

QP Briefing: June 1, 2017

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Q P B R I E F I N G

June 1, 2017

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Articles

1). OPG called out for proposing 'excessive' employee pay and

By: Geoff Zochodne

A major Ontario power producer could see the price it wants to charge for electricity given a haircut by a provincial regulator.

Citing "excessive employee compensation" and an "expensive" proposal to spread out costs over a longer period of time, staffers at the Ontario Energy Board, which sets rates, have suggested pay cuts and other changes to a five-year rate application made by Ontario Power Generation for 2017 to 2021. OPG, a company owned entirely by the province, projects its application will hike a customer's monthly bill by 65 cents each year over the five-year period.

OEB staff, meanwhile, suggested changes that would cut that average monthly increase to as low as 47 cents, including the reductions in compensation and decreases to what OPG will be paid for its nuclear power. A decision on the matter isn't expected to be made until the fall.

However, disagreements between the OEB and OPG over employee compensation have happened before, and have even been argued at the Supreme Court of Canada. The latest tiff comes as Ontario's Liberal government is trying to enact its plan to cut hydro rates by an average of 25 per cent, an effort the OEB says isn't accounted for in OPG's plan to "smooth"

electricity costs.

OPG is seeking nuclear revenues of approximately \$16.8 billion over the five years, including proposed total compensation for nuclear employees – there were approximately 7,300 of them as of the end of 2015, the company says – of about \$1.6 billion annually. The company generates about half of Ontario's electricity, but OEB staff say employees are earning "above market" pay.

"However, OPG's overall requested recovery for compensation costs remains unreasonably high," wrote OEB staff. "The chief driver of this is OPG's extremely generous pensions and benefits programs."

<http://www.qpbriefing.com/wp-content/uploads/2017/06/opg-nuke-compensation.png>

Pension costs for the nuclear side of OPG, which is what the OEB staffers chiefly focused on in their submission, are estimated to total more than \$1.1 billion on a cash basis over the five years. OEB staff says OPG's figures exclude additional special payments to top up the pension plan, which will equal \$55 million in 2017 and 2018, plus \$101 million in 2019, \$101 million in 2020, and \$98 million in 2021.

OPG has been the subject of scrutiny at times for its executive compensation, but pensions in Ontario's electricity sector have been a concern for years. A 2014 report prepared for the Ontario government by a special adviser noted that "Pension costs represent a significant risk to prices." OPG has taken steps to try to address the problem, striking a deal with its unions in 2015, to accept shares of Hydro One in return for increasing their pension contributions.

While acknowledging OPG had "made progress" in reining in its compensation, OEB staff suggested a \$50-million annual cut over five years to OPG's compensation for employees on the nuclear side of its business – a reduction that's not quite as severe as previous applications.

"However, this incremental reduction for excessive compensation is less than the disallowance by the OEB in the previous cost of service proceeding, which was \$100 million per year, almost all of which was based on excessive compensation," said the May 19 submission.

OPG said in a May 3 "argument-in-chief" that it had "made notable progress in addressing the compensation and pension issues identified in previous proceedings."

A previous fight between the OEB and OPG went all the way to the Supreme Court, with a majority of the judges ruling in 2015, that the regulator was within its rights to disallow \$145 million in labour compensation the company had sought for its nuclear operations in 2011 and 2012.

Energy Minister Glenn Thibeault said there aren't many other companies to compare OPG to in Canada for the purposes of paying employees. OPG operates two nuclear power plants to the east of Toronto, at Darlington and Pickering, and more than 60 hydroelectric stations scattered across the province.

Thibeault added that the company has been losing staff to Bruce Power, a private-sector consortium that operates a nuclear power plant in southwestern Ontario that it leases from OPG.

"If we want to keep good people at OPG, we've got to pay them what's comparable," said Thibeault at Queen's Park on Wednesday. "And that's what I think OPG and the OEB will have to continue to work on."

The OEB staff submission proposed a rethink of OPG's plan to spread out the costs of its power – otherwise known as "smoothing" – saying the current plan would defer just over \$1 billion in payments and require \$116 million in interest payments – covered by electricity customers. Interest would hit \$1.4 billion over the 10-year deferral period and the 10 years to pay the money back, the OEB submission said.

"For customers, OPG's proposal would be expensive. About \$1 billion of revenue requirement would be deferred to future generations," said OEB staff. "Customers might reasonably ask

what they would get in exchange for the \$116 million they would need to pay OPG for smoothing during the test period. For residential customers, the pocketbook implications of rate smoothing might be barely perceptible.”

The OEB staffers suggested a “middle-ground approach,” which would defer revenue only in years where there’s an especially high or low price to pay. This, the submission says, would bring down the average monthly bill impact to 47 cents per year.

OPG noted that nuclear rate smoothing is required under a regulatory amendment made by the government. The company claims “its proposal results in the best overall balance.” OPG also said in its argument-in-chief that its proposed deferral would keep year-over-year increases to its average payment amounts to 2.5 per cent.

Nevertheless, the OEB submission says that OPG’s plan to “smooth” rates doesn’t account for the province’s “Fair Hydro Plan.”

“Assuming the Fair Hydro Plan is implemented along those lines, the rationale for smoothing of OPG’s payment amounts, at least in respect of residential customers and any other customers protected under the plan, would seem to be attenuated. The Fair Hydro Plan appears to be a form of rate smoothing in its own right.”

OPG is the only power company in Ontario that has its rates set via the OEB’s hearing process. Other generators have contracts with the province that guarantee what they’re paid for their power.

A spokesperson for OPG said the company will respond to all of the submissions made on its payments application later this month. In addition to the OEB staff, there have been more than a dozen submissions filed by environmental and industry groups.

OPG’s application process actually began a year ago. After numerous hearings and the filing of thousands of documents, a spokesperson for the OEB said a final decision on OPG’s application is expected this fall.

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2). Revamped labour bill hits the table, will be sped through t

By: Sabrina Nanji

People will be able to weigh in on a bill that gives Ontario’s labour laws the first major makeover in roughly two decades this summer, thanks to a bit of procedural maneuvering.

The legislation was informed in part by the lengthy, two-year-long Changing Workplaces review aimed at tackling precarious work, but the government is wasting no time in giving it due process.

Labour Minister Kevin Flynn tabled the Fair Workplaces, Better Jobs Act Thursday afternoon - the last sitting day before the house recesses until Sept. 11. As the Premier intimated earlier this week at an event to promote its main fixture, a \$15-an-hour minimum wage, the act is on the fast track to public hearings at the committee stage.

Government House Leader Yasir Naqvi successfully received consent from the house on a motion to send the bill to the Standing Committee on Finance and Economic Affairs after first reading. Per the standing order rules, the playbook for parliamentary procedure, the bill would normally be debated at second reading, and then, if passed, move to the committee stage where the public can provide input and MPPs studying the bill can put forward amendments.

The intent, Flynn said Monday, is to consult with the public and stakeholders throughout the summer and pass the legislation before the end of the year.

Among other things, the Fair Workplaces, Better Jobs Act will up the minimum wage to \$15 an hour by 2019, increase paid vacation leave from two to three weeks annually, after five years with the same employer, and guarantees 10 days to deal with personal emergencies, at least

two of which must be paid. It also eases the path to unionization and establishes equal pay for equal work regardless of if you signed a full-time or part-time contract.

The proposal has, thus far, received mixed reviews. While some unions and worker advocates laud the changes, others wanted to see the government go one step further, such as extending card-based union certification to all workers and beefing up enforcement measures. Business groups on the other hand, have come out swinging against upping the base wage without first doing an impact analysis. Businesses warned the increase is unaffordable and could cause them to lay people off, or hire less employees.

The New Democrats have long called for a \$15 minimum wage, while PC Leader Patrick Brown recently suggested it may be too much, too soon.

The text of the bill was not available at press time.

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3). Child protection bill passes as social conservatives fear 'c

By: Christopher Reynolds

Opposition from the Tories and social conservative groups wasn't enough to block the passage of the Liberal government's new protection law for Ontario's children.

Bill 89, the Supporting Children, Youth and Families Act, passed third reading Thursday on a 63-23 vote. The Liberals and NDP voted in favour of the legislation, while the Progressive Conservatives voted against it.

Bill 89, which also received Royal Assent on Thursday, repeals and replaces the current Child and Family Services Act, which had not seen substantial revision in three decades. The fresh law follows an extensive review in 2014-15, a critical review of residential services, and critical media coverage of the deaths of children in care, including Katelynn Sampson and Jeffery Baldwin.

The 300-plus-page bill contains a major overhaul of the system, but, according to the ministry officials, leaves intact the fundamental grounds on which children can be apprehended from their families, which remain abuse and neglect.

Prominent social conservative groups, however, decried the swapping out of the term "religious faith" for a child's "creed" – in alignment with the Ontario Human Rights Code – as one of the factors for consideration of the child's best interest. Following the clause-by-clause in May, the law specified that "Creed" is defined to include religion."

Minister of Children and Youth Services Michael Coteau said a split of opinion between parents and kids around LGBTQ identity would not be grounds for apprehension.

"[Y]ou can't remove a kid because the parent disagrees with the fact that a child is gay. What you can do is remove a child if that child is being abused because of that," Coteau told QP Briefing. "Abuse is abuse."

"It's the same way I would not allow a Black child to be abused because they were Black, or a Catholic child to be abused because they're Catholic," he said.

Irwin Elman, the provincial advocate for children and youth, called the legislation a "paradigm shift" centred around a fresh "commitment to the participation of children and youth in every decision that affects them."

Meanwhile, Jeff Gunnarson, vice-president of the Campaign Life Coalition, called it "overreach by the state" that would deter some foster parents from welcoming new children.

"If they're forced to collaborate with a child that wants to change his or her identity, then that's just a no-go. I wouldn't do it. As a Catholic man I wouldn't accept a child that I had to help transform from boy to girl or the other way around," he said.

The legislation includes “Katelynn’s principle” throughout, which comes from a recommendation from the inquest into the death of Katelynn Sampson that children’s voices and rights be considered throughout the child protection process.

In committee, the law’s language was strengthened to ensure that 16- and 17-year-olds “may not be brought to a place of safety” – like a group home or children’s aid facility – “without their consent.” The tweak follows up on a key change that extends protection to children until the age of 18, instead of 16, putting Ontario at par with other provinces.

An amendment added during the clause-by-clause further roped in caregivers’ physical authority, “restricting service providers and foster parents from using physical restraint on children and young persons,” with some exceptions.

The child’s race, ancestry, place of origin, colour, ethnic origin, citizenship, family diversity, disability, sex, sexual orientation, gender identity and gender expression are also to be considered, and for First Nations, Inuk or Métis children, the importance of the child’s connection to community is added to the current concept of preserving the child’s cultural identity.

The bill also gives the minister the ability to list First Nations, Inuk or Métis in regulation, and then mandate they be included and consulted.

Other language changes include removing terms considered out of date and stigmatizing. “Crown ward” becomes “children who are in interim society care” or “extended society care,” runaway is removed, “molest” becomes sexual abuse, and “Indian” and “native” become First Nations, Inuk or Métis.

The bill also lists children’s rights, which include having their view given due weight according to their age and maturity, as well as being informed about the Office of the Provincial Advocate for Children and Youth.

Queenie Yu, a member of Ontario’s new Stop the New Sex Ed Agenda party, expressed concern over “eroded” parental authority, particularly in situations where trans young people might opt to use puberty-blocking medication or sex hormones hormone blockers in their teens or earlier.

“Children can demand something, but a caring adult sometimes needs to say ‘no’ if what these children want is harmful ... If parents don’t give access to medical treatment that the child wants, that can constitute abuse,” Yu said.

The Parents As First Educators group expressed hope that 23 MPPs opposed the new law.

“Ontario parents will be pleased to know some opposition MPPs started to take their jobs seriously today with their vote against Bill 89,” said president Tanya Granic Allen. She gave much of the credit to lone wolf Jack MacLaren, who split from the Tories earlier this week to join the Trillium Party.

The bill gives children the speedy right to their own CAS files, which contain deeply personal information about their lives. That change is part of a major overhaul of information sharing and privacy protections, which was drafted with the assistance of Ontario’s information and privacy commissioner (IPC).

It allows for children and families to consent to having their information shared, in part so they don’t have to tell their story every time they visit a new care provider, officials said. Children and families can direct the CAS where their information can be shared, including, for example, which teachers and services providers, with mechanisms in place that state when safety issue that take precedence over the consent.

The IPC has an oversight role. The bill also deals with the decommissioning of the current Child Abuse Register (CAR), and replacing it with the Child Protection Information Network (CPIN), which contains more detailed information on known child abusers, when all children’s aid societies have joined it.

The bill also sets out processes by which societies can amalgamate with each other, and gives the minister the power to compel societies to do so. There are currently 47 societies, and ministry officials expect a significant reduction in those numbers in the coming years.

Under the new act, there would be significant new oversight and accountability for societies. They'll remain arms-length, but the new law would give the minister the issue compliance orders to societies, replace a minority of board members and appoint a supervisor to temporary take over societies when required. It allows the minister to designate lead agencies, to which the minister may issue directives.

With files from Jessica Smith Cross

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4). Anti-racism bill passes after anti-Semitism, Islamophobia a

By: Sabrina Nanji

MPPs unanimously passed a bill Thursday morning designed to tackle systemic racism in Ontario, after it was amended to include anti-Semitism and Islamophobia.

Bill 114 received royal assent after passing on a voice-vote and enshrines the Liberal government's three-year anti-racism strategy in law. It centers heavily on data collection with an eye to combating systemic discrimination.

The bill's preamble was amended to explicitly include Jewish and Muslim communities, in addition to the already mentioned black and indigenous people – something several organizations, including B'nai Brith Canada, Ontario's human rights commissioner and the Progressive Conservatives had pushed for.

"Systemic racism is experienced in different ways by different racialized groups. For example, anti-Indigenous racism, anti-Black racism, anti-Semitism and Islamophobia reflect histories of systemic exclusion, displacement and marginalization," the amended version of Anti-Racism Act now reads.

The change also means the minister would have to consult with the Jewish and Muslim communities, in addition to the indigenous and black communities, when reviewing the efficacy of the anti-racism strategy.

Minister responsible for the anti-racism directorate, Michael Coteau, said the government decided to specifically mention Jewish and Muslim communities after hearing the call at the committee stage. The bill was then amended to reflect those groups at clause-by-clause consideration earlier this week.

"We listened to different people and at the end we found language that we thought was more reflective of what Ontarians are feeling, and we included that," Coteau told QP Briefing.

The bill still exempts "health information custodians" (think: hospitals, long-term care homes) from collecting race-based data for the directorate, much to the chagrin of advocates such as the Association of Ontario Health Centres and the Metro Toronto Chinese and Southeast Asian Legal Clinic, among others.

Race-based data can help determine how social conditions factor into an individual's well-being, and promotes equity in the health care system, they argued at public hearings.

Coteau said the goal is to have health care centres collect race-based data eventually, but he is working with the Ministry of Health and the Information and Privacy Commissioner's office to find out how to go about it without infringing on an individual's privacy. He could not yet provide a timeline for when an appropriate policy would be put into place.

"One of the most important pieces that we have in this legislation is the ability to collect disaggregated race-based data and mandate organizations to collect that type of information. There's an old saying, 'No data, no problem, no solution.' We're going to make sure that we put forward a plan to collect the right type of data so we can make better policy decisions to

fight systemic racism here in the province of Ontario," Coteau said during third-reading debate Thursday morning.

The bill's language was also tightened to ensure it would not diminish or impede the Human Rights Code – a concern voiced by its enforcer, Ontario Human Rights Commissioner Renu Mandhane, who raised the matter at public hearings.

Among other things, the act requires the minister to formally review Ontario's anti-racism strategy at least every five years, creates an anti-racism impact assessment framework to "help identify, remedy or prevent inequitable racial impacts of policies and programs," and establishes the Anti-Racism Directorate in law.

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