

Ontario's Budget 2012: Employees Requested to Tighten Their Belts - Again...

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Lawyers You Should Know: William Anderson

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On March 27, 2012, the Ontario government introduced its budget implementation legislation, Bill 55, *Strong Action for Ontario Act (Budget Measures), 2012*, which called once again for wage restraint on the part of the broader public sector. Whereas the 2010 Ontario Budget mandated a wage freeze across the broader public sector for a period of two years, the government now proposes to extend the wage freeze, but only in respect of certain designated executives and office holders.

We have received a number of enquiries regarding this legislation. The following answers the most common questions.

Who is Affected by the Wage Freeze?

If passed, Bill 55 will amend the *Broader Public Sector Accountability Act, 2010* to extend the wage freeze in respect of certain designated executives and office holders of designated employers.

These employees include: heads/presidents/chief executive officers, vice-presidents, chief administrative officers, chief operating officers, directors of education and deans/ provosts who are entitled to receive or could potentially receive annual cash compensation of \$100,000 or more, working in public hospitals, school boards, universities and colleges, Hydro One, the Independent Electricity System Operator, Ontario Power Authority and Ontario Power Generation.

The government has reserved the right to add to the list of employers, employees and office holders to whom the restraint measures will apply in the future.

How Long is the Freeze?

Two years. These restraint measures will expire at the end of day on March 31, 2014.

Does the Freeze Apply to Unionized Employees?

No.

Is there any Impact on Unionized Employees?

While there is no similar legislative mandate with respect to unionized public employees, the government has indicated strongly that there is no new funding for wage increases for government employees and those in the broader public sector. How this message to public sector parties negotiating collective agreements and to interest arbitrators called upon to interpret legislation will be implemented remains to be seen.

For example, in the broader hospital sector, including retirement and convalescent group homes, labour relations is governed by the *Hospital Labour Disputes Arbitration Act*. Where the parties are unable to agree to employee wages through negotiation, interest arbitrators are specifically directed by the legislation to consider the following factors:

- (i) The employer's ability to pay in light of its fiscal situation;
- (ii) The extent to which services may have to be reduced, in light of the decision or award, if current funding and taxation levels are not increased;
- (iii) The economic situation in Ontario and in the municipality where the hospital is located;
- (iv) A comparison, as between the employees and other comparable employees in the public and private sectors, of the terms and conditions of employment and the nature of the work performed; and
- (v) The employer's ability to attract and retain qualified employees.

Arbitrators have made it clear that despite the government's proclamations and the passing of the *Public Sector Compensation Restraint to Protect Public Services Act, 2010*, the government's current situation and pronouncements are relevant and instructive, but not binding upon them. Indeed, notwithstanding the government's plea for cooperation and restraint, arbitrators have been prepared to award wage increases in the past two years.

In its 2012 Budget, the government continues to signal that there are limited resources to provide for wage increases in the broader public sector. Time will tell.