



Implementing Bill 68

Modernizing Ontario's Municipal Legislation Act, 2017

Ontario Eastern Municipal Conference

September 14, 2017

Scope of Presentation

- The *Modernizing Ontario's Municipal Legislation Act, 2017* (Bill 68) received Royal Assent on May 30, 2017.
- This presentation is intended to serve as a summary and be a general aid to understanding key changes in Bill 68. It does not include all the details of the Bill, and is not legal advice.
- For more information about Bill 68, or related legislation, please refer ontla.on.ca or ontario.ca/laws.

Phased Implementation

The key themes of the *Modernizing Ontario's Municipal Legislation Act, 2017* were:

1. Accountability and Transparency
2. Municipal Financial Sustainability
3. Responsible and Flexible Municipal Government

The subsequent slides will set out key legislative changes included in the *Modernizing Ontario's Municipal Legislation Act, 2017*.

These changes will come into force in phases, with some provisions already in force (as they came into force on Royal Assent) and most changes being proclaimed at a later date.

Royal Assent

Municipal Finance

Municipal Tax Sales

- Reduces the time that property taxes have to be owing before a municipality can start a tax sale of the property, from 3 years to 2 years.

Property Tax Collection and Administration

- Various amendments to improve property tax collection and administration provisions generally. For example, electronic delivery of property tax bills and broadening the range of fees and charges that can be added to the tax roll.

Climate Change

Climate Change

- Clarify that existing broad powers include the power to pass by-laws respecting climate change.
- Clarify that municipalities may provide for or participate in long-term energy planning in the municipality
- Provide municipalities with additional powers to pass by-laws respecting the protection and conservation of the environment in accordance with regulations, including powers to require green roofs or alternative roof surfaces in circumstances specified by the Building Code and once standards have been established in the Building Code.

General Amendments

Administrative Penalties

- Provide municipalities with the authority to require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a municipal by-law passed under the Municipal Act or the City of Toronto Act.

Pregnancy and Parental Leave

- Prevent a council and school board members' seat from becoming vacant due to absences as a result of pregnancy, or the birth or the adoption of the member's child for a period of 20 consecutive weeks or less.

Advertising Devices

- Repealed a provision that was limiting a municipality's ability to pass bylaws regulating existing advertising devices, such as signs, and provide for transition respecting certain municipal by-laws.

General Amendments, cont'd.

Power of Entry

- Provide municipalities with the ability to enter property adjoining municipal property for purposes of carrying out maintenance on the municipal property, subject to certain conditions and limits.

Site Alteration

- Repealed a provision that provided that municipal site alteration by-laws have no effect in areas under jurisdiction of conservation authorities.

Rental Housing

- Provide municipalities with the ability to register on title an agreement that is required as a condition of a permit respecting the demolition or conversion of residential rental properties, and to enforce the agreement against the owner and any subsequent owners of the land.

Changes to Other Acts

Amendments to the *Planning Act*

- Add mitigation of greenhouse gas emissions and adaptation to a changing climate as a matter of provincial interest under the Planning Act so that decision-makers carrying out their responsibilities under the Planning Act shall have regard to it.

Amendments to the *Municipal Elections Act, 1996*

- Change the start date of the term of office for council and school board members from December 1 to November 15, in the year of a regular election (a transition rule provides that the term of office for the 2018-2022 term shall begin on December 1, 2018 and end on November 14, 2022).
- Raise the limit for contributions to a single candidate or third party advertiser from \$750 to \$1,200, consistent with the provincial limits.
- Impose a self-funding limit for municipal council candidates based on the number of electors voting for the office, to a maximum of \$25,000 per candidate. The formula for calculating the limit is $\$7,500 + \0.20 per elector for head of council, and $\$5,000 + \0.20 per elector for other council offices.

Proclamation

Accountability and Transparency

Code of Conduct

- Require municipalities to establish codes of conduct for members of council and local boards.
- Provide the Minister of Municipal Affairs with authority to make regulations setting out one or more subject matters required to be included in a code of conduct.

Integrity Commissioner

- Require that municipalities provide access to an Integrity Commissioner.
- Require every municipality to ensure that all Integrity Commissioner responsibilities be provided by an Integrity Commissioner.
 - Municipalities will have flexibility, including appointing an Integrity Commissioner, making arrangements for Integrity Commissioner responsibilities to be provided by an Integrity Commissioner of another municipality, or a combination.
- Municipalities must provide an indemnity to an Integrity Commissioner or any persons acting under his or her instructions.

Accountability and Transparency, cont'd.

Mandatory Range of Responsibilities

- In each municipality, an Integrity Commissioner (either the municipality's or another municipality's) will have all of the following responsibilities:
 - The application to members of council and members of certain local boards of the municipality of:
 - the local codes of conduct
 - rules governing the ethical behavior of the members
 - key sections of the *Municipal Conflict of Interest Act* (MCIA)
 - Conduct inquiries upon complaint for MCIA and code of conduct matters
 - Provide advice to members of councils and local boards respecting their obligations under 1) the local code of conduct applicable to the members, 2) the local ethical behavior procedures, rules or policies governing the members, and 3) the MCIA
 - Provide educational information to the public, the municipality and members of council and local boards about local codes of conduct and MCIA.

Accountability and Transparency, cont'd.

New Integrity Commissioner Powers - Municipal Conflict of Interest Act Matters

- An Integrity Commissioner will have powers to investigate MCI Act complaints from electors or persons demonstrably acting in the public interest.
- After completing an investigation, an Integrity Commissioner could decide to apply to a judge for a determination as to whether the member contravened the MCI Act.
- If after investigating an MCI Act complaint an Integrity Commissioner decided not to apply to a judge, the person making the complaint might do so.

Accountability and Transparency, cont'd.

Integrity Commissioner Activities During a Regular Municipal Election

- There will be certain rules related to regular elections. These include:
 - If an Integrity Commissioner has not completed an inquiry before nomination day for a regular election, the Integrity Commissioner must terminate the inquiry. Another inquiry in respect of the matter could be commenced (in certain circumstances) after voting day. This applies to both code of conduct and MCIA inquiries.
 - No requests for code of conduct or MCIA inquiries to the Integrity Commissioner may be made from nomination day until after the voting day for a regular election.
 - Furthermore, during this time period: the Integrity Commissioner shall not report to the municipality or local board about whether a member has contravened the relevant code of conduct; and the municipality or local board shall not consider whether to impose code of conduct penalties on the member.
 - Integrity Commissioners shall not bring an MCIA matter to court between nomination day and voting day for a regular election.

Municipal Conflict of Interest Act

Principles

- Will include a list of principles in relation to the duties of members of councils and of local boards.

Influence

- Prohibit a member from using his or her office to attempt to influence decisions or recommendation considered by municipal or local board employees and persons acting on delegated authority from council.

Consideration of Code of Conduct Penalty

- Allow a member to participate but not vote in a meeting where the matter under consideration is whether to impose the code of conduct penalty to suspend the member's pay for up to 90 days.

Written Disclosure of Interest

- When a member discloses a pecuniary interest, the member must file a written statement of the member's interest at the meeting, or as soon as possible afterwards.

Municipal Conflict of Interest Act, cont'd.

Registry

- Establish and maintain a registry of statements and declarations of interests of members, available for public inspection.

Flexible Penalties

- Amendments provide that if a judge determines that a contravention occurred, the judge may do any or all of the following:
 - Reprimand the member or former member;
 - Suspend the member's remuneration for a period up to 90 days;
 - Declare the member's seat vacant;
 - Disqualify the member or former member during a period of not more than seven years; and/or
 - Require the member or former member to make restitution.

Open Meetings

Definition of Meeting

- Open meeting provisions will apply to meetings where a quorum of members is present and where members discuss or otherwise deal with a matter in a way that materially advances the business or decision-making of the relevant council, local board or committee.

Provide Additional Discretionary Open Meeting Exceptions

- Information explicitly supplied in confidence to a municipality or local board by Canada, a province or territory or a Crown agency;
- Certain third party information supplied in confidence to a municipality or local board;
- Trade secret or financial, commercial, scientific or technical information that belongs to the municipality or local board and has monetary value or potential monetary value; or
- A position, plan, procedure, criteria or instruction to be applied to any negotiations by or on behalf of the municipality or local board.

Open Meetings, cont'd.

Electronic Meetings

- Municipal Act: Allow municipal councils and certain local boards to provide for electronic participation by members at council, local board and committee meetings that are open to the public, provided that electronic participants are not counted for quorum purposes.
- City of Toronto Act: Amendment to existing electronic participation framework respecting council meetings, would allow council and certain local boards to also provide for electronic participation by members at local board and committee meetings.
- Members of council and certain local boards and committees would not be able to participate electronically in meetings that are closed to the public.

Report Publicly Regarding Meeting Investigations

- Require a municipality or local board to pass a resolution stating how it intends to address a report provided by a meeting investigator, where the investigator reports his or her opinion that a meeting has been closed contrary to the open meetings provisions of the relevant Act.

Municipal Financial Sustainability

Prudent Investor Standard

- Enable a municipality that meets certain requirements to invest money that it does not require immediately in any security in accordance with a prudent investor standard and a future regulation.
- Require a municipality investing money under this standard to exercise the care, skill, diligence and judgement that a prudent investor would exercise in making such an investment.
- Provide authority to make regulations governing the investment of money by a municipality under the prudent investor standard, including with respect to transitional matters and in relation to the investment of money by two or more municipalities, acting as a group.

Municipal Financial Sustainability

Small Business Programs

- Remove the requirement to obtain approval from the Minister of Municipal Affairs before a municipality establishes a small business program, and replace that provision with a regulation making power.

Tax Sales

- Authority for municipalities to expedite tax sale of property that has vested in the Crown because of the dissolution of a corporation.
- Removal of requirement for council to pass a by-law to authorize individual extension agreements.

Responsive and Flexible Municipal Government

Temporary Replacements on Upper-tier Council

- Allow a lower-tier council to appoint an alternate member of lower-tier council to temporarily replace a person who is a member of both the lower-tier and upper-tier council if the member is unable to attend an upper-tier council meeting.

Section 270 Policies

- Requiring municipalities to establish policies re:
 - the relationship between members of council and the officers and employees of the municipality.
 - pregnancy leaves and parental leaves for council members.
 - The manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality.

Concluding Comments

- The *Modernizing Ontario's Municipal Legislation Act, 2017* includes other technical and general amendments not mentioned here.
- Changes will come into force in phases, some provisions came into force on Royal Assent and some will be proclaimed at a later date.
- The Ministry of Municipal Affairs will also prepare guidance materials to assist municipalities through implementation of the changes.