

July 8, 2020

AMO Policy Update: Federal Economic Statement and Initial Analysis of Ontario Omnibus COVID-19 Recovery Legislation

Federal Economic and Fiscal Update

Federal Finance Minister Bill Morneau presented an [Economic and Fiscal Snapshot](#) in the House of Commons today. The Minister noted that today's economic statement was predicated on the backdrop of a public health and economic crisis as it projected a sizeable deficit of \$343 billion dollars with a debt-to-GDP ratio of 49.1%.

The Minister noted the scale of the deficit is the result necessary measures that provided an appropriate response for dealing with the unexpected public health and economic impacts arising from the COVID-19 pandemic. The fiscal snapshot indicated several fiscal highlights including:

- Federal spending reduced the size of economic contraction by nearly 5 per cent and reduced unemployment figures by 2 per cent.
- A budget deficit of \$343.2 billion is projected for 2020-21 with a debt-to-GDP ratio of 49.1%.
- Direct support to Canadian businesses and individuals amounts to \$229 billion with the total value of the federal emergency response to date is 14 per cent of GDP.
 - o The Canadian Emergency Response Benefit (CERB) is set to cost \$73.1 billion this year.
 - o The Federal Wage Subsidy program is expected to cost \$82 billion this year.

Funding for Municipalities

AMO is disappointed that federal funding relief for municipalities was not contained in today's federal snapshot but remain hopeful that conversations continue on ensuring the provision of this necessary relief to municipalities. In his daily briefing, Premier Ford noted that Ontario had financial resources ready for municipal support but that he was working towards a deal with the federal government for flexible funding that reflects Ontario's proportion of the national population.

Ontario Introduces *COVID-19 Economic Recovery Act*

The Ontario Government introduced a broad omnibus legislation, [Bill 197, *The COVID-19 Economic Recovery Act*](#), which the government says is aimed at giving municipalities and their communities the tools they need to spur recovery efforts. In introducing the legislation, the Minister of Municipal Affairs and Housing noted that the province had been working with municipal governments since the early days of the pandemic and acknowledged that municipalities would lead the recovery in their communities. The objective of the legislation is to get infrastructure and development projects up and running faster to create jobs and economic activity. The legislation is comprehensive and complex, totaling over 180 pages with 20 schedules amending other Acts. AMO will be evaluating the legislation and its elements more thoroughly and will communicate to members significant concerns or implications assessed.

In the meantime, this current update includes a description of major relevant sections and initial analysis from AMO. Municipal officials should begin a local review of the Bill to assess its impact on your municipal governments which can be identified during the legislative and regulatory processes.

Municipal Function: Governance

Electronic Participation in Meetings and Proxy Voting

This Bill proposes to continue provisions for municipal councils and local boards to meet electronically, as has been enabled temporarily through the pandemic. As well, the government is proposing that elected officials be allowed to vote by proxy in cases determined locally, such as when they are ill or must self-isolate.

AMO Comments:

Both changes are positive and reinforce that municipal governments are a mature level of government. AMO has requested that if the legislation passes, the government prepare guidance materials to assist their implementation in practice.

Municipal Function: Finance

Development Charges and Community Benefit Charges

After extensive consultation, the government is introducing an “all in one regime” for Development Charges (DC) and Community Benefit Charges (CBC). The *Development Charges Act* is being amended to further expand the list of eligible services funded through development charges and allows for a blended use with CBCs.

The full list of services eligible for development charge recovery now include:

- Libraries,
- Long-Term Care,

- Park Development,
- Public Housing,
- Recreation,
- Childcare,
- Housing Services (e.g. affordable housing & shelters),
- By-Law Enforcement and Court Services,
- Emergency Preparedness, and
- Airports (specific to only Waterloo Region).

The above services will see the elimination of the 10% discounting. Background study costs remain recoverable.

Parkland Dedication

Existing parkland provisions (including basic parkland dedication and alternative parkland rates) will be maintained. These provisions can now be used in conjunction with community benefit charges in respect to the same development. The legislation introduces a new public consultation requirement and the alternative rate is now subject to Local Planning Appeal Tribunal (LPAT) appeal.

Community Benefit Charges

The Community Benefit Charge can be used by single and lower tier municipalities as most upper-tier services are included under the development charge calculation. The CBC can only be applied for higher density residential developments for buildings of 10 units and five storeys or greater.

As a result of the consultations, the CBC is now a flexible tool that can fund any municipal service provided it is not being recovered through another mechanism (e.g. development charges). The CBC is subject to appeal to the LPAT. The CBC percentage of land value cap will be set by regulation at a future date.

Transition Period

Following sector advice, municipalities can continue under the current regime until 2 years after proclamation date.

AMO Comments:

AMO is pleased to see the addition of eligible services for development charge recovery being restored. Maintaining existing parkland provisions and the flexibility of CBCs as a tool to recover additional costs is welcomed along with moving toward a two-year transition period. The draft legislation does reflect significant municipal consultation feedback.

Under this new regime, AMO will continue to watch carefully that growth continues to

pay for growth. This will include reviewing the potential for increased LPAT appeals, determination of land value caps for CBCs (to be set out in regulation), assessing the use land values and how that corresponds to the cost of municipal services.

The Ministry of Municipal Affairs and Housing will be hosting technical information sessions on the CBC framework soon and invitations to municipal officials should be out shortly.

Municipal Function: Infrastructure Development + Environmental Assessment (EA)

The Bill creates comprehensive changes to streamline and accelerate Environmental Assessments (EAs) to improve project timelines and build infrastructure in communities faster. Major provisions include a new process for projects going forward including class EAs; limiting requests for “bump up” decisions to the Minister to those affecting aboriginal treaty rights; requiring Minister’s orders to be made within 30 days of the comment period; and establishing a 10-year limitation for project commencement after EA completion. These changes are in addition to previous amendments to exempt low risk projects made last year. The legislation also eliminates hearings of necessity under the *Public Transportation and Highway Improvement Act* for expropriations allowing the Minister to establish an alternative process to receive comments from property owners.

AMO Comments:

AMO supports a faster and less costly EA process in Ontario, especially when projects have already been through multiple studies and consultations through municipal planning processes. AMO and other others have long raised concerns that the EA process took too long to complete and added significant costs to projects in addition to time. In some cases, AMO understands, the cost of completing EAs has been in excess of building the infrastructure studied. AMO will work with the Municipal Engineers Association (MEA) and other municipal groups to ensure the new legislation is appropriate to municipal government requirements.

Environmental Assessment and Landfill Siting: Municipal Say on Landfill Approvals

While the Minister will still have final approval authority on all landfill environmental assessments (EAs), the Bill proposes that proponents of landfills must seek approval of the host municipality in which the landfill is located, as well as certain neighbouring adjacent municipalities within 3.5km that meet certain criteria as part of the approvals process.

AMO Comments:

There will be implications for municipal governments, both those who are preparing

landfill proposals/expansions, as well as those in the host and in certain circumstances, adjacent municipalities. AMO will keep members informed of the consultation for those who want to comment on this section.

Municipal Function: Transit Development

The Bill also includes a schedule to deliver on the Premier's earlier commitment to develop transit-oriented communities and make it easier for developers to contribute to the development of this infrastructure to support land development in these areas. The legislation is limited to priority transit projects in the Toronto and York systems. The legislation proposes to allow regulations to designate transit-oriented communities, allowing the creation of corporations to invest in the development and processes for expropriating land.

AMO Comments:

As written, the legislation applies only to priority projects in Toronto and York as identified in the legislation. AMO understands that other municipal governments may be interested in a similar approach to transit development and encourages interested communities to assess the provisions.

Municipal Function: Land Use Planning

Ministers Zoning Order (MZO):

The Bill amends the Ministers Zoning Order provisions. The amendments to the *Planning Act* have been proposed to reflect the Provincial Government's desire to use this tool to fast track development where there is complexity and provincial interests. The MZO will not be used in the Greenbelt.

An example of how MZO's could be used would be requiring affordable housing, especially inclusionary zoning. The Bill also includes a new power to allow for ministerial approval of site plans.

AMO Comments:

While AMO supports the need for this tool in circumstances that are complex and accelerating the process is desirable, prior notice and support from the municipal government is essential. AMO will pursue greater clarification about the intent of this clause about notice.

Provincial Facilitator

The Bill also amends the provisions concerning a provincial facilitator, making the position permanent. The Provincial Facilitator is an advisory role related to growth, land use planning and provincial interest that has been in place in various capacities

for decades. The Facilitator provides advice to the Minister and when assigned, will work through development proposals that have come to an impasse, prior to appeals to the LPAT.

AMO Comments:

Where the municipal council is supportive of the development, the Facilitator is a welcomed source of assistance. AMO will seek more information regarding the use of this office to advance developments in conflict with the Official Plan.

Municipal Function: Other Amendments

Municipal Courts Administration: *Provincial Offences Act (POA)*

Amendments to the POA will allow court filings and proceedings to proceed by electronic means, including meetings and hearings. The amendments will make it easier to contest charges and schedule appearances, increasing efficiency of administration.

AMO Comments:

AMO supports changes to the POA that increase access to justice and efficiency of proceedings and administration. Electronic filing and meetings are welcome modernizations in the justice system.

Building Code Act

Schedule 1 amends the *Building Code Act* and will permit regulations under the Act to be drafted by the Minister of Municipal Affairs and Housing instead of the Lieutenant Governor General in Council. The proposed changes will enable the Province to pursue necessary recovery-related regulatory changes to the Building Code in a timely fashion. As well, the amendments clarify the scope of certain regulation-making authorities, including the authority to make regulations by adopting certain documents by reference.

AMO Comments:

The amendments to the *Building Code Act* will streamline the ability to draft regulations that is necessary to facilitate municipal recovery. AMO continues to highlight the need to consult and engage with municipal governments and key stakeholders on any proposed changes in the future. Small, rural and northern municipal governments have limited capacity and resources and should be taken into consideration when moving forward.

Drainage Act

Schedule 4 amends the *Drainage Act*. The Ministry of Agriculture, Food and Rural Affairs (OMAFRA) recently posted a consultation paper on altering the *Drainage Act* to address three areas:

- Streamlining Approvals creates a new process for minor improvements.
- Simplifying Administrative Processes: simplify process to update the engineer's report and to account for changes to drain design during construction.
- Supporting Technical Proposals: incorporation of protocols by reference in a regulation.

AMO Comments:

AMO supports simplifying processes and making routine low risk activities easier to undertake. AMO also supports opportunities to introduce green infrastructure that will improve infiltration to reduce the potential for flooding. The proposed change would allow for more accurate information on final drain construction and have much shorter approval timelines. AMO will monitor the regulatory details when they are brought forward.

Marriage Licences

AMO and other municipal organizations have long called for updating the paper-based marriage license process to keep up with public expectation and improve administrative efficiencies. The pandemic emergency response has emphasized this and brought forward the need to address expiring licenses without financial penalties for members of the public that could not marry during the pandemic.

AMO Comments:

The rules for marriage licenses are the responsibility of the province but administered by municipal governments. These changes are welcome and will help to address an unexpected anxiety for couples planning to marry at an already often stressful time.

Payday Loans Act

Schedule 16 amends the *Payday Loans Act* and sets a new maximum interest rate of 2.5 percent that will be applied on any outstanding principal under a loan agreement that meets a set criteria. The provision can be changed by regulation. The amendments will also impose a limitation on the fee that can be charged for a dishonoured cheque, pre-authorized debit or other instrument of payment.

AMO Comments:

Although these proposed amendments do not have any municipal impacts, it should be noted that these changes will be helpful for the most vulnerable community

members who often need to use these facilities.

Next Steps

Bill 197 is broad, omnibus legislation with many implications for municipal governments. AMO will be reviewing in greater detail each of the sections of this draft legislation and will report significant concerns or impacts to members.

Members and municipal staff are encouraged to review the Bill for local municipal or community effects to flag during the legislative and regulation-making processes. It is expected that this draft legislation will move quickly in this summer session.