

December 18, 2018

Bill 66 – Municipal Implications Overview

On December 6th, 2018, Minister of Economic Development, Job Creation and Trade, the Honourable Todd Smith, introduced [Bill 66, the *Restoring Ontario's Competitiveness Act*](#). This proposed legislation has significant interest for municipal governments. Bill 66 has only had First Reading at this time and will continue through the debate and hearing process. After this week's sitting, the Legislature is scheduled to return for the next Session on Tuesday, February 19, 2019.

In this members' update, AMO is providing an overview and brief analysis as we pursue additional information and clarification to bring a report to the January Board of Directors meeting. Further communications on the Bill will occur at that time.

Several corresponding proposed regulations are now [open for comment](#) on the Ontario Regulatory Registry. In most cases, the deadline for comment is January 20th to respond via the registry process.

Schedule 2 — Repeal of the *Pawnbrokers Act*

Schedule 2 of the Bill repeals the *Pawnbrokers Act* in its entirety. Created in the early 1900s, the Act regulates pawnshops and second hand stores. Municipal governments would retain the authority to create bylaws and business licenses regulating pawnshops, however, the repeal would eliminate law enforcement tools aimed at enforcing against theft and enabling the search and return of stolen goods. AMO will connect with police services to obtain their perspectives on the impacts that the change would bring and consider alternatives.

Schedule 3 — Amendments to the *Child Care and Early Years Act, 2015* and the *Education Act*

Changes to rules regarding in-home child care services and authorized recreational and skills building programs; increasing the permissible number

and age of children per provider a day will likely increase access to childcare. The proposals may also raise concerns related to children's health and safety and the quality of childcare, with possible impacts on municipal monitoring of childcare spaces.

Schedule 4 — Amendments to the Ontario Energy Board Act, 1998 (Sub-metering)

The proposed change deletes references to 'unit sub-metering' from the *Ontario Energy Board Act*, and replaces it with references to smart meters. It is unknown if conversions to smart meters have taken place in all housing units being managed by municipal governments. This may impact the ability to individually charge tenants for energy used. Studies show that lack of individual meters can raise energy use over 30%, which will bring financial impacts. As well, it is unclear if it would have any impact on second suites or inclusionary zoning initiatives.

Schedule 8 — Amendments to the *Long-Term Care Homes Act*, 2007

Proposed changes for long-term care homes' licences include that the Director, as appointed by the Minister, may determine the need and how public consultations shall be conducted. This may reduce the frequency of attendance by licensees at public meetings. Further, the Ministry would have added flexibility to issue licenses for temporary beds for a longer duration of time. Municipal homes have licences subject to Minister's approval with no designated term. Further efforts to improve long-term care and reduce administrative burden should continue. There is a need for more discussions to develop a less prescriptive, outcomes-based framework that reduces burden while prioritizing patient care and well-being. AMO will continue to work with other long-term care partners to identify opportunities for positive reform and to monitor long-term care impacts of Bill 66 and corresponding regulations. Proposed regulations have been [posted for public comment](#) until January 28th, 2019.

Schedule 9 — Amendments to the *Labour Relations Act*, 1995 (Construction Employer Designation)

Bill 66 would clarify that municipal governments are not construction employers. Construction employer designation reduces the number of eligible bidders for municipal construction projects and increases municipal capital costs by eliminating competition. Construction is not a core municipal function and municipal governments should not be treated as construction employers. This has been a longstanding municipal ask and AMO has supported past private members' bills seeking this clarification.

Schedule 10 — Amendments to the *Planning Act* ('Open For Business' Tool)

The proposed legislation introduces a new planning tool called an "open for business" bylaw. Provincial government [commentary](#) has indicated that this tool could fast track permanent job creating opportunities, indicating that the specifics of the use of the tool will come in future regulation. The [posted description](#) of the scope of a regulation indicates that a proposal to use this tool would require a minimum job creation threshold (e.g. 50 jobs for municipalities with a population of less than 250,000 people, or 100 jobs for municipalities with a population of more than 250,000 people). It would appear that the tool, like a Minister's Zoning Order (MZO) would be for a specific land use application. We look to the Province to provide greater clarity and how this tool is different or similar to a Minister's Zoning Order.

Once there is greater clarity, we can turn attention to whether this tool can deliver what is expected. The draft legislation outlines the order of the process as follows, presumably after a planning application is received by the municipality as well as some planning evaluation:

1. The municipality must receive approval from the Minister to pass the "open for business" by-law.
2. The municipality passes the by-law.
3. An agreement between the land use proponent and municipality regarding site plan type conditions is signed and registered against the land to which it applies.
4. It comes into effect within 20 days of passing and is sheltered from LPAT appeal.

5. Notice is provided to the Minister within 3 days of passing and to others within 30 days.
6. The Minister may modify or revoke the by-law.
7. The municipality can amend or revoke the by-law.

NOTE: Public consultation is not required but not prohibited.

While not clearly stated, the fact that conditions are registered against a specific property implies that the 'open for business' by-law is site specific and not a 'blanket' across a large area of a municipality. As well, we would look to the Province for greater clarity on how the powers to amend, by both the Minister and the municipal government, might be used.

The sections ((6) *Non-application of listed provisions*) indicating which elements of provincial law do not apply to an "open for business by-law" are being widely discussed. This list generally requires that municipal decisions conform to the intent of the listed *Acts*. Many of these *Acts* refer to environmental and water related protections, which raises questions about achieving economic gains that may result in longer-term environmental concerns. It should be noted that the *Environmental Assessment Act* and EA process has not been identified in this list. Perhaps this is the backstop that will avoid costly environmental remediation.

There are also other financial, health, and safety factors within these listed *Acts* that need to be considered as well as the other aspects, such as relationship to municipal planning documents and public consultation.

AMO will be continuing our Bill 66 analysis and pursuing answers to these questions over the coming weeks.

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