

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

1ST SESSION, 42ND LEGISLATURE, ONTARIO
68 ELIZABETH II, 2019

Bill 101

An Act to amend the Government Advertising Act, 2004

Mr. T. Natyshak

Private Member's Bill

1st Reading April 17, 2019

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The *Building Ontario Up Act (Budget Measures), 2015* made numerous amendments to the *Government Advertising Act, 2004*. Among the amendments made were changes to the rules that apply when the Auditor General reviews government advertising. The Bill amends the Act to reverse those amendments so that the Act reads substantially as it did prior to the 2015 amendments.

An Act to amend the Government Advertising Act, 2004

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

1 (1) The definition of “item” in subsection 1 (1) of the *Government Advertising Act, 2004* is repealed and the following substituted:

“item” means a reviewable advertisement, reviewable printed matter or a reviewable message, as the case may be; (“document”)

(2) The definition of “standards” in subsection 1 (1) of the Act is repealed.

2 Section 1.1 of the Act is repealed.

3 (1) Subsection 2 (2) of the Act is amended by striking out “preliminary”.

(2) Section 2 of the Act is amended by adding the following subsections:

Prohibition on use pending review

(3) The government office shall not publish, display or broadcast the advertisement before the head of the office receives notice, or is deemed to have received notice, of the results of the review.

Prohibition

(4) The government office shall not publish, display or broadcast the advertisement if the head of the office receives notice that, in the Auditor General’s opinion, the advertisement does not meet the standards required by this Act.

4 (1) Subsection 3 (2) of the Act is amended by striking out “preliminary”.

(2) Section 3 of the Act is amended by adding the following subsections:

Prohibition on use pending review

(3) The government office shall not distribute the printed matter before the head of the office receives notice, or is deemed to have received notice, of the results of the review.

Prohibition

(4) The government office shall not distribute the printed matter if the head of the office receives notice that, in the Auditor General’s opinion, it does not meet the standards required by this Act.

5 (1) Subsection 4 (2) of the Act is amended by striking out “preliminary”.

(2) Section 4 of the Act is amended by adding the following subsections:

Prohibition on use pending review

(3) The government office shall not convey the message before the head of the office receives notice, or is deemed to have received notice, of the results of the review.

Prohibition

(4) The government office shall not convey the message if the head of the office receives notice that, in the Auditor General’s opinion, the message does not meet the standards required by this Act.

6 Section 4.1 of the Act is repealed.

7 Subsection 5 (1) of the Act is repealed and the following substituted:

Review by Auditor General

(1) When an item is given to the Office of the Auditor General for review, the Auditor General shall review it to determine whether, in his or her opinion, it meets the standards required by this Act.

8 Sections 6, 7 and 8 of the Act are repealed and the following substituted:

Required standards

6 (1) The following are the standards that an item is required to meet:

1. It must be a reasonable means of achieving one or more of the following purposes:
 - i. To inform the public of current or proposed government policies, programs or services available to them.
 - ii. To inform the public of their rights and responsibilities under the law.
 - iii. To encourage or discourage specific social behaviour, in the public interest.
 - iv. To promote Ontario or any part of Ontario as a good place to live, work, invest, study or visit or to promote any economic activity or sector of Ontario's economy.
2. It must include a statement that the item is paid for by the Government of Ontario.
3. It must not include the name, voice or image of a member of the Executive Council or a member of the Assembly.
4. It must not be partisan.
5. It must not be a primary objective of the item to foster a positive impression of the governing party or a negative impression of a person or entity who is critical of the government.
6. It must meet such additional standards as may be prescribed.

Advertising outside Ontario

(2) Paragraph 3 of subsection (1) does not apply with respect to an item for which the primary target audience is located outside of Ontario.

Partisan advertising

(3) An item is partisan if, in the opinion of the Auditor General, a primary objective of the item is to promote the partisan political interests of the governing party.

Same

(4) The Auditor General shall consider such factors as may be prescribed, and may consider such additional factors as he or she considers appropriate, in deciding whether a primary objective of an item is to promote the partisan political interests of the governing party.

Notice of results of review

7 (1) The Office of the Auditor General shall notify the head of the government office of the results of the review within the prescribed number of days after receiving an item for review.

Deemed notice

(2) If the notice is not given within that period, the head shall be deemed to have received notice that the item meets the standards required by this Act.

Submission of revised version

8 (1) If the head of a government office is notified that an item does not meet the standards required by this Act and if the government office proposes to use a revised version of it, the head shall give the revised version to the Office of the Auditor General for a further review.

Prohibition on use pending review

(2) The government office shall not use the revised version before the head of the office receives notice, or is deemed to have received notice, of the results of the review.

Prohibition

(3) The government office shall not use the revised version if the head of the office receives notice that, in the Auditor General's opinion, the revised version does not meet the standards required by this Act.

Review of revised version

(4) Sections 5 and 6 apply with respect to the review.

Notice of results of review, revised version

(5) The Office of the Auditor General shall notify the head of the results of the further review within the prescribed number of days after receiving the revised version.

Deemed notice

(6) If the notice is not given within that period, the head shall be deemed to have received notice that the revised version meets the standards required by this Act.

On use during election periods

8.1 (1) Despite notice or deemed notice that an item or a revised version of an item meets the standards required by this Act, a government office shall not publish, display, broadcast, distribute or convey the item, unless permitted under subsection (2), during the following periods:

1. The period beginning on the day of the issue of a writ under the *Election Act* for a general election and ending on polling day, in the case of any general election.
2. The additional period of 60 consecutive days ending on the day of the issue of a writ under the *Election Act*, in the case of a general election held in accordance with subsection 9 (2) of the *Election Act*.

Exceptions

- (2) Subsection (1) does not apply if the item,
- (a) relates to a revenue-generating activity;
 - (b) is time sensitive; or
 - (c) meets any other criteria that may be prescribed.

Pre-existing publication, etc.

(3) Subsection (1) requires a government office to cease any ongoing or continued publication, display, broadcasting, distribution or conveying of an item that began before the beginning of the period referred to in that subsection, unless, in the opinion of the head of the office, it is not practicable to do so.

9 Subsection 9 (2) of the Act is amended by striking out “4.1”.

10 Section 10 of the Act is amended by striking out “4.1”.

11 (1) Clauses 12 (1) (a.1), (a.2) and (a.3) of the Act are repealed.

(2) Clause 12 (1) (c) of the Act is amended by striking out “paragraph 3” and substituting “paragraph 6”.

(3) Clauses 12 (1) (d), (e) and (f) of the Act are repealed and the following substituted:

- (d) prescribing additional factors for the purposes of subsection 6 (4);
- (e) prescribing numbers of days for the purposes of subsection 7 (1) and for the purposes of subsection 8 (5);
- (f) prescribing criteria for the purposes of clause 8.1 (2) (c).

(4) Subsection 12 (2) of the Act is repealed.

Commencement

12 This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

13 The short title of this Act is the *End the Public Funding of Partisan Government Advertising Act, 2019*.