Employers face up to $10K penalty for not complying with ORPP

Glenn Kauth | April 15, 2016

Employers that fail to comply with the rules under the Ontario Retirement Pension Plan could face administrative monetary penalties of up to $10,000, according to new legislation introduced yesterday.

The details came in Bill 186, a new piece of legislation setting out additional details on the ORPP introduced by Associate Finance Minister Mitzie Hunter yesterday. It sets out a maximum penalty that "shall not exceed $10,000″ in a number of scenarios, including failing to provide a required document as well as making a statement or declaration the person knew to be false or misleading. The bill also provides for an administrative monetary penalty for failing to remit required contributions.

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"Isn't that great?" says Joe Nunes, the president of Actuarial Solutions Inc. and a critic of the ORPP who notes the government is releasing the details on potential penalties for non-compliance even as questions linger about other issues such as how employers will report contributions on a tax slip and how remittances will work.

"But what we do know now is how we're going to get fined if we don't get it right," he adds.

"I think the main message is you've jumped right ahead with the penalty you're going to pay if you don't follow the rules you haven't told us," he says, suggesting the Ontario government is putting its "energy in the wrong place."

The comments come as the government introduced Bill 186 as it seeks to prepare Ontarians for the launch of the ORPP with contributions starting on Jan. 1, 2018. Clancy Zeifman, a spokesman for Hunter, said the bill is an effort to inform employers about the ORPP and noted the compliance mechanism is "consistent with the CPP."

"Like the CPP, a compliance and enforcement framework is critical to ensuring that Ontario workers are able to benefit from the ORPP," he said.

"Bill 186 ensures employers and employees have the information and the time they need to prepare for implementation," he added.

Among other things, the legislation sets out what would happen in the event of a funding shortfall. While the legislation provides for indexing benefits to inflation, it also makes allowance for reducing the adjustment in the event of a funding shortfall. In addition, it provides for the possibility of increasing the planned contribution rate of 1.9 per cent.

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“My guess is there’ll just be less indexing,” says Nunes of the likely response to a shortfall in what he says essentially amounts to a target-benefit plan.

Nunes also expresses a concern about the public’s knowledge about the ORPP given the potential for intergenerational effects from any changes to the plan. “My big fear is it’s so complicated that, other than actuaries and full-time pension people, no one understands it,” he says.

“There’s going be some cross-subsidization,” he adds. “Let’s not let it get excessive.”

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Editor’s note: Comments from Zeifman added April 18.