# Fair Municipal Tendering

Hamilton Chamber of Commerce and Sault Ste. Marie Chamber of Commerce

Issue: Current provisions under the Ontario Labour Relations Act severely restrict the ability of municipalities and school boards to provide open tendering for major infrastructure projects. This legislative regime potentially leads to higher taxes for businesses or reduced services in municipalities of all sizes across Ontario

Background: Public sector employers, specifically municipalities, are treated as businesses under Ontario’s Labour Relations Act, 1995. As a result of this classification, the OLB, upon petition from a union, is able to apply collective-bargaining rules for construction companies to municipalities. Consequently, once an employer becomes unionized all infrastructure projects are available exclusively to companies organized by a specific union.

Municipalities are now forced to pick only those contractors that hold membership under a specific union. It is estimated that 70 percent of contractors nationally are not unionized and would subsequently be prohibited from working on designated public projects.

An example stemming from this legislation comes from the City of Hamilton. In 2005 two workers signed carpenters’ union cards and were thus able to impose a union agreement on the entire city. As a result, the pool of eligible bidders for construction contracts in Hamilton was reduced by over 90 per cent. Of the 260 firms that had previously bid on city jobs, city staff calculated that only 17 were affiliated with the carpenters union.

Similarly In the Region of Waterloo as of writing, 27 companies have pre-qualified to bid on $140 million worth of regional water and wastewater infrastructure work. If a bid by the Carpenters’ Union for certification is successful, the number would drop to just two.

Many firms who pay taxes in our municipalities are unable to bid on local contracts simply because their workers either chose not to unionize or chose a union other than the Carpenters or Labourers Union.

In response to concern by municipalities, Kitchener-Conestoga MPP Michael Harris tabled Bill 73, the Fair and Open Tendering Act, in May 2013. The proposed legislation provided a clear definition in the OLRA to clarify that municipalities and school boards are not construction employers. The bill was defeated on second reading despite support from by Association of Municipalities of Ontario as well as the Large Urban Mayors' Caucus of Ontario.

There are several municipalities in the Province of Ontario that are currently impacted by closed tendering rules, including but not limited to Sault Ste. Marie, Hamilton, Kitchener Waterloo, Toronto and Mississauga.

**Recommendations:**

The Ontario Chamber of Commerce urges the Government of Ontario to:

1. Amend the Ontario Labour Relations Act to clarify that municipalities and school boards are not construction employers.

**Estimated Financial Impact to the Province:**

* Be cost-neutral to the government