



Bill 107,  
*Getting Ontario Moving Act, 2019*

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Submission to the Standing Committee on General Government

May 21, 2019

## **Introduction**

From the moment Ontarians brush their teeth in the morning until they turn out the lights at night, municipal governments have a significant role in making Ontarians' lives better, more affordable and safer.

One of the important core services municipal governments deliver is transportation. Local transportation networks allow our citizens to be connected. Transit systems allow them to get to work or to their important appointments and these systems play a major role in supporting economies at the local, regional, provincial and national levels.

Ontario municipal governments manage over 140,000 km of roads for the benefit of our communities. Every trip, every delivery of goods and services, starts on a local road. Municipal transit systems, both mass transit and specialized, help our citizens to get where they need to safely and effectively, avoiding the costs of car ownership or use, and to go about their business every day.

Municipal transportation is a core service that all orders of government need to pay attention to.

## **Bill 107, the *Getting Ontario Moving Act***

Municipal governments welcome the government's focus on the critical importance of transportation in the lives of Ontarians. AMO supports many aspects of the Bill because implementing these changes will help make Ontarian's lives better. These aspects are:

### **Administrative Monetary Penalties**

Allowing Administrative Monetary Penalties (AMPs) to be used to collect fine revenue for school bus stop arm infractions and other applications. School bus stop arms and Automated Speed Enforcement (ASE) technologies deployed in school and community safety zones are important safety technologies that will allow municipal governments to effectively and efficiently enforce speed and dangerous driving rules on our streets. Importantly, they allow existing police resources to be directed to more pressing concerns.

Deploying school bus stop arm cameras as well as ASE in designated zones protects community members at their most vulnerable. Ontario has had rules for many years regarding passing school buses when the lights are flashing and the stop arm is out to protect children when they are vulnerable getting off of and onto school buses. Yet, we understand that everyday there are drivers that do not stop for these signals, endangering our youngest citizens.

Newer technology allows us to document instances when drivers fail to stop for a school bus and to enforce the rules we have already in a more efficient way. AMO members look forward to working with our partners to deploy these systems as appropriate as soon as possible to provide parents and their children peace of mind.

### **Highway Worker Safety**

Bill 107 provides for increased fines and enforcement for dangerous driving in the presence of highway workers. Highway workers, such as construction crews or tow truck operators, do jobs that can be risky and dangerous driving can increase that risk. Municipal road crews and our contractors improve our roads. AMO supports taking this step to help ensure workers can count on Ontario's

governments to take all practical steps to ensure their safety. Their families and friends can also rest a little easier.

### **Traffic Signs and Bike Lanes**

Bill 107 proposes to make it an offence to vandalize or remove traffic signs, which are critical to the functioning of our transportation system and costly to replace. It also clarifies rules about accessing bicycle lanes and bus terminals as well as changes to the *Shortline Railway Act* for more efficient regulation. These are practical steps we support.

### **Bill 107 Amendments Needed**

However, there are some aspects of this Bill that cause concerns amongst our municipal members and for which changes to the legislation as written are required. The changes AMO is asking for are aimed at improving Bill 107, upholding the principles of municipal autonomy and would increase our ability to enforce and administer the legislation.

### **AMP Debts to Crown**

One aspect of the Administrative Monetary Penalty provisions in this Bill that municipal governments find concerning is the treatment of these penalties in law. The Bill is written to treat these as debts to the Crown. This means that these penalties are owed to the Government of Ontario as the Crown in Right of Ontario rather than municipal governments.

In the 1990s, when municipal governments assumed a number of formerly provincial services such as land ambulance, some highways, local courts administration and others, the province provided for revenues from Provincial Offences Act (POA) charges such as traffic tickets for various violations to be exclusively administered and collected by municipal governments. This revenue provides a needed offset for the costs of delivering these and other services to the public. It also ensures administrative effectiveness since the municipal government retains the incentive for properly administering these charges.

AMPs could provide municipal governments with a new and effective tool in reducing traffic violations in our communities. However, municipal governments must keep the revenues and penalties owing should be debts to municipal governments. AMO urges the committee to clarify the language in this section by amending section 21.1 (13) of the Act as following:

**21.1 (13) An administrative penalty that is not paid in accordance with the terms of the order imposing the penalty is a debt due to the Crown, or to a municipality as provided for in a regulation, and is also enforceable as such.**

### **Fair Compensation for Uploaded Municipal Services**

Bill 107 includes provisions for the upload of the Toronto Transit Commission (TTC) subways. The language in the Bill allows the government to assume ownership of the service without necessarily paying compensation. The Bill states:

**47 (1) The Lieutenant Governor in Council may, by order, transfer to the Corporation, with ~~or without~~ compensation, all or some of the City of Toronto's and its agencies' assets, liabilities, rights and obligations with respect to a project prescribed as a rapid transit project that is**

**the sole responsibility of the Corporation, including intellectual property, contractual rights, interests, approvals, registrations and entitlements, originals or copies of reports, documents and data, and any other real or personal property.**

Further, the Bill states that this action will not be considered an expropriation in the meaning of the *Expropriations Act*. Municipal governments, including the City of Toronto, have invested property tax dollars on behalf of local residents in services such as the subway for many years. Municipal governments are concerned that this Bill could set a significant precedent for any other municipal services that the provincial government decides to assume.

The *Expropriations Act* already binds the province and sets out a process for assumption of ownership and establishing fair market-based compensation amongst other provisions. Certainly the provincial government has invested in the subway over time. It would not be appropriate for the province to pay compensation for the portion of an asset it has already provided. However, it is not fair for local taxpayers to go uncompensated for their costs and investments, while keeping in mind that they will still benefit from the subway. AMO urges the province to negotiate with the City to establish fair compensation for any uploaded assets.

### **Off-road Vehicles and Municipal Roads**

Off-road vehicles contribute to the quality of life in many rural and northern communities, helping people accomplish tasks more easily. Hunters and sports people use them to access less accessible areas and using the local road network can help operators of these vehicles to get around more easily. Right now, municipal governments can decide to allow these vehicles if they are of benefit to their communities by passing a by-law. Otherwise, access to the municipal road network is prohibited. Where they make sense locally, municipal governments have already taken that step.

However, Bill 107 intends to flip the current legislative onus, allowing these vehicles where they are not expressly prohibited. AMO believes that this is unnecessary and could be dangerous for both drivers of cars and off-road vehicles. Not only will this create more work for municipal governments by adding a by-law review to their agendas, but expansion of the use of these vehicles could open municipal governments up to court claims for any accidents that may occur under the current joint and several liability regime. The process that is in place currently has worked as evidenced by those municipal governments allowing these vehicles.

AMO urges the Standing Committee to undo this proposal to respect the decisions municipal governments have taken and to protect municipal taxpayers from any potential liability claims.

AMO recommends the Standing Committee allow the current sections 191.8 (1) (2) (3) (4) and (5) to stand by striking out the sections of the Bill as follows:

~~34 (1) Subsection 191.8 (2) of the Act is amended by striking out "Lieutenant Governor in Council" in the portion before clause (a) and substituting "Minister".~~

~~(2) Clause 191.8 (2) (b) of the Act is amended by adding "governing" at the beginning.~~

~~(3) Section 191.8 of the Act is amended by adding the following subsection:~~

~~(2.1) A regulation made under subsection (2) may provide that a provision of the regulation that permits the operation of off-road vehicles on a highway or part of a highway does not apply with~~

~~respect to a highway or part of a highway that is under the jurisdiction of a municipality if the municipality has by by-law prohibited such operation.~~

~~(4) Clause 191.8 (3) (a) of the Act is repealed and the following substituted:(a)permitting the operation of off-road vehicles with three or more wheels, or prohibiting the operation of off-road vehicles on any highway within the municipality that is under the jurisdiction of the municipality, or on any part or parts of such highway;~~

~~(5) Subsection 191.8 (4) of the Act is repealed and the following substituted:~~

~~By-laws may regulate times of operation~~

~~(4) A by-law passed under subsection (3) may apply only during specified times.~~

### **Conclusion**

AMO supports the majority of changes and directions included in Bill 107 and welcomes the provincial government's vision for transportation in Ontario. While most of the changes in the Bill will help us to provide better services for our communities, there are some aspects that need to be changed for practical and principled reasons. We hope the Standing Committee will consider and support our proposed amendments. AMO appreciates the opportunity to comment on this legislation.

## Appendix

### **Proposed AMO amendments to Bill 107**

Amendments are highlighted below.

In sections 21.1 (13) and 47 (1), AMO is recommending additional language be included and in 47 (1) that “or without” is deleted.

21.1 (13) An administrative penalty that is not paid in accordance with the terms of the order imposing the penalty is a debt due to the Crown, or to a municipality as provided for in a regulation, and is also enforceable as such.

47 (1) The Lieutenant Governor in Council may, by order, transfer to the Corporation, with or without fair compensation, all or some of the City of Toronto’s and its agencies’ assets, liabilities, rights and obligations with respect to a project prescribed as a rapid transit project that is the sole responsibility of the Corporation, including intellectual property, contractual rights, interests, approvals, registrations and entitlements, originals or copies of reports, documents and data, and any other real or personal property.

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