

CONSTRUCTION LAW CHANGES IN ONTARIO

As of December 8, 2013

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Provincial Government Bills

Bill 6 Great Lakes Protection Act, 2013

(Jim Bradley, Minister of the Environment)

The purposes of this Bill are to protect and restore the ecological health of the Great Lakes-St. Lawrence River Basin and to establish a council, the Great Lakes Guardians' Council, to provide a forum to identify priorities for actions, potential funding measures and partnerships. Given the prior existence of joint US/Canada task forces and regional agreements among several local US states, which focus on Great Lakes basin water and environmental issues, any significant measures that might come from a new Ontario based council would likely involve federal government involvement and consent as well as the co-operation of US jurisdictions.

- First Reading February 25, 2013
- Second Reading carried October 9, 2013
- Referred to Standing Committee on Regulations and Private Bills, October 9, 2013
- A committee meeting and clause by clause analysis of the Bill was held on November 27, 2013

Bill 21, Employment Standards Amendment Act (Leaves to Help Families), 2013 (Yasir Naqvi, Minister of Labour)

The Bill amends the Employment Standards Act, 2000 to create a family caregiver leave, under which an employee is entitled to a leave of absence without pay to provide care to a family member who has a serious medical condition. An employee may take up to eight weeks per calendar year with respect to each family member and entitlement to family caregiver leave is in addition to any entitlement to family medical leave under section 49.1, critically ill child care leave under section 49.4, crime-related child death or disappearance leave under section 49.5 and personal emergency leave under section 50. Section 49.4 creates critically ill child care leave for an employee who has been employed for at least six consecutive months, of leave without pay of up to 37 weeks. An employee may take a leave of up to 104 weeks with respect to the death of a child and up to 52 weeks with respect to the disappearance of a child.

- First Reading March 5, 2013
- Second Reading September 25, 2013
- Referred to Standing Committee on General Government, September 25, 2013
- Standing Committee reported back on November 7, 2013
- Third reading debated on November 19, **28 and December 3, 2013.**

Changes since the November 25, 2013 report are in ***blue bold italic text with yellow highlighting***

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Bill 83, Protection of Public Participation Act, 2013

(John Gerretsen, Attorney General)

This Bill amends certain statutes including the Courts of Justice Act and the Libel and Slander Act to allow a litigant to bring a motion for dismissal of certain libel and similar actions if the court is satisfied that the reason for the action is to try and silence a public critic of a project, business or other venture and also provides that such a motion must be heard within 60 days of the Notice of Motion.

- First Reading June 4, 2013
- Second Reading debated September 25 and November 5, **28 and December 2, 2013**

Bill 85, Companies Statute Law Amendment Act, 2013

(Tracy MacCharles, Minister of Consumer Services)

This Bill amends almost 100 separate statutes to address a number of administrative issues but also to ensure that they are harmonized with the Not-For-Profit Corporations Act, 2010. These amendments are in the nature of laying the groundwork of the new Not For Profit statute (which would govern associations such as the OGCA) to be proclaimed in force. al of certain libel and similar actions if the court is satisfied that the reason for the action is to try and silence a public critic of a project, business or other venture and also provides that such a motion must be heard within 60 days of the Notice of Motion.

- First Reading June 5, 2013

Bill 138 Ending Coal for Cleaner Air, 2013

(James Bradley, Minister of Environment)

This bill would amend the Environmental Protection Act to prohibit the use of coal at electrical generation facilities after December 31, 2014. This prohibition would not apply to a facility that produces a product other than electricity or steam where the generation of electricity is not the primary purpose of the facility.

- First Reading November 25, 2013

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Bill 141 Infrastructure for Jobs and Prosperity Act, 2013

(Glen R. Murray, Minister of Infrastructure)

Highlights of this Bill include: mandatory consideration of infrastructure planning principles by every public sector entity; publication of periodic provincial 10 year infrastructure plans; and minimum numbers of apprentices to be engaged in the construction of maintenance of government infrastructure assets.

- *First Reading November 26, 2013*
- *Second Reading debated December 5, 2013.*

Bill 146, Stronger Workplaces for a Stronger Economy Act, 2013

(Yasir Naqvi, Minister of Labour)

The Bill amends five separate statutes including the Labour Relations Act, 1995. The LRA amendment applies to the construction industry and establishes two-month open periods during which a trade union may apply to the Board for certification as bargaining agent of any employees in a bargaining unit and also establishes two-month open periods during which employees may apply to the Board for a declaration that a trade union no longer represents the employees in a bargaining unit. The Bill also amends the Workplace Safety and Insurance Act, 1997 so that if, a temporary help agency lends or hires out the services of a worker to a construction contractor and the worker sustains an injury while performing work for the contractor, the contractor is responsible for the injury for the purposes of the section.

- *First Reading December 4, 2013*

Private Members' Bills

Bill 2 Restoring Planning Powers to Municipalities Act, 2013

(Jim Wilson, PC, Simcoe -Grey)

The Bill amends the Planning Act to reverse the effect of the amendments made to the Act by the Green Energy and Green Economy Act, 2009. Those amendments exempted renewable energy projects such as wind turbines from many local controls if the projects complied with certain provincial requirements.

- *First Reading February 20, 2013*

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Bill 13 Ontario Forestry Industry Revitalization Act (Height of Wood Frame Buildings), 2013,

(Victor Fideli, PC Nipissing)

Bill 13 is very similar to Bill 52 of the previous sittings, which was also introduced by Victor Fideli on March 22, 2012. Bill 13 would amend the Ontario Building Code Act to permit the use of wood structural members in buildings up to 6 storeys in height, but it does not mandate the use of wood in any specific circumstances.

- First Reading February 27, 2013
- Second Reading debated and carried November 7, 2013
- Ordered referred to Standing Committee on Finance and Economic Affairs November 7, 2013
- No committee meetings have been scheduled yet for Bill 13

Bill 17 Workplace Safety and Insurance Amendment Act (Alternate Insurance Plans), 2013

(Randy Hillier, PC, Lanark--Frontenac--Lennox and Addington)

Bill is substantially the same as Bill 87 which was introduced by Randy Hillier on May 8, 2012 in the prior sittings. It amends the Workplace Safety and Insurance Act to allow an employer to opt out of the WSIB system and participate in a private sector insurance plan, if the alternate plan offers benefits to the employer's workers that are comparable to those offered by the insurance plan as it exists under the Act.

- First Reading February 28, 2013

Bill 41 Preserving Existing Communities Act, 2013

(Frank Klees, PC, Newmarket -- Aurora)

This bill amends the Places to Grow Act, 2005 to provide that certain municipal decisions which reject development proposals that would involve intensification in the plan area are not subject to appeal to the Ontario Municipal Board. The new provision prevails over all other legislation. One of the objects of the Places to Grow Act, 2005 is to promote intensification.

- First Reading March 27, 2013
- Second Reading April 18, 2013
- Referred to Standing Committee on General Government April 18, 2013
- No committee hearing notices for this bill have been scheduled as of ***December 6, 2013***

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Bill 50 Pooled Registered Pension Plans Act, 2013

(Julia Monroe, PC, York -- Simcoe)

This bill is somewhat unusual in that it compels the government to prepare and submit a bill on a particular subject matter, namely pooled pensions. The deadline for introducing such a bill is 180 days after this bill receives royal assent.

- First Reading April 10, 2013
- Second Reading April 25, 2013
- Referred to Standing Committee on Legislative Assembly April 25, 2013
- No committee hearing notices for this bill have been scheduled as of ***December 6, 2013***

Bill 56 Aggregate Recycling Promotion Act, 2013

(Sylvia Jones, PC, Dufferin --Caledon)

This bill makes it illegal any organization forming part of the public sector from refusing to consider a bid for construction work or from refusing to enter into a contract for construction work for the sole reason that the work, or any part of it, can or will be performed using aggregates that are not newly produced. The term “public sector” is broadly defined as including provincial ministries and agencies, municipal corporations, boards and agencies, Hydro One, OPG as well as public universities, hospitals and other institutions.

- First Reading April 22, 2013
- Second Reading September 26, 2013
- Referred to Standing Committee on Finance and Economic Affairs September 26, 2013
- No committee hearing notices for this bill have been scheduled as of ***December 6, 2013***

Bill 62 Defending Employee’s Rights Act (Certification of Trade Unions), 2013

(Randy Hillier, PC, Lanark--Frontenac--Lennox and Addington)

This bill amends the Labour Relations Act, 1995 to prohibit the OLRB from certifying a trade union unless there is an actual representation vote among the employees.

- First Reading May 1, 2013

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Bill 63 Labour Relations Amendment Act (Ontario Labour Relations Board Act), 2013

(Randy Hillier, PC, Lanark--Frontenac--Lennox and Addington)

This bill amends the Labour Relations Act, 1995 to, among other measures:

a) remove the stated purposes of the Act; b) require that the rules of practice and procedure are no longer determined by the Board but by the Lieutenant Governor in Council; c) provide a right of appeal to the Divisional Court in accordance with the rules of court; and d) makes members of the Board and other officers compellable witnesses in an appeal or on a judicial review.

- First Reading May 1, 2013

Bill 64 Defending Employee's Rights Act (Collective Bargaining and Financial Disclosure by Trade Unions), 2013

(Randy Hillier, PC, Lanark--Frontenac--Lennox and Addington)

This bill amends the Labour Relations Act, 1995 to, among other measures: a) limit regular union dues to dues that relate to collective bargaining and no other purpose, unless the member specifically authorizes otherwise; b) prohibit a trade union from requesting the employer to deduct from the wages of any employee who is a member of the union any amount in excess of the employee's regular union dues; c) allow parties to a collective agreement to terminate an agreement on consent; d) require trade unions to file a yearly statement with the Minister setting out the dues that are payable to it under the agreement and particulars of its expenses incurred during the year, with a breakdown given of expenses of \$5,000 or more; and e) require the Minister to post the statement on the Ministry's website.

- First Reading May 1, 2013

Bill 69 Prompt Payment Act, 2013

(Steven Dul Duca, Liberal, Vaughan)

This bill creates a new statute to: a) provide rights to contractors and subcontractors to receive progress payments and to suspend work or terminate a contract if such payments are not made; and b) provide that payments can only be withheld if the payer notifies the payee that a payment application is disapproved or amended within 10 days after it is submitted. Limits are imposed on the amount that can be withheld. Part III of the Act requires owners to provide contractors with certain financial information before entering into a contract. .

- First Reading May 13, 2013
- Second Reading May 16, 2013
- Referred to Standing Committee on Regulations and Private Bills May 16, 2013

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- No committee hearing notices for this bill have been scheduled as of ***December 8, 2013***

Bill 76 Workers' Death Benefits Protection Act, 2013

(Rick Bartolucci, Liberal, Sudbury)

This bill amends the Workplace Safety and Insurance Act, 1997 so that if a deceased worker was diagnosed with an occupational disease after he or she retired, the deceased worker's net average earnings are, for the purposes of calculating death benefits, determined as of the date of the deceased worker's last exposure to the cause of the occupational disease.

- First Reading May 28, 2013

Bill 86 Infrastructure Accountability Act, 2013

(Rod Jackson, PC, Barrie)

This bill would prohibit the Crown from cancelling an infrastructure construction contract worth \$5 million or more during a defined period before a provincial election.

- First Reading June 5, 2013

Bill 94 Labour Relations Amendment Act (Bargaining Units and Certification of Trade Unions), 2013

(Jim McDonnell, PC, Stormont -Dundas -South Glengarry)

This bill would amend the Labour Relations Act, 1995 so that a trade union is no longer required to include a written description of the proposed bargaining unit in an application for certification. If it does not include one, the bargaining unit for the purposes of the application consists of all of the employees of the employer at the time of the application. In determining the unit of employees in the construction industry that is appropriate for collective bargaining, the Board is no longer permitted to refer to a geographic area and is not permitted to confine the unit to a particular work site or shift.

- First Reading June 10, 2013

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Bill 96 Radon Awareness and Prevention Act, 2013

(Shafiq Qadri, Liberal, Etobicoke North)

This bill creates the Radon Awareness and Prevention Act, 2013 and amends the Building Code Act, 1992 with respect to radon. The new Radon Awareness and Prevention Act will establish the Ontario Radon Registry which will include a publicly accessible map showing radon levels in various parts of the Province. The government must ensure that the radon level in every provincially owned dwelling is measured and that remedial action is taken, if necessary. Similarly, owners of enclosed workplaces are required to ensure that the radon level in an enclosed workplace is measured and that remedial action is taken, if necessary. .

- First Reading September 9, 2013
- Second Reading September 12, 2013
- Referred to Standing Committee on General Government, September 12, 2013
- No committee hearing notices have been scheduled for this bill as of ***December 8, 2013***

Bill 110 Red Tape Regulatory Review Act, 2013

(Randy Hillier, PC, Lanark--Frontenac--Lennox and Addington)

This bill is similar to many prior bills introduced by the PC party calling for a new Standing Committee on Red Tape and Regulatory Review. The committee would review all bills to determine if it imposes a regulatory burden on persons or bodies, other than the public sector, whether the bill infringes on the freedom of those persons or bodies to own and use property.

- First Reading October 1, 2013

Bill 115 Lobbyists Registration Amendment Act, 2013

(Cindy Forster, NDP, Welland)

This bill would amend the Lobbyist Registration Act to impose additional reporting requirements on lobbyists including a summary of political contributions made by the lobbyist or its organization. The Bill would also amend certain definitions.

- First Reading October 9, 2013
- Second Reading October 24, 2013
- Ordered Referred to Standing Committee on Regulations and Private Bills October 24, 2013
- No committee hearing notices have been scheduled for this bill as of ***December 8, 2013***

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Bill 128 Workplace Safety and Insurance Amendment Act (Permanent Partial Disability Supplements), 2013

(Lorenzo Berardinetti, Liberal, Scarborough Southwest)

This bill would amend section 110 of the Workplace Safety and Insurance Act so that any pension a worker is eligible for under the Old Age Security Act (Canada) does not reduce the worker's permanent partial disability benefits for pre-1985 and pre-1989 injuries.

- First Reading November 6, 2013
- Second Reading November 21, 2013
- Referred to Standing Committee on Government Agencies November 21, 2013
- No committee hearing notices have been scheduled for this bill as of ***December 8, 2013***

Bill 129 Labour Relations Amendment Act (Employee Rights), 2013

(Taras Natyshak, NDP, Essex)

This bill would amend the Labour Relations Act to allow a trade union to obtain an OLRB for disclosure by an employer of its list of employees that could be appropriate for collective bargaining. The bill would also enhance restrictions against employers about discharging or disciplining employees. The bill would also restrict employer rights for the contract services sector.

- First Reading November 7, 2013

Pending Proclamations of Bills

Not-for-Profit Corporations Act, 2010

Royal Assent October 25, 2010. Most of the Act has not yet been proclaimed in force.

Regulations

Ontario Regulation 332/12

Building Code Act, 1992

The new Ontario Building Code, consisting of just under 600 pages, was published in the Ontario Gazette as of November 17, 2012. It comes into force for all building permits for which an application is made after December 31, 2013. For clarification purposes, if a Building Permit application is submitted on Tuesday December 31, 2013, even though the permit is not issued until the end of January 2014 or later, the current Building Code would apply to that permit and structure.