



Minutes

LEGISLATION COMMITTEE MEETING

Friday, December 8, 2017 - 10:00 a.m.
PEO Offices - Room 1C

Members:

Christian Bellini, P. Eng. (Chair)
Qadira Jackson Kouakou (Vice-Chair)
David Brown, P. Eng. (President-Elect, Ex-Officio Member) *[via teleconference]*
George Comrie, P. Eng.
Lola Hidalgo, P. Eng. *[via teleconference]*
Gary Houghton, P. Eng.

Staff:

Bernie Ennis, P. Eng, Director, Policy and Professional Affairs *[from 12:00 to 12:15 p.m.]*
Sherin Khalil, P. Eng., Standards & Guidelines Development Coordinator *[from 12:00 to 12:15 p.m.]*
Jordan Max, Policy Manager
Gerard McDonald, P. Eng., Registrar
Andrew Tapp, Policy Analyst
Johnny Zuccon, P. Eng., Deputy Registrar, Tribunals and Regulatory Affairs

Regrets:

Bob Dony, P. Eng. (President, Ex-Officio Member)

1. PROCEDURAL

1.1 Opening Remarks

The Chair called the meeting to order at 10:07 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: Q. Jackson Kouakou Seconded by: G. Houghton CARRIED

1.3 Approval of Minutes of November 10, 2017 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 November 10, 2017 meeting as written.

Moved by: D. Brown Seconded by: L. Hidalgo CARRIED

1.4 Action Items Update from November 10, 2017 Meeting

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

J. Max briefly reviewed the action items presented, as follows:

Council Term Limits - Draft Regulation

Request MAG to modify Section 2, paragraph 1.ii (and other sections as may be required) to include “as regional councillors”. [Completed]

Staff reported this item to the Legislation Committee as completed.

Inform MAG that terms served be considered cumulatively for the purposes of determining if a Councillor’s term limit had been reached. [Completed]

Staff reported this item to the Legislation Committee as completed.

Inform MAG that the language in the draft Regulation be kept as “eligible to serve”, but that Sections 14.1 and 14.2 (and other sections as required) be changed to make eligibility to serve the term for which one is running a requirement to run for election. [Completed]

Staff reported this item to the Legislation Committee as completed.

Inform MAG that the language in the waiting period clause should refer to “terms”, instead of years. [Completed]

Staff reported this item to the Legislation Committee as completed.

Draft Regulation - Fees

Inform MAG that PEO would prefer a section-by-section transfer of fees from Regulation 941 to By-Law No 1. [Completed]

J. Max explained to the Legislation Committee that staff had received the new draft of the Regulations from the Ministry of the Attorney General on November 30, 2017. The Ministry of the Attorney General was unsure what PEO meant by a “year” in the context of the Regulation. Staff advised the Ministry of the Attorney General that PEO considered that the six-year waiting period was to be the length of time between a member’s last day of service, and the sixth annual meeting following that day.

Staff reported this item to the Legislation Committee as completed.

Instruct MAG to modify the draft legislation to remove Section 88 from Regulation 941. [Completed]

Staff reported this item to the Legislation Committee as completed.

Draft PRIA - Regulation Changes (Academic and Examinations)

Send the edited PRIA to MAG. [Completed]

Staff reported this item to the Legislation Committee as completed.

Regulation Changes - Central Election and Search Committee Proposal

Remove the policy analysis sections, and forward the legislative analysis to the Central Election and Search Committee. [Completed]

Staff reported this item to the Legislation Committee as completed.

2. FOR DISCUSSION

2.1 Regulation - Council Term Limits

J. Max presented the current draft (version 6-TP) of the Council Term Limits Regulation changes to the Legislation Committee for approval. D. Brown asked if the legislation accounted for members who had served as Lieutenant-Governor Appointees before seeking election to Council. J. Zuccon assured the Legislation Committee that this gap had been filled.

J. Max sought the Committee's input on whether to request amending Sections 14(1) and (2) to make non-eligibility for office explicitly exclude a candidate from seeking nomination. After some discussion, the Committee concluded that the current draft was acceptable, and that it should be sent to the Ministry of the Attorney General to finalize for Council's approval.

Action: Staff to send the draft 6-TP version of the Council Term Limits Regulation changes to the Ministry of the Attorney General to finalize for PEO Council's approval.

2.2 Regulation - Fees

J. Max reviewed the current draft of the fee Regulation changes (version 2-TK) and staff's latest discussions with the staff at the Attorney General's Office. They advised that PEO could join the Fees and the Council Term Limits regulations together. They also found a minor error in Section 32.1(4)iv., which stated incorrectly that engineering interns were a member class. To correct this, they recommended replacing the phrase "member of the class" with "engineering intern". The Ministry of the Attorney General also noted that, in Section 68, "consulting engineers" should be in the singular, to which staff agreed. In addition, they sought clarification on the term "professional engineering relationship" included in the definition of "harassment" under Section 72(1) of O. Reg. 941 for the French version of the Regulation. J. Max reported that this request had been forwarded to PEO's Regulatory Compliance Department to answer.

J. Max walked the Legislation Committee through a mock-up draft of the affected sections of Regulation 941 if all of the Ministry of the Attorney General's changes were implemented. Fee remission remains in the Regulation, but all references to fees were moved to the By-Laws. G. Comrie questioned why 46.0.1(6), which listed fee payment as a requirement for being issued a limited licence, was being removed from the Regulation. J. Max reminded the Committee that it had accepted the request from the Licensing and Registration Department to waive that fee when an LET was recertified by OACETT, and

assured the Committee that the By-Law would still require this fee to be waived. Q. Jackson Kouakou also brought up PEO's use of the phrase "fee remission", when "fee reduction" would have been more appropriate. The Legislation Committee acknowledged that this may be a problem, but could have policy implications ("fee remission" is a class of member licence) and would be better dealt with as a separate issue by the Licensing Committee.

The Legislation Committee approved the current version of the Regulation, and directed staff to work with the Ministry of the Attorney General to produce a final draft, and to forward the fee remission policy issue to the Licensing Committee.

Action: Staff to work with the Ministry of the Attorney General to produce a final version of the fees Regulation.

Staff to forward the policy issue on fee remission to the Licensing Committee.

2.3 PRIA - Fees

J. Max led the Committee through the PRIA for the Fees-to-By-Law Regulation changes, and notes two major assumptions were made while drafting it:

- (1) Council will be considering the complementary By-Law changes.
- (2) The Ontario Legislature will have passed the latest Act changes, so the By-Law will not be subject to the approval of the majority of members.

The Legislation Committee approved the draft PRIA, and directed staff to submit it to the Ministry of the Attorney General.

Action: Staff to send the Fees PRIA to the Ministry of the Attorney General to accompany the Regulation when it is reviewed by Cabinet.

2.4 By-Law

(a) Fee Remission

At the November 10, 2017 meeting, the Legislation Committee determined that they would add housekeeping items to the By-Law changes. J. Max added them to the draft By-Law, but they have not yet been reviewed by Richard Steineke. Having Mr. Steineke review these changes will make them more defensible to Council, and a better version of the draft will be available at the January 12, 2018 meeting.

Action: Staff to send the draft By-Law to Richard Steineke for review, and have the new draft ready for the January 12, 2018 meeting.

(b) Council Secretary (follow-up from November 2017 Council meeting)

J. Max noted that this change was made to the By-Law by Council at its November 2017 meeting without any involvement from the Legislation Committee beforehand. The Briefing Note did not make any reference to either Section 8(2) or (3) of the Act in respect of when the By-Law passed by Council takes effect. The default is assumed to be that it is effective when passed. G. McDonald confirmed this, noting that these changes have already been applied to the By-Law.

The Committee decided that the fees By-Law changes should follow suit, and agreed to recommend that Council not seek any confirmation by the membership as these changes reflect a one-to-one change from Regulations to By-Laws with no policy implications. The Committee members asked that legal counsel provide some guidance to ensure that the Council motion to affect this is properly worded.

Action: Staff to seek advice from Richard Steinecke on the proper wording of a motion to meet Section 8(2) requirements in the Act for the forthcoming fees By-Law, and that the motion wording be standardized in the By-Law protocol to be presented to Council in 2018.

2.5 Strategic Plan

J. Max noted that, at the last Council meeting, it passed a motion that all committees need to review the Strategic Plan objectives to incorporate relevant matters into their Work Plan. The members noted that, since the Legislation Committee is not a policy-making committee, any changes that require legislative changes would have to be proposed by another committee, and that it would address those issues as they arose, but no specific items should be added to the 2017-2018 Legislation Committee Work Plan at this time.

3. FOR INFORMATION

3.1 Act Changes - Status Report (Bill 177)

J. Max informed the Legislation Committee that the Bélanger Act changes were now before the legislature as part of Bill 177, and that public hearings had taken

place. PEO provided a written submission to the Standing Committee on Finance and Economic Affairs, but did not present. The Bill is due to receive clause-by-clause consideration on December 11, 2017 and will likely go to Third Reading vote on December 13 or 14, 2017 and, if passed, by the Legislature will receive Royal Assent. The changes to the *Professional Engineers Act* would take effect when Royal Assent is received. The only change that PEO asked for, but did not receive, was the inclusion of limited licence holders in Section 12(6) and (7), as the architects objected to the complementary change to the *Architects Act*.

3.2 Ontario Building Code

J. Max noted that Schedule 2 of Bill 177 makes changes to the Ontario Building Code. To support the development of regulations required for the Bill, the Ministry of Municipal Affairs has put out a consultation white paper on Parking Structures that references the Parking Structure Guideline developed by PEO. Comments are expected back by January 4, 2018.

The Professional Standards Committee's subcommittee that developed PEO's *Structural Condition Assessments of Existing Buildings and Designated Structures Guideline* will send a memo to the Professional Standards Committee on December 12, 2017, and will then send one to the Legislation Committee, and then either G. McDonald or D. Brown will sign off on PEO's official response. PEO's message to the Ministry will focus on how the white paper will affect Regulation 941, and stress that the focus of any regulations should be on what the building owner is expected to get, and not on who is responsible for the work itself (the profession responsible for signoff is not made clear in the paper). In Quebec, signing off on structural stability is the responsibility of engineers alone but, in Ontario, this responsibility is shared with architects.

The requirement for a guideline on this issue is a near certainty, and there are many complicated issues to be addressed (such as different structural engineers having very different specialties). However, PEO will have three years from the time the Regulation passes to develop a proper response through a Performance Standard in Regulation 260/08.

3.3 Regulatory Conflict (Emission Summary and Dispersion Model Issue)

[Editorial: B. Ennis and S. Khalil joined the meeting at this time.]

J. Zuccon informed the Committee that subject matter experts in the Professional Standards Committee subcommittee working to produce a guideline on ESDM practice raised concerns about a requirement in O. Reg. 1/17, which requires professional engineers to sign off on pollution toxicology reports (which

are not the product of the practice of professional engineering), and the fact that this would impose liability upon them. A Professional Standards Committee produced letter addressing this issue will be shared with the Legislation Committee once the letter is drafted. At this time, no action is required by the Legislation Committee.

4. NEXT MEETING AND ADJOURNMENT

There being no further business to conduct, the meeting was adjourned at 12:15 p.m.

The next meeting is scheduled for Friday, January 12, 2018 from 10:00 a.m. to 1:00 p.m.