AMCTO
THE MUNICIPAL EXPERTS

Response to Consultation on proposed legislation: *Strengthening Cyber Security and Building Trust in the Public Sector Act, 2024*

June 11, 2024

Introduction

The [Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO)](#) is pleased to be able to provide our input, advice and recommendations regarding the [consultation on proposed legislation](#) Bill 194 *Strengthening Cyber Security and Building Trust in the Public Sector Act, 2024*.

AMCTO represents excellence in local government, management, and leadership. For over 85 years we have provided education, accreditation, leadership, and management expertise for Ontario municipal professionals. With 2,200+ members working in municipalities across the province, we are Ontario's largest association of local government professionals.

Our Association is recognized as an influential voice that has maintained a productive relationship with government by helping ensure the professional expertise and local understanding of our members is utilized to improve existing and new legislation, policy, and programs to ensure successful local delivery.

AMCTO supports the overarching goals of the proposed bill which seek to enhance digital security and establish trust across public sector institutions as provided in the preamble.

As digital services expand and citizen expectations continue to evolve, municipal administrators require the right legislative tools and guidance to manage risk, security, and other impacts of technology on service delivery. Given the undisputed impact that artificial intelligence (AI) has on society and therefore municipal administration and operations, both positive and negative, we are pleased to see the Province begin to address some of the needs of the sector by establishing an approach for cybersecurity structure and AI regulations.

Strengthening Cyber Security and Artificial Intelligence in the Public Sector

Introducing a legislative framework for cybersecurity and AI provides support and guidance for the public sector to explore and adopt digital service delivery in a way that protects privacy and security.

The provisions within the bill start to provide concepts and ideas that should be helpful for those municipalities who are in the preliminary stages of digital maturity and who may not have yet considered how to regulate AI within their organizations. There are municipalities who are further ahead in their consideration of the use of artificial intelligence within their organizations. The proposed *Act* may be complementary to that work.

The bill appears to build upon the Provincial Framework released in 2023. The proposed *Enhancing Digital Security and Trust Act, 2024* is light on specifics with details said to come in regulations and ministerial directives. We can appreciate this approach should

allow for agility in addressing issues or concerns that emerge from the increased use of AI. However, this approach makes it difficult to comment on what obligations or requirements may be imposed on public sector entities, such as municipalities, as they have yet to be identified and in what circumstances obligations or requirements would apply. All of which are still to come in regulations.

In its current form, the proposed legislation requirements are broad and high-level, making it difficult to provide meaningful feedback about the implications for municipalities. Implications will largely depend on which entities the Province chooses to apply them to and how provisions will be implemented. In lieu of these details, municipalities are in a state of relative uncertainty particularly with respect to the financial and technological impacts on their municipality.

Overall, from the municipal point of view there needs to be a balance within the regulations to minimize risks and protect privacy while at the same time avoiding stifling innovation. We look forward to having an opportunity to review and provide feedback as further details come forward in specific regulatory proposals and directives.

Below are considerations, which are preliminary in nature, should the Province look to apply the framework to municipalities.

Provide Tools to Leverage Digital Opportunities

Our members are increasingly encountering technological solutions for local service delivery including online voting, digital permitting and virtual assistants, among others.

The increased use of technology including the various forms of AI may bring opportunities, but also challenges for municipalities. These challenges include issues of risk and security, and as we discuss below, protection of privacy. While other orders of government are beginning to take measures that provide frameworks and rules around the development and use of digital solutions including integration of AI, not all municipalities are at the same level of maturity on their digital government journeys. Unique local circumstances need to be considered in the development of regulations, directives, and tools and resources to support municipalities in achieving the outcomes the Province wants to achieve.

Digital transformation and the AI forms require investments in technology infrastructure and applications, dealing with the lack of internal capacity or resources to manage the transformation, limited access to broadband (especially in smaller, rural and northern communities) and developing the right policies, procedures and training to provide a local framework for use of digital government tools and AI within their organizations.

Further, there remains a disconnect between increasing digital transformation, AI, and the proper legislative tools to be efficient and effective. Municipal staff need modern legislation in an updated *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)* and *Municipal Elections Act (MEA)* to respond to these technological advances with the goal of enhancing their processes and services and protecting privacy.

In particular with respect to *MFIPPA,* our [recent submission](#) called for *the Act* to be comprehensively reviewed and modernized so that it is future-proofed to manage the opportunities and challenges that arise with technology.

Municipalities are identifying benefits of AI and other technology to address knowledge/resource gaps, increase efficiencies and improve service delivery, engage the public, drive decision-making, and more. However, when we have discussed it with our members privacy, security, and vulnerability to attacks or data manipulation, bias and fairness, and lack of transparency were identified as issues. Municipalities are looking for frameworks, policies, protocols, roadmaps, governance structures, guides and training programs to help navigate the challenges and leverage opportunities.

Collaborate and Co-Design with Municipalities

When it comes to modernizing legislation and regulations that affect the municipal sector, we have often highlighted the importance of consultation and collaboration, whether it be municipalities, vendors, regulators, or other stakeholders. Municipalities have an opportunity to transform their service delivery, business operations and culture, but especially when it comes to such broad legislation related to cybersecurity and AI, there are subject matter experts that should be consulted, including those in information technology, procurement, and risk management. These experts may be able to speak to opportunities and constraints, identify best practices, and inform a better understanding of the sorts of on-the-ground impacts AI may have on programs and services at the local level.

We would also suggest that municipal managers and leaders such as municipal clerks be included in this group as they are often delegated the 'head of institution's' responsibilities under *MFIPPA*, providing multiple local services and administering local elections. As we noted in our recently released [recommendations](#) for re-tooling the *Municipal Elections Act,* AI is a trend we are monitoring for impacts to elections.

Future consultations on regulatory development will need to consider the differences in municipal structures, size, and digital maturity. Oftentimes smaller sized municipalities face capacity needs with fewer staff members, contracting out information technology services or sharing services as needed. More information is required around roles, responsibilities, and staffing requirements associated with proposed initiatives such as cybersecurity education and awareness and setting cybersecurity and/or AI technical standards to be able to comment more fully.

Minimize the Administrative and Reporting Burden While Balancing Accountability

AMCTO's work on the reporting burden comes from a first principle that reporting is an important mechanism for accountability and transparency. The proposed legislation notes potential for additional reporting and recordkeeping for *FIPPA* institutions. If future legislative changes were to apply to municipalities, there could be administrative burden and increased costs for municipalities to bear. Reporting requirements while important can take away from operational needs and require staff to spend their limited time responding to requests for information. Reporting requirements should consider existing reporting mechanisms on municipalities, the rationale for the collection of new data, whether the information can be collected from other sources, the reporting timelines, form, and frequency.

Finally, in addition to consulting with the sector, sufficient time for transition and implementation of new responsibilities would be critical to implementing new requirements or obligations especially related to education, awareness, consultation, and training to lessen administrative burdens.

Protection of Privacy

While Bill 194 only proposes privacy related amendments for the *Freedom of Information and Protection of Privacy Act (FIPPA)*, AMCTO will take this opportunity to provide some early thoughts on implications for *MFIPPA* in case similar amendments are contemplated in the future.

Generally, AMCTO would be supportive of extending similar proposed provisions to *MFIPPA* as there are municipalities who are already executing breach notification procedures and conducting privacy impact assessments, subject to consultation and with the right supports put in place*.*

As noted earlier, amendments to *MFIPPA* and increasing protection of privacy would be better served within the context of a fulsome review and update of *the Act*. Earlier this year, AMCTO provided a submission recommending a holistic approach to updating *the Act* so that it was reflective of technological change.

We highlighted that *the Act* in its current form is not equipped to consider important trends such as cyber-security breaches, online communication platforms, digital governance, digital identities, and artificial intelligence.

Much of the way generative AI has rolled out and been used is also inconsistent with the principles within *the Act* and in many cases the head of the institution under *MFIPPA* typically the clerk, may be challenged with adhering to *MFIPPA* and utilizing the opportunities AI provides for efficiencies given the legislation in its current form.

There are issues with the use of AI related to data collection, ensuring data security, and enabling user control over their personal information. The design and use of AI systems can make it difficult to control the input and output of information. Systems and software that municipalities are already using such as Adobe or Microsoft applications embed and enable AI making it challenging to control information exposure as it runs into the AI system or cloud automatically. Further direction and regulations should set standards that guide the development and use of technology now but be flexible enough to remain relevant and appropriate in the face of future technological and societal change.

Technology is moving at a faster pace than legislation. Reconciling the use of AI and indeed this proposed bill and related ministerial directives and regulations with the existing privacy frameworks within *MFIPPA* is something that should be completed and more guidance and best practices should be shared with the sector.

Nevertheless, should similar amendments be considered for *MFIPPA*, fulsome consultation with municipalities of various sizes and privacy maturity would be beneficial since they collect and manage personal information through a range of service areas. Further clarity may be required such as threshold for breach notification, and consideration for administrative, financial, legal, staffing and education/training impacts and opportunities.

We are pleased to see the ministry begin to respond to the concerns we have raised and look forward to a comprehensive and government-wide approach to supporting municipal digital governance and protection of privacy. We will await future opportunities to inform proposed regulations and directives. We also hope to see movement on the modernization of *MFIPPA* and other key municipal legislation which should include alignment with what has been proposed in Bill 194.