
Submission to the
Legislative Assembly
Standing Committee on Social Policy

Bill 118

The proposed
Accessibility for Ontarians
with Disabilities Act 2005

(A Bill to replace the Ontarians with Disabilities Act, 2001)

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February 1, 2005



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I. INTRODUCTION

The City of Toronto's Disability Advocate and Chair of the Disability Issues Advisory Committee accepted the invitation by the Standing Committee on Social Policy to submit their views on Bill 118, the proposed Accessibility for Ontarians with Disabilities Act, a Bill which will revise current obligations under existing legislation.

The Disability Issues Advisory Committee provides advice to Toronto City Council through the standing committees of Council and makes recommendations for proactive and positive change to improve the quality of the lives of people who live, work and play in Toronto. Committee members are appointed by Toronto City Council and include individuals and representatives of organizations representing many sectors of the disability community in Toronto. (See Appendix 1 – Committee composition).

This brief is submitted to the Standing Committee on Social Policy to comment on proposed legislation and whether these proposals align with previous advice given during consultations leading up to the introduction of the current legislation, as well as the hearings conducted in March, 2004 on improvements to accessibility legislation.

II. Summary – City of Toronto approach to addressing disability access issues

Toronto City Council has adopted a number of policies and Plans aimed at becoming a barrier free City. These Plans include an Accessibility Plan, an Access and Equity Action Plan, a Plan of Action for the Elimination of Racism and Discrimination, a Human Rights Policy, a Policy on Employment Equity, an anti-discrimination policy, and a Multi-lingual Policy to name a few.

With respect to its role as an advocate, Toronto City Council has approved a number of resolutions and positions aimed at becoming a barrier free City.

- In March 2001, City Council unanimously adopted the motion that legislation applying to the prevention and removal of barriers for Ontarians with disabilities be mandatory and apply to all sectors: public, private or non-profit.
- In November 2001, City Council reiterated its position for a strong, effective and mandatory Ontarians with Disabilities Act and set 2008 as a target date for becoming a barrier free City, and directed the City's Disability Issues Advisory Committee, under the Chair of Councillor Joe Mihevc to make all necessary representation to the Province of Ontario to pursue the City's position. City Council also took the position that in the absence of financial capacity at the municipal level across Ontario, the provincial government should provide support for these costs. Councillor Mihevc presented this position to the Standing Committee on Financial and Economic Affairs in December 2001.

- In March 2004, Councillor Mihevc presented the City’s submission, “Delivering Change Where It is Needed Most” to the provincial public consultation on improving the Ontarians with Disabilities Act. The principles outlined in Toronto’s earlier submissions were once again presented.

These included:

- amending the ODA to incorporate the 11 accessibility principles (Appendix 2) , which were adopted by the Ontario Legislature on October 29, 1998;
- strengthening the objective of the Act to provide protection and removal of barriers for persons with disabilities rather than only establishing the processes by which implementation can take place;
- making barrier removal and prevention mandatory, not voluntary, along reasonable time lines;
- extending accessibility requirements to all sectors;
- developing accessibility standards; and
- providing effective enforcement and remedies.

III. Implementation of the current ODA by the City of Toronto

The *Ontarians with Disabilities Act, 2001* (ODA) required the City of Toronto to establish an advisory committee on disability issues and to prepare an accessibility plan. Following upon the 1999 Report of the Task Force on Community Access and Equity, Toronto City Council established a Disability Issues Advisory Committee in 2000. This Committee was given the duties of an accessibility advisory committee outlined by the ODA, 2001. Toronto City Council approved the City’s first accessibility plan in September 2003 and filed this plan with the Province of Ontario.

The City is committed to providing access for all residents and in building an inclusive society. The City of Toronto’s Accessibility Plan committed the City of Toronto as follows:

- to make city facilities, information and activities more accessible;
- to identify and eliminate disparities; and
- to create an accessible workplace.

The City of Toronto is also implementing an array of initiatives in its multiple roles as employer, service provider, grants provider and purchaser of goods and services. The City is also building principles of accessibility as it carries out a range of community engagement activities and its commitment to strengthen civic participation.

In keeping with its commitment to become a barrier free city, Accessibility Design Guidelines were endorsed by City Council in May 2004 to guide the construction of new facilities and the renovation of City-owned facilities, as well as those owned by other sectors. On January 19, 2005 the City’s Policy and Finance Committee approved a report detailing the principles and framework for implementation of the City’s Accessibility Design

Guidelines. Endorsement of the implementation strategy provides a basis for setting priorities and also provides for the preparation of accessibility audits as part of the submission of capital and operating budgets. The principles and framework for implementation are outlined in Appendix 3 and have been submitted for consideration at the February 2005 meeting of Toronto City Council.

IV. Comments on Bill 118 from the City's Disability Issues Advisory Committee

The purpose of Bill 118 is to benefit all Ontarians by:

- a) developing, implementing and enforcing accessibility standards in order to achieve accessibility for Ontarians with Disabilities with respect to goods, services, facilities, occupancy of accommodation, employment, buildings, structures and premises on or before January 1, 2025; and
- b) providing for the involvement of persons with disabilities, of the Government of Ontario and of representatives of industries and of various sectors of the economy in the development of accessibility standards.

The Disability Issues Advisory Committee has reviewed Bill 118 and finds there are important improvements upon the current Ontarians with Disabilities Act, 2001. The Advisory Committee agrees with the overall approach of the proposed legislation and as in past submissions, recommends that the proposed legislation be amended to fully incorporate the 11 principles of the ODA resolution, which were adopted by the Ontario Legislature on October 29, 1998. (Appendix 2)

Incorporation of the 11 principles in full, enables the specific issues raised by the Advisory Committee members and members of the public to be addressed through amendment, regulation or advocacy for barrier free legislative processes.

Specifically, Principles 2 and 3 respectively, resolves that effective accessibility legislation should:

- “supersede all other legislation, regulations or policies which either conflict with it, or which provide lesser protections and entitlements to persons with disabilities; ” and requires,
- “ that government entities among other organizations be made fully accessible to all persons with disabilities through the removal of existing barriers and the prevention of new barriers, within strict time frames to be prescribed in the legislation or regulations.”

Here following are the specific issues, raised by the Advisory Committee members and members of the public which need to be addressed in order to meet the goals of Bill 118.

Some suggestions can be met through amendment or regulation while some require advocacy for legislative change.

1. Provide a mechanism for funding to augment transportation services and to provide appropriate accommodation for persons with disabilities;
2. Provide a mechanism for funding to provide outreach, public education and advocacy services address budgets for accommodation services, education and advocacy aimed at creating a positive climate by addressing attitudes, beliefs, actions, language, and representation to address misconceptions and stereotypes about people with disabilities.
3. Establish a pool of skilled accommodation service providers (i.e. sign language interpreters, real time captioners, deaf interpreter, intervenors for deaf-blind, personal attendants, etc.) and quality assurance standards for accommodation service providers.
4. Provide a mechanism where accommodation would be provided for persons with disabilities meeting with MPPs and municipal elected officials in legislative and constituency offices; as well as in accessing provincial parliamentary procedures, municipal processes, public hearings and consultation meetings.
5. Provide a mechanism for reviewing and amending the Ontario Election Act and Municipal Election Act to provide for barrier free access to election services and processes; the provision of accommodation for all persons with disabilities who are involved in election campaign activities; including municipal and provincial candidates with disabilities and volunteers with disabilities.
6. Review current processes and remove barriers to participation by providing accommodation to persons with disabilities appointed for agencies, boards and commissions as well for political staff in Ministerial offices and staff in the Legislative Assembly of Ontario, including the office of the Speaker of the House.
7. Provide a mechanism for levying stiff penalty fees for non-compliance; providing tax incentives and tax breaks for excessive costs of accommodation for persons with disabilities for any size business and order of government (i.e. local and provincial government).
8. Provide a mechanism for making funding available to low budget non-profit organizations and limited budget municipalities in order to provide accommodation for employees with disabilities and to make services and programs accessible.
9. Ensure that there are timelines for the establishment of the Standards Development Committees in the short and long term. Timelines are also required for appointments to Standards Committees and for the terms of reference to be set and made public.
10. Provide mechanisms to include input from people with disabilities as representatives on the Standards Development Committees and also as an affected group before regulations

are enacted. The Bill should provide for an open and transparent selection process for appointment to the Standards Development Committees.

11. Enable a series of target dates for different barrier removal activities as opposed to single comprehensive standards by sector. The Standards Development Committees should be able to address short term, readily achievable results, mid-term goals and long term goals.
12. Provide mechanisms for ongoing and sustainable funding to meet the target for a barrier-free Ontario within 20 years. Without funding assistance, there will be adverse financial impacts for many organizations. While larger businesses may be able to absorb costs in a phase-in approach, small businesses, low budget non-profit organizations, places of worship and some municipalities will face greater financial challenges.

In addition to the above, the Committee recommends that the Ontario Government take the necessary steps to advocate to other orders of government to:

- i) have regard for accessibility issues as in advocating that the federal government ensure accessibility issues are addressed with respect to the review of public and private bills and resolutions; and
- ii) to facilitate barrier free access to the political process by including available and appropriate accommodation services.

V. Conclusions

Bill 118 is the strongest proposed accessibility legislation to date and includes significant improvements upon the current Ontarians with Disabilities Act, 2001. It has the potential to break down the barriers faced by people with disabilities, which affects their full inclusion in all aspects of Ontario life. The City of Toronto supports the steps made by the Ontario Government towards a barrier free Ontario through the proposed legislation. This submission identifies issues to be addressed through amendments of the Bill 118 or through the setting of clear, strong and effective regulations.

Appendix 1

Composition of the City of Toronto's Disability Issues Advisory Committee 2004 –2006

There are 14 individuals on the Disability Issues Committee.

The following organizations were invited to send representatives:

Active Living Alliance for Canadians with a Disability - Ontario
Anne Johnston Health Station
ARCH, A Legal Resource Centre for Persons with Disabilities
Bob Rumball Centre for the Deaf
Canadian Council on Rehabilitation and Work
Canadian Hearing Society
Canadian Hard of Hearing Association - Ontario Chapter
Canadian Mental Health Association -Toronto Branch
Canadian National Institute for the Blind - Toronto District
Canadian Paraplegic Association - Ontario
Centre for Independent Living in Toronto (CILT) Inc.
Community Head Injury Resource Services of Toronto (CHIRS)
Community Living Toronto
Epilepsy Toronto
Ethno Racial Disabled Coalition of Ontario - ERDCO
Heart and Stroke Foundation of Ontario - Toronto Office
Learning Disabilities Association of Toronto
Multiple Sclerosis Society of Canada - Toronto Chapter
Ontario Federation of Cerebral Palsy
Ontario March of Dimes - Toronto Branch
Speaking Differently Inc.
Spina Bifida and Hydrocephalus Association of Ontario
Variety Village

Invitations have been extended to the following organizations:

Canadian Diabetes Association - Toronto
The Lung Association - Ontario Office
National Federation of the Blind: Advocates for Equality
Ontario Association of the Deaf

Chair: Councillor Joe Mihevc, Ward 21 St. Paul's, City of Toronto
Coordinator: Bernita Lee, Consultant, Diversity Management and Community Engagement

Appendix 2

The 11 Principles for the ODA Resolution

Unanimously passed by the Ontario Legislature October 29, 1998

In the opinion of this House, since persons with disabilities in Ontario face systemic barriers in access to employment, services, goods, facilities and accommodation; and since, all Ontarians will benefit from the removal of these barriers, thereby enabling these persons to enjoy equal opportunity and full participation in the life of the province; and since Premier Harris promised in writing during the last election in the letter from Michael D.Harris to the Ontarians with Disabilities Act Committee dated May 24, 1995 to:

- a) enact an Ontarians with Disabilities Act within its current term of office; and
- b) work together with members of the Ontarians with Disabilities Act Committee, amongst others, in the development of such legislation; and since this House unanimously passed a resolution on May 16, 1996 calling on the Ontario Government to keep this promise;

Therefore this House resolves that the Ontarians with Disabilities Act should embody the following principles:

1. The purpose of the Ontarians with Disabilities Act should be to effectively ensure to persons with disabilities in Ontario the equal opportunity to fully and meaningfully participate in all aspects of life in Ontario based on their individual merit, by removing existing barriers confronting them and by preventing the creation of new barriers. It should seek to achieve a barrier-free Ontario for persons with disabilities within as short a time as is reasonably possible, with implementation to begin immediately upon proclamation.
2. The Ontarians with Disabilities Act's requirements should supersede all other legislation, regulations or policies which either conflict with it, or which provide lesser protections and entitlements to persons with disabilities;
3. The Ontarians with Disabilities Act should require government entities, public premises, companies and organizations to be made fully accessible to all persons with disabilities through the removal of existing barriers and the prevention of the creation of new barriers, within strict time frames to be prescribed in the legislation or regulations;
4. The Ontarians with Disabilities Act should require the providers of goods, services and facilities to the public to ensure that their goods, services and facilities are fully usable by persons with disabilities, and that they are designed to reasonably accommodate the needs of persons with disabilities. Included among services, goods and facilities, among other things, are all aspects of education including primary, secondary and post-secondary education, as well as providers of transportation and communication facilities (to the extent that Ontario can regulate

- these) and public sector providers of information to the public e.g. governments. Providers of these goods, services and facilities should be required to devise and implement detailed plans to remove existing barriers within legislated timetables;
5. The Ontarians with Disabilities Act should require public and private sector employers to take proactive steps to achieve barrier-free workplaces within prescribed time limits. Among other things, employers should be required to identify existing barriers which impede persons with disabilities, and then to devise and implement plans for the removal of these barriers, and for the prevention of new barriers in the workplace;
 6. The Ontarians with Disabilities Act should provide for a prompt and effective process for enforcement. It should not simply incorporate the existing procedures for filing discrimination complaints with the Ontario Human Rights Commission, as these are too slow and cumbersome, and yield inadequate remedies;
 7. As part of its enforcement process, the Ontarians with Disabilities Act should provide for a process of regulation-making to define with clarity the steps required for compliance with the Ontarians with Disabilities Act. It should be open for such regulations to be made on an industry-by-industry basis, or sector-by-sector basis. This should include a requirement that input be obtained from affected groups such as persons with disabilities before such regulations are enacted. It should also provide persons with disabilities with the opportunity to apply to have regulations made in specific sectors of the economy;
 8. The Ontarians with Disabilities Act should also mandate the Government of Ontario to provide education and other information resources to companies, individuals and groups who seek to comply with the requirements of the Ontarians with Disabilities Act;
 9. The Ontarians with Disabilities Act should also require the Government of Ontario to take affirmative steps to promote the development and distribution in Ontario of new adaptive technologies and services for persons with disabilities;
 10. The Ontarians with Disabilities Act should require the provincial and municipal governments to make it a strict condition of funding any program, or of purchasing any services, goods or facilities, that they be designed to be fully accessible to and usable by persons with disabilities. Any grant or contract which does not so provide is void and unenforceable by the grant-recipient or contractor with the government in question;
 11. The Ontarians with Disabilities Act must be more than mere window dressing. It should contribute meaningfully to the improvement of the position of persons with disabilities in Ontario. It must have real force and effect.

Appendix 3

Principles and Workplan for the Implementation of the Accessibility Design Guidelines to City of Toronto Facilities

1. Principles for applying the Accessibility Design Guidelines

- (a) All construction of new City of Toronto buildings shall comply with the City of Toronto Accessibility Design Guidelines.
- (b) Application of the City of Toronto Accessibility Design Guidelines to Heritage buildings should be considered on a case by case basis.
- (c) Application of the City of Toronto Accessibility Design Guidelines to exterior amenities such as trails should also be considered on a case by case basis having due regard to making city parks accessible to people with disabilities.
- (d) Leased properties shall comply with the City of Toronto Accessibility Design Guidelines having regard for the length of lease, use of the facility and cost effectiveness.

2. Work Plan for the preparation of the Implementation Strategy

Responsibility of operating Divisions:

- (a) To conduct accessibility audits on each facility to determine compliance with the “City of Toronto Accessibility Design Guidelines” and to detail the remedial work and cost required to reach compliance.
- (b) To develop a multi-year budget plan to implement the required remedial work.
- (c) To prepare multi-year plans based on the following categories of projected use by people with disabilities:
 - i) facilities that provide services specific to persons with disabilities,
 - ii) facilities that provide services to a large number of the public, and
 - iii) facilities where large numbers of staff are located.

3. Framework for the Application of the City of Toronto Accessibility Design Guidelines

- (a) The Accessibility Design Guidelines apply to the following types of facilities:
 - office spaces,
 - assembly and public spaces,
 - office and ancillary spaces in industrial facilities,
 - office and ancillary spaces in Child Care Centres and Homes for the Aged facilities,
 - emergency and transitional shelters, and
 - roadway facilities.

(b) For New Facilities Being Constructed:

All construction of new facilities will comply in every aspect with the Accessibility Design Guidelines.

(c) For Renovations/Retrofits to Existing Facilities:

i) For the renovated areas within the facility undergoing renovation.

All new construction within the existing facility will comply in every aspect with accessibility guidelines.

ii) For the areas not being renovated within a facility undergoing renovation:

The facility in its entirety must comply with the accessibility guidelines when:

- the construction cost for the renovation exceeds \$2.5 million;

The main entrance and a washroom on the main floor must comply with accessibility guidelines when:

- 50% of the total floor area of the existing facility is being substantially altered.

(d) New Additions to Existing Facilities:

i) All new additions to existing facilities will comply in every aspect with the accessibility guidelines.

ii) When the cost of the addition exceeds \$2.5 million, the existing facility in its entirety must comply with accessibility guidelines.

iii) The main entrance and a washroom on the main floor must comply with accessibility guidelines when the floor area of the addition exceeds 25% of the floor area of the original facility.

(e) Exceptions to the application of the Guidelines will be made on a case by case basis and may apply to improvements to building systems such as electrical and mechanical systems.