



ACA Advocacy Update

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ACA advanced member interests on numerous advocacy fronts in 2020.

ACA advocacy for increased flexibility in overtime averaging agreements paid off with the passage of Bill 32 “Restoring Balance in Alberta’s Workplaces Act”.

ACA partnered with the Alberta Trade Contractors Coalition and the GC Alliance of Canada to lead the commercial construction industry response in Prompt Pay consultations. There is strong alignment among industry groups to adopt much of the Ontario legislative approach for prompt pay. Bill 37, Builders’ Lien (Prompt Payment) Amendment Act was introduced in the Fall 2020 sitting.

The Government of Alberta accepted ACA's recommendation to put the detail in the Regulations, as it is difficult to change Acts of the Legislature once enacted. ACA has been invited to provide a technical expert to assist with the drafting of the Regulations over the next few months.

- Bill 37 has been amended to mandate progressive release of holdback.
  - Bill 37 has been amended to mandate a payment cycle of 28 days, 7 days, 7 days etc. down the contractual chain.
  - Amended Bill 37 also now mandates an invoicing cycle not to exceed 31 days.
- These amendments address ACA concerns and are positive developments for industry.

Some of the items that require greater work through the Regulations:

- Concrete has a special carveout with a liens period of 90 days, with the rest of the commercial industry at 60 days. Careful thought will be required to ensure lien rights and progressive release of holdback remain workable and equitable when one part of the contractual chain operates with a longer timeframe
- ACA recommended disputes between Prime and subconsultants be included, Service AB believes this can be addressed in the Regulations
- Bill 37 reaffirms and adds to an existing provision where persons within the contract chain can demand reports on payment from owners and general contractors. Careful consideration will be required in drafting the Regulations to balance transparency and administrative burden
- Bill 37 mandates adjudicator decisions as final and binding, unlike Ontario where adjudicator decisions are interim and binding. ACA has lobbied the Minister but it appears that the Government believes our concerns can be addressed through Regulations.

Beyond supporting development of the Regulations, ACA will continue to work with partners to become an Authorized Nominating Authority for appointment of adjudicators for May 2021. ACA, ATCC, and GCAC are advocating to be a Nominating Body for payment dispute adjudicators, to ensure industry expertise and affordable cost for industry.

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ACA successfully lobbied for the appointment of 3 former ACA chairs to the Skills for Jobs Task Force – Paul Heyens, Paul Verhesen, and Colin Ward. The Skills for Jobs Task Force has been appointed to find ways to expand and strengthen apprenticeship education and skilled trades opportunities to meet labour demands. The Government is currently reviewing the Task Force report submitted in September.

This summer, the Government of Alberta launched a review of the Workers' Compensation Act to ensure job creators and workers benefit from a workers' compensation system that is fair, affordable and sustainable. ACA's submission highlighted changes to return WCB to a no-fault insurance system rather than a social program funded by employers.

The Government of Alberta also invited stakeholders to submit comments to inform potential legislative reform of OHS legislation and its associated regulations to improve health and safety outcomes, while enabling innovation and competitiveness. ACA's submission highlights the need for evidence-based regulation that demonstrates actual improvements in jobsite safety, not burdensome administration.

With the Fall Sitting of the Legislature, the Government of Alberta introduced Bill 47: *Ensuring Safety and Cutting Red Tape Act*.

Upon initial review, Alberta Construction Association supports many of the proposals of the Bill:

#### Occupational Health and Safety proposals

- Added ACA's recommended definition of a construction worksite
- Increase flexibility on multi-employer work sites with more than 20 workers by requiring prime contractors to have an OHS contact on-site to liaise with workers and employers on health and safety matters in lieu of a Health and Safety Committee.
- Maximize flexibility in OHS programs by removing most prescriptive requirements in the OHS Act.

ACA's recommendation to eliminate reporting of Potentially Serious Incidents was not accepted, but Bill 47 proposes to clarify and streamline reporting requirements and prohibit the information from being used in enforcement actions including prosecutions.

#### Workers' Compensation proposals

- Repeal the obligation to reinstate and duty to accommodate from the legislation. (ACA recommended repeal of the obligation introduced in the 2018 changes to the WCB Act).
- Amend WCA to allow WCB to cease or reduce earning loss benefits when modified work is terminated by the employer due to egregious acts (This is a long standing ACA request).
- Reinstatement cap on Maximum Insurable earnings (ACA recommendation).
- Return to pre-2018 definition of Cost of Living Adjustments (ACA recommendation).
- Repeal the legislated requirement for employers to continue paying contributions to existing Health Benefit Plan after worker injury (pre-2018 approach) (ACA recommendation).
- Revisit provisions regarding occupational disease, psychological injury, Benefit of Doubt, and presumptive coverage (ACA recommendation).

ACA former chair Paul Verhesen was appointed Co-Chair of the Red Tape Reduction Industry Panel for the Construction Sector and Ken Gibson appointed to chair the Vertical Construction sub-group. The Panel provides



advice to the GOA on regulatory burden with the view to eliminating red tape that is costing Alberta business. The Panel reports in late 2020.

ACA provided input on the Alberta infrastructure Act and 20-Year Capital Plan. The Act is intended to serve as a legislated governance framework for capital planning in Alberta. The 20-Year Plan is intended to be a visionary document that considers long-term trends and priorities for provincial infrastructure. ACA recommends economic criteria to determine priorities, incenting private capital for public infrastructure, and looking beyond capital planning to address issues of predictable capital programs, funding, and procurement.

Lobbied the Government for recognition of COVID-related costs in current and future procurements, including a presentation to the Standing Committee on Alberta’s Economic Future. ACA continues to advocate for fair allocation of unknowable COVID risks with specific recognition for recognition of cost and / or schedule impacts.

ACA was pleased with the Canadian Infrastructure Bank announcement of \$2 billion for energy retrofits for buildings. ACA has lobbied the CIB directly and sought the support of Canadian Construction Association for this advocacy.

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