New Legislative Changes Introduced that have Direct Impact for Municipal Governments

The legislative agenda of the government resulted in three different Bills this week that are important to municipal governments. AMO will be reviewing each Bill in detail but wanted to give its members the key highlights. Some of the proposed changes are very welcomed and others less so.

Municipal Affairs Minister Introduces Amendments to the Municipal Act, City of Toronto Act (COTA) and Municipal Conflict of Interest Act (MCIA)

The review of these Acts has resulted in some amendments that are relatively substantive, and others that are more technical in nature. Many of the changes relate to transparency and accountability, conflict, and behaviour. Some impose a new obligation and others introduce flexibility. AMO will be reviewing the language of the Bill in depth in the coming weeks and will update members accordingly.

Key highlights of the more substantive changes:

- Require that all municipalities provide access to an Integrity Commissioner (IC) and all of the functions of an IC.
- The role of the IC is expanded to: i) conduct inquiries upon complaint or own initiative for MCIA (financial interests of elected officials), and code of conduct matters (ethical behaviour); ii) provide advice to councils and local boards respecting their obligations under the MCIA and code of conduct; and iii) provide educational information to the public, councils and local boards on these matters.
- Under the MCIA, an IC can investigate a complaint from any person concerning an alleged contravention, and upon completion of an investigation, the IC can apply to a judge for a determination as to whether the member has in fact contravened the Act.
- The mandatory penalties for contraventions of the MCIA will be replaced with a broader range of penalties (e.g., fines, suspension). Other new provisions under MCIA relate to the need for written disclosure of interest, dealing with influence, and a registry.
- All municipal governments will be required to have a Code of Conduct for councils and local boards that informs ethical behaviour (different from the financial interests of the MCIA).
- Councils will also be required to have a formal policy on council-municipal staff relations to address the roles and responsibilities of municipal public service and the interaction with council.
- Definition of Open Meeting: The government is moving to clarify that a meeting with council, local board or committee involves a quorum of council members and that they discuss a matter in a way that "materially advances" the business or decision-making.

- Electronic meetings: Councils and Committees to have the authority to allow electronic participation in their procedural by-law. However, electronic participation will not be counted for quorum purposes.
- Open meeting exceptions to include: i) information supplied in confidence by Canada, a province or territory or a Crown agency; ii) certain third party information supplied in confidence; iii) trade secret or financial, commercial, etc. information that belongs to the municipality or local board and has monetary value or potential monetary value; or
iv) instructions, etc. to any negotiations by or on behalf of the municipality or local board.
- Requirement to pass resolution on how Council/Local Board intends to address a meeting investigation report where the situation was contrary to open meeting provisions.
- Regional council composition can now be changed by by-law rather than need for Minister's regulation.
- Regional municipal governments will be required to review their council membership that represent their lower-tier municipalities at least once following every second municipal election, starting after the 2018 municipal election; Minister would have power to make a regulation changing a regional council's composition if a regional municipality is unable to come to a local decision within two years following every second municipal election.
- A lower-tier council can temporarily appoint an alternate member of lower-tier council who is a member of both the lower-tier and upper-tier council to replace the member who is unable to attend an upper-tier council meeting.
- Add a new broad authority to use administrative monetary penalties for municipal bylaw contraventions.
- Repeal a provision so that municipal by-laws will have effect in areas under jurisdiction of conservation authorities.
- Require adoption of a policy for pregnancy leaves and parental leaves for council members.
- Eligible investments framework changes to add a prudent investor standard regime subject to a regulatory design that if done well could take advantage of the One Investment Program of AMO and Municipal Finance Officers Association as a prudent investor.
- Added flexibility to deal with forfeited corporate property and to administer tax sales faster.
- Add a new broad power to deal with climate change (although cannot exceed the Building Code or other provincial statutes) and to clarify the municipal role in energy planning.
- The Minister will have regulation-making authority to prescribe actions (unknown at this point) that municipalities must take to support local integrated planning in order to implement community hubs.
- Require a municipality to meet prescribed conditions before it establishes a small business program instead of obtaining ministerial approval.
- *Municipal Election Act* to be changed to reduce the time between the election of councils and their first meetings, proposed to be Nov 15; increase the maximum contribution limit to a single candidate or third party advertiser so that it is the same as the province ($1,200); and introduces formula to limit self-funding.

Fall Budget Bill

While the omnibus Bill was introduced today (Nov. 16) it is not available on Hansard as yet. We understand it contains changes to:

- Require direct election for all regional government chairs (some are currently directly elected through previous specific legislation).
- Interest arbitration regime for fire and police that would remove the requirement for the parties to go through a conciliation process before the interest arbitration process can commence; require pre-hearing submissions; and prohibit boards of arbitration from referring items in dispute back to the parties for further negotiation, unless the items relate to implementation of an award, or if both parties agree that items can be referred back prior to the making of a final award. The municipal priority issue of capacity to pay was not acted upon, however, the Minister will continue to hold discussions with the fire and municipal sector.

Bill 65 Introduces Photo Radar in School and Community Safety Zones

Creates authority for municipal governments to introduce Automated Speed Enforcement (photo radar) in school and community safety zones to reduce speeding infractions. It also allows municipalities to create community safety zones with reduced speed limits to improve pedestrian and cyclist safety, and the flexibility to reduce speed limits below 50 km/h.

This is a scoped application of photo radar and limits local decision-making on where it can be used, rather than give municipal governments the base authority. For example, municipal governments feel photo radar would be helpful in construction zones to protect the safety of road workers.

Next Steps

It is anticipated that the Fall Budget Bill, as with most budget bills, will have a quicker legislative approval process than the other Bills. AMO will review that Bill in detail once it is available on Hansard to determine if there are any additional changes that will impact municipal governments.

More work is ahead as well for the other two Bills as we review their legislative language with a view of what makes sense to improving municipal governments authority and where unintended consequences might occur. We'll be readying for Standing Committee processes which are likely in early 2017 given that the House still has to debate the Bills for Second Reading before referral and the House is scheduled to rise December 8.