

What happened in the legislature

December 19, 2018

Just when we thought it was safe to write a “What happened in the legislature” update, the governing Progressive Conservatives decided to [call MPPs back to Queen’s Park](#) this week to address a potential electricity workers’ strike. Regardless, with a marathon session that began on July 11 coming almost to an end, it’s time for an update on major provincial legislative changes affecting the nonprofit sector. While you can read the government’s own summary of its legislative session [here](#), we’re highlighting issues we think affect our sector the most.

The big three: Bill 47, Bill 66, Bill 57

Bill 47 (Making Ontario Open for Business Act, 2018) – passed and received Royal Assent

This bill essentially undoes most of the provisions passed by the previous government in response to the [Changing Workplaces Review](#).

- **Employment standards legislation:** Like many employment sectors, nonprofits are adjusting to the rollback of the minimum wage increase and related changes to the Employment Standards Act. [We’ve already updated you on Bill 47](#), which repeals most provisions of Bill 148.
- Important note: Bill 66 also amends the Employment Standards Act.

Bill 66 (Restoring Ontario's Competitiveness Act, 2018) – first reading December 6 (will likely pass into law by early 2019)

This omnibus bill proposes to [scrap regulations](#) relating to toxic chemicals, employment standards, private child care, safety in assembly plants, pawnbrokers, food safety testing, wireless cellphone contracts, agriculture, water extraction permits, wastewater treatment, private career colleges and more.

- **Environmental, public health, and land-use planning changes:** Bill 66 would enable municipalities to pass “open-for-business bylaws” that allow significant environmental regulations to be [bypassed](#). Many environmental and public health nonprofits are [up in arms](#) about this bill, which [rolls back](#) greenbelt protections, safe water, and public health measures and allows development to bypass land-use planning frameworks. Specifically, the bill creates exemptions from the Clean Water Act, the Great Lakes Protection Act, the Greenbelt Act, the Lake Simcoe Protection Act, Oak Ridges Moraine Conservation Act, and the Places to Grow Act. By passing an “Open for Business Bylaw,” a municipality would be empowered to bypass provisions in these acts as well as allow development that is not in line with its own Official Plan. [Section 37 provisions](#) that allow “community benefits” (such as affordable housing, public art and daycare centres) to be

provided by developers in exchange for increased density are also affected. Some [mayors](#) have stated publicly that they will not use these new powers to override environmental safeguards.

- **Employment standards changes:** The Employment Standards Act (ESA) currently requires an employer to get Ministry approval when employees work more than 48 hours in a work week (“excess weekly hours”) and/or when an employee’s hours for the purpose of overtime pay are averaged over two or more weeks (“overtime averaging”). Bill 66 would eliminate these requirements but would still require the employer to obtain written agreement with the employee to undertake overtime averaging. Bill 66 would also increase from two to four the number of weeks over which overtime can be averaged. (Collective agreement provisions would continue until a subsequent agreement comes into effect.) The outcome of these changes would be less overtime pay for workers whose schedules fluctuate significantly. Bill 66 also ends the requirement for the [ESA poster](#) to be posted in the workplace (employers must still give the poster to each employee).
- **Child care regulatory changes:** Bill 66 would loosen regulations for home-based daycares, likely increasing the proportion of children who will be cared for in unlicensed settings. The potential changes raise concerns in light of a 2014 [report](#) from the Ontario Ombudsman on four child deaths in private care over a seven-month period that prompted some of the restrictions the government is now loosening. This regulatory change [follows](#) a cut to municipal child care subsidies and the lifting of the cap established two years ago to limit public funding going to for-profit child care. On the brighter side, authorized before- and after-school recreation programs can now serve children as young as four.
- **Pension merger rules:** Some good news: Bill 66 would end the requirement for a regulatory change whenever a nonprofit or business merges its single-employer pension plan into a jointly sponsored pension plan – like [OPTrust Select](#).
- **Credit unions:** Regulations are amended so credit unions are no longer restricted from participating in bank-led loan syndications.
- **Long-term care homes:** Bill 66 eliminates the legislative requirement for a public consultation before a long-term care home license is granted or renewed, or the number of beds increased, and instead allows the Ministry to decide whether and how a consultation will be conducted. A temporary license for a home established or expanded during an emergency may be given for up to a year (previously 60 days). [Section 98](#), which establishes that eligibility for a license rests on the integrity, honesty, competency, and past conduct relating to the operation of a long-term care home or other business, would no longer apply to temporary emergency licenses. The Ministry is no longer necessarily constrained by regulation as to when temporary licenses may be issued. The prohibition on *renewing* a temporary license is kept, but the prohibition on *re-issuing* such a license is removed. The Ministry would have discretion to waive the requirement that emergency beds would only serve those affected by the emergency. The combined effect of all these changes is that a person or corporation with no track record could be granted a license to run a long-term care home without any public consultation, and could apply annually for the licence to be re-issued - again, with no public consultation.
- **Apartment/condo sub-metered electricity prices:** The previous government had intended to regulate electricity pricing for those living in apartments and condos with sub-meters (see the [2017 regulatory proposal](#) on this topic). Bill 66 repeals the [section](#) of the Ontario Energy Board Act that would have provided this consumer protection but had gone unproclaimed since 2010.

Bill 57 (Restoring Trust, Transparency and Accountability Act, 2018) – passed and received Royal Assent

This is the omnibus bill that accompanied the [Fall Economic Statement](#). The sector has been [strong in its response](#) to Bill 57’s tax and regulatory changes that are increasing inequality – and we applaud nonprofits for [advocating together](#) in response to the announcement ending key watchdog positions in the Legislature. There is, however, much else in the bill that the sector needs to know about.

- **Royal Canadian Legion memorial homes, clubhouses, and athletic grounds** are exempted from taxation under changes to the Assessment Act.
- The Courts of Justice Act is amended, affecting **family law mediation** and information services.
- **Political campaign contribution limits** are increased under the Election Finances Act; safeguards are eliminated that were enacted to prevent indirect corporate donations; the prohibition on MPPs and party leaders attending party fundraising events is eliminated; and the per vote subsidy to political parties is phased out.
- The geographic area for **regional transportation** under the Metrolinx Act is expanded; Metrolinx’s mandate is amended to remove references to “multi-modal transportation” (**biking and walking**).
- The **Pay Transparency Act** is postponed indefinitely. It was to take effect on January 1, 2019.
- The **Pension Benefits Act** is amended with respect to defined contribution plans offering variable benefits, plan administrators’ liability around the purchase of annuities, unlocking of benefits for former pension plan members who are now non-residents, and various administrative changes.
- The Residential Tenancies Act is amended to eliminate **rent control** for newly built or converted buildings effective November 16, 2018.
- **Special Hockey Day** is enacted (will be March 27, 2019)
- The following acts are subject to only administrative changes: Anti-Racism Act, Broader Public Sector Accountability Act, Accessibility for Ontarians with Disabilities Act, the Co-operative Corporations Act & Credit Unions & Caisses Populaires Act, and the Lobbyist Registration Act.

Bill 57 also gives an estimate of what the government expects to spend next year – and the changes look drastic. For comparison, here is a table showing what the government expected to spend on public service operations (not capital investments, and not the Legislature, but everything else) in the following fiscal year at the time of tabling its Fall Statement in the last four years.

Fall Statement/Budget Measures Bill	Public Service expenses (operational)	% change from previous year (not adjusted for inflation)
Fall Statement 2015 (Bill 144) , Schedule 11 - Interim Appropriation for 2016-2017 Act, 2015	\$124,599,315,700	
Fall Statement 2016 (Bill 70) , Schedule 11 - Interim Appropriation for 2017-2018 Act, 2016	\$129,260,108,400	+4%
Fall Statement 2017 (Bill 177) , Schedule 22 - Interim Appropriation for 2018-2019 Act, 2017	\$138,769,721,600	+7%
Fall Statement 2018 (Bill 57) , Schedule 22 - Interim Appropriation for 2019-2020 Act, 2018	\$110,800,000,000	- 20%

What else are we watching?

- With [Bill 4](#) (Royal Assent), the government repealed the Climate Change Mitigation and Low-carbon Economy Act and ended the **cap-and-trade system**. The funds generated through cap-and-trade were intended to support measures such as retrofitting social housing and schools. [Many but not all programs](#) associated with the system have been cancelled.
- With [Bill 34](#) (Royal Assent), the government **repealed the Green Energy Act**.
- In November, the government announced a [Made-in-Ontario Environment Plan](#) but many details are still to come.
- [Bill 36](#) (Royal Assent) puts a legislative framework around the sale and use of **cannabis**. (Stay tuned in the new year for an ONN webinar on cannabis in the workplace.)
- [Bill 51](#) (at the Committee stage) mandates that **long-term care homes** give priority to veterans.
- ONN is monitoring the roll-out of the new Compensation Framework (effective August 13, 2018) under the **Broader Public Sector Executive Compensation Act** ([Ontario regulation 406/18](#)). Nonprofits receiving provincial funding have at times been caught up in BPS legislation and, while our sector is not named in this Act, there remains the possibility that some organizations could be subject to it in future: Aside from the BPS, the Act applies to “every other authority, board, commission, committee, corporation, council, foundation or organization that may be prescribed for the purposes of this section” -- but interestingly, it explicitly excludes for-profit corporations. Government consultations will continue and a full regulatory review of the Act is to be completed by June 7, 2019.
- On August 31, the Ministry of Health and Long-Term Care [announced](#) it is winding down the **Self-Directed Personal Support Services Ontario agency** that was still in the planning stages to deliver home care.
- ONN [was disappointed](#) to learn about the [reduced timeframe](#) (from 180 days to 30 days) for **surplus lands** to be available to broader public sector and nonprofit organizations. ONN [administers](#) nonprofit access to the surplus lands registry.
- As you would expect, we’re monitoring **provincial funding cuts affecting nonprofits**. We have already heard about in-year (2018-2019) budget cuts to the Ontario Trillium Foundation (\$15 million), the Ontario Arts Council (\$5 million cut to base funding plus \$2.5 million for the Indigenous Culture Fund), cuts to child care subsidies (noted above) and many smaller cuts. Please keep us in the loop (you can write to info@theonnc.ca) and we will do our best to help coordinate the sector’s response.

What’s next?

With the legislature recalled this week, it is best to be prepared for anything over the winter. The next session is scheduled to start on February 19, 2019. The timing of Ontario Budget 2019 is not yet known but clearly there are plans for major public spending reductions. It’s a difficult time in the sector and we encourage everyone to nurture their partnerships and networks as we are stronger together.