

Alert

To the immediate attention of the Clerk and Council

October 4, 2005 – Alert 05/074

PRIVATE MEMBER'S BILL COULD IMPOSE NEW PRESCRIPTIVE RULES ON MUNICIPAL GOVERNMENT OUTSIDE OF THE *MUNICIPAL ACT*

Issue: Standing Committee Hears Bill 123, Transparency in Public Matters Act, 2005

AMO's Response: AMO has requested that reference to municipal governments be struck from this Bill and that accountability matters be dealt with under the *Municipal Act* review, which is being led by Minister Gerretsen, with legislation to come forward later this year. Having numerous pieces of legislation will make for a complex and cumbersome regulatory framework, which could create substantial contingent liabilities for municipal governments and could lead to paralysis of decision-making as a result of the complexity of legislation.

A copy of AMO's written submission to the Committee and the President's verbal presentation are linked to this Alert.

Municipal Assistance Needed: Attached is a model resolution that every municipality is asked to pass quickly and forward to Minister Gerretsen and all MPPs, including their local MPP.

Background:

This is one of a dozen Bills that were carried over when the House was recently prorogued and was recently the subject of a one-day hearing before the Standing Committee on Regulations and Private Bills.

The Bill as originally introduced had stringent new rules related to notice provisions, open meetings, minutes, forms of meetings among other matters and applied to a long list of public bodies, from OMB to Council of Ontario College of Teachers, to Police Service Boards, to a Board of Health, local services boards, public library, universities/colleges, hospital boards and school boards as well as councils.

The sponsoring member, Ms. Di Cocco has indicated that she is going to propose amendments when the Committee meets for clause-by-clause review at a future date. One amendment would be to eliminate all references to the named public bodies other than municipal councils, Boards of Directors, governors or trustees of a hospital (under *Public Hospitals Act*) and district school board or school authority (under the *Education Act*).

Some of the features of the Bill:

- determination of when a meeting is a meeting, including electronic meetings
- open meeting exceptions are similar but not identical to existing exceptions and include closed meetings where “desirability of avoiding public disclosure” outweighs “principle that meetings be open”
- A member of council must be appointed to oversee compliance with public notice and minute keeping requirements, which alters the function of administration
- Complaints may be made to the Provincial Information and Privacy (IPC) Commissioner (within one year), who may facilitate settlement or conduct a review and may initiate a review in the absence of a complaint
- An order of the IPC voids council’s decision or requires a change of practice

These provisions present potentially significant liability situations, particularly where Third Party matters are part of a council decision. A copy of the Bill is linked to this Alert.

Model Resolution Re: Bill 123:

WHEREAS the provincial Standing Committee on Regulations and Private Bills is currently debating Private Members Bill 123 the *Transparency in Public Matters Act*; and

WHEREAS the proposed legislation includes municipal council and committees; and

WHEREAS the proposed legislation adds requirements to notice provisions, open meetings, minutes, forms of meetings, among other matters all of which are addressed in the *Municipal Act*, which would create confusion for council, administration and the public; and

WHEREAS the *Municipal Act* is currently under review and is being informed by input from the municipal and private sectors among others; and

WHEREAS AMO and others have urged the Standing Committee to remove any reference to municipal councils or council committees from this legislation and allow transparency and accountability issues to continue to be regulated under the *Municipal Act*;

THEREFORE BE IT RESOLVED that (name of municipality) urges the Minister of Municipal Affairs and Housing to vote against the Bill if the reference to ‘municipal councils’ is not deleted in the Bill as reported by the Standing Committee; and that (Name of Local MPP) and all provincial members of the legislature be advised of the lack of this council’s support for the inclusion of ‘municipal councils’ in Bill 123.

This information is available in the Policy Issues section of the AMO website at www.amo.on.ca

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