



Bill 181, The Municipal Elections Modernization Act, *2016*

Submission to the Standing Committee on Finance and
Economic Affairs

May 12, 2016

Introduction:

It is a pleasure to be here today to speak about Bill 181, The *Municipal Elections Modernization Act, 2016*.

This is the only piece of election legislation that is regularly reviewed. It has been reviewed after every municipal election that I can remember. Every four years, there is a consultation process. Every four years, AMO has provided input and advice.

Our advice has been based on one simple element - that of trust. Trust in municipal governments and trust in the system used to elect council members.

Municipal governments are different from provincial and federal governments. We are not a party based system. At the same time, through our daily work, we touch and affect those living and working in our communities in ways that the province does not.

While AMO broadly supports this Bill as it is written, there are some items we still believe are worthy of consideration of this Committee. We believe the principles are correct, but there are several changes that we believe would strengthen the Bill, manage unintended consequences and bring additional clarity.

First I want to share with you AMO's first principle. It is this - municipal governments are mature orders of government. This is the test that we believe every policy respecting municipal government must meet.

I probably don't need to remind the members of this Committee that municipal government organizations in Canada actually pre-date our current national and federal governments. In New Brunswick, Saint John was established in 1785 and subsequent municipalities were organized after the Districts Act was passed. The Baldwin Act in 1849 ensured municipal councils were chosen wholly by election and given the ability to raise taxes.

Since that time municipal governments have evolved and continue to be the government closest to the people of our communities. We have created numerous means to engage our residents in our decision-making. Our council meetings and committees give notice of meetings, accessible agendas and reports as well as records of deliberation, also readily available. I would wager that deputations occur at almost every council or committee meeting across Ontario. Community surveys, open houses, referendum/ballot questions, and advisory committees are just a few of the many techniques available to gain public input to councils' decisions.

Access to municipal governments is much greater and accommodating than the other orders of government. Residents can engage us on the street, transit, in the supermarket or even on our home phone after hours. And I assure you that many take these opportunities and this speaks to the health of local democracy.

So, as you can see, I passionately believe that municipal governments are the most open and accessible order of government in Canada. Municipal governments make decisions in consultation with residents. The consequences of not doing so can be perilous. We have been getting municipal government right in Canada for over 200 years. That is an achievement that we should all be proud of and respect.

Ranked Ballots

Now that you understand some of the perspective AMO brings to municipal matters, let me move on to some of the more major provisions in the Bill, starting with ranked ballot elections.

This is one of the most major changes in this Bill. AMO believes that the Bill gets this right by leaving ranked balloting as a local choice. Using ranked ballots is a choice that should be left up to the community. And a municipal government, with the input of its community is the democratic expression of that community.

I understand that some members of one opposition party feel that every council should be required to have a referendum on the question of ranked ballots if a municipality wants to consider this change. It would mean that even a municipality with 120 residents and an annual budget of about \$165,000 would need to hold a referendum to use ranked ballots in their elections. Councils will use a referendum if they think it is needed. However, AMO believes that requiring a referendum to determine whether to try ranked ballots is excessive and does a disservice to local governments and our residents.

As I've said, municipal governments have evolved in numerous ways to engage our public. These methods allow for better conversations, even more so when you consider that 85 per cent of Ontario municipalities have fewer than 50,000 residents.

I assure you that if a municipal council chooses a ranked ballot election and our residents don't like it, there will be pressure to change it. And if members of council don't listen to their residents, then no doubt there will be a different set of municipal leaders after the next election and the new ones will change the system. That is how democracy works.

Campaign Period

AMO, the public, councillors and many others will appreciate the changes to the election period. While AMO's preferred option was to have a fundraising period from January until the nomination day, when the election period would begin, setting the nomination date to May 1 will still reduce the period.

However, debate in the legislature has raised some legitimate potential issues around the withdrawal date of the fourth Friday in July. The concern is that this earlier date may disadvantage volunteers and others that can't afford a longer leave of absence from their jobs to campaign. We don't know if the concern will be borne out and I know AMO and every member of the legislature would be alarmed if it did. You could amend the Bill to revert to the current date in September to be safe or you could decide to try the proposed date and revisit it during the Act's next review in 2019.

Election Finance

There has been a lot of discussion lately in provincial legislature and outside of it about whether it is appropriate for unions or corporations to donate funds for elections. There is also discussion about whether it is appropriate for them to communicate about election issues.

This Bill sets up a permissive framework for municipalities to determine whether to ban corporate and union donations and if banned, then how third party advertising is to be handled. The Bill as drafted is leaving the choice for local determination.

Let's be clear. Municipal governments are not organized on party system. Candidates are not supported by communications from a central headquarters and municipal candidates do not get funding from a party. Their funding comes from willing contributors.

Furthermore, the *Municipal Elections Act* has strict limits on contributions to candidates and candidates can't raise funds outside of the nomination period. These are major differences between the provincial and federal systems and the municipal system in Ontario. It gets challenging to take a one size fits all approach given these differences.

We would recommend that this discretionary aspect of this Bill not be amended to affect a full ban across the province.

What would happen if you do make such an amendment? I would suggest then that you must change the contribution limit of \$750 for municipal candidates to match the individual limit of provincial candidates. And this is before riding and party contributions are calculated. In fact, the \$1500 federal contribution limit for individuals might address this differential.

Why should you think about adjusting the contribution limit upward? The Bill shortens the municipal campaign period and municipal candidates can only raise funds in the nomination period, so the Bill already limits fundraising ability before taking union and corporate donations out of the picture. This means that a candidate for a head of council position in a major city would need to raise \$3,000/day during the campaign to meet the spending limit. Again – there is no party system at the municipal level. If this Committee considers banning corporate and union donations, it must turn its mind to and adjust the \$750 contribution limit. In fact, the Act provides the Mayor of Toronto with a contribution limit of \$2500.

Late Filing

For some time AMO has raised the issue that late filing of election finance documents should not automatically result in losing a council seat along with the ability to run in the next two elections. Minor delays in filing or minor errors to a complex set of documents, done in good faith could better be dealt with in a suspension from council until complete/correct documents are submitted. Deliberate and major contraventions should still result in the maximum penalty. Our own recently elected Prime Minister even needed a little extra time to get his documents in order.

AMO appreciates the changes in the Bill that reward filing on time and allow extra time with a fee. This is a step in the right direction, but we would still appreciate the introduction of tiers of penalties that include suspension for minor breaches.

Clerk's Role/Voters' List

One of the best ways to inspire confidence in elections is to ensure an accurate and up-to-date voters list. The municipal voters list has many inaccuracies some of the most hurtful for constituents include deceased relatives. Part of the challenge is getting timely information from the body collecting it. We understand that the Ministry of Municipal Affairs and Housing, the Municipal Property Assessment Corporation and municipal clerks are working on improving the list. We look forward to seeing the results of their work as it is critical to a well-run election.

One item in the Bill that should help is the discretion of the clerk to remove a name of a deceased person. This improvement is positive; however, we also note that the role of the clerk has been expanded substantially in the legislation. We hope that this will not unnecessarily stretch municipal election staff's capacity.

Lame Duck

Finally, for some time AMO has been advocating for the flexibility of municipalities to have an earlier first meeting after an election as eager councillors want to get to work serving their communities. We believe that the current *Municipal Act* requirements are appropriate for some councils, but are too long for others. As a result, we think that municipalities should have the flexibility to set their first meetings between mid-November and the current date of December 1st. While this is a change to the *Municipal Act*, we raise it because it is tied to the elections and expectations of duly elected officials to begin governing to reflect the outcomes of local democracy.

Conclusion

Let me close by saying that the Bill you are considering is about how we choose our MUNICIPAL COUNCIL members. Not the members of this legislature or the federal government. We should not conflate the two and assume challenges in one area necessarily transfer to the other.

In Canada and in Ontario we have been getting municipal government right for a long time. Municipal governments are open, transparent, and accountable to our residents and mature institutions. We demand that you give us the respect of choosing our own rules as the members of this chamber choose your own rules.

This legislation meets the principles I have laid out before you and AMO supports it. Where we think some minor changes could be made to improve the Bill we have suggested them. We urge you to give close consideration to our recommended changes.

This Bill has parts that will require regulations, most notably ranked ballot. We are confident that the Minister of Municipal Affairs and Housing will consult with us on the nature and scope of any regulation as part of its drafting. Finally, if I might be somewhat bold, a regular review of the legislative rules surrounding elections are a best practice of municipal governments and one that you may be well served to emulate.

Thank you.