



Bill 148 - *Fair Workplaces, Better Jobs Act, 2017*

Submission to the Standing Committee on Finance and
Economic Affairs

October 31, 2017

AMO President's Presentation:

The Association of Municipalities of Ontario (AMO) appreciates the opportunity to contribute to your deliberations about Bill 148 and the protection of precarious workers.

Municipal employers have been told repeatedly throughout the Bill 148 discussion that municipal governments were not the intended targets of this Bill. That said, we need to tell you that unless there are specific amendments to this Bill made through your Committee process, municipal governments will be greatly harmed in our provision of vital municipal services necessary for the health and safety of communities.

The municipal order of government employs approximately 250,000 people. One in 30 employed Ontarians works for a municipal government. 70% of municipal workplaces are unionized, working under collective agreements. Much of the remaining 30% function under agreements that mirror collective agreements. These agreements address the vast majority of the *Employment Standards Act* items raised in Bill 148 already. Municipal governments are employers of choice- we pay good wages and good benefit packages and we provide stable employment throughout the province. Municipal governments have achieved this standing despite the fact that for almost half of the municipalities, a 1% property tax increase raises \$50,000 or less.

Municipal governments are in the midst of their 2018 budgeting processes right now and many are looking at the impacts of Bill 148 for 2018 and beyond. You have likely seen some media coverage on this. One member- a small urban community in southwest Ontario- has estimated that Bill 148 will have a \$2 million impact, just in the first year. Another community of 50,000 north of Toronto has estimated that it will be an additional \$500,000 to put into place the Bill 148 provisions for 2018 with further impacts in 2019. A large city in the GTA, has estimated that it will cost them \$1.3 million to implement Bill 148 next year.

Municipal governments have property taxes as their primary revenue source and we are not permitted to run operating deficits, which the other two orders of government can. Bill 148, if not amended, will force municipal governments to either greatly increase property taxes, reduce local services or have to do both. This despite the fact that municipal governments have bargained fairly with its employees throughout the years for items that are being asked to be paid for again through this proposed legislation. This is particularly true for the on-call provisions (s. 21.4).

There are four priority amendments that AMO seeks to be able to deliver the statutory obligations that municipal governments are required to provide.

1. First we ask Section 21.4, which requires three hours pay for on call wages, be amended to provide an exemption for municipal government or local board employees who are required to be on call to provide statutory public safety services. Some of these employees are already compensated in other ways (such as higher salaries, time off in lieu etc.). Others are subject to on call provisions of a collective agreement.

As an example, this one proposed change alone will have a system impact of approximately \$2 million annually for just one front-line paramedic to be on-call for each of the 52 EMS services in the province.

This is an exemption that would need to be well beyond just emergency services (police, fire, paramedics). This would include water operations, public works, long term care, child care,

emergency management, municipal airport operations, public health etc. Think if a tornado or a major flood hit a community- what municipal staff would be needed to work for public safety reasons?

Therefore, we are asking for a complete exemption for s. 21.4 for municipal government and local board employees who are required to be on call to provide the full range of statutory public safety services.

2. Further, Section 21.4 needs to clarify that this exemption extends to supervisory and management employees with respect to paid on-call. We have been told that that an exemption for supervisory management employees with respect to paid on-call was intended; however, we understand its absence may have been a legal drafting oversight in the Bill. We would ask that this is fixed in the Committee's clause by clause work.
3. Section 42.1 is particularly problematic for the municipal sector. This clause speaks to equal pay for equal work, an issue municipal governments dealt with years ago under pay and employment equity requirements. However, the manner in which it is framed in the Bill would destabilize composite fire departments where both full time and volunteer fire fighters work. Again, we don't believe this was intentional, however, it will have massive impacts on volunteer firefighters if not amended.

About half the 400 municipal fire departments in Ontario are composite fire services of both full time and volunteers. Volunteer fire fighters do not attend the workplace for a shift, rather they are on a call-in list. When a fire occurs, they are notified and if they are able to leave their normal employment, they do so to attend and suppress a fire. It is completely their choice to come to a fire or not- this is what makes them volunteers. However, the Bill is not clear enough to understand if Section 42.1 applies to them or not. A clear exemption is needed and there is solid rationale.

Volunteer fire fighters are different because:

- i. The Canada Revenue Service sees any payment to a volunteer firefighter as an honourarium, not pay.
- ii. They have different conditions of any work in that they are on a call-list rather than being on-call.

If this full exemption is not provided, it will force over at least 100 municipal governments to reconsider what fire services will be provided (such as suppression services) to their residents and business over the basic *Fire Protection and Prevention Act* (FPPA) requirements of fire prevention education and fire inspection.

4. Finally, municipal governments are subject to some 200 pieces of legislation. Many of which have statutory obligations to sustain public safety. The bill needs to specifically state that Bill 148 requirements do not over-ride statutory obligations that municipal governments are required to provide for public safety.

We do appreciate that Section 21.5, with respect to refusing a call-in due to short notice, was amended in the Committee's August deliberations so that now it will not prevent municipal staff responding and coming in to work due to an emergency or to remedy or reduce a threat to public safety.

In summary, we support the intent of Bill 148, we know that there are negative social costs for individuals and communities when people have precarious employment and do not have a living wage. Municipal governments are the front line for the delivery of social housing and services.

We also need to note there are many other legislative changes that municipal governments would like as outlined in our July submission to the Standing Committee, such as the impact on seasonal and casual workers in our parks/recreation programs and in our long-term care homes. However, in this submission, we have focused on the most significant amendments municipal governments require.

We have provided proposed language for the four key amendments in an appendix to this submission to enable us to provide the same level of service for those statutory municipal public safety services as we are able to do now.

**Bill 148, Fair Workplaces, Better Jobs Act, 2017
AMO's Key Recommendations for ESA Amendments**

- 1. Exempt municipal staff performing emergency services from on call payments**
- 2. Exempt municipal management staff from on call payments**

Minimum pay for being on call

21.4 (1) An employer shall pay an employee wages equal to the employee's regular rate for three hours of work if the employee is on call to work and the employee,

- (a) is not required to work; or
- (b) is required to work but works less than three hours, despite being available to work longer.

Limit

(2) Subsection (1) only requires an employer to pay an employee a minimum of three hours of pay during a twenty-four hour period beginning at the start of the first time during that period that the employee is on call, even if the employee is on call multiple times during those twenty-four hours.

Collective agreement prevails

(3) If a collective agreement that is in effect on January 1, 2019 contains a provision that addresses payment for being on call and there is a conflict between the provision of the collective agreement and this section, the provision of the collective agreement prevails.

Same, limit

(4) Subsection (3) ceases to apply on the earlier of the date the collective agreement expires and January 1, 2020.

Exemptions

(5) Subsections (1) (3) and (4) do not apply to municipal or local board employees when called in to meet statutory obligations to sustain public safety and public health.

(6) Subsection (1) does not apply to municipal employees whose work is supervisory or managerial in character to meet statutory obligations to sustain public safety and public health.

3. Exempt volunteer firefighters from the provisions of this proposed Act

42.1 (1) No employer shall pay an employee at a rate of pay less than the rate paid to another employee of the employer because of a difference in employment status when,

- (a) they perform substantially the same kind of work in the same establishment;
- (b) their performance requires substantially the same skill, effort and responsibility; and
- (c) their work is performed under similar working conditions.

Exception

(2) Subsection (1) does not apply when the difference in the rate of pay is made on the basis of,

- (a) a seniority system;
- (b) a merit system;
- (c) a system that measures earnings by quantity or quality of production; or
- (d) any other factor other than sex or employment status
- (e) being a volunteer fire fighter

4. Clarify that public health and safety legislation takes priority over the provisions of this proposed Act

Primacy of Public Safety over the provisions of ESA

Conflict

XX. In the event of conflict between the provisions of this and any other general or special Act, the provisions of the Act that offers protection to public health and safety shall prevail.