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Committees Branch  
Legislative Assembly of Manitoba  
Room 251, 450 Broadway  
Winnipeg, MB R3C 0V8  
Via email: [committees@leg.gov.mb.ca](mailto:committees@leg.gov.mb.ca)

To Whom It May Concern,

On behalf of the Association of Manitoba Municipalities (AMM), I am writing to provide some comments regarding *Bill 38: The Builders' Liens Amendment Act (Prompt Payment)*.

Firstly, the AMM wishes to thank the Hon. James Teitsma, Minister of Consumer Protection and Government Services, for meeting with our organization to discuss this proposed legislation in greater detail. Moreover, we would also like to express our appreciation to the Department, along with the Department of Municipal Relations, for agreeing to meet with our organization on May 3, 2023 to further discuss our concerns.

The AMM is aware that Alberta, Ontario, and Saskatchewan have enacted similar legislation, with the latter two jurisdictions seeing calls for amendments or exemptions for municipalities by their respective municipal associations. For example, the Association of Municipalities of Ontario (AMO) was successful in advocating for a freedom of contract amendment, which allows contract parties to voluntarily extend timelines to better suit their needs. Meanwhile, the Saskatchewan Urban Municipal Association (SUMA) has considered advocating for both freedom of contract and the ability to require a certification of work prior to payment for municipalities.

In regard to Bill 38 specifically, Section 78 imposes payment deadlines on each payor in the construction contract chain. We understand that this section will now require invoices to be paid in 28 days and sub-contractors to be paid in a further 7 days. This proposed legislation currently applies to municipalities when they are 'owners' of construction projects. However, we strongly believe that municipalities are unlikely to be a significant cause of payment issues, and therefore, should be fully exempt from this proposed legislation and/or at the very least the proposed legislation should include a freedom of contract option for municipalities to allow parties to voluntarily extend timelines. Sections 86 and 125 may provide for some aspects of freedom of contract, however we believe the wording could be revised to make it clearer that freedom of contract in relation to both the frequency of invoices and overall timelines is included in this proposed legislation.

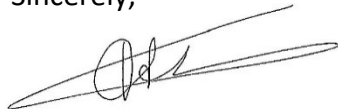
Additionally, the AMM understands that existing exemptions for Manitoba Hydro and Manitoba Transportation and Infrastructure have remained intact for certain types of projects, although they have only been encouraged to follow the spirit and intent of this proposed legislation. Since municipalities are not a significant cause of payment issues, we believe they should be provided the same courtesy and leeway. Municipalities are constructing multi-million dollar – and in some instances multi-billion dollar – complex infrastructure projects, and thus we encourage the department to consider timelines to be based on the scope and complexity of infrastructure contracts.

Bill 38 also proposes to create a new adjudication process that may increase further provincial bureaucracy, red tape, and time delays. Therefore, we encourage the department to consider, where possible, the use of alternate dispute resolution processes that already exist. For example, the City of Winnipeg recently revamped its dispute resolution process and the industry is familiar with its framework. Potentially creating a new stand-alone provincial tribunal may result in the creation of scheduling delays and backlogs, which have plagued other provincial boards.

Lastly, the AMM would encourage the Department of Consumer Protection and Government Services in collaboration with the Department of Municipal Relations, to develop informational materials that would provide municipalities greater guidance and clarity on these proposed amendments.

Thank you for the opportunity to provide these brief comments.

Sincerely,



Denys Volkov  
Executive Director

cc: Hon. James Teitsma, Minister of Consumer Protection and Government Services  
Hon. Andrew Smith, Minister of Municipal Relations  
Deputy Minister Joseph Dunford, Manitoba Consumer Protection and Government Services  
Deputy Minister Bruce Gray, Manitoba Municipal Relations