

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

1ST SESSION, 43RD LEGISLATURE, ONTARIO
2 CHARLES III, 2023

Bill 148

An Act to amend the Auditor General Act and Members' Integrity Act, 1994

Co-sponsors:
Mr. C. Glover
Ms M. Stiles

Private Members' Bill

1st Reading November 2, 2023
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

The Bill amends the *Auditor General Act*. Subsection 10 (1) of the Act is re-enacted to provide that the duty to furnish information applies to documents and information that are otherwise confidential or subject to certain privilege rights. Subsection 10 (2) of the Act is also re-enacted to provide that the Auditor General's right to access information applies despite other rights of privacy, confidentiality and privilege.

The Bill also amends the *Members' Integrity Act, 1994*. Clause (a) of the definition of "family" in section 1 of the Act is amended to include adult children, siblings and parents. Section 2 is re-enacted to provide that a member of the Assembly shall not make a decision or participate in making a decision that would lead to the reasonable perception that there is an opportunity to further the member's private interest or improperly to further another person's private interest. The Bill adds section 6.1, which provides that no member of the Assembly shall in the exercise of an official power, duty or function, give preferential treatment to any person or organization based on the identity of the person or organization. Section 31 of the Act is amended to allow the Commissioner to conduct an inquiry if the Commissioner determines it appropriate to do so even in the absence of a referral from a member of the Assembly or the Executive Council. At any time before the conclusion of the inquiry, the Commissioner may expand the scope of the inquiry if the Commissioner determines it is appropriate to do.

An Act to amend the Auditor General Act and Members' Integrity Act, 1994

His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Auditor General Act

1 Subsections 10 (1) and (2) of the *Auditor General Act* are repealed and the following substituted:

Duty to furnish information

(1) Every ministry of the public service, every agency of the Crown, every Crown controlled corporation and every grant recipient shall give the Auditor General the information regarding its powers, duties, activities, organization, financial transactions and methods of business that the Auditor General believes to be necessary to perform his or her duties under this Act, even if the information or documents are confidential or subject to solicitor-client privilege, litigation privilege or settlement privilege.

Access to records

(2) Despite any other rights of privacy, confidentiality or privilege, including solicitor-client privilege, litigation privilege, settlement privilege and public interest immunity, the Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by a ministry, agency of the Crown, Crown controlled corporation or grant recipient, as the case may be, that the Auditor General believes to be necessary to perform his or her duties under this Act.

Members' Integrity Act, 1994

2 (1) Clause (a) of the definition of "family" in section 1 of the *Members' Integrity Act, 1994* is repealed and the following substituted:

- (a) his or her spouse, children, siblings and parents, and

(2) Section 2 of the Act is repealed and the following substituted:

Conflict of interest

2 A member of the Assembly shall not make a decision or participate in making a decision in the execution of his or her office if,

- (a) the member knows or reasonably should know that in the making of the decision there is an opportunity to further the member's private interest or improperly to further another person's private interest; or
- (b) the making of the decision would lead to the reasonable perception that there is an opportunity to further the member's private interest or improperly to further another person's private interest.

(3) The Act is amended by adding the following section:

Preferential treatment

6.1 No member of the Assembly shall, in the exercise of an official power, duty or function, give preferential treatment to any person or organization based on the identity of the person or organization.

(4) Subsection 31 (1) of the Act is amended by striking out "When a matter is referred to the Commissioner under section 30" at the beginning and substituting "When a matter is referred to the Commissioner under section 30, or if the Commissioner otherwise determines that it is appropriate to do so".

(5) Section 31 of the Act is amended by adding the following subsection:

Same

(1.1) At any time before the conclusion of the inquiry, the Commissioner may expand the scope of the inquiry if the Commissioner determines it is appropriate to do.

(6) Subsection 31 (2) of the Act is amended by adding "or the Commissioner otherwise determined it was appropriate to conduct an inquiry" after "member" in the portion before clause (a).

Commencement

3 This Act comes into force on the day it receives Royal Assent.

Short title

4 The short title of this Act is the *Cleaning Up Corruption Act, 2023*.