



ONTARIO PUBLIC
SCHOOL BOARDS'
ASSOCIATION

Leading Education's Advocates

Ontario Public School Boards' Association
439 University Avenue, 18th Floor
Toronto, ON M5G 1Y8
Tel: (416) 340-2540
Fax: (416) 340-7571
webmaster@opsba.org
www.opsba.org

Laurie French
President

Gail Anderson
Executive Director

March 3, 2017

Kyle Kubatbekov
Senior Policy Advisor
Leadership Development and School Board Governance Branch
Email: Kyle.Kubatbekov@ontario.ca

Dear Mr. Kubatbekov,

The Ontario Public School Boards' Association (OPSBA) appreciates the opportunity to address the proposed amendments in Bill 68, Modernizing Ontario's Municipal Legislation Act. One of OPSBA's priorities is *Advocating for the Role of Trustees as Members of the Board and Building Leadership Capacity*. As an Association, we actively respond to any government change concerning municipal elections and potential impacts for our members. Last May we provided a submission regarding Bill 181, Municipal Elections Modernization Act. In the submission we highlighted the importance of school boards and the role of local democratically, elected trustees.

Bill 68, Modernizing Ontario's Municipal Legislation Act, contemplates changes to the *Municipal Act*, the *City of Toronto Act*, the *Municipal Conflict of Interest Act* and the *Municipal Elections Act*. OPSBA has reviewed the legislation and consulted with its members on several relevant issues. Please see the discussion areas of our consultation and our recommendations.

Issue #1: Pregnancy/Parental Leave (proposed under the *Municipal Act* and not applicable to school boards)

Bill 68 proposes to allow municipal councillors to take parental or pregnancy leaves for up to 20 weeks without authorization from council. The seats of the members who take parental or pregnancy leaves would not be declared vacant. This proposal does not extend to school board trustees. The *Education Act* currently allows a trustee to miss three consecutive meetings if approval is granted by the board. For boards with one meeting a month, this would equate to 12 weeks.

Recommendation:

OPSBA recommends that the *Education Act* be amended to allow trustees to have the same pregnancy/parental leave of up to 20 weeks. School board trustees respectively request to be treated the same as their municipal counterparts. Of note, in the November 16, 2016, news release announcing Bill 68, the Ministry of Municipal Affairs and Housing stated that the proposed changes would benefit local governments and residents by, "*Increasing fairness and reducing barriers for women and parents elected to municipal governments by allowing time off for pregnancy or parental leave.*" We would like to remind the Ministry of Education that school board trustees are also elected municipal officials and should be treated accordingly. With the next municipal election in the Fall of 2018, OPSBA will once again be actively promoting trustees and the addition and recognition of these leaves will add credibility to their role.

Issue #2: Term of office Start Date (proposed under the *Municipal Elections Act*)

One of the provisions in the bill seeks to advance the start of the term of office for municipal council and school boards from December 1 to November 15 in an election year. If the proposal is implemented, it would shorten the term of current trustees by about two weeks.

Recommendation:

The change in start date was not something pursued by school board trustees. When consulted, OPSBA's trustees did not foresee any major implications with a revised start date but we do acknowledge it may impact the current approval timing of audited financial statements. We understand that a compromise may be considered to allow this start date to be effective November 15, 2022. This would allow boards to make any necessary adjustments.

Issue #3: Written Disclosure of Interest (proposed under the *Municipal Conflict of Interest Act*)

Trustees would be required to provide a written disclosure of interest. At a meeting at which a member discloses a pecuniary interest, the member will be required to file a written statement of their interest at the meeting, or as soon as possible afterwards.

Recommendation:

OPSBA does not support this amendment as it is seen as unnecessary. Trustees currently declare conflicts of interest orally and this is captured in the meeting minutes. While we understand the need for transparency and accountability, we suggest perhaps this is more of a communications issue. Information about conflict of interest should be more widely communicated among stakeholders, including parents and ratepayers. This should include an overview of what is a conflict of interest, what interests are in common with the general electorate, who should declare and where these declarations can easily be found. Feedback also reflected the additional administrative work/costs for school board staff.

Issue #4: Creation of a Registry of statements and declarations of interests of members (proposed under the *Municipal Conflict of Interest Act*)

School boards would be required to establish and maintain this registry that would be made available for public inspection. Currently, declarations are recorded in minutes and are publicly available. *Note: OPSBA is seeking clarification for the difference between a statement and a declaration.*

Recommendation:

OPSBA does not support this amendment for the same reasons stated above for Issue #3. We are also unclear as to the difference between a statement and a declaration.

Issue #5: Expansion of judge sanctions (proposed under the *Municipal Conflict of Interest Act*)

Currently if a judge determines that the MCIA has been breached, he/she can declare the seat vacant, disqualify the member from running again and require the member to pay/make restitution to the party suffered. Proposed changes would allow a judge to:

- reprimand the member or former member,
- suspend the member's remuneration for a period up to 90 days,
- declare the member's seat vacant,
- disqualify the member or former member during a period of not more than seven years,
- and/or require the member or former member to make restitution

Recommendation:

OPSBA supports the ability of a judge to now select from a range of penalties. We have stated before that we believe a sanction should match the offence. However, we have concerns about the option of a judge

giving reprimands and feel this is not appropriate for a judge to do. The role of a judge is to sentence people, make declarations, findings, but not reprimand. It is more appropriate for fellow trustees to do that which would be similar to their findings with code of conduct breaches. Instead, we recommended this list of sanctions be amended to indicate that a judge may make a declaration that the Act has been contravened. This option would be useful for minor breaches.

Issue #6: “Any Person” to bring an application before a judge (proposed under the *Municipal Conflict of Interest Act*)

The amendment would now allow not just an elector (as it is currently) but for anyone – from any of the four systems -- to apply to a judge to determine if a breach occurred.

Recommendation:

OPSBA does not support this amendment. Trustees felt strongly that such applications should be contained to those individuals who belong to a board’s jurisdiction. Only those ratepayers directly involved should be eligible to make such complaints as these are the individuals that are directly impacted. Concern was expressed that this amendment could lead to an increase in the number of inappropriate, vexatious or irrelevant applications.

Issue #7: Extension of applications to Former Members (proposed under the *Municipal Conflict of Interest Act*)

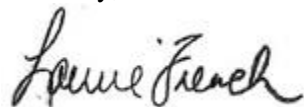
Presently applications can be brought against a current member, but a proposed change would now allow applications to be brought against a former member of the board, for a breach that may have occurred while they were a member. All applications still have to be brought within six weeks of when the breach comes to the attention of the applicant and that could be up to six years after the breach is alleged to have occurred.

Recommendation:

OPSBA does not support this amendment. Trustees did not believe applications to judges should be extended to former members as it would not allow a board to move forward. This has not been an issue for school boards and seems to be a hasty reaction to a couple of recent high profile cases involving municipalities.

Thank you again for this opportunity to provide our feedback and comments regarding Bill 68. Please do not hesitate to contact us for further clarification on any of the above issues.

Sincerely,



Laurie French
President

The Ontario Public School Boards' Association (OPSBA) represents public district school boards and public school authorities across Ontario. Together our members serve the educational needs of almost 70% of Ontario’s elementary and secondary students. The Association advocates on behalf of the best interests and needs of the public school system in Ontario. OPSBA believes that the role of public education is to provide universally accessible education opportunities for all students regardless of their ethnic, racial or cultural backgrounds, social or economic status, individual exceptionality, or religious affiliation.

cc.

Bruce Drewett, Director Leadership Development and School Board Governance, Ministry of Education