



May 18, 2006

Vic Dhillon
MPP, Brampton West-Mississauga
Chair, Standing Committee on Justice Policy
Room 1405, Whitney Block
Queen's Park
Toronto, ON M7A 1A2

Dear Mr. Dhillon:

I am writing on behalf of the Board of Directors and members of AMCTO—the Association of Municipal Managers, Clerks and Treasurers of Ontario—to offer our comments on **Bill 56, the Emergency Management Statute Law Amendment Act, 2006**.

Background

AMCTO is Canada's largest municipal professional association. Our goal is the promotion of excellence in municipal administration and management. To this end, we work with ministries and agencies to identify and resolve implementation issues arising from new and existing legislation. The present submission on the Emergency Management Statute Law Amendment Act is an example of this work.

We also offer a highly regarded CMO professional designation along with education courses and professional development opportunities for people working in local government. As one example, in 2003, we partnered with Emergency Management Ontario for the delivery of emergency management training for municipalities. As well, EMO will be presenting a workshop on Emergency Management and the Risk of Pandemic at our 2006 Annual Conference.

AMCTO's more than 2,100 members are found working in most of the municipalities across Ontario. They fill many important roles, including—as members of municipal senior management teams—the development of emergency management plans and the management of emergencies. Hence AMCTO's interest in Bill 56.

Our submission is a result of a review of the bill undertaken by AMCTO's Legislative Committee. This committee meets on a monthly basis to monitor and analyze the administrative implications of policies, bills, regulations and programs brought forward

by “senior” levels of government. In reviewing Bill 56, the Committee conferred with the Ministry of Community Safety and Correctional Service and the Ontario Association of Emergency Managers.

Support for the Bill

AMCTO believes that the Legislative Assembly of Ontario should give its approval to the Emergency Management Statute Law Amendment Act, 2006.

This legislation is needed to fill gaps in the Province’s authority to take the necessary action in a wide range of emergencies, including pandemics. We note with satisfaction that the bill extends the definition of emergency to “dangers caused by disease or health risk.” We also note that the bill imposes safeguards on the Premier’s exercise of authority under the Emergency Management and Civil Protection Act. These safeguards include the limited duration of emergency orders, the need for Cabinet approval for extensions, the explicit subjection of orders to the Canadian Charter of Rights and Freedoms and the requirement that the Premier report to the Legislative Assembly within 120 days.

While supporting the general thrust of Bill 56, AMCTO believes that there are parts of the bill that could be improved. Our recommendations for improvements are set out below.

Municipal Role in Provincial Emergencies

Bill 56 continues subsection 7(3) of the present Emergency Management Act (in part) as clause 7.0.2(5)(b) of the Emergency Management and Civil Protection Act. This provision authorizes the Premier to “direct and control the administration, facilities and equipment” of any municipality in an emergency area. The casual reader of the bill might think that it is primarily the Province that implements orders made in connection with a provincial emergency. The fact is, however, that it is municipalities that have to make many of the decisions, based on their independent assessment of the local situation and the emergency plans that they have developed. As pointed out by the Ontario Association of Emergency Managers in its testimony before the Committee, this was the experience with the SARS outbreak and the electrical blackout in 2003. AMCTO believes that Bill 56 should more adequately recognize the vital role that municipal government plays in provincially declared emergencies.

Accordingly, we recommend that a provision be added to Bill 56 stipulating that in framing emergency orders, the Premier shall, to the extent that circumstances permit, take into consideration municipal emergency programs and plans adopted under sections 2.1 and 3 of the Emergency Management and Civil Protection Act.

Right of Justified Refusal

Clause 7.0.2(5)(c) of the amended and renamed act (subsection 7(4) of the present act) would authorize the Province to require any municipality to provide whatever assistance

the Province deems necessary. We are concerned about the blanket nature of this authority. As pointed out by the Ontario Association of Emergency Managers, as presently worded, Bill 56 gives the Province an unfettered right to deprive a municipality of all its resources whatever the consequences for the residents of that municipality. AMCTO believes that situations may arise where the across-the-board application of provincial orders may not be appropriate and that there should be some room for the exercise of independent judgment by those closest to the scene.

Accordingly, we recommend that Bill 56 be amended to confer a right for a municipality to refuse to comply with parts of a provincial order where justified on grounds set out in the statute (e.g., the council believes that compliance would pose a significant risk to the health or safety of the residents of the municipality).

Province's Financial Responsibility

Bill 56 does not adequately address the Province's responsibility for costs incurred by municipalities in connection with provincially declared emergencies. The provision in the present act authorizing the Province to reimburse municipalities for such costs, subsection 7(4), would be replaced by a general provision, the new subsection 13.1(2), that reads as follows: "The Lieutenant Governor in Council **may** [emphasis added] by order authorize the payment of the cost of providing any assistance that arises under the Act or as a result of an emergency out of funds appropriated by the Assembly." This vagueness creates uncertainty and undermines support for provincial emergency management efforts. Municipalities need to know that verbal assurances made in the midst of an emergency will be ultimately followed by actual reimbursement.

Accordingly, we recommend that Bill 56 be amended to provide that the Province **shall** reimburse municipalities in accordance with rules set out by regulation for costs incurred in complying with orders made by the Province in provincially declared emergencies. As well, a method for resolving cost-sharing disputes should be established. This was a recommendation made by the Standing Committee on Justice Policy in its November 2005 report to the Legislative Assembly.

Conclusion

AMCTO recommends passage of Bill 56 so Ontario can be sure that public authorities will be able to respond effectively to threats that exceed municipal capacities. At the same time, we recommend that the bill be amended to:

1. recognize the role that municipalities actually play in provincially declared emergencies,
2. provide a municipal right of justified refusal to comply with provincial orders, and
3. require the Province to assume its financial responsibilities for provincial emergencies.

We greatly appreciate having had the opportunity to provide input on this legislation and would be pleased to respond to any questions that the Standing Committee may have.

Yours truly,

A handwritten signature in black ink, appearing to read 'John Craig', with a stylized, looping flourish above the name.

John Craig, CMO
President

c.c.: Hon. Monte Kwinter, Minister of Community Safety & Correctional Services
Hon. John Gerretsen, Minister of Municipal Affairs & Housing
Alain Normand, President, Ontario Association of Emergency Managers