</sup>. It's been rumoured that OCOT's Construction Divisional Board will hold a similar/parallel consultation.

## **STATUS OF FEDERAL PROMPT PAYMENT LEGISLATION**

While COCA is squarely focused on Queen's Park, we know you are interested in prompt payment legislation for federal government projects and the status of *Bill S-224*

*Canada Prompt Payment Act, An Act respecting payments made under construction contracts.*

The Bill originated in the Senate of Canada. Bill S-224 was introduced in the Senate of Canada by Senator Donald Plett, a former mechanical contractor. It passed second reading in November and is now being considered by the Senate Standing Committee on Banking Trade and Commerce. We understand the Committee will be convening public hearings in the near future.

The National Trade Contractors Association of Canada is urging everyone interested in securing prompt payment legislation for federal government construction projects to:

- click on this link <http://www.promptpayment.ca/> where you will find a form letter. Transpose the letter onto your organization's letterhead. Adapt it for your own use.
- Click on the following link to find the names of Senators from Ontario <http://www.parl.gc.ca/SenatorsBio/default.aspx?Language=E&sortord=P#ProvON>

You can send your letters by hard copy and mail to the following address

Name of senator  
The Senate of Canada  
Ottawa, Ontario  
Canada  
K1A 0A4

or you can send it by email at addresses that can be found by clicking on the following link <http://www.parl.gc.ca/SenatorsBio/default.aspx?Language=E&sortord=>

## ***BUILDING A RELATIONSHIPS WITH YOUR MPP***

The Ontario Legislature is still on its winter recess and will not reconvene again until February 21<sup>st</sup>. So this is a great time to call up your MPP's office and arrange a meeting. Take a small delegation of three or four of your member contractors with you to meet with your MPP. Be sure to script out your talking points in advance of the meeting and get everyone "on the same page" prior to meeting. Your association's meeting with your MPP is not the time for one of your members to go off script with a personal issue. Here are a few things you might:

- The need for the government to move ahead quickly with legislation pursuant to the Reynolds/Vogel Report
- The need to support the WSIB's Rate Framework Modernization and any legislative amendments necessary for its implementation
- The need to support the development of an Accreditation standard to recognize the health and safety excellence of only the very best performing workplaces
- The need to continue to invest in public infrastructure maintenance and development

MPPs love photo ops too. It's always good to arrange a site visit to a local construction site in your area. It's a great way to showcase our industry, educate your MPP about construction and build a relationship. You can hold a short meeting on site after the site tour.

## ***FEDS CONSIDERING TAX ON HEALTH & DENTAL BENEFITS***

The federal government is considering adding health and dental benefits to the list of taxable items for individuals. This would result in a large tax burden to all Ontario group benefits plan participants. If implemented, it will impose a significant new tax burden on plan participants. Here's a link to a story that appeared in the National Post that provides more details <http://news.nationalpost.com/news/canada/canadian-politics/federal-liberals-eye-tax-on-private-health-and-dental-plans-to-take-in-about-2-9b>

A number of health care provider associations and the Canadian Life and Health Insurance Association have come together to address this issue. A website has been set up through which you can have your say to prevent this tax proposal from happening. You are encouraged to visit the site at [www.donttaxmyhealthbenefits.ca](http://www.donttaxmyhealthbenefits.ca) and to share the link with your staff and your member companies.

COCA will also be writing to the Minister of Finance about the issue and liaising with the noted group of associations as well.

## ***ODDS ON TRUMP***

Despite the stock market surge credited to Donald Trump's promises of lower taxes and reduced regulation, the new US President's total unpredictability makes him dangerous for business. In order to plan, businesses need a level of predictability to provide the confidence to plan investments in plant and equipment. Trump is highly impulsive with a strong preference for chaos over stability. Trump may have been the most unconventional campaigner as a candidate and so far he is the most unconventional President in recent history. Truth, evidence, facts, credibility, none of this seems to matter.

Uncertainty however makes gambling very interesting. Here are a few lines from the bookmakers at time of writing:

- The online betting website Paddy Power
  - Trump to serve a second term NO – ½
  - Trump to serve a second term YES – 6/4
- The online betting website Ladbrokes:
  - To leave office via impeachment or resignation before end of 1st term – even
  - To serve full term – 4/5
  - NOT to be re-elected as President in 2020 – ½

With Trump, even the wildest, most outrageous outcome is possible. He could live to be the greatest President in US history, he could be impeached, removed by military coup or even worse. Time will only tell.