



Minutes

LEGISLATION COMMITTEE MEETING

Friday, August 5, 2016 - 11:00 a.m.

PEO Offices - Room 1C

Members:

Christian Bellini, P. Eng.

George Comrie, P. Eng. (President, Ex-Officio Member)

Bob Dony, P. Eng. (Vice-Chair/President-Elect, Ex-Officio Member)

Roydon Fraser, P. Eng. *[via teleconference from 11:22am]*

Gary Houghton, P. Eng.

Ewald Kuczera, P. Eng. (Chair)

Guest:

Virendra Sahni, P. Eng., Chair, Registration Committee

Regrets:

Bill Kossta

Staff:

Jordan Max, Manager, Policy

Andrew Tapp, Policy Analyst

Johnny Zuccon, P. Eng., Deputy Registrar, Tribunals and Regulatory Affairs

1. PROCEDURAL

1.1 Opening Remarks

The Chair called the meeting to order at 11:07 a.m., and welcomed and thanked everyone for attending.

1.2 Approval of Agenda

The members were asked if there were any additions or changes to the agenda. No additions or changes were provided.

A motion was made to approve the agenda as written.

Moved by: B. Dony Seconded by: G. Houghton CARRIED

1.3 Approval of Minutes of June 7, 2016 Meeting

The members were asked if there were any additions or changes to the Minutes. No additions or changes were provided.

A motion was made to approve the Minutes of the June 7, 2016 meeting as written.

Moved by: C. Bellini Seconded by: B. Dony CARRIED

1.4 Action Items Update from June 7, 2016 Meeting

The members were referred to the Actions Items Update document included in the agenda package.

Past Chair's Remarks and Orientation for Members

- a) Conduct an overview of By-Law development processes in other organizations, and draft a By-Law development protocol for PEO for review by the Legislation Committee.

J. Max reported that these were completed and are for discussion at Item 2.2 at today's meeting.

- b) Get updates from all committees as to the status of pending Act and Regulation Changes.

J. Max reported that there were two Council motions requiring regulations requiring updates:

- (i) **Member in Good Standing Definition:** This proposal had been reviewed by the Legislation Committee in March 2015 and determined that Council did not have regulation-making authority in the Act pertaining to a member's status (members must only hold a current licence and not be under suspension following a decision by

the Discipline Committee), only to prescribe conditions disqualifying current members of Council, but not to prevent someone from being elected to Council or sitting on a Committee if they owed monies to PEO but instead, Council could achieve this through policy such as the Committee and Task Forces Policy under the auspices of the Advisory Committee on Volunteers. In following up with the Secretariat, the Secretariat had indicated that it disagreed with this interpretation and had requested that precluding a member “for an outstanding payment owing to PEO that has not otherwise been excused by the Registrar or by direction of an Ontario court” requires “more than a policy statement” in the Committees and Task Forces Policy.

In discussing this matter, the Legislation Committee members reiterated that they had already reviewed the Council motion and felt that Council should be presented a motion to rescind the original motion.

Action: Staff to draft a Briefing Note to Council proposing to rescind the original motion directing the Legislation Committee to use its regulation-making powers to define “member in good standing”.

- (ii) **Central Election and Search Committee Quorum:** This item had been requested by the Central Election and Search Committee to address quorum issues when a Past-President or Penultimate-Past President chose to seek re-election as President-elect and would have to resign. Since Council had amended Regulation 941 in April 2015 to introduce a mandatory three-year waiting period for the President from seeking re-election as President-elect, the Central Election and Search Committee was being asked if the original quorum problem had now disappeared. The Secretariat replied that the Central Election and Search Committee should keep this matter “on hold” pending further discussion.

Action: Staff to update the log to note the “hold” status of this issue.

- (iii) **Removal of a Councillor for Breach of Council Policy:** This item concerned the need to define in Regulation which exact Council Policy was intended to be referred to. The request for an update by the Human Resources Committee staff advisor has not been answered as of today.

Action: Staff to continue to follow up with the Human Resources Committee staff advisor regarding this item.

Monthly Meeting Schedule for Committee Year 2016-2017

Post the revised schedule on the Committee's SharePoint site, and set up Outlook notifications to the members.

J. Max noted that this had been completed.

Registration Committee Proposal for Act Change

Draft a memo from the Chair of the Legislation Committee to the Chair of the Registration Committee, including the results of its historical research, and requesting further evidence as per the Act Change Protocol.

J. Max noted that this memo had been sent to the Chair of the Registration Committee, and a response was received on July 19, 2016, and that the Chair of the Legislation Committee had invited him to attend today's meeting and discuss this item at Item 2.1.

Draft Legislation Committee Work Plan 2016-2017

- a) Monitor Item 4's progress at the Licensing Policy Committee, and report back to the members at the next meeting.

J. Max reported that he had contacted M. Price, the staff advisor for that committee, who indicated that the Licensing Policy Committee would not be meeting until August 25, 2016 and, hence, would have nothing to provide for today's meeting.

Action: Staff to follow up with the staff advisor for the Licensing Policy Committee to determine what materials would be made available to the Legislation Committee, and at what time.

- b) Update and share the "Regulatory Conflict" table with Council.

J. Max reported that a scan was conducted to update the table, which was last completed in 2012. A. Tapp noted that the most significant addition was O. Reg. 63/16 (Water Taking under the *Environmental Protection Act*), which possibly involved practice infringement as it allowed non-engineers to perform work that was deemed to be engineering work. He also noted that the *Drainage Act* had a definition of "engineer" which actually included surveyors under the *Surveyors Act*.

In discussing the Water Taking regulation, the Committee members expressed concern regarding the possible practice infringement, and whether the activities listed in O. Reg. 63/16 constituted the practice of professional engineering. B. Dony and G. Houghton volunteered to do further investigation and report back to the Legislation Committee. They also felt that staff should follow up with the Ministry of the Environment and Climate Change to get clarity on the work requirements.

Action: B. Dony to share the Water Taking requirements with other Water Resource Engineering professors at the University of Guelph to clarify the work requirements and whether they fell within the definition of the practice of professional engineering in the *Professional Engineers Act*, and report back to the Legislation Committee.

Action: G. Houghton to see if the Ministry had published any guidelines around Water Taking work for this Regulation, and report back to the Legislation Committee.

Action: Staff to follow up with staff of the Ministry of the Environment and Climate Change to clarify the reports requirements of O. Reg. 63/16 and how it protects the public interest, and report back to the Legislation Committee.

Action: Staff to remove the “Regulatory Conflict?” and “Issue” columns in the table, to add relevant section references to the legislation mentioned in the table, and forward it to staff to publish the revised table (labeled as “References to Engineers and Engineering in other Ontario Statutes”) on the PEO website.

- c) Revise the Legislation Committee Work Plan 2016-2017 as amended at the meeting, and present it for approval at the August 2016 meeting.

J. Max reported that this had been completed, and would be discussed at today’s meeting at Item 3.1.

2. FOR DISCUSSION

2.1 Registration Committee Proposal for Act Change

The members were referred to the correspondence documents included in the agenda package.

The Chair welcomed V. Sahni, Chair of the Registration Committee, who presented his proposal and rationale for removing the 30-day hearing scheduling requirement in the Act and replacing it with an “as expeditious as possible” timeframe. He explained that the internal processes, including use of PEO expert witnesses and the 3-4 months time to prepare for the hearing, panel composition requirements, and the fact that Registration Committee members are volunteers made it impossible to meet the 30-day Act requirement for scheduling a hearing.

The members sought answers from the Chair of the Registration Committee regarding the committee membership (12 members, with specific compositions), its processes and practices, its annual volume of cases (4-6 requests per year), and whether the processes had been reviewed to comply with the 30-day requirement imposed in 2010. The Chair of the Registration Committee indicated that it typically took 6-8 months to set a hearing date. In response to a proposal that the Registration Committee set an arbitrary hearing date, such as six months from the initial request for a Registration hearing, the Chair of the Registration Committee indicated that arbitrary dates, or even a 90-day requirement to set a hearing date, would not work since there were too many parties (applicant, lawyers, expert witnesses) involved. The Chair of the Legislation Committee asked if staff could find out what timeframes other regulators have in their respective legislation. The Chair of the Legislation Committee thanked the Chair of the Registration Committee for his attendance and presentation.

The Legislation Committee subsequently discussed its response to the Chair of the Registration Committee. There was consensus that the Registration Committee had not provided sufficient and compelling evidence why it could not meet the 30-day requirement to schedule a hearing, and that this should be communicated to the Chair of the Registration Committee via a memo to be drafted by staff.

A motion was made to draft a memo from the Chair of the Legislation Committee to the Chair of the Registration Committee to explain that it did not believe that there was sufficient and compelling evidence to support removing the 30-day hearing schedule deadline.

Moved by: G. Houghton Seconded by: B. Dony CARRIED

Action: Staff to draft a memo from the Chair of the Legislation Committee to the Chair of the Registration Committee, as noted in the motion, to be signed by the Chair of the Legislation Committee.

2.2 By-Law Development Protocol

The members were referred to the documents included in the agenda package.

(a) By-Law Process Review

A. Tapp reviewed the results of the scan of other regulators' by-law requirements and processes and summarized by indicating that, with the exception of PEO, the larger the number of members of an organization, the less likely that members were required to confirm by-laws passed by their respective decision-making board. He also indicated that most organizations required a two-thirds majority vote by Council to approve by-law changes.

(b) By-Law Change Process (Diagram and Protocol)

J. Max presented his proposal for a by-law change process, as explained in the diagram flow chart, and which is similar to that used for Act or Regulation changes (with the exclusion of the Attorney General for approvals). He emphasized that the Legislation Committee's role in by-law drafting should be limited to ensuring that by-laws were drafted within the specified scopes and constraints in the paragraphs under Section 8 of the Act, and to avoid conflicts with other parts of the by-law. J. Zuccon further noted that the by-law proponent should be requested to indicate if the by-law change should require member confirmation, and why, to guide Council's decision.

R. Fraser recommended that a two-way arrow be added to the diagram between the proponent committee and the Legislation Committee to allow for dialogue, which was accepted by the Legislation Committee members. G. Comrie expressed his opinion that by-laws did not need to be written so precisely as they were internal PEO matters of no concern to the Attorney General.

There was further discussion on whether to seek Council's approval of the new By-Law Process prior to the impending Fees to By-Law changes. J. Max reported that the Finance Committee had not yet considered the Legislation Committee's proposal for it to draft the By-Law changes, but that it was hopefully happening soon. It was agreed that the Fees to By-Law changes should be used as a pilot test case for the new process, and that the proposed By-Law Protocol be presented to Council sometime after Council had approved the Fees to By-Law changes, hopefully in November 2016.

Action: Staff to revise the Diagram and Protocol as directed by the Legislation Committee, and to wait until after Council's consideration of the Fees to By-Law changes to bring the Protocol to Council.

3. FOR APPROVAL

3.1 Draft Legislation Committee Work Plan 2016-2017

The members were referred to the document included in the agenda package.

The Legislation Committee reviewed the amended version and, with the insertion of C. Bellini's name and another spelling correction, the Legislation Committee approved the 2016-2017 Legislation Committee Work Plan, to be forwarded to Council for approval at its September 2016 meeting.

Action: Staff to forward the amended 2016-2017 Legislation Committee Work Plan to Volunteer Management for approval by Council at its September 2016 meeting.

4. NEXT MEETING AND ADJOURNMENT

There being no further business to conduct, the meeting was adjourned at 2:14 p.m.

The next meeting is scheduled for Friday, September 9, 2016 at 11:00 a.m.