



Minutes

LEGISLATION COMMITTEE MEETING

Friday, March 6, 2015 - 11:00 a.m.

PEO Offices - Room 1A

Members:

Bob Dony, P. Eng. (Chair)

Annette Bergeron, P. Eng. *[via teleconference]*

George Comrie, P. Eng.

Roydon Fraser, P. Eng. *[via teleconference - at 11:25 a.m.]*

Sharon Reid

Regrets:

Dave Adams, P. Eng. (President; Ex-Officio Member)

Thomas Chong, P. Eng. (President-Elect; Ex-Officio Member)

Staff:

Josie D'Aluisio, Administrative Assistant

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

Jordan Max, Manager, Policy

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

1. PROCEDURAL

1.1 Opening Remarks

The Chair called the meeting to order at 11:15 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: S. Reid Seconded by: G. Comrie CARRIED

1.3 Approval of Minutes of February 13, 2015 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 February 13, 2015 meeting as written.

Moved by: S. Reid Seconded by: A. Bergeron CARRIED

1.4 Action Items Update from February 13, 2015 Meeting

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

It was noted that Items 1.4 (a) and (b) are still outstanding due to more recent priorities. Item 1.4 (c) will be addressed when the Professional Standards Committee resolves the "Prime Consultant" issue.

Regarding Items 1.4 (d) and (e), J. Max noted that the signed Regulation approved by Council on February 6, 2015, which contained both items, was forwarded to the Attorney General for Cabinet approval, which should take place sometime later in March 2015. At this time, there do not appear to be any political concerns or opposition from the government regarding the Regulation (other than the Fairness Commissioner's concerns regarding the continued use of the Canadian Experience requirement). If the Regulation is approved by Cabinet, the LL/LET components of the Regulation change would come into effect on July 1, 2015 to allow for final implementation preparations in

conjunction with OACETT, whereas the rest of the Regulation changes would be effective three weeks after Cabinet approval.

With respect to Item 2.1, staff forwarded the questions regarding the legal authority for drafting a definition of “member in good standing” to the Attorney General, and a response was received on March 5, 2015 and shared with the Committee. The Attorney General responded that paragraphs 2 and 3 of Section 7(1) of the Act provide clear authority to make regulations setting out conditions qualifying persons for ***election to Council, and disqualifying Council members***. However, there are no regulation or by-law making powers in Sections 7 or 8 of the Act that address membership rights and privileges. This does not mean that we need a regulation or by-law to set conditions for Committee (unless the committee is named in the Act or Regulations) or Chapter membership.

Furthermore, if a definition of “member in good standing” was developed, the Attorney General would want to know how its use and application was intended. It could not just be drafted in Section 1 of the Regulation pending further policy determination on its application at a later date.

The Legislation Committee concluded that Council should reconsider its direction for introducing a regulation for a definition of a member in good standing until such time as a comprehensive policy review is undertaken. In addition, the Legislation Committee suggests that the issue reflected in the AGM submission could be better dealt with establishing governance policies without resorting to any regulations. It was resolved that the Chair should provide an update to Council at its March 2015 meeting on the Legislation Committee’s ability to draft a regulation amendment to define “member in good standing”, and requesting that it be removed from the Council/Executive Action Log for the Legislation Committee’s follow-up.

Action: Staff to draft a Briefing Note for Council to update it on the Legislation Committee’s ability to draft a regulation amendment to define “member in good standing” according to Council’s direction.

2. WORK IN PROGRESS

2.1 Work Plan for Resolving Council Policy Motions - C of A Category, Academic/Examinations Category, Experience Category, Character Category, Registration Category, Governance Category

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

J. Max reviewed the process and requirements for the Committee to use in assessing the outstanding Council policy motions. The motions have been broken down into thematic categories, and a recommendation to Council for each motion is required (to approve and draft, to rescind or to refer to subject matter experts for more information). To date, the Committee has worked on part of the Certificate of Authorization category, and completed the Governance category motions at its last meeting and was awaiting further policy work from the Human Resources Committee on the Council Code of Conduct before finalizing its recommendations.

The Committee then proceeded to review the contents of the Character and Registration categories.

Character Category

It was generally noted that “good character”, as listed in Section 14(1)(e) of the Act, is different than the grounds under Section 14(2) of the Act for the Registrar to refuse to issue a licence for past conduct. It was further felt that most of the motions listed under the “Character” category were related more to addressing Section 14(2) of the Act, and that several of them were more operational in nature and would not require a regulation to give effect to those motions. The following recommendations were made by the Legislation Committee for those motions:

Motion #17: This is an operational matter that does not require a regulation. This should be verified with the Attorney General. The Committee concurs with the motion.

Motion #24: G. Comrie advised that the National Database is almost ready to be able to verify previous applications and current status in other jurisdictions. This is an operational recommendation that does not require a regulation to implement. The Committee concurs with the motion.

Motion #26: J. Max noted that Council subsequently approved operational criteria to be used where “negative” responses to character-related questions are indicated on the licence application in June 2008. Therefore, this motion is complete. Staff should follow up with Regulatory Compliance staff to see if this had been operationalized and, if so, what evidence or data has been gathered. The Committee concurs with the motion.

Motion #43: The first clause in this motion was sufficient with respect to character issues, but the second clause could not yet be decided since it referred to the “licensing process” motions being applied to all licence types, which included items not yet reviewed by the Legislation Committee. Therefore, concurrence with the second clause is premature until the Committee has completed its review of all Licensing Process motions.

Registration Category

Motion #25: This can be implemented without a regulation as it is an operational matter. The Committee concurs with the motion.

Motion #27: The Committee noted that this motion preceded the *Ontario Labour Mobility Act*, which supersedes the *Professional Engineers Act* and Regulations. This motion is, therefore, null and void, and should be rescinded.

Certificate of Authorization Category

Motion #3: This motion is really more of a communications and enforcement issue than a regulation issue. Limitations on the number of Certificates of Authorization that a licence holder can be listed on are impractical and not supported by the evidence provided at the time. This motion should be rescinded, but staff should improve enforcement and compliance with existing Certificate of Authorization requirements. It was further requested that staff invite a representative from Licensing and Registration to the next Legislation Committee meeting to provide further information.

Motion #4: This motion does not require a regulation to implement as an amendment to the Certificate of Authorization application and renewal forms to clarify who should sign the form and be listed as assuming responsibility and supervising the practice of professional engineering in the firm. Communication to Certificate of Authorization holders could also assist with compliance. Therefore, this motion should be rescinded.

Due to lack of time, the remaining motions in this category and the other categories were postponed until the next LEC meeting.

3. NEXT MEETING AND ADJOURNMENT

The meeting was adjourned at 2:35 p.m.

The next meeting is scheduled for Friday, April 10, 2015 at 11:00 a.m.