Ontario Pauses Pay Transparency Act, 2018 and Proposes New Changes to Pension, Employment and Labour Laws

December 07, 2018

On December 6, 2018, the Ontario legislature postponed the implementation of *Pay Transparency Act, 2018* by passing Bill 57, *Restoring Trust, Transparency and Accountability Act, 2018*.

As we discussed in our article on November 22, 2018, "What's Old is New: Government Passes Bill 47 and May Delay the *Pay Transparency Act*", the budget/omnibus Bill 57 delays the implementation of the *Pay Transparency Act, 2018* (the Act) from January 1, 2019 to a day to be named by proclamation of the Lieutenant Governor (*i.e.*, indefinitely).

A first of its kind among the provinces, the Act creates a number of requirements for employers with respect to compensation disclosure to employees and potential employees, as well as the obligation to file with the government annual pay transparency reports, which the government will make public. We reported on these requirements in our bulletin from April 2018.

Although the Act appears to be postponed until further notice, employers should continue to ensure that hiring and compensation policies are being applied objectively and in a non-discriminatory manner.

Also on December 6, 2018, the Ontario government introduced another omnibus bill titled, *Bill 66, Restoring Ontario's Competitiveness Act, 2018*. If passed, Bill 66 will make two important changes to Ontario's *Employment Standards Act, 2000* (ESA):

1. Eliminate the requirement for employers to apply for Ministry of Labour approval for excess weekly hours of work and overtime averaging.
2. Eliminate the requirement to post an ESA poster in the workplace.

In addition, Bill 66 seeks to remove subsection 80.4(1) of the *Pension Benefits Act*, a provision that restricts conversion of single employer pension plans to jointly sponsored pension plans implemented through a transfer of assets and liabilities to public sector plans and certain prescribed plans. This change is relevant to private sector employers interested in such conversions.

Lastly, Bill 66 proposes an amendment to the *Labour Relations Act, 1995* which would deem municipalities, local boards, school boards, hospitals, colleges, and other public bodies as non-construction employers. As a result, trade unions would no longer represent the employees of these non-construction employers and the collective agreements previously entered into with trade unions would cease to apply.

If Bill 66 passes, the changes to the *Labour Relations Act, 1995* will not come into force until a day to be named by proclamation of the Lieutenant Governor. The ESA and *Pension Benefits Act* amendments would come into force on the day Bill 66 receives Royal Assent. Given that the legislature is now in recess, Bill 66 will not be considered again until February 19, 2019.

We will continue to monitor these issues closely.

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