

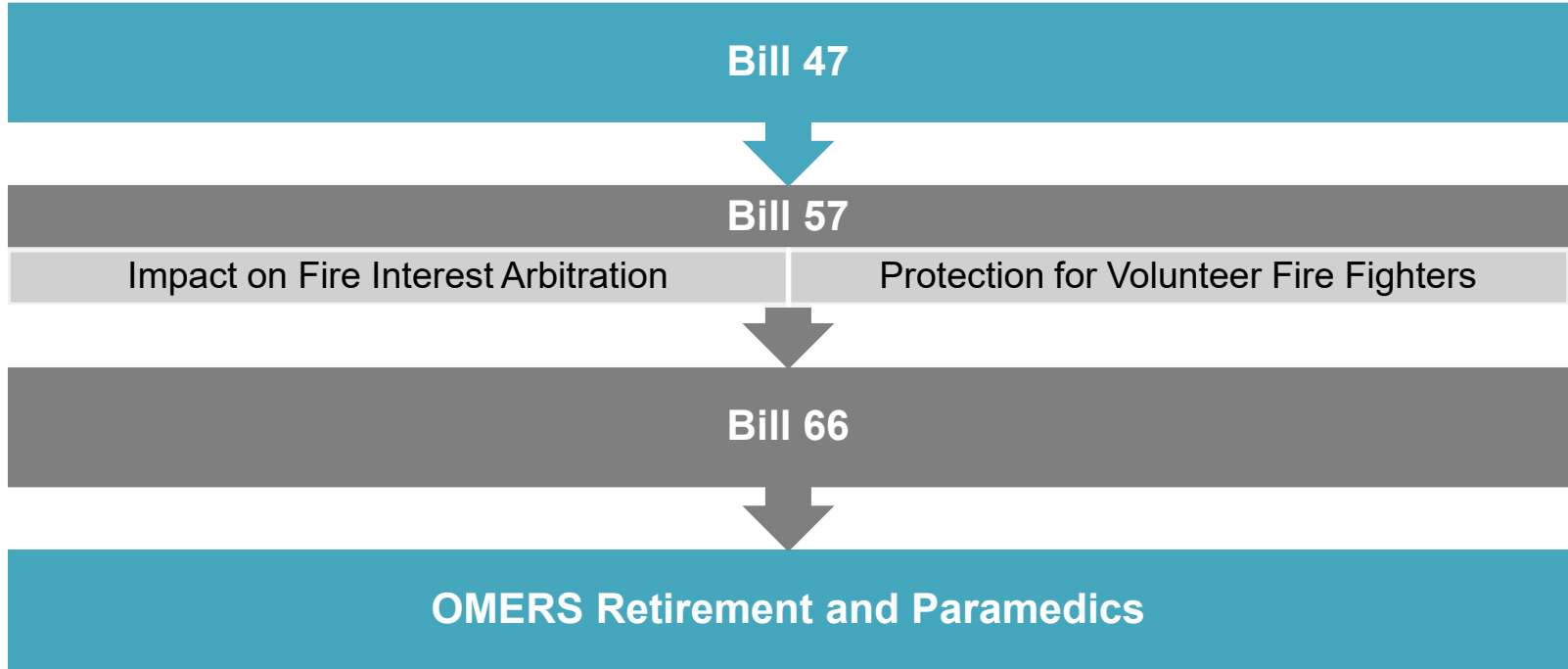


# Labour Law and Municipal Government Employers

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**January 28, 2019**

# Agenda



# Bill 47

- Significant repeal of Bill 148 changes
- All changes now in force
- Complete summary of changes:



[www.hicksmorley.com](http://www.hicksmorley.com)

- Hicks Morley Toolkit

# Bill 47

- What did Bill 47 do to Bill 148:
- **Repealed:**
  - All scheduling/on-call pay provisions save for minimum 3 hour pay rule;
  - Equal pay for equal work (employee status);
  - Reverse onus test;

# Bill 47

- \$15.00 minimum wage;
- Two paid personal emergency leave days;
- Penalty certification provision of LRA;
- Bargaining unit consolidation provisions;
  - First collective agreement interest arbitration.

# Bill 47

## Stays

- Adjustment to vacation pay after 5 years of service;
- New and much improved personal emergency leave provisions;
  - Medical notes can be requested
  - 3 Sick Days, 3 Family Responsibility Leave Days and 2 Bereavement Leave Days

## Bill 47

- Various unpaid job protected leave;
- Dual entitlement (paid and unpaid) domestic or sexual violence leave.

# Bill 57, Restoring Trust, Transparency and Accountability Act, 2018 (Bill 57)



- **November 15, 2018** - Introduced as Schedule to larger legislative package
- **November 28** - referred to the Standing Committee on Finance and Economic Affairs (Committee)
- **December 3, 2018** - Public hearings on the Bill
- **December 6, 2018** – Royal Assent



# Bill 57 - Changes to Interest Arbitration

- Single arbitrator instead of Boards of Arbitration – similar to police
- Written submissions be exchanged in advance of the hearing date
- Arbitrator required to provide written reasons, **demonstrating their consideration of the statutory criteria** under the legislation, upon the request of either party
- New legislative criteria

# The New Criteria at Interest Arbitration

- A comparison, as between the employees and **other employees in the public and private sectors**, of the terms and conditions of employment.
  - A comparison of **collective bargaining settlements reached in the same municipality and in comparable municipalities, including those reached by employees in bargaining units to which the *Labour Relations Act, 1995* applies, having regard to the relative economic health of the municipalities.**

# The New Criteria at Interest Arbitration (continued)

- The economic health of Ontario and the municipality, including, but not limited to, **changes to labour market characteristics, property tax characteristics and socio-economic characteristics**
- The employer's ability to attract and retain qualified firefighters (unchanged)
- The **interest and welfare of the community served by the fire department**
- Any **local factors** affecting the community

# The New Criteria at Interest Arbitration (continued)

- The following criteria have been eliminated from consideration:
  - “A comparison, as between firefighters and other comparable employees in the public and private sectors of the terms and conditions of employment and the nature of the work performed”
    - Interpretation – only comparables are other firefighters and local police
  - “The Employer’s **ability to pay** in light of its fiscal situation”
    - Interpretation – rarely applied and generally ignored

# Next Steps re Interest Arbitration

- ✓ Get organized
- ✓ Get aligned
- ✓ Get your evidence gathered
- ✓ Generate expert evidence (e.g. economist)

# Bill 57 and Protection for Two-Hatters

- **No Penalties or Discipline:**
  - Prohibiting fire associations from penalizing or disciplining a firefighter because they have worked, are working or intend to work as a volunteer, **even if the work is within the jurisdiction of the association or otherwise adversely affects its interests.**
  - Prohibited activities include denying a person membership within the association, suspending or expelling a member, or fining or attempting to collect fines from firefighters.

# Bill 57 and Protection for Two-Hatters (continued)

- **No Civil Actions:**
  - Prohibiting civil actions against firefighters...where the civil action is an attempt to collect a fine or other monetary penalty from the firefighter, or to enforce.. any decision by the association that is prohibited by the legislation.

# Bill 57 and Protection for Two-Hatters (continued)

- **Closed Shop protections:**
  - Associations will be prohibited from requiring the employer to refuse employment to a person as a firefighter, discharging a firefighter or refusing to assign a firefighter because they have been expelled, suspended or refused membership in the association because:



# Bill 57 and Protection for Two-Hatters (continued)

- ... because the firefighter:
  - was or is a member of another trade union or association;
  - has engaged in activity against the association or on behalf of another association or trade union;
  - has engaged in reasonable dissent within the association, **including in respect of the individual's work, past work or intended work as a volunteer firefighter;**
  - has refused to pay unreasonable initiation fees, dues and assessments levied against them;

# Bill 57 and Protection for Two-Hatters (continued)

- has worked, is working or intends to work as a volunteer firefighter, even if that work is within the jurisdiction of the association or adversely affects its interests. (Note that the underlined provisions show the amendments by Schedule 18);
- ... because the association has discriminated against the firefighter with respect to the application of its membership rules, including in respect of the person's work, past work or intended work as a volunteer firefighter;

# Bill 66 – Further Changes to the ESA on their Way

- ✓ Excess Weekly Hours of Work Agreements
- ✓ Overtime Averaging Agreements
- ✓ ESA Poster

# OMERS

- November 15 – OMERS SC approved plan changes
- Allow paramedics to **negotiate** an NRA (Normal Retirement Age) 60 (current NRA is 65)
- Changes not likely to take effect until 2021
- **Issues to consider:**

1

Costs (Plan contribution/training)

2

Retention

3

Negotiate = imposed by interest arbitration



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