



# Minutes

## LEGISLATION COMMITTEE MEETING

Friday, July 27, 2018 - 10:00 a.m.

### Members:

Gary Houghton, P. Eng. (Chair)

Lisa MacCumber, P. Eng. (Vice-Chair)

David Brown, P. Eng. (President, Ex-Officio Member)

Thomas Chong, P. Eng. [*via teleconference - from 10:00 a.m. to 12:16 p.m.*]

Lola Hidalgo, P. Eng. [*via teleconference*]

### Staff:

Bernard Ennis, P. Eng., Director, Policy and Professional Affairs

Jordan Max, Manager, Policy

Andrew Tapp, Policy Analyst

Johnny Zucco, P. Eng.

### Regrets:

Nancy Hill, P.Eng. (President-Elect, Ex-Officio Member)

Gregory Wowchuk, P. Eng.

### Guest:

George Comrie, P. Eng. [*from 10:00 a.m. to 12:16 p.m.*]

## 1. PROCEDURAL

### 1.1 Introduction

The Chair called the meeting to order at 10:08 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: T. Chong                      Seconded by: L. MacCumber                      CARRIED**

1.3 Approval of Minutes of June 8, 2018 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 as written.

**Moved by: T. Chong                      Seconded by: L. MacCumber                      CARRIED**

1.4 Action Items Update from June 8, 2018 Meeting

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

By-Law No. 1 Amendment - Life Member Definition

**Send the draft By-Law No. 1 changes Briefing Note, as presented, to Council for final approval. [Completed]**

Staff reported this item to the Legislation Committee as completed.

Legislation Committee Representative on Licensing Committee

**Draft and send a Chair-to-Chair memo to the Licensing Committee asking if L. Hidalgo could fulfill the Legislation Committee representative role, and including the suggestion that she could be moved to the Legislation Committee. [Completed]**

Staff reported on this item. G. Comrie noted that this position had originally been created as the Licensing Committee needed to have a member who was also on Council and had frequent interaction with the Legislation Committee (all members of the Legislation Committee are also on Council). L. Hidalgo expressed that she would be willing to take on this role on an interim basis, but noted that the Legislation Committee would need to choose a new representative next year. The Licensing Committee has yet to discuss the issue, but G. Comrie noted that it would at its next meeting.

## 2017-2018 Strategic Plan - Legislation Committee Input

**Distribute the draft Strategy Proposals to the Legislation Committee members for comments, and submit the refined version to PEO's Senior Management team by June 30, 2018. [Completed]**

Staff reported this item as completed. J. Zuccon mentioned that the SMT's recommendations for which Strategy Proposals should be implemented had been delivered to Council, who will budget out the recommendations and choose which, if any, will be pursued.

**Review liability concerns stemming from modernization changes made to the Ministry of the Environment and Climate Change's Transfer of Review Program and evaluate the issue for inclusion on the Legislation Committee's agenda. [Completed]**

Staff reported this item as completed, and B. Ennis shared that the review transfer program does not conflict with PEO legislation, and the delegation of review processes to another engineer is not unusual for this field, but is covered by the professional practice guideline on reviewing work by another P. Eng.

## Practice Definitions - Research Summary

**Invite Linda Latham, Deputy Registrar, Regulatory Compliance to the next Legislation Committee meeting to speak on the challenges that PEO has faced with prosecution owing to any limitations in the definition of the practice of professional engineering. [Completed]**

Staff reported this item as completed. L. Latham states that the definition of engineering is not limited PEO prosecution activities. There was some Committee discussion regarding whether the item was still outstanding since President-Elect Hill was not present to indicate that she was satisfied with the Regulatory Compliance response. It was decided that the matter be left to President-Elect Hill to bring back to the Committee once she had received a copy of this meeting's Minutes.

## 2. FOR DECISION

### 2.1 Regulation 941

#### (a) Headings

J. Max reported that, following the Committee's request, he had contacted the Attorney General's staff, who were willing and able to create an indexed draft version of Regulation 941 that included hyperlinks throughout the document to make navigating it easier. Two typos were noted by Committee members, and staff were directed to do a complete review for other errors, and send the amended version back to the Attorney General. As this is only formatting, it does not have to go through the regulation-making process, and can be implemented very quickly in the e-Laws website's version.

#### (b) Academic and Examination Changes

J. Max informed the Legislation Committee that PEO had instructed the government that the academic and examination regulation changes were a lower priority compared to other regulatory changes that PEO made earlier in the year and that, as the changes affect how PEO administers the Professional Practice Exam, PEO needed to consult with other provincial engineering regulators first. The Regulation changes have already been sent to the Office of the Fairness Commissioner for review, and the PRIA has been submitted to the Ministry of the Auditor General. The Attorney General's staff had indicated that drafting had not commenced as they were waiting to see the new government's priorities and timing for Regulation changes. Staff asked the Committee members whether PEO should take additional action or allow the process to unfold. The Committee decided that both the priority and the OLMA requirement could be moved forward by staff, as there was no political component, and that there was no need to consult with other organizations before the Ministry of the Attorney General had produced a draft Regulation.

D. Brown also noted that Section 29(f) of Regulation 941 referred to the "Canadian Council of Professional Engineers", which has since changed its name to "Engineers Canada", and suggested this change should be made as well in the next Regulation amendment package.

**Action:** Staff to wait for the Ministry of the Attorney General to start drafting the academic and examination changes to Regulation 941, and to notify the Attorney General to

correct Section 29(f) to refer to “Engineers Canada”, instead of “Canadian Council of Professional Engineers”.

**Action:** Staff to decide on the timing of when to notify other Canadian engineering regulators to meet OLMA requirements.

## 2.2 Academic Assessment Appeals [G. Comrie]

G. Comrie presented the work that the Licensing Committee had been doing on drafting and proposing policy changes related to the appeal of academic assessments. The Licensing Committee’s proposal would be to allow applicants to appeal their academic assessments to the Academic Requirements Committee. The Licensing Committee believes that this new policy will not require any changes to the Act or to the Regulations, and has already had this process reviewed by the Office of the Fairness Commissioner (who informed PEO that their main concern, addressed in the current version of the Briefing Note, would be that appeals are carried out by Committee members who were not involved in the initial review).

The Legislation Committee members also noted that a legal opinion should be undertaken by the Licensing Committee to determine if the proposal interfered with the Act or Regulations, or would require Regulation changes. They also noted that the proposed process and flow chart excluded referrals to the Experience Requirements Committee, and that the use of the word “appeal” was likely to confuse readers and should be replaced with “review”. Finally, the Committee members noted that the use of non Academic Requirements Committee members for external reviews was likely not consistent with Section 40(1) of Regulation 941.

The Legislation Committee decided to direct staff to draft a Chair-to-Chair reply to the Licensing Committee, stating that the Licensing Committee should undertake a legal review of this policy to ensure that it does not require any Act or Regulation changes, and advising the Licensing Committee that they may not want to use the word “appeal” as this word has specific legal implications.

**Action:** Staff to draft a memo from the Legislation Committee Chair to the Licensing Committee Chair on their Briefing Note regarding the creation of a review process for academic assessments, stating that the Licensing Committee should undertake a legal review of this policy to ensure that it does not interfere with, or require any, Act or Regulation changes, advising the Licensing Committee that they may not want to use the word “appeal” as this word has specific legal implications, that the process should include

referrals to the Experience Requirements Committee as per current Regulations, and that external reviews by non Academic Requirements Committee members might contravene Section 40(1) of Regulation 941.

### 3. FOR DISCUSSION

#### 3.1 Provisional License

As an item on the Legislation Committee's 2018-19 Work Plan, J. Max explained to the Legislation Committee that, if PEO did not direct the Attorney General to proclaim this change by 2019, an unproclaimed Act change removing Section 14(7) of the *Professional Engineers Act, R.S.O. 1990* would cease to exist. The section in question gives the Registrar the obligation of granting a provisional licence to an applicant who is "a natural person who has applied for a license in accordance with the regulations and has complied with all the requirements... except the Canadian experience requirement". However, PEO cannot proclaim these changes until it changes the language in Section 44.1 of Regulation 941, which states that the Registrar "may" issue a provisional licence, instead of compelling them to issue it.

Staff requested direction from the Committee members on whether to proceed with the proclamation in concert with amending Section 44.1 of the Regulation from "may" to "shall". As it was a question of legal alignment, it was not a policy change per se and, therefore, within the Legislation Committee's mandate to propose the change to Council and to initiate the regulation-making process. It was noted that the Licensing Committee has been discussing the continued value of the provisional licence and its operation, but this should not hold up the proclamation. The Committee members decided that the Regulation should be changed, and directed staff to seek comment from the Licensing Committee first before proposing the policy intent for the Regulation change to Council. Before the vote, D. Brown asked for, and received, clarification that, if Regulation 941 was not changed, the wording in the Act would remain the same after the proclamation expires.

**Moved by: T. Chong**

**Seconded by: L. MacCumber**

**CARRIED**

**Action:**

Staff to draft a memo from the Legislation Committee Chair to the Licensing Committee Chair to ask for their comments prior to seeking policy direction from Council regarding changing the language in Section 41.1 of Regulation 941 to match that in Section 18(1) of the *Professional Engineers Act, R.S.O. 1990*.

### 3.2 Regulatory Conflict Priorities

As an item on the Legislation Committee's 2018-19 Work Plan, J. Max reviewed the prioritization criteria for the 93 pieces of Ontario legislation that staff had found to conflict with either the *Professionals Engineers Act, R.S.O. 1990* or its accompanying Regulations. It was an operational matter for staff to review the conflicts, and to bring individual conflicts to the Legislation Committee, as necessary.

**Action:** Staff to further review the 93 pieces of Ontario legislation in conflict with the *Professionals Engineers Act, R.S.O. 1990* and its accompanying Regulations, and to bring individual conflicts to the Legislation Committee, as necessary.

### 3.3 Offering Legislation Committee Training to Other Committees

As an item on the Legislation Committee's 2018-19 Work Plan, J. Max reviewed his draft training presentation on the role of the Legislation Committee that the Committee could use to explain its role to other committees. The Committee discussed the issue and concluded that, while delivering a presentation to each individual committee was inefficient, there was a lot of value in this type of information, and that it would best be presented in a video that could be accessed at a central source or in a presentation to Council liaisons or advisors. They also concluded that it would be best if this video contained similar information about the role of all committees.

**Action:** Staff to explore possibilities for a Legislation Committee video or in-person presentations within PEO Council, committees, and/or staff.

## 4. **NEXT MEETING AND ADJOURNMENT**

There being no further business to conduct, the meeting was adjourned at 12:40 p.m.

The next meeting, which was scheduled for Friday, August 24, 2018, from 10:00 a.m. to 1:00 p.m., was cancelled due to a projected shortage of agenda items.

The next meeting is scheduled for Friday, September 28, 2018, from 10:00 a.m. to 1:00 p.m.