

To:	Warden Hicks and Members of Grey County Council
Committee Date:	January 10, 2019
Subject / Report No:	Review of Bill 66 / PDR-CW-05-19
Title:	Grey County Comments on Bill 66
Prepared by:	Grey County Staff
Reviewed by:	Randy Scherzer
Lower Tier(s) Affected:	All Municipalities within Grey County
Status:	Recommendation adopted by the Committee of the Whole as presented as per Resolution <i>CW12-19</i> ;

Recommendation

1. That Report PDR-CW-05-19 regarding an overview of proposed *Bill 66, Restoring Ontario's Competitiveness Act* be received, and
2. That Report PDR-CW-05-19 be forwarded onto the Province of Ontario as the County of Grey's comments on the proposed legislation posted on the Environmental Registry through posting # 013-4293, and
3. That the Report be shared with member municipalities within Grey County.

Executive Summary

The Province recently released draft legislation entitled *Bill 66 Restoring Ontario's Competitiveness Act*, and they are seeking comments by January 20, 2019. The proposed legislation, if passed, will amend a number of acts, with the goal of reducing 'red tape' and ensuring Ontario's competitiveness nationally and globally. This report outlines the most pertinent changes to the County, and provides recommendations to Council on changes that can be supported, and others that raise concerns, including some of the proposed changes to the *Planning Act*.

Background and Discussion

Bill 66 Restoring Ontario's Competitiveness Act (hereafter referred to as Bill 66) was introduced into the Ontario Legislature on December 6, 2018. A copy of Bill 66 can be found at [this link](#), and the proposed Environmental Registry posting, with a concise summary of the legislation can be found [here](#). The Province has requested comments on Bill 66 by January 20, 2019.

Bill 66 proposes to amend the following pieces of legislation;

- A. *Agricultural Employees Protection Act*
- B. *Farm Registration and Farm Organizations Funding Act*
- C. *Ministry of Agriculture, Food and Rural Affairs Act*
- D. *Pawnbrokers Act*
- E. *Child Care and Early Years Act*
- F. *Education Act*
- G. *Ontario Energy Board Act*
- H. *Toxics Reduction Act*
- I. *Pension Benefits Act*
- J. *Technical Standards and Safety Act*
- K. *Wireless Services Agreements Act*
- L. *Long-Term Care Homes Act*
- M. *Employment Standards Act*
- N. *Labour Relations Act*
- O. *Planning Act*
- P. *Private Career Colleges Act*
- Q. *Highway Traffic Act*

Items A – C, E, F, I, L – O, and Q are the most pertinent to the County’s delivery of services and have been reviewed by County staff. Staff from the following departments have reviewed this legislation:

- Children’s / Social Services,
- Human Resources,
- Long Term Care,
- Economic Development,
- Corporate Services,
- Transportation Services,
- Legal Services, and
- Planning.

In addition to our internal departments, County staff also circulated Grey Agricultural Services for their review and comment.

Some of the proposed changes can be considered minor in nature and will meet the stated goal of reducing ‘red tape’. Other changes have the ability to make more fundamental impacts to some service delivery and may also have unintended or unforeseen consequences.

Perhaps the most significant changes are those to the *Planning Act*, which allow municipalities to request a new 'open-for-business planning by-law'. If approved by the Ministry of Municipal Affairs and Housing, this by-law permits municipalities to waive their planning requirements (official plan and zoning conformity) for new large employment development. In addition to local requirements, certain pieces of provincial legislation are also waived by this planning tool. These proposed *Planning Act* changes have attracted the most media and public attention to date.

A summary of the changes pertinent to the County, organized by Provincial Ministry mandate, has been included below. The beginning of each section includes the Province's summary of the changes in italics, followed by a brief staff response. The proposed schedule 10 changes require both a more extensive summary and greater explanation of the potential benefits/ramifications of the changes.

Schedule 1: Ministry of Agriculture Food and Rural Affairs

- *Remove outdated and time-consuming reporting requirements under the Ministry of Agriculture, Food and Rural Affairs Act, including ones required for loan guarantee programs.*
- *Amend the Agricultural Employees Protection Act (AEPA) to cover ornamental horticultural workers.*
- *Enable amendments under the Farm Registration and Farm Organizations Funding Act to simplify delivery of programs and enhance responsiveness.*

Staff Response

Based on a staff review, Planning staff do not perceive any serious impacts stemming from these changes. Staff have also shared the draft legislation with staff at Grey Agricultural Services for their review and comments. As of the publication date of this report, County staff had yet to hear back from Grey Agricultural Services.

Schedule 3: Ministry of Education

- *Remove restrictions on home-based child care providers, including allowing additional children, to make it easier for parents to find affordable child care.*
- *Lower the age of children that authorized recreation programs can serve from 6 to 4.*

Staff Response

Social Services staff have noted that they are already getting inquiries about the proposed changes from child care providers, as there is confusion that the proposed changes will be in effect as of January 1st, 2019.

Staff have further noted that both the Ontario Municipal Social Services Association and the Home Child Care Association will also be drafting responses to Bill 66. Should the Home Child Care Legislation pass, staff would need to do a risk analysis to determine how this would be implemented as the licensed home child care agency in Grey County.

Schedules 6: Ministry of Finance

- *Stop requiring a new regulation whenever businesses and non-profits merge single-employer pension plans into jointly sponsored pension plans.*

Staff Response

Human Resources and Corporate Services do not perceive any impacts to the County based on these changes.

Schedule 8: Ministry of Health and Long-Term Care

- *Modernize and streamline administrative requirements for the operators of long-term care homes.*

Staff Response

The proposed changes to reduce red tape and regulatory burden are welcomed. There are three areas that are of particular interest to Long Term Care (LTC). Information from the Ontario Long Term Care Association has been included below to outline the details.

- **“Public consultations on licensing transactions.** *The mandatory public meetings that are currently required can delay the process for redevelopment. This change would allow for other formats for public consultations, such as online or written submissions.*
- **Emergency licenses.** *If a home needs to displace residents due to the closure of a home, the emergency licenses would be extended to one year, instead of the existing month-to-month licensing requirements.*
- **Refusal of admissions.** *This change would drop the requirement for LTC homes to notify the Director at the Ministry’s inspections branch when they refuse an admission. Only the applicant and the LHIN [Local Health Integration Network] would need to be notified.”*

Schedule 9: Ministry of Labour

- *Amend the Employment Standards Act, 2000 (ESA) to reduce regulatory burden on businesses, including no longer requiring them to obtain approval from the Director of Employment Standards for excess hours of work and overtime averaging.*
- *Stop requiring employers to post the Employment Standards Act (ESA) poster in the workplace, but retain the requirement that they provide the poster to employees.*
- *Amend the Labour Relations Act, 1995 to explicitly deem public bodies, including municipalities, school boards, hospitals, colleges and universities, as “non-construction employers”.*

Staff Response

Human Resources staff are generally supportive of the proposed changes.

Schedule 12: Ministry of Transportation

- *Allow electronic documentation for International Registration Plans.*

Staff Response

There does not appear to be any impact on the Transportation Services department as a result of these changes.

Legal Services has noted that since this legislative amendment is very minor and technical in nature; it would not appear to impact the County's prosecution of traffic offences in the future.

Schedule 10: Ministry of Municipal Affairs and Housing

- *Introduce a new economic development tool and remove planning barriers to expedite major business investments and speed up approvals by about two years.*
 - *See "Proposed open-for-business planning tool" (ERO # [013-4125](#)) and*
 - *See "New Regulation under the Planning Act for Open-for-Business Planning Tool (ERO # [013-4239](#))*

The proposed changes would allow local municipalities (not counties or regions) to request an 'open-for-business planning by-law', which if approved by the Ministry, would;

- *"Allow municipalities to permit the use (i.e., zone the lands) without having to strictly adhere to existing local requirements (e.g., official plan and zoning);*
- *Remove the application of a separate approval process for site plan control;*
- *Remove ability to use density bonusing (community benefits in exchange for height or density) and holding by-law provisions;*
- *Allow the municipality to impose limited planning-related conditions that may help to facilitate the proposal [e.g., approval of plans and drawings that show site plan matters (transportation access, lighting, parking, etc.)] and enter into agreements to ensure development conditions are secured;*
- *Allow public consultation at the discretion of the municipality, while requiring public notice after the by-law is passed (at a minimum);*
- *Provide that decisions are final and cannot be appealed to the Local Planning Appeal Tribunal (but allow the Minister of Municipal Affairs and Housing to intervene before the by-law comes into effect, 20 days after its passing);*
- *Remove the requirement for decisions to strictly adhere to provincial policies and provincial plans (but allow the Minister of Municipal Affairs and Housing to impose conditions to protect matters like public health and safety when endorsing the use of the tool)."*

Based on the proposed draft regulations, municipalities would have the ability to request an open-for-business planning by-law where they can provide the following to the Ministry:

- *"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;*
- *prescribe how notice is to be given to the Minister of Municipal Affairs and Housing following the passing of an open-for-business by-law (similar to how the Minister is notified following the passing of a zoning by-law – e.g. email and personal service).”*

Staff Response

County Planning and Economic Development staff have reviewed the proposed changes and have the following comments (listed below in no order of importance). In general, staff see merit in the stated goal of attracting business, and minimizing burdens on new or expanding businesses. However, staff have concerns that the proposed changes may not be addressing the root cause, and may be sacrificing elements of public participation, environmental health, and clean water for the stated goal of economic competitiveness. Staff do not believe these factors need to be mutually exclusive, and would recommend other methods to achieve the stated goals.

1. The County would not have the ability to request an open-for business planning by-law, but any of our member municipalities would be enabled to do so. Based on the proposed regulations this ability would be provided for any major employment use greater than 50 jobs.

At this stage it appears the County could still request site plan level improvements such as entrance permits or road widening to County Roads.

2. Based on the current proposed regulation, there is a lower threshold for job creation in communities of less than 250,000 people (50 jobs versus 100 jobs in larger communities), which has the ability to benefit any municipalities in Grey County who choose to use this tool. That said however, these municipalities could potentially be competing against any other municipality in Ontario of less than 250,000 people who chooses to use this tool.
3. Bill 66 allows a municipality to potentially approve a development that does not need to conform to official plans, zoning by-laws, Provincial Policy Statement, or legislation such as the *Clean Water Act*, *Great Lakes Protection Act*, *Greenbelt Act*, *Oak Ridges Moraine Conservation Act*, etc. Concerns have been raised across the Province that this has the ability to negatively impact the natural environment and the protection of drinking water sources. The above-noted policies and legislation could certainly be revised, and streamlined, but waiving these policies altogether has the ability to impact public and environmental safety.

The lack of public consultation or appeal rights that may accompany major new employment land uses is also contrary to the direction of the provincial and municipal planning systems in recent years.

4. The proposed changes appear to ‘incentivize’ larger employers by allowing them to bypass planning rules, while offering no incentive to small or medium sized employers. Staff have concerns that this could further create an ‘uneven playing field’ to the detriment of small or mid-sized employers. While the County is certainly thankful for our major employers, we do not want to forget about our many smaller employers who account for a significant portion of employment and economic growth within the County.
5. At this stage the focus of the *Planning Act* changes has been on major new employment uses (e.g. industrial, research, etc.). It appears clear that the new open-for-business planning by-law would allow for a municipality to request ‘an exemption’ for such uses. However, what is not clear is whether or not the municipality could include other accessory or complimentary uses alongside those employment uses. For example if a 40 hectare site was being considered for a new research facility, could that site also include some residential or commercial uses? The Province may wish to clarify this apparent ‘loop-hole’ in Bill 66 or the implementing regulations.

One of the major impediments to economic growth in Grey County is the lack of available affordable housing. If such housing was being considered to also be ‘exempt’ it may help increase the available supply to facilitate new employment growth. However, if that housing was not properly planned (i.e. access to active transportation, community supports and services, amenities, etc.) there could also be negative consequences.

6. The proposed legislative changes also speak to a “*1-year service standard for provincial approvals related to these land use planning proposals.*” It is unclear exactly which provincial approvals are being referenced here. Staff would note that the literature related to Bill 66 does not note the Environmental Assessment (EA) Act, or the EA process as an exemption here. In the past, approvals on servicing expansions/upgrades or stormwater facilities can cause lengthy delays to some developments. As such, this new service standard could certainly be a welcome addition, depending on exactly which approvals it applies to, and provided it does not otherwise compromise public health and safety. Particularly if the 1-year service review standard could run simultaneously with the municipal approvals process, rather than needing to follow municipal approvals; this should help ‘speed up’ approvals in Ontario.
7. The proposed *Planning Act* changes appear to be ‘one time band-aide’ solutions, that do not appear to address the root of the perceived problem. Staff certainly acknowledge that the planning process in Ontario is not perfect. If the current planning processes are an impediment to economic growth, then let’s collectively work together at the Provincial, County, and Municipal levels to fix these processes, rather than permit ‘one off’ exemptions on a case-by-case basis in scattered municipalities throughout the province. By fixing the processes it could ‘level the playing field’ for all employers (at least from a planning process perspective), while creating efficiencies in all municipalities. Streamlining the planning processes would aide not only employers, but also other developers, including residential developers. Having a more efficient process could also reduce costs, which may help provide for more affordable or attainable housing as well.

Some potential solutions, which could be achieved at the municipal level, include but are not limited to;

- a) Ensuring that official plans and zoning by-laws are up-to-date, and flexible, to minimize the individual burden on innovative new businesses (i.e. to prevent unnecessary proponent initiated official plan amendments etc.),
 - b) Ensuring an adequate supply of available pre-zoned, shovel ready employment lands,
 - c) Streamlining development review between departments and agencies, such that when a new employer 'comes to town' their site plans can be reviewed in an expeditious fashion,
 - d) Having a Community Improvement Plan (CIP) in place to provide incentives to new or growing businesses, or the re-use of brownfield sites,
 - e) Ensuring municipal documents such as community profiles remain up to date,
 - f) Providing an 'open for business' pre-submission consultation process, consisting of planning, engineering/operations, and economic development, which provides timely data and information for any given site in a municipality.
8. Although the proposed changes would 'exempt' major employment uses from many local planning rules, it does not appear to provide for other exemptions which also have the ability to delay or prohibit such development. In general, one of the most significant 'delays' can be the need to complete three season environmental work (i.e. needing a field assessment of a site in the spring, summer, and fall). Endangered species, or endangered species habitat have the ability to impact the development process. Similarly conservation authority and Niagara Escarpment Commission permits and review can also add additional time to the approval process.

In making the above comments, County staff in no way wish to denigrate the importance of endangered species or the work of conservation authorities across the Province, or the Niagara Escarpment Commission. Nor do staff wish to 'blame' this work for delaying growth or economic development. Rather staff would highlight the fact that the proposed legislation does not 'waive' all possible obstacles to timely development.

Other obstacles at the municipal level can include, but are not limited to; the need for servicing upgrades or extensions, new infrastructure construction e.g. new roads or road improvements, lack of utilities (e.g. natural gas or broadband internet) in a given area, etc.

9. Some municipalities, outside of Grey County, have already stated that they have no intention to use this tool. In creating a tool which is only used by some municipalities to by-pass local planning documents, it has the ability to create competition between municipalities, with increased advantages to those who use the tool. These 'advantages' could result in decisions which 'undo' years of land use and infrastructure planning. Staff have provided a case study below to try to illustrate this example. Although this case study represents a speculative 'extreme example', it does highlight the potential for negative ramifications based on the proposed *Planning Act* changes.

Open-for-Business Planning Tool Case Study

'XYZ Industrial' has announced plans to open up a new 25,000 m² automotive manufacturing plant with a potential for 65 new jobs. Municipality 'A' has chosen not to exercise the open-for-business planning by-law to help attract this new business. Instead Municipality 'A' has shown the employer sites in their business park, which are serviced and designated for industrial growth. Municipality 'A' has promised to provide an expeditious approvals process to help facilitate the new employer. XYZ Industrial then approaches the neighbouring Municipality 'B' to determine what offer they can provide. Municipality 'B' offers to use the open-for-business planning by-law and recommends the use of agricultural land immediately abutting the settlement area / municipal boundary of Municipality 'A'. Municipality 'B' boasts a large nearby labour pool (largely in Municipality 'A'), low land costs, and no municipal planning process to attract the business. In choosing to locate in Municipality 'B' XYZ Industrial by-passed the need to:

- develop within a serviced settlement area,
- conduct a Comprehensive Review before considering a settlement area expansion,
- consider efficient usage of existing infrastructure,
- protect agricultural lands,
- meet Minimum Distance Separation (MDS) formulae,
- engage in a public consultation program,
- risk any potential appeals, and
- consider compatibility with neighbouring land uses.

While Municipality 'A' is thankful that a number of their residents can get jobs in the neighbouring XYZ Industrial plant, it does feel 'slighted' to have been penalized for 'playing by the rules' and making decisions based on sound land use planning.

County staff respect what the Province is aiming to do through Bill 66 with the proposed *Planning Act* changes. However, staff believe that these objectives can be better met through addressing the root causes and existing processes, rather than considering 'one-off' exemptions on a case-by-case basis.

Legal and Legislated Requirements

The effect of new legislative changes can sometimes be tough to predict at these early stages, particularly where the implementing regulations have not been released. Some of the proposed changes are welcome amendments by the County, and should help relieve some administrative burden. Other changes, such as those proposed to the *Planning Act*, have the ability to potentially negatively impact member municipalities, and planning within the County.

The proposed legislation has also been reviewed by the Director of Legal Services, who does not note any serious legal risks to the County at this stage, but along with other staff will continue to monitor Bill 66 as it works its way through the legislative process.

Financial and Resource Implications

At this stage there are no immediate financial or resource implications to Bill 66, as the full details of its implementation are not known.

Staff will continue to monitor this legislation and keep County Council aware of any major changes, or the passing of Bill 66.

Relevant Consultation

Internal: Children's / Social Services, Human Resources, Long Term Care, Economic Development, Corporate Services, Transportation Services, Legal Services, and Planning.

External: Grey Agricultural Services, Member Municipalities within Grey

Appendices and Attachments

None