

September 7, 2010



## SECTOR BRIEFING RE BILL 65

*Distributed on behalf of the Ontario Nonprofit Network*

*Please circulate to your sector colleagues*

### **Sector Briefing Re Bill 65, An Act to Revise the Law in respect of Not-for-profit Corporations.**

The Ontario Nonprofit network (ONN) is holding a teleconference tomorrow September 8th at 12 pm and again at 4pm for those who have been active in Bill 65 and for those who want to know more about the Bill and its implications. Join us in this teleconference so we can bring you up-to-speed on feedback we've received, where progress has been made, where we face challenges, and our steps forward from here.

Register now and receive the teleconference information

[Click here to register for our teleconference](#)

Next week, Bill 65 is expected to be passed without any further changes. Bill 65 has been through the Standing Committee on Social Policy, some amendments have been made, and the Bill will go before the house on September 13, 2010. It will be two years before it is proclaimed.

See below for our vision and where the bill stands now, next steps, technical changes that were made to the legislation, and how Bill 65 will affect you.

#### **Our Vision and Where the Bill Stands Now:**

We had three key asks to strengthen Bill 65's accountability measures, to help our sector better serve the public good, now and in the future. We asked:

- That nonprofit organizations who are not charities be able to opt in to become a public benefit corporation, with its higher accountability threshold.
- That those same nonprofits would commit to gifting their assets to another public benefit corporation upon dissolution, retaining assets for the public good in a way similar to charities.
- That the sector be able to issue community bonds with regulatory oversight identical to what cooperatives have under their act.

The government has supported the sector by recognizing that Ontario nonprofits can have a commercial purpose to serve their missions, which we appreciate. However, despite extensive letter writing, 13 coordinated presentations to the Standing Committee on Social Policy and numerous meetings with ministry and political staff, we did not see our three key asks incorporated into the bill.

This is a major set-back for the whole nonprofit sector. 34% of our sector is made up of 16,000 nonprofit organizations providing public benefit. They need to be able to demonstrate to their communities that they intend to work in the public domain and keep their assets working in their communities for the long term. Across the sector, our shared reputation as public benefit providers is at risk.

Next Steps:

To address these critical issues, ONN will be beginning a campaign to educate our communities on the anticipated affects of Bill 65, the features of nonprofits operating for public benefit that are at risk, and the options for response that are available to you.

We are pulling together some of our sector experts and charity lawyers to identify the next steps with Bill 65. We will be working with the [Partnership Project](#) to make sure that in the future, the needs of the sector will be properly understood and reflected in public policy.

As we turns towards the Partnership Project as the main avenue to engage with the government for real change, it is important to raise understanding of the special features we require in our corporate legislation to support our work and the health of our communities.

Join us in educating our communities. Join the teleconference call tomorrow and help us with

the press in your local community.

[Click here to register for our teleconference](#)

### **Technical Amendments & Some Anticipated Effects of Bill 65:**

The Standing Committee on Social Policy integrated a number of technical fixes that will ease the impact of the proposed legislation for some of our charities and nonprofits:

- Proxies will not be mandatory if organizations enable voting to take place through other means (e.g. mail, electronic, telephonic).
- The need for Directors to be members will be eliminated.
- The mandatory provision that no more than 1/3rd of directors may be officers or employees of the corporation will no longer include officers.
- The audit threshold will be \$500 000, if supported by special resolution of the organization's members.

There were however a number of technical fixes not passed, which may pose difficulties for some charities and nonprofits:

- Non-voting members & voting rights were not amended. We had asked that non-voting member's voting rights be limited to situations where they had an interest in the underlying assets of the corporation. In our sector non-voting membership is often used to indicate affiliation so non-voting members often have no underlying economic interest. Indeed many are minors (children are non-voting members in many sport and recreational organizations). Bill 65 gives non-voting members the ability to block fundamental changes.
- We did not obtain limits on members' rights to make proposals or make requisitions. We asked that members be limited to matters within the jurisdiction of members' meetings to decide. We need to understand better what this might mean for board governance.
- We have not received clarification of the implications for the senior staff who would take over as a director should the full board resign. On this too, we need to understand better the implications of this provision. As we know more, you also will know more.
- The Bill still has the \$10,000 donation trigger, which requires organizations to meet a higher accountability threshold and to comply with an asset lock for the three years

following the grant or donation. While most nonprofit public benefit organizations may operate with the higher accountability threshold as a matter of practice the temporary asset lock poses logistical difficulties and, we believe, may pose a risk for non-charitable public benefit organizations and their communities who have significant assets.

To ask specific questions and hear more, please join ONN's teleconference tomorrow September 8th at 12 pm and again at 4pm.

[Click here to register for our teleconference](#)

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