Municipal Statute Law Amendment Act, 2006

AMCTO-MAH Municipal
Training Workshop
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Disclaimer

Municipal Statute Law Amendment Act, 2006

- These slides are provided by the Ministry of Municipal Affairs and Housing for convenience only. They are a simplified summary of some of the changes to the *Municipal Act, 2001* made by Bill 130, and associated regulations filed in relation to that Bill.

- The slides should not be relied on for legal or official purposes. For authoritative text, recourse may be had to the official volumes (which include, but are not limited to, the *Municipal Act, 2001* and the applicable regulations). As local facts and circumstances are variable, users may wish to consider obtaining their own legal advice when particular legal issues or decisions arise.

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Accountability and Transparency

Integrity Officers,
Meetings &
Policies

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Purpose

- General requirements replace specific provisions.
- Strengthened accountability mechanisms to balance broader powers.
- Response to public concerns over events in recent years (Bellamy/Sills Inquiries).

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Integrity Components

- Municipalities are empowered to pass by-laws to establish:
  - Code of Conduct for council and local boards
  - Integrity Commissioner
  - Ombudsman
  - Auditor General
  - Lobbyist Registry

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Integrity Commissioner

Municipalities have explicit authority to appoint an Integrity Commissioner, to perform functions related to:

- Application of code of conduct and other procedures, rules and policies governing ethical behaviour for members of council and certain local boards.
- Penalties that may be imposed by the municipality where the Integrity Commissioner reports that a member of council or local board has contravened the code of conduct include:
  - Reprimand;
  - Suspension of pay.
- Under certain circumstances, Integrity Commissioner would be required to refer matter to appropriate authorities and suspend inquiry.

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Ombudsman

Municipalities have explicit authority to appoint an Ombudsman, whose function is to:

- Investigate administrative decisions / recommendations / actions
  - Duties to be carried out in an independent manner
  - Investigations conducted in private
  - No review by courts of proceedings and decisions of Ombudsman except on grounds of jurisdiction.

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Ombudsman

Considerations:

- Independence
- Impartiality
- Credible investigation process
- Confidentiality

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Auditor General

Municipalities have explicit authority to appoint an Auditor General, who is responsible for:

- Assisting council
  - In holding itself and municipal administrators accountable for the quality of stewardship over public funds
  - For achievement of value for money in municipal operations.

- Responsibilities do <u>not</u> include the responsibilities of the municipal external Auditor.

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Lobbyist Registry

Municipalities have explicit authority to establish a Lobbyist Registry:

- Municipality to determine registration system and requirements.
- Municipality to provide for inspection of registry by public.
- Municipal council may appoint a registrar for the lobbyist registry.

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Powers of Integrity Officers

These integrity officers, if appointed, would have wide ranging investigatory powers, including:

- Confidentiality of information prevails over the *Municipal Freedom of Information and Protection of Privacy Act*.
- Rights to be provided with information and to have access to documents necessary for investigations/inquiries.
- Powers to examine persons under oath.
- Integrity Commissioner, Lobbyist Registrar and Auditor General may exercise some powers of a commission under the *Public Inquiries Act*.

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Policies

- S.270 requires that municipalities adopt policies in the following areas:
  - Sale and other disposition of land
  - Hiring of employees
  - Procurement of goods and services
  - Notice – when, under what circumstances and how notice to the public is to be given
  - Accountability and transparency
  - Delegation of powers and duties
- First four policies are current requirements (with modifications), last two policies are new.
- This section was proclaimed to come into effect on January 1, 2008 in order to give municipalities time to develop their policies.

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Meetings

- Changes build on the meeting provisions that have been in place for the last 10 years.

- Public notice would be required for <u>all</u> meetings; method and content of notice to be determined by council.

- Clarifies that a record of <u>all</u> meetings (open and closed) is mandatory.

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Meetings – Education and Training

In addition to the existing authority to close meetings:

- A meeting may be closed to the public if the following conditions are satisfied:
  - It is held for the purpose of educating or training the members, AND
  - No member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee.

- These closed education and training meetings would be subject to procedural rules:
  - Public notice required
  - Record of meeting required
  - Record is not subject to MFIPPA rules related to records of closed meetings

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Meetings - Compliance

- A non-court process whereby the public can request an investigation to determine compliance with meeting rules.
- Municipality will be able to appoint an investigator to investigate, upon complaint, whether rules in procedure by-law and section 239 of the Act respecting meetings that were closed to the public have been followed (s.239.2).
- If municipality does not appoint an investigator, Ontario's Ombudsman will have the authority to investigate (s.239.1).
- S.239.1 & 239.2 were proclaimed to come into effect on January 1, 2008 in order to give municipal councils time to decide whether or not to appoint a meetings investigator.

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Summary

- Greater certainty concerning appointment and powers of integrity officers.
- Greater latitude to determine content of policies, but policies are still required.
- Greater certainty regarding notice and records of meetings.
- Expressly provides for closed meetings where the meeting is held for the purposes of educating and training the members AND no member discusses or materially advances the business or decision-making of council, local board or committee.

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