Ontario Government Introduces Legislation to Cap Public Sector Wage Increases

June 07, 2019

On June 5, 2019, the Ontario government introduced Bill 124, *Protecting a Sustainable Public Service for Future Generations Act, 2019,*with the aim of capping public sector wage increases to one per cent annually for the next three years. This article covers what you need to know.

What are the moderation measures and how long will they last?

The moderation measures limit salary and compensation increases to 1 per cent per year over a three-year “moderation period”.

When does the three-year moderation period begin?

For unionized employees, the three-year moderation period begins at the expiry of the collective agreement that is in force as of June 5, 2019. If no collective agreement is in force or parties are bargaining for first collective agreement, the three-year moderation period begins when the new collective agreement comes into force.

For non-union employees, the three-year moderation period begins on the earlier of: (i) a date to be selected by the employer that is after June 5, 2019; or (ii) January 1, 2022. If any non-union compensation plan is tied to increases to the salary rate of unionized employees, the moderation periods for non-union employees must line up with the unionized employees’ moderation period.

Who do the moderation measures apply to?

The moderation measures apply to most employees of designated public-sector employers. The list of designated employers is longer than previous wage restraint measures and includes public hospitals, school boards, colleges and universities, long-term care homes, children’s aid societies and non-profits who received, in 2018, at least $1 million in funding from the Government of Ontario and the Crown.

The moderation measures apply to both unionized and non-unionized employees.

Who do the moderation measures not apply to?

Designated executive employees are not captured by Bill 124. Compensation for those executives continues to be governed by the *Broader Public Sector Executive* Compensation Act, 2014 (BPSECA) and its regulations.Read our earlier bulletin for a summary of executive compensation regulations under BPSECA.

Does Bill 124 limit all salary or wage increases to 1 per cent?

No. Salary increases under a collective agreement or compensation plan that are based on: (i) the employee's length of time in employment; (ii) assessment of performance; or (iii) completion of a course of study are excepted. During the moderation period, total salary increases are limited to one percent on average.

What are the penalties for non-compliance?

At first reading, Bill 124 has no express penalties for non-compliance.

When can we expect Bill 124 to come into force?

The Ontario legislature rises for its summer recess on June 7, 2019. Premier Ford has announced that the legislature will not reconvene until October 28, 2019, a week after the federal election. Bill 124 will not be passed until after October 28, 2019.

What comes next?

Unions have spoken out against Bill 124 and have already threatened to take any measures within their means to challenge it, including disrupting the summer BBQ fundraising season. At a minimum, we expect a challenge under the freedom of association protection in the *Charter of Rights and Freedoms.*The government did not expressly invoke the notwithstanding clause of the Charter to immunize Bill 124 from such a challenge, but that remains an option.

BLG's Labour and Employment Group will continue to monitor and provide updates on developments to Bill 124.

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