

Bill 109,  
Employment and  
Labour Statute Law  
Amendment Act,  
2015

Submission to the Standing Committee on Justice  
Policy

NOVEMBER 25, 2015

By way of background, the Association of Municipalities of Ontario (“AMO”) is an organization that represents almost all of Ontario’s 444 municipal governments. On behalf of its members, AMO seeks to promote effective municipal government and to improve the general well-being of the citizens of Ontario.

This submission provides a brief overview of Schedules 1 and 3 of Bill 109 and our comments on those Schedules.

### **a) Overview of Schedule 1 - *Fire Protection and Prevention Act***

We see this Schedule of Bill 109 as serving to modernize and bring balance to the way that our employer membership and their fire associations manage their labour relations by incorporating into the *FPPA* a wide range of provisions that currently exist in the *Labour Relations Act, 1995* (“*LRA*”). These changes would, among other things, establish the same ground rules with respect to the obligation to bargain in good faith and give both workplace parties access to expedited rights arbitration hearings where necessary.

As we understand it, Bill 109 would amend the *FPPA* to address membership in firefighter associations in a number of ways. First, the *FPPA* would be amended to expressly permit associations to require the inclusion of closed shop language in a collective agreement, which, already exists in many of our members’ fire collective agreements. This includes features such as mandatory association dues deductions and provisions requiring membership in the association or giving preference of employment to members of an association.

However, these new provisions are balanced by the inclusion of provisions designed to protect individual firefighters. These protections include where a firefighter has been expelled or suspended from their association, or who have been denied membership or had it withheld from them. The basis for these protections is a number of protected grounds, including, for example, engaging in “reasonable dissent” within the association. These provisions may assist municipal governments that employ full-time firefighters who also serve as volunteer firefighters in other municipalities, who are often referred to as “double hatters”.

Bill 109 would also amend the *FPPA* by adding a range of prohibitions on unfair labour practices which parallel those found in the *LRA*. This would include a revised duty of fair representation obligation applied to associations, and a clearer process by which complaints may be brought to the Ontario Labour Relations Board (“OLRB”) for resolution.

One other change of note relates to the introduction of an expedited rights arbitration process, similar to that found in section 49 of the *LRA*. Either party to a collective agreement could ask the Minister of Labour to appoint a single arbitrator to decide an unresolved grievance.

## **AMO's Comments:**

AMO submits that Schedule 1 of Bill 109 provides firefighters in Ontario with a level playing field. Volunteer firefighters who also serve as full-time firefighters will have the same statutory protections available to them that have long been afforded to other unionized employees who work within our province.

Since 2001, AMO has been advocating for a solution to the absence of any similar statutory protections for volunteer firefighters, who are also full-time firefighters. Protections for volunteer firefighters who also volunteer their services within their local community exist in most other Canadian provinces, as well as many American states. It has been a long, and at times, arduous, path to today.

Without passage of this Schedule, firefighters will not have the same workplace protections that are afforded to most other unionized sectors in Ontario. AMO submits that these amendments are fair and reasonable.

It is our position that this Schedule will help enable AMO's members to choose how best to deliver fire services in their local communities. By way of example, there are 271 municipal governments in Ontario that have a population of fewer than 10,000 residents. The government needs to be cognizant of the diverse local circumstances. The manner through which municipal governments choose to provide fire services depends on factors such as the population size of the municipality.

Full-time firefighters have valuable skills to offer local communities in Ontario. First, full-time firefighters and their current full time work schedules enable them to be available to work in the communities in which they live. Second, full-time firefighters are highly skilled individuals who can bring invaluable service and experience to their community. The use and reliance on volunteer firefighters is particularly prevalent in smaller and rural communities located throughout the province. Our member communities use "two-hatters" to increase their levels of experience and expertise and we believe this is a very good thing.

It is important to remember that full-time firefighters love their communities and want to contribute. Volunteer firefighting is one central way in which they do so. AMO appreciates the courageous position of volunteer firefighters who believe in the principle of freedom to volunteer in their communities.

Bill 109 may well help those individual full-time fire fighters who want to choose whether or not to volunteer as a firefighter in their home community. These new protections may well help inform their decisions.

Further, AMO wishes to comment on the provisions that provide for access to expedited arbitration. AMO supports these changes, as they will provide for the timely resolution of rights disputes. Where appropriate, both parties will be able to access expedited arbitration, similar to approaches that are found in other unionized sectors.

In summary, AMO appreciates the changes that the government has put forward in Schedule 1 of Bill 109. AMO is asking for no amendments to Schedule 1. AMO lends support to the changes to the

*Fire Protection and Prevention Act, 1997* that give firefighters the protections that have long been provided to most other unionized workers in the province.

**b) Overview of Schedule 3 - *Workplace Safety and Insurance Act, 1997***

This Schedule has several purposes that include:

- Eliminating the deemed net average earnings provision currently used and instead would allow Workplace Safety and Insurance Board (WSIB) to use the net average earnings of workers engaged in the same trade, occupation, profession, or calling as the deceased worker at the time that the injury first arose;
- Providing that this change on net earnings calculation be retroactive to any injury that occurred on or after January 1, 1998 and would also permit survivors to ask WSIB to reconsider previous decisions and to be able to refile claims; and
- Requiring the appointment of a “Fair Practices Commissioner” as the WSIB Ombudsman.

**AMO’s Comments:**

AMO is supportive of the Fair Practices Commissioner as an Ombudsman to the Workplace Safety and Insurance Board. We understand that the use of the net average earnings of workers engaged in the same trade, occupation, profession, or calling as the deceased worker at the time that the injury first arose is consistent with the current practice within the municipal sector so we are not aware of concerns with this proposed amendment. Beyond these provisions, AMO has no comments on other elements contained in Schedule 3.

**Conclusion:**

We appreciate the government’s effort to see that firefighters working for Ontario’s 444 municipal governments have the same protections that are provided to other unionized workers in the province. AMO is not seeking amendments to the Schedules referenced in this submission.