



# Minutes

## LEGISLATION COMMITTEE MEETING

Friday, November 10, 2017 - 10:00 a.m.

PEO Offices - Room 1C

### Members:

Christian Bellini, P. Eng. (Chair)

Qadira Jackson Kouakou (Vice-Chair) *[via teleconference]*

David Brown, P. Eng. (President-Elect, Ex-Officio Member)

George Comrie, P. Eng.

Bob Dony, P. Eng. (President, Ex-Officio Member)

Lola Hidalgo, P. Eng. *[10:30 a.m. to 11:30 a.m.]*

Gary Houghton, P. Eng.

### Staff:

Jordan Max, Policy Manager

Gerard McDonald, P. Eng., Registrar

Andrew Tapp, Policy Analyst

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

## 1. PROCEDURAL

### 1.1 Opening Remarks

The Chair called the meeting to order at 10:02 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: B. Dony                      Seconded by: G. Houghton                      CARRIED**

1.3 Approval of Minutes of October 13, 2017 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 as written.

**Moved by: D. Brown                      Seconded by: G. Comrie                      CARRIED**

1.4 Action Items Update from October 13, 2017 Meeting

J. Max briefly reviewed the action items presented in the agenda.

Regulating Changes - Removal of Councillor

**Remove “Regulation Changes - Removal of Councillor” from the Legislation Committee’s action item list. [Completed]**

Staff reported this item to the Legislation Committee as completed.

Council Term Limits Regulation

**Remove the paragraph under “Governments” in Section 3 of the PRIA document and replace it with “governments will not be affected”. Staff will submit the PRIA document to the Ministry of the Attorney General. [Completed]**

Staff reported this item to the Legislation Committee as completed.

**Implement the suggested changes in the draft Regulations, and circulate the final changes to the Legislation Committee before sending them to the Ministry of the Attorney General for redrafting. [Completed]**

Staff reported this item to the Legislation Committee as completed, for review under Item 2.1(a).

By-Law Changes - Regional Councillors Committee (RCC)

**Draft the changes to By-Law No. 1 and circulate for Legislation Committee approval before drafting a Briefing Note for the November 2017 Council meeting. [Pending]**

Staff reported this item was pending discussion under Item 2.2.

**Forward a summary of the Legislation Committee's discussion on the RCC's "nice to have" items to the RCC for clarification and input. [Completed]**

Staff reported this item to the Legislation Committee as completed.

Central Election and Search Committee (CESC) Regulation Changes Proposal

**Review the CESC proposal per the Regulation Change Protocol, and report back to the Legislation Committee. [Completed]**

Staff reported this item to the Legislation Committee as completed, to be reviewed under Item 3.3.

Academic and Examinations Regulation

**Complete a PRIA for the Academic and Examinations regulatory changes and present it to the Legislation Committee at the November 2017 meeting. [Completed]**

Staff reported this item to the Legislation Committee as completed, to be reviewed under Item 3.2.

Act Changes

**Prepare a Briefing Note on authorizing the Ministry of the Attorney General to draft a French translation of the Regulations for Council November 2017 meeting. [Completed]**

Staff reported this item to the Legislation Committee as completed.

**2. FOR DISCUSSION**

**2.1 Council Term Limits**

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

(a) Draft Regulation

J. Max guided the Legislation Committee through the latest (4-TP) draft Regulation from the Ministry of the Attorney General (MAG). The first issue discussed was MAG's question regarding the term "regional councillor". This term is used extensively in Regulation 941, but is not defined, and MAG asked PEO if a definition for it should be created. Three possible responses were discussed by the Legislation Committee: (1) creating an overarching definition of "regional councillor"; (2) modifying Section 2 to include "as regional councillors"; or (3) doing nothing.

It was decided to add "as regional councillors" in Section 2., paragraph 1.ii.

**Action:** Staff to request MAG to modify Section 2, paragraph 1.ii (and other sections as may be required) to include "as regional councillors".

The next issue was whether the terms served on Council would be considered cumulatively or consecutively for the purposes of calculating when a Councillor had reached their term limit. Staff felt that the draft Regulation needed to be more explicit regarding this issue. Upon reviewing the original Council approved recommendation (Recommendation 24 of the original term limits package), the Legislation Committee concluded that it was Council's intention that terms served be considered cumulatively for the purposes of determining if a Councillor's term limit had been reached.

**Action:** Staff to inform MAG that terms served be considered cumulatively for the purposes of determining if a Councillor's term limit had been reached.

The Legislation Committee next discussed the waiting period clause that had been added to the most recent version of the draft Regulation, and discussed whether the language in the Regulation should read "eligible for election", as in the original draft Regulation, or "eligible to serve", as in the current draft. Keeping "eligible to serve" means that a Councillor could not circumvent term limits by seeking appointment to Council. Additionally, as Councillors run for election earlier than they start to serve, changing the language back to "eligible for election" could effectively increase the waiting period to seven years, as former Councillors nearing the end of the waiting period would be prevented from running for terms that would commence after their waiting period

had finished. The Legislation Committee determined that “eligible to serve” should be retained, but that additional wording be added to Sections 14.1 and 14.2 of the Regulation to specify that one of the qualifications for being eligible to run (e.g. seeking nomination signatures) in an election would be eligibility to serve a term.

**Action:** Staff to inform MAG that the language in the draft Regulation be kept as “eligible to serve”, but that Sections 14.1 and 14.2 (and other sections as required) be changed to make eligibility to serve the term for which one is running a requirement to run for election.

The final discussion on this issue related to clarifying the waiting period. Referring to “years” in the draft Regulation could result in a situation where a discrepancy between the date a Councillor ended their last term and the date of the AGM six years after could effectively increase that Councillor’s waiting period to seven years. To prevent this, the Legislation Committee decided to change the wording of the Regulation to refer to “terms”, rather than years, with the length of the term being the time between one AGM and the next. The Legislation Committee also determined that an LGA Councillor who ended their period of service in the middle of a term (and had served for six or more years) would commence their waiting period on the first AGM after their last day of service. This distinction needed to be made because while elected Councillors finish their terms right before an AGM, LGA Councillors can finish their terms at any time.

**Action:** Staff to inform MAG that the language in the waiting period clause should refer to “terms”, instead of years.

(b) Council Briefing Note

The Legislation Committee determined that the draft Regulation required more change and discussion, and would not be ready to go to Council in November 2017. The Chair stated that he would provide November’s Council with an update on the progress that the Legislation Committee had made, and explain how the proposed legislation would work. The draft legislation will be presented to Council in February 2018.

(c) Preliminary Regulatory Impact Assessment (PRIA)

This document had already been sent to MAG and was reviewed for reference only.

## 2.2 By-Law No 1 - Housekeeping Items

J. Max reviewed the current state of the By-Law to move fees from the Regulation. He noted that, with the advent of the RCC's proposal to change "engineers-in-training" to "engineering interns" by removing Section 5 of the By-Law, an opportunity now exists to update language on outdated terms (such as staff titles) as housekeeping changes. J. Zuccon asked the Legislation Committee if these upcoming changes should be combined into an omnibus By-Law change package. The Chair noted that the previous effort to place fees into the by-laws had been derailed through including too many additional policy changes, but that the changes in question now were housekeeping changes, not policy changes.

A motion was made to create of list of housekeeping items to be included in the forthcoming By-Law change.

**Moved by: D. Brown**

**Seconded by: B. Dony**

**CARRIED**

## 3. FOR INFORMATION

### 3.1 Draft Regulation - Fees

J. Max reviewed the 1-TK version of the Regulation changes to remove fees. In it, the Ministry of the Attorney General presented PEO with two options for transferring fees from the Regulation to the By-Law. This was based on the need for the Regulation to continue to specify requirements to be met for a licence, etc., which included paying a fee, even though the fee amount was now to be specified in the By-Law; for example, Section 15 of the Act mentions requirements as prescribed in the Regulation. If the fees are removed from the Regulation, the Legislation Committee questioned if an applicant could successfully argue that paying fees was not necessary for licensure.

The first option was to do this section-by-section, and the second was to remove references to specific fees in the Regulation, while simultaneously introducing a new clause specifying that the By-Law could list fees in addition to the requirements listed in Regulation 941. The Legislation Committee discussed and concluded that they would prefer to see a section-by-section fee transfer, but also acknowledged that this method may end up being more complicated than it first appears, and that clarification regarding the authority to continue to make requirements, including payment of fees, once Section 7(1)25 is repealed.

**Action:** Staff to inform MAG that PEO would prefer a section-by-section transfer of fees from Regulation 941 to By-Law No 1.

The Legislation Committee also discussed removing Section 88 from the Regulation, which concerns the industrial exception removal transition, and is irrelevant now that the government has confirmed through passage of the *Burden Reduction Act* that the industrial exception will not be repealed. The Legislation Committee decided that the section should be removed from the Regulation.

**Action:** Staff to instruct MAG to modify the draft legislation to remove Section 88 from Regulation 941.

The Legislation Committee also discussed what was preventing PEO from moving specific fees out of the By-Laws and/or Regulations and into a schedule. D. Brown mentioned that this was how the Ontario Association of Certified Engineering Technicians and Technologists handled fees. J. Max stated that the word “prescribe” in our regulation-making power regarding fees indicated that specific fees are legally required, and B. Dony suggested that this issue be dealt with later if it becomes a problem, once the By-Law has been initially amended.

### 3.2 Draft PRIA - Regulation Changes (Academic and Examinations)

The Legislation Committee reviewed the draft PRIA regarding the Licensing Committee’s proposed Regulation changes prepared by staff, and made the following modifications:

- (a) It was specified that PEO was seeking to close files that were older than eight years old and whose applicants had not been “meeting all non-academic licensure requirements”.
- (b) It was specified that “once an applicant has completed their academic training, there is no need for PEO to refer to those academic years, as the only relevant point for the purpose of licence application is the application date itself”.
- (c) Various minor grammar and formatting changes, marked in the draft document viewable on SharePoint.

**Action:** Staff to send the edited PRIA to MAG.

### 3.3 Regulation Change Analysis - Central Election and Search Committee Proposal

J. Max lead the Legislation Committee in a review of staff’s analysis of the Central Election and Search Committee’s proposal for implementing prior Council experience requirements for Council President and Vice-President, and for reducing nomination requirements. The Legislation Committee concluded

that there was no conflict between the Central Election and Search Committee's proposals and the policy intention behind the Council Term Limits Regulation changes. The Legislation Committee decided that staff would remove the policy analysis sections, and forward the legislative analysis of the Central Election and Search Committee's proposal to the Central Election and Search Committee.

**Action:** Staff to remove the policy analysis sections, and forward the legislative analysis to the Central Election and Search Committee.

#### **4. NEXT MEETING AND ADJOURNMENT**

There being no further business to conduct, the meeting was adjourned at 12:50 p.m.

The next meeting is scheduled for Friday, December 8, 2017 from 10:00 a.m. to 1:00 p.m.