

**THE MUNICIPAL
STATUTE LAW
AMENDMENT ACT, 2006
(BILL 130)**

HISTORY

- MMAH launches a review of the Municipal Act, 2001 in June, 2004. Working groups include: AMO, AMCTO, MCDAO, MFOA and Ministry staff.
- Concurrent consultations with the City of Toronto.
- October, 2005 throne speech proposes new legislation which will “treat all of our municipal partners with the respect they deserve.”
- June 12, 2006, new City of Toronto Act, 2006 receives Royal Assent.
- June 15, 2006, Bill 130, an Act to amend various Acts in relation to Municipalities is introduced.
- December 20, 2006, Bill 130 receives Royal Assent.
- January 1, 2007, amendments to the Municipal Act, 2001 are proclaimed and in force.

ANALYSIS

What's new, what's changed

- Purposes of municipal governments:

NEW “Municipalities are created by the Province of Ontario to be responsible and accountable governments with respect to matters within their jurisdiction and each municipality is given powers and duties under this Act and many other Acts for the purpose of providing good government with respect to those matters.”

- Agreements with the federal government:

NEW “The Province acknowledges that a municipality has the authority to enter into agreements with the Crown in right of Canada with respect to matters within the municipality’s jurisdiction.”

- Powers of municipalities under any Act are to be interpreted broadly.

NEW

ANALYSIS (continued)

What's new what's changed

- Municipalities have the capacity, rights, powers and privileges of a natural person for the purpose of exercising their authority under this or any other Act.
- Some restrictions removed can rely on natural person powers to incorporate a corporation, exercise corporate powers, hold securities and impose fees or charges.
- By-laws under this Act may be general or specific in application and differentiate on any basis. No longer reference to classes of business / persons.

NEW

NEW

BROAD AUTHORITY FOR SINGLE-TIERS

- NEW**
- A single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public.
 - May pass by-laws respecting the following matters:

NEW

1. Governance structure of the municipality and its local boards.
2. Accountability and transparency of the municipality and its operations and of its local boards and their operations.
3. Financial management of the municipality and its local boards.
4. Public assets of the municipality acquired for the purpose of exercising its authority under this or any other Act.
5. Economic, social and environmental well-being of the municipality.
6. Health, safety and well-being of persons.
7. Services and things that the municipality is authorized to provide under subsection (1).
8. Protection of persons and property, including consumer protection.
9. Animals
10. Structures, including fences and signs.
11. Business licensing.

OLD

A single-tier municipality may pass by-laws respecting matters on the following spheres of jurisdiction:

1. Highways, including parking and traffic on highways.
2. Transportation systems, other than highways.
3. Waste management.
4. Public utilities.
5. Culture, parks, recreation and heritage.
6. Drainage and flood control, except storm sewers.
7. Structures, including fences and signs.
8. Parking except on highways.
9. Animals.
10. Economic Development Services

LIMITS ON BROAD POWERS

- Cannot pass by-laws respecting services or things provided by person other than municipality.
- Municipal by-law without effect if it conflicts with federal or provincial legislation or other legislative instrument.
- Deemed conflict where municipal by-law frustrates the purpose of federal or provincial legislation or other legislative instrument.
- Municipal by-laws subject to procedural requirements in other Acts.
- If the Province considers that it is necessary or desirable in the provincial interest to do so, it may pass regulations imposing limits and conditions on the use of a municipality's broad powers, including licensing, expires in 18 months.

CLARIFIED

NEW

GOVERNANCE

ROLE OF COUNCIL

It is the role of council,

- To represent the public and to consider the well-being and interests of the municipality;
- To develop and evaluate the policies and programs of the municipality;
- To determine which services the municipality provides;
- To ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;
- To ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
- To maintain the financial integrity of the municipality; and
- To carry out the duties of council under this or any other Act.

NEW

NEW

ROLE OF THE HEAD OF COUNCIL

It is the role of the head of council,

- To act as chief executive officer of the municipality;
- To preside over council meetings so that its business can be carried out efficiently and effectively;
- To provide leadership to the council and to provide information and recommendations to the council with respect to the role of council relating to process / practices and procedures and to ensure accountability and transparency.

NEW

NEW

As chief executive officer of a municipality, the head of council shall,

NEW

- Uphold and promote the purposes of the municipality;
- Promote public involvement in the municipality's activities;
- Act as the representative of the municipality both within and outside the municipality, and promote the municipality locally, nationally and internationally; and
- Participate in and foster activities that enhance the economic, social and environmental well-being of the municipality and its residents.
- With the consent of the head of council, a member of council other than the head of council may preside at meetings of council. A presiding officer may be designated by secret ballot.

NEW

PUBLIC MEETINGS

- Multiple, prescriptive notice requirements in the Act have been deleted and replaced with a general obligation that the procedure by-law of the municipality provide for public notice of meetings and the municipality must adopt a policy determining how and in what manner notice will be provided for other matters.

NEW

- Meetings may be closed if the meeting is held for the purpose of education or training ; and at the meeting no member discusses or otherwise deals with any matter in a way that materially advances the business of decision making of the council, committee or local board.

NEW

- Resolution to close a meeting must state the general nature of the matter to be considered or in the case of an education or training session, the general nature of the subject matter.

NEW

- Clerk shall make a record of all resolutions, decisions and other proceedings at the meeting.

NEW

INDEPENDENT INVESTIGATION

NEW

- Persons may request an investigation of whether a municipality or local board (except Police Service Board and library boards) have complied with open meeting requirements in respect of a meeting that was closed to the public.

The investigation is to be conducted by:

- An independent investigator appointed by the municipality; or
- If no investigator appointed, the provincial Ombudsman.

**NO
CHANGE**

- Electronic participation in a meeting of council is not permitted.

PRACTICES AND PROCEDURES

POLICIES

- Municipalities are required to adopt and maintain policies in the following areas:
 1. Its sale and other disposition of land.
 2. Its hiring of employees.
 3. Its procurement of goods and services.
 4. The circumstances in which the municipality shall provide notice to the public and, if notice is to be provided, the form, manner and times notice shall be given.
 5. The manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public.
 6. The delegation of its powers and duties.
- Local boards (excluding Police Services Board and the local housing corporation) must adopt and maintain policies with respect to only 1-3 above.

DELEGATION

SAME

- Authority to delegate by by-law administrative powers, subject to limits.
- Authority to delegate by by-law legislative (ie by-law passing) powers and quasi-judicial matters under the Municipal Act, 2001, Planning Act and other prescribed statutes, subject to limits to:

NEW

- one or more members of its council or a council committee;
- a body (excluding municipal corporations) having at least two members of whom at least 50 per cent are: members of its council, individuals appointed by its council, or a combination of above; or
- an individual who is an officer, employee or agent of the municipality - if the power being delegated is minor in nature.

SAME

- Cannot delegate: appointing / removing statutory officers, taxation powers, power to incorporate, official plan, zoning or community improvement powers, budgets.

NEW

- A procedure may be adopted for the review or appeal of delegated decisions.

ACCOUNTABILITY AND TRANSPARENCY

Municipalities may choose to have:

- **Code of Conduct** for members of council and some local boards (excluding Board of Health, Police Services Board, Library Board, municipal corporations).
- An independent **Integrity Commissioner** - reports to council and is responsible for performing assigned functions in respect to the application of the Code and the ethical behaviour of members of councils and local boards (excluding Board of Health, Police Services Board, Library Board, municipal corporations).
- An independent **Ombudsman** - reports to council and whose function is to investigate any decision or recommendation made or any act done or omitted in the course of the administration of the City and local boards (excluding Board of Health, Police Services Board, Library Board, municipal corporations).
- An **Auditor General** - reports to council and would assist council in holding, itself and the administration accountable for the quality of stewardship of public funds and for achieving value for money in municipal operations.
- A Lobbyist Registry and Registrar.

SPECIFIC POWERS

NEW

- Authority to regulate store closing hours is expanded. No limit on hours during which can prohibit shopping - can require holiday closings. Done by by-law not proclamation.

NEW

- Authority to prohibit and / or regulate the demotion or conversion of residential rental properties over six dwelling units.

NEW

- Broad power respecting business licensing, restrictions on fees and prescriptive requirements regarding the content of by-laws and other processes have been repeated.

NEW

- Easier to implement small business programs, only require Ministerial approval.

NEW

- Broad power to establish new municipal service boards and to assign functions to them and to control their procedures and budgets. Can assign control and management of any municipal services and activities to boards.

NEW

- Improved process and powers to create corporations - still subject to limits and conditions in regulation.

ENFORCEMENT

- Authority to establish minimum fines (not to exceed \$500) and maximum fines (not to exceed \$100,000) for contravening by-laws.

NEW

- Authority to establish offences for directors and officers of corporations that knowingly concur in the contravention of by-laws by the corporation.

NEW

- Authority to establish administrative penalties for non-compliance with parking by-laws (subject to enabling regulation), and business licenses.

NEW

- Enhanced powers to enter onto property to determine compliance (subject to limits respecting dwellings) and to collect evidence.

NEW

FEES AND CHARGES

- Expanded authority to impose fees and charges - subject to some limits in regulation.
- Process easier, less prescriptive.
- Fees and charges have priority lien status.

FINANCIAL ADMINISTRATION AND TAXATION

- Most amendments are minor in nature.
- Multi-year budgeting explicitly authorized.
- Annual financial statements in accordance with GAAP for local governments.
- Deleted some of the performance measurement reporting requirements.
- NEW ■ Authority provided to write off taxes without first conducting a tax sale, if recommended by the Treasurer, subject to regulation.
- NEW ■ Time period to investigate properties after a failed tax sale, extended from one year to two years.
- NEW ■ After a failed tax sale municipalities may advertise a property for sale a second time, without re-registering a Tax Arrears Certificate during the two year period.
- NEW ■ Expanded authority to pass special services by-laws (area rating).

REGULATIONS

- Municipal Tax Sales Rules - 181/03 - Amended
- Fees and Charges - 584/06 - **New**
- Services that cannot be identified as a special service - 585/06 -**New**
- Minimum Maintenance Standards for Municipal Highways - 239/02 -Amended
- Variable Interest Rate Debentures and Foreign Currency Borrowing -247/01 -Amended
- Bank Loans - 276/02 - Amended
- Eligible Investments and Related Financial Agreements - 430/97 -Amended
- Fees and Charges - Property Lien Statutes - 581/06 - **New**
- Dissolution of and Assumption of Powers of Local Boards - 582/06 - **New**
- Licensing Powers - 583/06 - **New**
- Local Improvement Charges - 586/06 - **New**
- Municipal Services Corporations - 599/06 - **New**
- Transitional Matters under clause 431(1)(a) of the Act - Demolition and Conversion of Residential Rental Properties - 588/06 - **New**
- Municipal and School Capital Facilities - Agreements and Tax Exemptions -603/06 - **New**
- Deb - Related Financial Investments and Financial Agreements - 653/05 -Amended

SUMMARY

- A more flexible, modern purposive approach.
- Considerable streamlining accomplished.
- Some important enhancements to municipal authority.
- Very little to address fiscal challenges faced by municipalities.

Next Steps

- Detailed staff review and recommendations to implement required changes in polices and practices.
- Council direction will be required on optional matters.