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24/09/2013 06:07 PM

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cc  
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Subject AMO Policy Update - Bill 73 - Fair and Open Tendering Act  
(Labour Relations for Certain Public Sector Employers in the  
Construction Industry), 2013 Defeated in the House

## TO THE IMMEDIATE ATTENTION OF THE CLERK AND COUNCIL

September 24, 2013

### **Bill 73 - Fair and Open Tendering Act (Labour Relations for Certain Public Sector Employers in the Construction Industry), 2013 defeated in the House**

The AMO Board recently supported a Private Members' Bill that was introduced by Kitchener-Conestoga, MPP Michael Harris, to address closed tendering. Bill 73, the Fair and Open Tendering Act, proposed to amend the Labour Relations Act, 1995 (LRA) where municipalities are currently deemed "construction employers". This prohibits municipalities from openly tendering construction work – limiting local firms and other competitively priced firms from being considered for projects.

The costs associated with these projects continue to escalate. Public employers should be able to openly contract projects to eligible bidders and keep the costs economical for publicly procured projects. AMO believes that it is within the interest of the public to stretch infrastructure dollars to maximize the value of investment.

If passed, this Bill would have clarified that municipalities and school boards are not construction employers; however, the Bill was defeated in the house on September 19th.

The Ministry of Labour has indicated that there is a provision in the current Act that allows a municipality to declare that they are not a construction employer. The employer can make an application to the OLRB. If the application succeeds (i.e. if the employer can show that it does no work in the construction industry for which it expects compensation from an unrelated person), the Ontario Labour Relations Board (OLRB) issues a declaration that the employer is a non-construction employer. AMO is seeking clarification on this provision for municipalities from the Ministry of Labour.

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