



# Minutes

## LEGISLATION COMMITTEE MEETING

Friday, March 8, 2019 - 10:00 a.m.

[Meeting held via teleconference]

### Members:

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

Thomas Chong, P. Eng.

Lola Hidalgo, P. Eng.

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

Gregory Wowchuk, P. Eng.

### Staff:

Johnny Zucco, Registrar

Jordan Max, Manager, Policy

Rochelle Pereira-Alvares, Regulatory Policy Research Analyst

Andrew Tapp, Policy Analyst

### Regrets:

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

Gary Houghton, P. Eng. (Chair)

## 1. PROCEDURAL

### 1.1 Introduction

The Vice-Chair called the meeting to order at 10:06 a.m. and welcomed everyone.

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: G. Wowchuk                      CARRIED**

1.3 Approval of Minutes of February 1, 2019 Meeting

The members were asked if there were any additions or changes to the Minutes.

G. Wowchuk requested that Item 3.1 of the Minutes be amended to include his point that practitioners are not engineers unless they are licensed, and that the proper place to deal with non-licensed practitioners was the courts. The Committee informed staff that Item 2.1 at the February 1, 2019 meeting had been moved by G. Wowchuk and seconded by L. MacCumber, and that the reference to the next meeting was March 8 and not March 1.

A motion was made to approve the Minutes as amended.

**Moved by: T. Chong                      Seconded by: G. Wowchuk                      CARRIED**

1.4 Action Items Update from February 1, 2019 Meeting

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

*Licensing Committee Academic Appeal Proposal*

**Brief Committee advisors on the process of seeking a legal review and of what information was required from their Committees when pursuing one.** [Pending]

J. Max reported this item as pending. Staff will brief the Committee advisors when they meet on March 28, 2019. [*Note: This meeting was subsequently moved to April 4, 2019.*]

*Regulation Amendments: Council Term Limits - Vice-President - Legal Opinion*

**Follow up with the advisor of the Succession Planning Task Force to determine its current operational status to provide policy direction.** [Completed]

J. Max reported this item as completed, however, staff are awaiting feedback on

this item from the Succession Planning Task Force to inform drafting Regulation changes on the Vice-President's hiatus from Council.

Regulation 941 Provisional Licence - Draft Briefing Note for March 2019 Council Meeting

**Submit the Briefing Note to Council after commentary has been received from other regulators and the Office of the Fairness Commissioner and reviewed by the Legislation Committee.** [Pending]

J. Max reported this item as pending. This action item was sent out with the agenda package and will be reviewed by the Committee as Item 3.2 - Regulations (Provisional Licence).

Act Change Proposal: Jurisdiction over Professional Misconduct Committed Prior to Licensure or During Gaps in Licensure

**Prepare jurisdictional scan of engineering and professional regulators to determine if any other organizations have Act provisions relating to jurisdiction over the misconduct of current licensees and holders, where that misconduct was committed prior to licensure or during gaps in licensure.** [Pending]

J. Max noted this item as pending work by the Regulatory Compliance Department.

By-Law No. 1 - Regional Councillors Committee By-Law Changes

**Seek a legal opinion to determine if PEO has the authority to make By-Laws governing Chapters, and to forward the response to the Regional Councillors Committee.** [Completed]

J. Max noted this item as completed, and that it would be discussed at this meeting as Item 4.1 - By-Law No. 1 - Regional Councillors Committee By-Law Changes - Legal Opinion.

## 2. FOR DECISION

### 2.1 By-Law No. 1 Revisions - Fees

#### (a) Council Briefing Note

The Committee discussed the recent changes to the Briefing Note on proposed Regulation 941 changes regarding fee increases that PEO

Council had authorized on November 16, 2018 and February 9, 2019. T. Chong asked if the Briefing Note needed to call more attention to the point that the increases to member fees will not require member confirmation, but L. MacCumber stated that Section 59, which directed Council to seek member confirmation for annual fee increases, had been revoked.

(b) Draft By-Law

The Committee reviewed the draft By-Law changes before voting on the Briefing Note and changes to By-Law No. 1. The changes will result in a 20% fee increase for “all types of licenses, examinations, certificate of authorization, consulting engineer designation, reinstatement, fee remission, and seals”, as well as a 20% increase in fees for remarking an exam and requesting an examination outside of Canada. It excludes two fees that have been previously authorized by Council: a fee for the interview to waive technical examinations, and a credit card convenience fee. The changes also ensure that the fees in place on March 21, 2019 will continue to be payable until May 1, 2019 so that members will be able to transition to the new fees.

A motion was made that the By-Law No. 1 Changes - 2019 Fee Increases Briefing Note and draft By-Law changes, as contained in Appendix A, be approved and sent to Council.

**Moved by: G. Wowchuk      Seconded by: L. Hidalgo      CARRIED**

**Action:**      Staff will submit the Briefing Note and draft By-Law changes to PEO Council.

**3. FOR DISCUSSION**

3.1 Regulations (Academic and Examination) - Ontario Labour Mobility Act (OLMA) Feedback

The Committee reviewed the commentary it had received from other Canadian engineering regulators regarding proposed changes to Regulation 941 that related to restrictions on writing the Professional Practice Exam until an applicant had met PEO’s academic qualifications for licensure, the closing of applications that had been open for more than 8 years while not meeting the experience qualifications for licensure, and removing the Registrar’s discretion in granting provisional licences. PEO was required to collect this feedback under the *Ontario Labour Mobility Act*, and the information collected will be added to

the Preliminary Regulatory Impact Assessment that is being drafted for the Ministry of the Attorney General. None of the regulators that responded to the information request had any concerns regarding these proposed changes limiting labour mobility. The Committee decided to add the line “the other regulators have not responded” to PEO’s summary of the feedback to clarify that PEO had contacted all other Canadian engineering regulators, even if not all had responded to the request.

J. Max also noted that the Committee should discuss at a future meeting whether it would be advisable to bundle all the Regulation proposals into one, or to hold back on those relating to changes to the licensing process as there would likely be future changes arising from the External Regulatory Performance Review. The Committee agreed to discuss the timing of Regulation change proposals at its April 2019 meeting.

**Action:** Staff to put the issue of Regulation Change Proposal Timing on the agenda of the April 2019 Legislation Committee meeting.

### 3.2 Regulations (Provisional Licence)

#### (a) Council Briefing Note

The only changes to the Briefing Note seen by the Committee at this meeting as compared to the one seen by the Committee at the meeting of February 1, 2019 are the additions of the commentary from the other engineering regulators and a placeholder for the remarks from the Ontario Fairness Commissioner.

#### (b) Ontario Fairness Commissioner Feedback

The Committee was informed that the Ontario Fairness Commissioner replied on March 6, 2019, and that it did not object to PEO’s proposed amendments to Regulation 941 regarding provisional licences, notwithstanding its previous concerns regarding PEO’s 12-month Canadian experience requirement. The Committee also decided to use the language “OFC does not object to” instead of “OFC supports” when summarizing the Ontario Fairness Commissioner’s feedback in the Briefing Note and associated Preliminary Regulatory Impact Assessment (PRIA).

A motion was made to send the Briefing Note and PRIA to Council for approval, with the addition of the amended comments from the Ontario Fairness Commissioner.

**Moved by: T. Chong**

**Seconded by: L. Hidalgo**

**CARRIED**

**Action:** Staff will complete the Briefing Note and Preliminary Regulatory Impact Assessment and deliver them to PEO Council.

#### **4. FOR INFORMATION**

##### **4.1 By-Law No. 1 - Regional Councillors Committee By-Law Changes - Legal Opinion**

The Committee reviewed a legal opinion from Steinecke Maciura LeBlanc which they had sought concerning PEO's authority in Section 8(1) of the Act to draft By-Laws in support of the Regional Councillors Committee's previous requests for changes on EIT membership on Executives, alternate Chapter membership and, more recently, their intent to standardize Chapter By-Laws. Steinecke Maciura LeBlanc had concluded in 2004 that Chapters "are a dependent part of PEO and not independent entities associated with PEO", and that there is no reason for Chapters to have their own constitution or By-Laws. On the more recent Regional Councillors Committee's requests, the legal opinion stated that PEO can govern the Chapters effectively using Section 8(1)19 of the *Professional Engineers Act*, which allows PEO to make By-Laws "providing for the establishment and dissolution and governing the operation of groups of members of the Association and respecting grants by the Association to any such groups".

L. MacCumber suggested that PEO could create a By-Law No. 2 that could focus on Chapters, and J. Max suggested that amending Sections 2-9 of the current By-Law would also be an effective way of governing Chapters and addressing the common elements, but this would first depend on the Regional Councillors Committee completing its analysis of Chapter By-Laws and proposing a standard template.

D. Brown also noted that, according to the legal opinion, it would be possible to govern Chapters through Terms of Reference or Memoranda of Understanding. D. Brown also stated that the overall goal of any new rules regarding Chapters should be to focus Chapters on supporting PEO's regulatory mandate and that, if it was found that Chapters did not support this mandate, then the Chapter system itself could be reconsidered.

At the end of discussions, the Committee decided that these issues were in the purview of the Regional Councillors Committee, and that it was up to them to determine how to proceed. L. MacCumber stated that she would request to add this item to the Regional Councillors Committee's agenda for their next full-day meeting on April 6, 2019. D. Brown indicated his interest in attending it.

#### 4.1 2018 Legislation Committee Annual Report

The Committee received the submitted 2018 Annual Report and decided to discuss, at its June 2019 meeting, whether the reporting time period should match its Council year (May-April) rather than the fiscal one (January-December).

### **5. NEXT MEETING AND ADJOURNMENT**

Before the meeting was adjourned, D. Brown recounted that, in 2004, the Regional Councillors Committee had sought another legal opinion regarding Chapters and that, having it on hand now, could have saved time and effort. He recommended that PEO develop a collection of legal opinions that it has sought in the past.

There being no further business to conduct, the meeting was adjourned at 11:15 a.m.

The next meeting is scheduled for Friday, April 5, 2019, from 10:00 a.m. to 1:00 p.m.