

Several Important Amendments to Bill 68 Achieved

Bill 68 - *Modernizing Municipal Legislation Act* affects the *Municipal Act*, *Municipal Conflict of Interest Act*, and *Municipal Elections Act*, among other Acts.

A number of changes are made to the Bill in response to our advice and others. The Bill has been ordered for Third Reading and its passage could be before the Legislature rises on June 1.

A redline version of the amended Bill is available from the legislative website at http://www.ontla.on.ca/bills/bills-files/41_Parliament/Session2/b068rep_e.pdf.

The following are highlights of some of the key amendments to the Bill:

Integrity Commissioner (IC) Regime

- "Any person" is changed to "an elector or a person demonstrably acting in the public interest". The definition is applied to the Code of Conduct and making an application to a judge related to an alleged contravention of the *Municipal Conflict of Interest Act*. The definition is broader than we had requested but narrower than "any person".
- The ability for an IC to undertake an inquiry based on their 'own motion' was deleted. This reflects the advice of AMO and many ICs.
- Sections are added which outline what happens to inquiries in terms of a regular election. It directs termination of an investigation related to a Code of Conduct or under the *Municipal Conflict of Interest Act* where the investigation is either not completed prior to the nomination date or if a request is submitted during a regular election. This does not prevent a complainant or member of council or local board who was the subject of a complaint that did not proceed from making a written request after the election to commence an investigation. A request cannot occur earlier than six weeks after the election. The provincial legislature has rules that apply during the Writ period. AMO felt that similar rules should apply in municipal elections.
- A provision is added to indemnify an IC, which means that the costs related to the defence of a proceeding related to the work of an IC, is covered by the municipal government.

Meetings

- The discretionary authority to use electronic methods for meetings was retained but it was clarified that anyone participating electronically cannot participate in a closed meeting item. This is in addition to the provision that a person participating electronically cannot count for quorum. Councils will need to consider the use of electronic meetings and change their procedure bylaws where needed.
- An amendment clarifies that there cannot be multiple alternates from a lower-tier council for upper-tier meetings where the upper-tier member cannot attend. The alternate member is to be for the term of the council unless the alternate's seat is vacated. There is no alternate for head of council that sits on the upper-tier municipal government.

Municipal Election Act

- The Bill's change to the term of Council of November 15 will start in 2022. The upcoming election term is December 1 to November 14, 2022. The delay in changing the term recognizes that in some municipal governments there are employment contracts with councillors' staff and a change for the 2018 municipal election would have implications for those agreements.
- The requirement for a nomination form to be signed by at least 25 persons is altered to not apply in a municipality if the number of electors in the previous election is less than the prescribed number.

The Act has different commencement dates for different sections. Some take effect upon Royal Assent of the Bill and others by the Lieutenant Governor at a future date.

Here's a link to the various sections of the Bill and their effective dates: [Bill 68 Commencement Dates by Schedule](#).

Councils will need to adopt and maintain policies on:

- Codes of Conduct (effective date to be determined and there is a related Ministerial regulation that is to identify the subject matters for Codes of Conduct for councils and local boards)
- protection and enhancement of tree canopy and natural vegetation in the municipality (effective date to be determined by Lieutenant Governor)

- pregnancy and parental leaves of council members (effective date to be determined)
- Council-Municipal employee relations (effective date to be determined).

The closed meeting investigator system took a year to put in place. The IC regime is more complex, involving hiring of an IC, establishing a budget, administrative system and a Code of Conduct, as well as education for both councils and all of the local boards. AMO is advocating for a longer rather than shorter time period before the IC regime is enacted as a mandatory accountability process.

We will also need to await regulations related to authorized investments and prudent investor rules before municipal governments can use the latter. The One Fund (a pooled investment fund operated by AMO's Local Authority Services and Municipal Finance Officers Association's CHUMS) will provide additional information in the near future.

There are additional amendments to the Bill but mostly of a technical nature, clarifying language and intent.

Given the magnitude of changes to the transparency and accountability regime for municipal councils and officials, and local boards, AMO's Annual Conference will have a plenary session on Wednesday, August 16. AMO remains very concerned about how the integrity regime may affect the many citizens and business people who volunteer to local boards.