



Acoustical Association Ontario

Provincial in scope ...

Provincial in outlook

Volume 12 Issue 11, November, 2017

Executive Director's Report

UPDATE

BILL 142 CONSTRUCTION LIEN AMENDMENT ACT 2017 (Prompt Payment)



COCA, Prompt Payment Ontario (PPO) and AAO remain committed to getting Bill 142 through the legislature. Second reading of the bill closed on October 4th.

Since our last newsletter, PPO held their third annual Queen's Park Advocacy Day on October 24, 2017. AAO President Bob Grassing, Treasurer Nat Figliano and Executive Director Paul Gunning were there. The event was well attended.

Legislative
Assembly
of Ontario



Assemblée
législativ
de l'Ontario

The bill went before the Standing Committee on the Legislative Assembly on October 25th. The final day of oral presentations to the committee is November 15th. AAO had applied for an oral presentation before the committee but was not selected. However, and more importantly, COCA and PPO were selected and did present oral presentations. In the absence of an oral presentation, AAO will be presenting a written submission before the November 15th deadline. It is anticipated that the clause-by-clause consideration of the bill will follow, although there are no dates yet. Our fingers are still crossed to get this bill proclaimed before year end.



BILL 148, FAIR WORKPLACES, BETTER JOBS ACT 2017



Please see the Mathews Dinsdale Minute in this newsletter for more detailed upcoming changes through this proposed legislation. This legislation was rushed through the legislature this fall sending it to committee without notice.

Otherwise known as An Act to amend the Employment Standards Act, 2000 and the Labour Relations Act, 1995, this bill, often referred to as Wynne's \$15/hour bill, has now gone through hearings of the Standing Committee on Finance and Economic Affairs and will be going through clause-by-clause consideration on November 16th by the committee. Although initially construction felt it would not affect them significantly, the devil is in the details and two items of concern became apparent which provide employees with entitlements that are greater than, and therefore appear to override the entitlements set out in our collective agreements.

First, under Section VII.2 (Scheduling), new scheduling provisions are set out. These, as drafted, include a specific condition for a minimum of three hours' pay for shifts that are cancelled with insufficient notice.

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Second, under Part XIV (Leaves of Absence), Section 50 (Personal Emergency Leave) has been amended to allow for two days of personal emergency leave to be paid days, if the employee has been employed by the employer for one week or longer.

AAO has submitted a written submission to the committee regarding these two concerns stating that existing collective agreements should prevail. Members will be emailed our submission. AAO also urges members to participate in the Mathews Dinsdale WEBINAR – Bill 148: The Fair Workplaces, Better Jobs Act: Navigating a Changed Landscape on November 21, 2017 from 8:30 am – 10:30 am.

Update

CHRONIC MENTAL STRESS (CMS)



In our August newsletter, we indicated that legislation was coming January 1, 2018, for compensation of work-related chronic mental stress. COCA (AAO) submitted their comments on July 7th regarding the WSIB draft policy.

The amendments were made to the Workplace Safety and Insurance Act by legislation brought forward by the Ontario Government. Unless the government changes the legislation to apply retroactively due to conflicts between act and the Canadian Charter of Rights and Freedoms, the effective date will remain at January 1, 2018. According to the WSIB, expected new claims costs for CMS in construction are expected to be small, only 2% of all claims.

The WSIB has reviewed the submissions and have published a chronic mental stress policy which was recently approved by their Board of Directors. Although originally both traumatic stress and chronic stress were under the same policy causing some confusion, they have now been separated.

The WSIB did not agree with all COCA's submission; however, COCA's main points were agreed to:

- For the causation test, COCA recommended the predominant test vs significant test should be used – WSIB agreed
- For Diagnosis, COCA recommended that training be required for use of the Diagnostic Statistical Manual and that diagnosis should be made by a psychiatrist or psychologist – WSIB agreed and is working with the medical community to develop enhance tools, including forms and training protocols and that diagnosis has been revised to note that a diagnosis by a psychologist or a psychiatrist may be required to determine initial or ongoing entitlement in complex cases

Additional information will be sent to all members.

ACCREDITATION IS COMING

There are many health and safety program certifications or accreditations such as Contractor Check, ISNETWORK and IHSA CoR to name a few. Such recognitions can be time consuming and expensive. Some are just paper evaluations while others are more intense and actually do site visits. Owners of construction vary on which recognitions they require to bid their projects, so you may end up having to do more than one recognition.

The Ministry of Labour (MOL) has been reviewing such recognitions and accreditation is back on their front burner. The MOL is presently consulting on an Occupational Health and Safety Management System (OHSMS) Accreditation Standard as well as additional criteria for employer recognition that could form the basis of a **voluntary** program to encourage the use of these systems. AAO believes that although voluntary, it will become the choice by buyers of construction.

The aim of this initiative is to provide a framework to recognize employers who successfully implement a Chief Prevention Officer (CPO) accredited OHSMS in their Ontario workplace(s). Comments are to be submitted to the MOL by **Wednesday, December 20, 2017**. COCA's WSIB/HS Committee, which AAO chairs, are presently reviewing and will prepare comments.

MATHEWS MINUTE

BILL 148 - Fair Workplaces, Better Jobs Act



This month we are going to focus on a proposed piece of legislation that has been a subject of serious concern for employers: the *Fair Workplaces, Better Jobs Act, 2017* ("Bill 148").

Bill 148 will significantly amend both the *Employment Standards Act, 2000* (the "ESA") and the *Labour Relations Act, 1995* (the "LRA"). If Bill 148 passes, most of the amendments are expected to come into force on January 1, 2018, with the exception of certain provisions. Below we describe some of the changes that may be of particular concern to AAO members as these proposed changes may provide employees with entitlements that are greater than, and therefore may override the entitlements set out in your collective agreements. Also, don't forget that all changes will apply to the people you employ who are non-union unless they are specifically exempted by law.

If passed, Bill 148 would increase employee entitlement to personal emergency leave ("PEL"). The changes include:

- Eliminating the 50 employee threshold for PEL;
- Requiring that two days of the ten day entitlement to PEL be paid leave; and
- Expanding entitlement to PEL to include employees experiencing domestic or sexual violence.

The proposed legislation would also significantly extend family medical leave from 8 weeks in a 26 week period to 27 weeks in a 52 week period. In addition, if passed, employers would be prohibited from requiring an employee to provide a doctor's note as proof the employee was entitled to take a PEL day due to illness.

The proposed legislation contains new obligations with respect to the scheduling of work. For example, and subject to certain very specific exceptions:

- Employers would be required to pay a minimum of three hours' pay for shifts that are under three hours, at the employee's regular rate of pay;
- Employees will be entitled to three hours' pay at their regular wage rate in the event that an employer cancels a shift with less than 48 hours' notice.

Employees will also be able to request changes to their schedule or work location, provided that they have been employed for more than three months. Employers who receive these requests must discuss the request with the employee and either grant the request or provide reasons for a denial.

Bill 148 will potentially introduce extensive changes to the *ESA* and *LRA* and, if implemented, will seriously impact Ontario employers. Bill 148's passage into law should be tracked closely by stakeholders, including construction industry employers.

Andrew Reynolds

EVENTS

November 2017



WACCA BOARD MEETING - OTTAWA

November 7, 2017

(Paul Gunning attending)

WSIB CONSTRUCTION TECHNICAL RATE SESSION - TORONTO

November 9, 2017

(Paul Gunning attending)

CARPENTERS JOINT LABOUR MANAGEMENT CANNABIS MEETING - TORONTO

November 14, 2017

(Paul Gunning attending)

COCA COO/BOARD MEETING - TORONTO

November 28, 2017

(Paul Gunning attending)



UPCOMING - Mathews Dinsdale Seminars/Webinars

Copy the following URL to your browser to register for new sessions or to review archived session:

<http://www.mathewsdinsdale.com> (see right side)

WEBINAR – OHS in Canada: The Year in Review - November 16, 2017 Noon – 1:30 pm

WEBINAR – Bill 148: The Fair Workplaces, Better Jobs Act:

Navigating a Changed Landscape - November 21, 2017 8:30 am – 10:30 am

WEBINAR – Ontario WSIB Introduces Additional Psychological Injury Entitlement

(Chronic Mental Stress) - November 23, 2017 8:00 am – 9:30 am

If you have any questions, please call me at 519-671-5930.

Paul Gunning
Executive Director