



**Submission to the Ministry of Northern Development  
regarding the proposed modernization of the  
*Northern Services Boards Act***

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## Overview

The Ministry of Northern Development has recently sought feedback on potential changes to the *Northern Services Boards Act*. In this submission, I will address two areas concerning Local Services Boards established under the Act in territories without municipal organization, which would benefit from legislative amendment. Ontarians have no access to an independent oversight mechanism to address complaints and concerns about the important local services these boards provide. There is also no independent oversight mechanism to ensure Local Services Boards comply with the Act's requirement that their meetings be open to the public.

The Ombudsman's role is to enhance governance by promoting transparency, accountability, fairness and a respect for rights within Ontario's government and the public sector.

My Office has received complaints from Ontarians about Local Services Boards regarding concerns with communication, member conduct, tax collection practices, land disposition processes, as well as closed meetings. Unfortunately, as Local Services Boards are not within my jurisdiction, my Office has been unable to assist. When we receive concerns about these significant issues, my Office can only refer complainants to the Ministry.

As part of modernizing the *Northern Services Boards Act*, the Ministry of Northern Development has the opportunity to close these oversight gaps by defining Local Services Boards as "local boards" for the purposes of the *Ombudsman Act*, and ensuring that there is a mechanism to enforce the open meeting rules – either directly in the *Northern Services Boards Act* or through deeming Local Services Boards as local boards under the *Municipal Act, 2001*.

My Office has prepared the following proposals to offer the Ministry a blueprint for providing Northern Ontarians access to a consistent set of accountability and transparency mechanisms for their local services, commensurate with those that are already available to Ontarians living in municipalities.

## Ombudsman role and jurisdiction

As the Ontario Ombudsman, I am an independent and impartial Officer of the Ontario Legislature, appointed under the *Ombudsman Act*.<sup>1</sup> I have the authority to review and formally investigate the administrative conduct of more than 1,000 public sector organizations, including provincial ministries, 444 municipalities, and 72 school boards.

My Office's authority to review and investigate complaints in the municipal sector began in January 2008, when my Office became the closed meeting investigator for municipalities that have not appointed their own. I currently serve as closed meeting investigator for 268 municipalities. In this role, my Office helps ensure that municipal councils, local boards, and their committees hold meetings open to the public as required by law. Over the past 15 years, my Office has reviewed hundreds of closed meetings and shared best practices and formal recommendations with numerous municipalities.

In that time, we have also proactively assisted municipalities by offering resources and guidance regarding the open meeting rules in the *Municipal Act, 2001*.<sup>2</sup> Our handbook, *Open Meetings: Guide for Municipalities*, which we distribute to every municipal clerk and elected official across the province, contains best practices, case summaries, and interpretations of the open meeting rules. It is also available online,<sup>3</sup> and we regularly distribute hard copies, including to local boards. My Office also maintains an online digest ("Open Meetings: Case Digest" on our website), a keyword-searchable repository of our open meeting investigation letters and reports.<sup>4</sup> We also regularly respond to inquiries from municipal staff and council members, sharing information and resources about the open meeting rules.

My Office's authority was again expanded in 2016 to include general jurisdiction over municipalities, local boards, and municipally-controlled corporations. Every year, we help thousands of Ontarians resolve their issues with municipalities and provide advice, best practices, and education to municipal officials to improve the accessibility and transparency of their processes.

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<sup>1</sup> RSO 1990, c O.6.

<sup>2</sup> SO 2001, c 25.

<sup>3</sup> Ontario Ombudsman, *Open Meetings – Guide for Municipalities*, 5th ed (2023), online: <<https://www.ombudsman.on.ca/have-a-complaint/who-we-oversee/municipalities/municipal-closed-meetings/open-meetings-guide-for-municipalities>>.

<sup>4</sup> Ontario Ombudsman, "Open Meeting Case Digest", online: <<https://www.ombudsman.on.ca/digest/digest-home>>.

## Lack of independent oversight of Local Services Boards

Local Services Boards collect taxes and fees from and provide important public services to Ontarians living in areas without municipal government. Local Services Boards can provide services that municipalities typically provide – from access to water systems, fire protection and waste services, to infrastructure like lighting and roads, and library, recreation, and emergency telecommunications programming.

Despite collecting taxes and fees and providing the same types of services that municipal governments provide in organized areas, Local Services Boards are not subject to the same oversight as municipalities – or municipal “local boards.” The *Northern Services Boards Act* specifically deems them not to be municipalities or local boards “for the purposes of any Act.”<sup>5</sup> They also do not come within the definition of governmental organizations under the *Ombudsman Act*. Accordingly, these boards fall outside of my jurisdiction, and Ontarians cannot bring complaints about them to my Office.

When we receive complaints about a Local Services Board, we refer complainants back to the board itself or to the Ministry to raise their concerns. The Ministry’s Local Services Board guide provides information about how it addresses such complaints. The Guide states that the Ministry’s oversight does not extend to areas beyond its mandate in the Act, and issues internal to the Local Services Board must be addressed and resolved at the local level.<sup>6</sup> There is no formal oversight mechanism for such internal matters. My Office would be able to fill that gap.

When the *Northern Services Boards Act* was last modernized in 1990, the Ombudsman’s authority only covered provincial governmental organizations. Since then, in recognition of the value of independent oversight and my Office’s expertise at resolving public sector complaints, the Legislature expanded my jurisdiction to include local forms of governance. Since gaining authority over municipalities, my Office has routinely worked with municipalities to resolve thousands of individual complaints, adding value by sharing best practices and resources.

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<sup>5</sup> RSO 1990, c L.28, s 6(2).

<sup>6</sup> Ontario, Ministry of Northern Development, *Local Services Board Guide for Inhabitants and Board Members* (April 13, 2023), online: <<https://www.ontario.ca/document/local-services-board-guide-inhabitants-and-board-members/rights-roles-and-responsibilities#section-7>>.

To ensure that all Ontarians have the same access to independent oversight over the provision of local public services regardless of where they live, Local Services Boards should be deemed to be “local boards” for the purposes of the *Ombudsman Act*.

### **Proposal 1**

**The *Northern Services Boards Act* and the *Ombudsman Act* should be amended to deem Local Services Boards as “local boards” for the purposes of the *Ombudsman Act*.**

## **Application of open meeting rules**

The *Northern Services Boards Act* currently requires that all meetings of a Local Services Board be open to the public, and boards are not permitted to hold closed meetings. In its regulatory proposal, the Ministry noted that it is considering permitting boards to hold closed meetings to discuss private or confidential matters. If the Act is amended to permit closed meetings, I encourage the Ministry to apply, or incorporate into the *Northern Services Boards Act*, the open meeting rules from the *Municipal Act, 2001* to Local Services Boards.

Under the *Municipal Act, 2001*, councils, local boards, and their committees must hold their meetings open to the public, subject to limited exceptions. Anyone can complain to a municipality’s closed meeting investigator if they believe the open meeting rules have been contravened. Where a violation of the rules is found, the closed meeting investigator can help improve local practices and enhance transparency by making recommendations.

If Local Services Boards are given the ability to hold closed meetings, the residents they serve should have access to the same level of accountability and oversight available in areas governed by municipalities. The public should be able to complain about potential violations of the rules, either to my Office, or to a locally appointed investigator.

This could be accomplished by incorporating the open meeting provisions from the *Municipal Act, 2001*, including those relating to enforcement, into the *Northern Services Boards Act*, and making consequential amendments to the *Ombudsman Act*. Alternatively, Local Services Boards could be deemed to be “local boards” for the purposes of the open meeting rules under the *Municipal Act, 2001*.

## Proposal 2

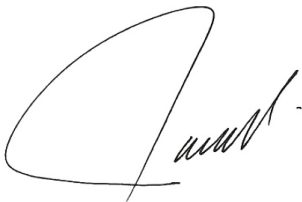
**Local Services Boards should be made subject to the open meeting rules contained in the *Municipal Act, 2001*, either by incorporating those rules into the *Northern Services Boards Act* or by deeming Local Services Boards to be “local boards” for the purpose of the open meeting rules in the *Municipal Act, 2001*.**

## Conclusion

I commend the Ministry of Northern Development on taking steps to review whether the current framework under the *Northern Services Boards Act* is meeting Northern Ontarians’ needs. As part of that review, I encourage the Ministry to consider providing Northern Ontarians served by Local Services Boards the same access to my Office’s independent oversight of local governance that Ontarians living in municipalities already enjoy.

Similarly, I encourage the Ministry to incorporate the open meeting rules in the *Municipal Act, 2001* into the *Northern Services Boards Act* or deem them to apply to Local Services Boards.

My staff would be pleased to provide further information and answer questions regarding my proposals.



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**Paul Dubé**  
**Ombudsman of Ontario**

*Ce rapport est aussi disponible en français*