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Bill 68 – The Proposed *Modernizing Ontario's Municipal Legislation Act, 2016*  
(MOMLA)  
AMCTO Zone 3 – Spring Meeting  
Thursday, April 27, 2017  
Hamilton, Ontario

# Scope of Presentation

- The proposed *Modernizing Ontario's Municipal Legislation Act, 2016* (Bill 68) is subject to the approval of the legislature.
- This presentation is intended serve as a summary and be a general aid to understanding the key proposals in Bill 68. It does not include all the details of the Bill.
- For more information about Bill 68, please refer to the proposed legislation at [ontla.on.ca](http://ontla.on.ca).



# Review

- MOMLA proposes amendments to the *Municipal Act, 2001*, *City of Toronto Act, 2006* and *Municipal Conflict of Interest Act*, to (1) enhance municipal accountability and transparency, (2) promote municipal financial sustainability; and (3) help ensure responsive and flexible municipal governments.
- Amendments are also proposed to other acts, such as the *Building Code Act, 1992* and *Planning Act*.
- There is a legislative requirement to initiate a review of the *Municipal Act, 2001* and *City of Toronto Act, 2006* within five years of the previous review.
- Regular review helps to ensure municipalities have the powers and flexibility they need to effectively and creatively provide services to their communities.
- There is no legislative review requirement for *Municipal Conflict of Interest Act*, which was last substantially amended in 1983.



# Consultation

- The government launched a consultation on the review, which ran for 149 days from June 5, 2015 until October 31, 2015. The review received approximately 360 responses from the online consultation, including councils, clerks, municipal stakeholders and members of the public.
- In person consultations were held with municipal administrators and some public groups. MMA consulted with key stakeholders.
- The Ministry held regular meetings with the Association of Municipalities of Ontario (AMO) and the City of Toronto as part of the Memorandum of Understanding process.
- Other key stakeholders consulted include the Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO), Ontario Municipal Tax and Revenue Association (OMTRA) and the Municipal Finance Officers' Association of Ontario (MFOA).
- All feedback received has been considered as part of the review.



# Key Themes

The key themes of the proposed *Modernizing Ontario's Municipal Legislation Act, 2016* are:

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

The subsequent slides will set out key legislative proposals included in the *Modernizing Ontario's Municipal Legislation Act, 2016*.

# Accountability and Transparency Proposals





# Accountability and Transparency Proposals

## **Codes of Conduct**

- Would require municipalities to establish codes of conduct for members of council and local boards.
- Would 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 Commissioners**

- Would require that municipalities provide access to an integrity commissioner
- Would require every municipality to ensure that all integrity commissioner responsibilities be provided by an integrity commissioner
  - Municipalities would 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.

# Accountability and Transparency Proposals

## Integrity Commissioner – Mandatory Range of Responsibilities

Each municipality would be required to make arrangements to provide for integrity commissioner coverage for all of the following responsibilities:

- The application to members of council and members of local boards of the municipality of:
  - the local codes of conduct
  - local rules governing the ethical behavior of the members
  - key sections of the *Municipal Conflict of Interest Act* (MCIA)
- Conducting inquiries on his or her own initiative for MCIA and code of conduct matters (in addition to responding to complaints)
- Providing 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
- Providing educational information to the public, the municipality and members of council and local boards about local codes of conduct and MCIA.

# Accountability and Transparency Proposals

## **Integrity Commissioner – Powers: Municipal Conflict of Interest Act Matters**

- An integrity commissioner would have new powers regarding MCIA matters, including to:
  - investigate a complaint from any person concerning an alleged contravention of certain sections of the MCIA
  - conduct his or her own investigation of whether a member has contravened the MCIA
- After completing an investigation, an integrity commissioner might apply to a judge under the MCIA if he or she considers it appropriate, for a determination as to whether the member has contravened the MCIA.
- If after investigating an MCIA complaint an integrity commissioner decided not to apply to a judge, the person making the complaint might do so.

### **Note**

- A complainant might choose to pursue an MCIA complaint directly through the courts rather than through an integrity commissioner.

# Accountability and Transparency Proposals

## **Municipal Conflict of Interest Act**

- Principles
  - Proposed amendments would set out in the MCIA a list of principles endorsed by the Province of Ontario 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 any decision or recommendation being considered by municipal or local board employees and persons who are acting on delegated authority from council, if the member has a pecuniary interest in the matter (subject to the exceptions set out in the Act).
- Consideration of Code of Conduct Penalty
  - Generally, a member may participate in a meeting (but could not vote) where the matter under consideration is whether to impose a potential code of conduct penalty of suspending the member's pay.



# Accountability and Transparency Proposals

## **Municipal Conflict of Interest Act**

- Written Disclosure of Interest
  - At a meeting at which a member discloses a pecuniary interest, amendments would require the member to file a written statement of the member's interest at the meeting, or as soon as possible afterwards.
- Registry
  - Amendments would require that municipalities and local boards establish and maintain a registry of statements and declarations of interests of members. The registry would be made available for public inspection.



# Accountability and Transparency Proposals

## **Municipal Conflict of Interest Act (cont.)**

- Flexible Penalties
  - Proposed amendments would 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.

# Accountability and Transparency Proposals

## Open Meetings

- Definition of Meeting
  - Open meeting provisions would 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.

# Accountability and Transparency Proposals

## Open Meetings (cont.)

- Electronic Participation in 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: Proposed 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
- 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 Proposals





# Municipal Financial Sustainability Proposals

## **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 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.
- Require an eligible municipality to pass a by-law to opt into prudent investing.
- Once a municipality has opted into prudent investing, it would not be able to opt out unless a regulation is passed permitting it to invest again only in accordance with the prescribed list of securities.
- Provide the Lieutenant Governor in Council with 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.

## **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.



# Municipal Financial Sustainability Proposals

## **Forfeited Corporate Property**

- Would provide municipalities with authority to initiate an expedited tax sale of properties that have vested in the Crown because of the dissolution of a corporation, to facilitate bringing such lands into productive use more quickly.

## **Municipal Tax Sales**

- Would reduce 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.
- Would allow municipalities to enter into an extension with any of the owners of the property.

## **Property Tax Collection and Administration**

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

# Responsive and Flexible Municipal Government Proposals



April 26, 2017

Ministry of Municipal Affairs

# Responsive and Flexible Municipal Government Proposals

## **Climate Change**

- Clarify that existing broad powers include the power to pass by-laws respecting climate change.
- 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.
- Require municipalities to adopt a policy with respect to the manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality.
- Clarify that municipalities may provide for or participate in long-term planning for energy use in the municipality.

## **Integrated Planning for Service Delivery**

- Give the Minister regulation-making authority to prescribe actions that municipalities must take to support local integrated planning.
- This proposed amendment aligns with the government's commitment to implement the Community Hubs *Strategic Framework & Action Plan's* recommendation to “*require integrated planning to ensure client-focused service delivery regardless of jurisdictional boundaries.*”



# Responsive and Flexible Municipal Government Proposals

## **Regional Council Composition**

- Repeal the requirement for a Minister's regulation under the *Municipal Act, 2001* to authorize a regional municipality to pass a by-law to change its council composition.
- Require that regional municipalities review the number of members of their council that represent their lower-tier municipalities following every second municipal election, starting after the 2018 municipal election.
- Provide the Minister of Municipal Affairs with the power to make a regulation changing a regional municipality's council composition if a regional municipality is unable to come to a local decision within two years following every second municipal election starting after the 2018 election.

## **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.

# Other General Amendment Proposals

## **Council-Municipal Staff Relationship Policies**

- Require all municipalities to have a policy on the relationship between members of council and the officers and employees of the municipality.

## **Administrative Penalties**

- Provide municipalities with the authority to require a person to pay an administrative penalty if 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**

- Require that municipalities have a policy for pregnancy leaves and parental leaves for council members.
- Prevent a council 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 (Signs)**

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



# Other General Amendment Proposals

## **Power of Entry**

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

## **Site Alteration**

- Repeal a provision that provides 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.

# Proposals 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***

- Term of Office
  - Change the start of the term of office for council and school board members from December 1 to November 15, in the year of a regular election
- Contribution Limits
  - Raise the limit for contributions to a single candidate or third party advertiser from \$750 to \$1,200, consistent with the provincial limit.
- Self-funding Limit
  - 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 would be  $\$7500 + \$0.20$  per elector for head of council, and  $\$5,000 + \$0.20$  per elector for other council offices.



# Concluding Comments

- The proposed *Modernizing Ontario's Municipal Legislation Act, 2016* includes other technical and general amendments not mentioned here.
- Proposed changes would come into force in phases, with some provisions coming into force on Royal Assent and some changes on proclamation.
- The Ministry of Municipal Affairs will also prepare guidance materials to assist municipalities through implementation of the proposed changes.

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