

# INFORMATION REPORT

<b>TO:</b> Chair and Members of Audit, Finance & Administration Committee	<b>WARD(S) AFFECTED:</b> CITY WIDE
<b>COMMITTEE DATE:</b> September 8, 2011	
<b>SUBJECT/REPORT NO:</b> Bill 181 – Mandatory Retirement Legislation for Firefighters (amendment to the <i>Fire Protection and Prevention Act, 1997</i> ) (HUR11010) - (City Wide)	
<b>SUBMITTED BY:</b> Chris Murray, City Manager	<b>PREPARED BY:</b> Nenzi Cocca, Human Resources Labour Relations Officer Ext. 6668 Rob Simonds, Fire Chief Ext. 3343
<b>SIGNATURE:</b>	

## Council Direction:

On June 1, 2011, the Province of Ontario gave Royal Assent to Bill 181, an Act to amend the *Fire Protection and Prevention Act, 1997*. The amendment imposes a duty of fair representation on bargaining agents for firefighters and requires collective agreements to contain provisions enforcing mandatory retirement at age 60.

In response to a councillor inquiry when the provincial government introduced the legislation, Council was advised that staff would review Bill 181 and advise of any potential implications for the City of Hamilton.

## Duty of Fair Representation

Bill 181 imposes a duty of fair representation on Fire Associations (the Union), which provides members of an Association with the right to file an application with the Ontario Labour Relations Board, if he/she believes the Association has represented them in a manner that is arbitrary, discriminatory or in bad faith. If the Board finds that the Association has failed to comply with its duty of fair representation, then the Board may issue orders with respect to the contravention.

These remedial powers are very broad, and while the Ontario *Labour Relations Act, 1995* outlines these powers in the context of an unfair labour practice or other violations of the *Act*, it does not specifically define its powers in cases of a duty of fair representation complaint. As such, it is possible that the Board may require an Employer to reinstate and compensate a terminated firefighter if the Board determines that the Association has failed to comply with its duty of fair representation.

**SUBJECT:** Bill 181 – Mandatory Retirement Legislation for Firefighters (amendment to the *Fire Protection and Prevention Act, 1997*)  
(HUR11010) - (City Wide)

---

## **Mandatory Retirement**

Bill 181 also authorizes collective agreements to include language that sets age 60 or over as the mandatory retirement age for firefighters who are regularly assigned to fire suppression duties. However, if the Employer is able to accommodate without undue hardship (considering cost, outside sources of funding, and any health and safety requirements) then a firefighter who reaches the age of mandatory retirement may continue their employment if reasonable accommodation is available in another position.

## **Impact on Hamilton Emergency Services – Fire Division**

The current collective agreement between the City of Hamilton and the Hamilton Professional Fire Fighters Association already contains language that provides for mandatory retirement at age 60 for firefighters in the suppression division. This language has been in place for many years dating back to the Establishing and Regulating By-law of the Fire Department 68-34 and in collective agreements dating back to at least 1997. The Employer has been meeting its obligations to offer alternative work accommodation to those firefighters who reach age 60 and wish to continue their employment with the City of Hamilton. Accommodation has included offering vacant positions in the Fire Prevention Division, Fire Communication Division, and other departments within the City. Bill 181 does not pose a significant impact on Hamilton Emergency Services – Fire Division since mandatory retirement is already included in the collective agreement.

The legislation does not regulate the Volunteer Fire Service Division. The current collective agreement governing the volunteer firefighters contains language that requires volunteers who are 60 years of age to complete yearly medical examinations in order to verify that they are able to meet reasonable performance standards. The Volunteer Fire Service Division has traditionally not had many members stay past the age of 60.