



Regional Solicitor
Legal & Court Services

Memorandum

To: Committee of the Whole

From: Joy Hulton
Regional Solicitor

Date: June 22, 2017

Re: **Bill 68 (Modernizing Ontario's Municipal Legislation Act) - Update**

Background

Bill 68, *Modernizing Ontario's Municipal Legislation Act* received Royal Assent on May 31, 2017. It includes several amendments to the *Municipal Act, 2001* and *Municipal Conflict of Interest Act*.

Several amendments to the *Municipal Act, 2001* are awaiting proclamation

While most of the provisions in Bill 68 were proclaimed into effect as of May 31, 2017, many of the provisions that will directly impact municipal councils will come into force on a date to be proclaimed by the Lieutenant Governor. Some of those amendments will require regulations to be enacted. The attached chart (Attachment 1) provides a summary of the status of the key amendments to the *Municipal Act, 2001*.

Council will have to adopt policy and procedural changes to implement Bill 68 once the legislation comes into force

Some of the most significant amendments to the *Municipal Act, 2001* arising from Bill 68 are with respect to policies, meetings of council, the composition and term of council, and the appointment and powers of Integrity Commissioners.

Policies

Council must adopt policies with respect to:

- The relationship between members of council and employees of the Region;
- The manner in which the Region will protect and enhance the tree canopy and natural vegetation in the municipality; and
- Pregnancy and parental leaves for members of council.

Meetings of Council

The term “meeting” has been defined for clarification but there is no substantive change in how this term has been applied in the past. The exceptions for closed meetings have been amended to better align with requirements for confidentiality under the *Municipal Freedom of Information and Protection of Privacy Act*.

Council will be able to permit a member to participate electronically in a meeting that is open to the public but such member cannot be counted in determining quorum; members cannot participate in closed meetings electronically.

Composition and Term of Council

The provisions governing changes to the composition of council are amended to remove the requirement for a regulation to permit a change in the composition of council. The types of changes governed by this section now include a “change to the number of members of the upper-tier council that represent one or more of its local councils.”

Following the municipal election in 2018 and every second election thereafter, Council must review the number of members that represent each local municipality. If the Council does not make a change to its composition, the Minister may do so by regulation. In doing so the Minister shall have regard to the principle of representation by population.

The 2018-2022 term of council will commence December 1, 2018 and end on November 14, 2022; thereafter the term of council will commence on November 15th in the year of the election.

Alternate Members of Council

A local council may appoint one of its members as an alternate to act in the place of a person who is a member of Regional Council and who is unable to attend a meeting of Regional Council for any reason. The local council cannot appoint more than one

alternate member during the term of council. An alternate appointed by a local council cannot act as an alternate for the Regional Chair.

Code of Conduct

Council must adopt a code of conduct for members of council and the local boards. This provision does not apply to the Police Services Board. The Minister may make regulations prescribing one or more subject matters that will be required to be included in the code of conduct.

Integrity Commissioner

Council will be required to appoint an Integrity Commissioner or make arrangements for all of the responsibilities to be provided by an Integrity Commissioner of another municipality. The role of the Integrity Commissioner will be to report to council on:

- The application of the code of conduct to members of council;
- The application of any procedures, rules or policies governing the ethical behaviour of members of council; and
- The application of the *Municipal Conflict of Interest Act*.

When Bill 68 was first introduced, it provided for the right of “any person” to make a complaint to an Integrity Commissioner and granted the Integrity Commissioner the authority to undertake an inquiry based on their own motion. Both provisions were deleted from the bill at Third Reading.

Other amendments in Bill 68 include prudent investor provisions and changes to the *Municipal Conflict of Interest Act*

The prudent investor provisions were adopted and regulations to implement these provisions are pending. Administrative monetary penalties can now be used to enforce a broader range of municipal bylaws.

The *Municipal Conflict of Interest Act* is amended to require a member of council to file a written statement after the member has disclosed a pecuniary interest; the Region will be required to maintain a registry of statements filed and declarations recorded

Staff will consult with local municipalities on the implementation of Bill 68 and report to Council in the fall

Finance staff are participating in consultation on the prudent investor provisions. Staff from Legal & Court Services and Transportation Services are leading a working group with local municipalities to explore options for expanded and collaborative use of

administrative monetary penalties. The working group is expected to report back by the end of 2017 with options for consideration.

Legal and Clerks will consult with local municipal clerks and solicitors regarding the code of conduct, appointment of an Integrity Commissioner, policy governing the relationship between staff and members of council, and appointment of alternates. Staff will report back to Council this fall on the implementation of Bill 68 including options for the appointment of an Integrity Commissioner and amendments to the Procedure Bylaw.

Joy Hulton
Regional Solicitor

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Table 1 – Bill 68: Amendments to the Municipal Act, 2001

<i>Municipal Act, 2001</i>	Bill 68 Amendment	Effective Date
218(2)(a) 218(5) to (8) 235(1)	Changes to composition of upper-tier Council Review of representation Term of Council	January 1, 2018 January 1, 2018 May 30, 2017
NEW	Code of Conduct	Proclamation
NEW 222.3	Integrity Commissioner to be appointed in each municipality Amendments to powers of Integrity Commissioner	Proclamation Proclamation
238 (1) NEW 239(2)	Definition of Meeting Electronic Participation Closed Meetings	Proclamation
268(1), (2)	Alternate Member of Upper-Tier Council	Proclamation
270(1)	Adoption of New Policies <ul style="list-style-type: none"> - Relationship between members of council and employees - Protect and enhance tree canopy - Pregnancy and parental leave for members of council 	Proclamation
NEW	Prudent Investment	Proclamation
NEW	Administrative Penalties	May 30, 2017