



COTAPSA
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City of Toronto Executive Committee

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EX42.3 Strengthening Public Service Governance – A Public Service By-law for Toronto

The Ombudsman's 2011 Annual Report presented to City Council on February 6 and 7, 2012, expressed concern that it was increasingly difficult for staff to "speak truth to power" and to "provide their best advice to decision makers".

The Ombudsman observed that there was not an adequate separation between legislator and public servant, potentially jeopardizing good governance.

The City of Toronto Act should have clearly articulated the role of the Toronto Public Service. It didn't. It was missed for whatever reason.

Legislation covering Public Service Employees is common in organizations as large as the City of Toronto.

City Council, in its decision regarding the 2011 Annual Report of the Ombudsman on February 6 and 7, 2012, adopted the Ombudsman's recommendation that it ask the Province of Ontario to create a Toronto Public Service Act.

City Council further decided that, until such time as a Toronto Public Service Act is legislated, City Council directed the City Manager to report on an interim By-law.

A By-law is before you today. However, COTAPSA sees no approach to the Province regarding an Act governing the Toronto Public Service nor any reference to this By-law being an interim By-law.

A City By-law can be changed at whim by City Council. Provincial Legislation would be much more difficult to change and would afford public servants much more protection.

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COTAPSA has concerns regarding this By-law. Not only is it lengthy, wordy and repetitive in some areas, it raises questions.

For Example:

Why are Accountability Officers, independent statutory positions under the City of Toronto Act, 2006, being drawn into this By-law?

Are the restrictions governing political activity appropriate and lawful, or are they too restrictive.

Does the Disclosure of Wrongdoing and Reprisal Protection Provisions afford enough protection and mechanisms for employees who disclose wrongdoing?

Do the lines of authority overlap in some areas between, for example, the City Manager and the Auditor General? Areas such as Political Restrictions and Disclosure of Wrongdoing. Does this cause some confusion?

This Report is confusing because of this statement: *The public service is responsible to serve the Council or Board as a whole and the combined interests of all members as evidenced through their decisions.* This suggests that the public service reports to Council. It does not clearly define the relationship between the public service and Council.

While it skirts around the edges, it doesn't "nail" the distinct roles that the public service and elected officials play in the effective functioning of the City of Toronto's government.

This is a complex document. There has not been a lot of time to review and reflect upon it. COTAPSA believes that it requires more work and more consultation with associations and unions.

COTAPSA is recommending that this By-law not be approved without further consultation and input from affected parties.



Richard Majkot,
Executive Director of COTAPSA