

AMO / ESSC Overview of Proposed Interest Arbitration Changes

The Emergency Services Steering Committee (ESSC) was established in 2005. It includes the Large Urban Mayors Caucus of Ontario (LUMCO), the Mayors and Regional Chairs of Ontario (MARCO), and the Ontario Association of Police Services Boards (OAPSB). AMO participates in ESSC.

AMO / Emergency Services Steering Committee Proposals on Interest Arbitration Legislation	Proposed <i>Public Sector Capacity to Pay Act, 2013</i> (Progressive Conservative Private Members' Bill, Introduced on March 28)	Proposed <i>Respecting Collective Bargaining Act</i> (Government draft Bill, released for comment in October 2012)
Key Provisions:	Key Provisions:	Key Provisions:
<u>Written Reasons</u> <ul style="list-style-type: none"> ✓ Arbitrator to provide written reasons at the request of either party. ✓ Written reasons shall clearly demonstrate proper consideration of criteria that would accurately measure a municipality's fiscal health. 	<u>Written Reasons</u> <ul style="list-style-type: none"> ✓ Arbitrator to provide written reasons upon making a decision (regardless of whether requested by either party). ✓ Written reasons shall clearly demonstrate that accurate criteria to measure a municipality's fiscal health was considered, and that the decision has been made in accordance with other provisions in the Bill. 	<u>Written Reasons</u> <ul style="list-style-type: none"> ✓ Arbitrator required to provide written reasons at the request of either party. • Reasons must demonstrate "proper considerations" of criteria.
<u>Criteria</u> <ul style="list-style-type: none"> ✓ Introduces a new set of criteria for fiscal health and capacity. ✓ Sets out priority of consideration of fiscal health of the community <u>and</u> requires consideration in light of total compensation. 	<u>Criteria</u> <ul style="list-style-type: none"> ✓ Introduces a new set of criteria for fiscal health and capacity for municipalities or local boards. ✓ Sets out priority of consideration of fiscal health of the community <u>and</u> requires consideration in light of total compensation. • In applying the criteria arbitrators will be required to assume that tax rates will <u>not</u> be increased. 	<u>Criteria</u> <ul style="list-style-type: none"> • No change proposed to current criteria.

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<p>Key Provisions:</p>	<p>Key Provisions:</p>	<p>Key Provisions:</p>
<p><u>Time for Final Award</u></p> <ul style="list-style-type: none"> ✓ Decision to be issued no more than 12 months after the conclusion of the hearing. 	<p><u>Time for Final Award</u></p> <ul style="list-style-type: none"> ✓ Proposes time limits on the process. • Decision to be issued within 9 months from the time arbitrator is <u>appointed</u>. • Most hearings to commence within 30 days following the appointment of the arbitrator. 	<p><u>Time for Final Award</u></p> <ul style="list-style-type: none"> • Award to be issued within 16 months of referral to arbitration. • Failing release of award, matter is deemed to be referred to the Ontario Labour Relations Board for an award.
<p><u>Appointment of Arbitrators</u></p> <ul style="list-style-type: none"> ✓ All matters to be heard by a single arbitrator appointed by the parties. ✓ Minister to appoint if agreement not reached by the parties. 	<p><u>Appointment of Arbitrators</u></p> <ul style="list-style-type: none"> ✓ All matters to be heard by a single arbitrator. • Proposes a provincially approved roster of arbitrators who satisfy undetermined requirements, set by Regulation. • The Minister would provide the parties with a short list of at least 3 arbitrators who are available within 7 days of the referral to arbitration. • Within 7 days after receiving the list of arbitrators from the Minister, the parties must (a) jointly agree to have one of the arbitrators on the list arbitrate their dispute, who will then be appointed to hear the matter; or (b) jointly propose the name of an arbitrator who is <u>not</u> on the pre-approved list <u>and</u> seek the Minister's consent to have that arbitrator hear the dispute. In this situation, the Minister would either appoint the non-pre-approved arbitrator jointly proposed by the parties, or any arbitrator from the pre-approved list (i.e. not one of the arbitrators whose name was on the short list). If the parties fail to comply with options (a) or (b) the Minister may appoint any arbitrator from the pre-approved list to hear the matter (i.e. not an arbitrator from the short list). 	<p><u>Appointment of Arbitrators</u></p> <ul style="list-style-type: none"> • No change proposed.

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<u>Pre-hearing Process and Submissions:</u> <ul style="list-style-type: none"> ✓ Arbitrator may direct pre-hearing production. ✓ Introduce limits on post-hearing submissions. 	<u>Pre-hearing Process and Submissions:</u> <ul style="list-style-type: none"> ✓ At a pre-hearing conference, each party would be required to disclose the issues that they intend to raise and the evidence that they intend to present at the arbitration. • A party would not be permitted to raise any issues or present any evidence in any proceedings not disclosed at the pre-hearing conference. • Arbitrators would not be allowed to relieve the parties of these requirements 	
<u>Comments:</u> <ul style="list-style-type: none"> ✓ Municipal leaders with a wide range of views, experience and political backgrounds have come together to propose balanced and practical improvements to the interest arbitration process. ✓ AMO's proposals would: <ul style="list-style-type: none"> • Improve efficiency • Improve accountability and transparency of decision-making • More accurately assess a municipality's fiscal health ✓ These improvements can be achieved by making changes within the existing legislative framework, and in a manner that complements the existing interest arbitration process. 	<u>Comments:</u> <ul style="list-style-type: none"> ✓ The authors of the Bill studied AMO's proposals. ✓ It supports practical time limits, and written decisions that improve accountability and transparency. ✓ AMO's proposals are well reflected in the criteria that it would apply to measuring the fiscal health of municipalities. • AMO is concerned that the proposed process to appoint arbitrators is unnecessarily complex, which could increase costs and delay decisions. 	<u>Comments:</u> <ul style="list-style-type: none"> • The criteria that would be used to measure a municipality's fiscal health is vague. AMO has proposed more clear and accurate measures that are well developed. • References to giving "proper consideration" to fiscal health and local factors are vague. • It does not include a process for the exchange of pre-hearing submissions.