

Summary of Bill 66 – Proposed *Planning Act* Changes

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By Denise Baker,

On December 6, 2018, the Ontario Government introduced a bill entitled “Bill 66 – *Restoring Ontario’s Competitiveness Act, 2018*” (“**Bill 66**”). Also introduced at the same time was a proposed Regulation to the *Planning Act*, (the “**Act**”). Both the proposed Legislation and the Regulation are posted on the Environmental Registry of Ontario (ERO #'s 013-4293 and 013-4239, respectively).

Schedule 10 of Bill 66 proposes the addition of section 34.1 to the *Act*, allowing municipalities to pass an “open-for-business planning by-law” (an “**OFB by-law**”) pursuant to section 34 of the *Act* for “prescribed purposes.” While the *Act* is silent on what the prescribed purposes are, the ERO identifies that the purpose of the OFB by-law is to introduce a new development tool and remove barriers to planning to expedite major business investments. Additionally, the proposed Regulation is intended to, if certain prescribed criteria are met, ensure that municipalities can act quickly to attract businesses seeking development sites.

As posted on the Environmental Registry of Ontario (ERO # 013-4239), The proposed regulation would also, among other things:

- require confirmation that the proposal is for a new major employment use;
- require evidence that the proposal would meet a minimum job creation threshold (e.g. 50 jobs for municipalities with a population of less than 250,000 people, or 100 jobs for municipalities with a population of more than 250,000 people);
- identify the uses of land, buildings or structures that may be authorized by the tool, such as manufacturing and research and development, but not residential, commercial or retail as the primary use;

Procedure:

A municipality may pass an OFB by-law only with ministerial approval and only when prescribed criteria has been satisfied. An OFB by-law comes into force 20 days after it has been passed or a later date if specified by the Minister. Only the Minister may modify or revoke an OFB by-law before it comes into force. Afterwards, an OFB by-law may be amended or revoked by by-law pursuant to section 34 of the *Act*. Further, OFB by-laws cannot be appealed to the Local Planning Appeal Tribunal.

Also, except in particular circumstances, section 41 of the *Act* which requires site plan approval for development, would not apply in respect of land that is subject to an open-for-business planning by-law. Finally “H” provisions and bonusing provisions will not be applicable.

Exemptions:

OFB by-laws will be exempt from complying with a multitude of plans, policies and pieces of legislation. Specifically, OFB by-laws need not comply with the Provincial Policy Statement, Growth Plan, Official Plans and are exempt from certain provisions of the *Clean Water Act*, the *Great Lakes Protection Act*, the *Green Belt Act*, the *Lake Simcoe Protection Act*, the *Metrolinx Act*, the *Oak Ridges Moraine Conservation Act*, the *Ontario Planning and Development Act* and the *Resource Recovery and Circular*

Economy Act.

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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