

COMMITTEE LOOKS FOR OPPORTUNITIES TO UPDATE ACT AND REGULATIONS

By Michael Mastromatteo

One of the most significant moments in the recent history of Ontario's engineering regulator occurred back in 2005 with PEO's successful legal challenge of a provincial government initiative aimed at imposing an additional qualifications scheme on certain practitioners in the building design and construction sector.

What eventually became known as the Bill 124 episode established a new era of vigilance within PEO to ensure any proposed acts of provincial or even municipal government do not come into conflict with the *Professional Engineers Act* (PEA) in Ontario.

Today the role of guardian or custodian of the PEA falls in large measure to PEO's Legislation Committee, which, since its rebirth in 2009, has acted to provide oversight and guidance on statutory matters.

"The committee sees itself as a clearinghouse for legislative changes to the *Professional Engineers Act*, its regulations or council's bylaws," says 2016-2017 Legislation Committee Chair Ewald Kuczera, P.Eng. "It ensures the proper vetting of proposed changes and seeks clarity from council and other committees on policy intent. It also ensures that the rationale for such changes is evidence-based. It does not act without council's explicit approval."

Kuczera, who also recently served as one of PEO's Western Region councillors, came to the Legislation Committee chair position following PEO's 2016 annual general meeting (AGM). Traditionally, committee chairs are elected at the first council meeting following the AGM. At PEO's 2017 AGM in April, new President Bob Dony, PhD, P.Eng., FEC, was elected as the 2017-2018 chair.

Dony was previously vice chair of the committee since 2015. Past chair is Councillor-at-Large Roydon Fraser, PhD, P.Eng., FEC.

Johnny Zuccon, P.Eng., FEC, PEO's deputy registrar, tribunals and regulatory affairs, and Jordan Max, manager of policy, serve as committee advisors. Under current roles, membership on the committee is limited to current members of PEO council.

Adding some urgency to the Legislation Committee's work is a new directive from the Ontario attorney general's office that any proposed changes to the regulator's enabling legislation stand up to the evidence-based policy test. Act or even regulation changes must satisfy the attorney general that such changes are fully warranted and that they be accompanied by a full analysis of the ramifications of what is being proposed.

Secondary duties for the Legislation Committee include acting as custodian for PEO, identifying policies, rules and operational issues that affect PEO legislation, and providing guidance as to which of these issues or concerns should be put into legislation.

It also reviews any potential changes to PEO statutes and keeps council members up to date on any external legislative initiatives that might impact on PEO's work in regulating the profession and licensing practitioners.

Typical stakeholders of the Legislation Committee include PEO council and the Ontario attorney general's office, as well as PEO statutory committees, such the Experience Requirements and Academic Requirements committees.

Over the course of 2016, the committee has been involved in preparing at least eight legislative changes in relation to the recommendations stemming from the 2014 Elliot Lake Commission of Inquiry. "These have been submitted to the attorney general's office for review and this has been the most high-profile work of the committee," Kuczera says.

In addition, however, the committee has been active establishing protocols for any act and regulation changes. Most interesting of late has been a review of other acts and regulations that reference activities involving engineers or engineering.

"This may be referred to as demand-side legislation," Kuczera adds. "The committee has reviewed 94 such identified pieces of legislation, some of which infringe on the PEA or otherwise are in conflict with or require clarification, and categorized these by type. At its March 24, 2017 meeting, PEO council approved a regulatory conflict protocol, devised by the committee, which sets out an approach for staff to proceed in seeking correction of these depending on the degree of regulatory conflict" (see *In Council*, p. 62).

Another recent project completed by the Legislation Committee involved drafting an amendment to a bylaw that would transfer all references to fees from the regulations to complete the proclamation of changes to the act under the *Open for Business Act, 2010*. The final revision has been forwarded to the attorney general's office for coordination of the changeover and amendments to Regulation 941.

Although the Legislation Committee interacts with the attorney general's office, it is not considered a policy-making body, nor does it have any direct working relationship with PEO's Government Liaison Committee. "However, the chair and vice chair of the [Government Liaison] committee came as observers to the February 2017 meeting to see firsthand how the committee is functioning," Kuczera reports.

"The ambiguities found in other provincial legislation highlights the importance of ensuring that our own act and regulations are properly structured and carefully worded," he adds. "In this manner, the Legislation Committee is committed to its role in responding to the profession's regulatory needs." **e**