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Bill 5

(Chapter 11 of the Statutes of Ontario, 2018)

An Act to amend the City of Toronto Act, 2006, the Municipal Act, 2001 and the Municipal Elections Act, 1996

The Hon. S. Clark

Minister of Municipal Affairs and Housing

1st Reading	July 30, 2018
2nd Reading	August 14, 2018
3rd Reading	August 14, 2018
Royal Assent	August 14, 2018



EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 5 and does not form part of the law.
Bill 5 has been enacted as Chapter 11 of the Statutes of Ontario, 2018.*

The Bill amends various Acts. The major elements of the Bill are described below.

SCHEDULE 1 CITY OF TORONTO ACT, 2006

Section 127 of the *City of Toronto Act, 2006* currently sets out the division of the City of Toronto into wards. The section is amended to provide that the current division of the City into wards no longer applies after city council is organized following the 2018 regular election.

Currently, section 128 of the Act sets out rules regarding the City's authority to divide or redivide the City into wards or to dissolve existing wards. The section is re-enacted to set out rules that provide that the City is divided into wards whose boundaries are identical to those of the electoral districts for Ontario that are within the boundaries of the City, commencing on the day city council is organized following the 2018 regular election.

Section 129 of the Act, which governs petitions asking city council for changes to City wards, is repealed.

Section 130 of the Act sets out the current composition of city council. The section is amended to provide that the current composition no longer applies after city council is organized following the 2018 regular election.

Section 135 currently sets out rules regarding the City's authority to change the composition of city council. The section is re-enacted to set out rules regarding the composition of city council commencing on the day city council is organized following the 2018 regular election.

The 2018 regular election for the City will be conducted as if the division of the City into wards and the composition of city council, as described above, were already in effect.

Amendments are also made to provisions in the Act that refer to the City's powers with respect to determining the governance structure of the City (see sections 2 and 8 of the Act). Other amendments are made to remove references to the City's power to establish, change or dissolve wards and to change the composition of city council (see subsections 4 (3) and 151 (2) of the Act).

SCHEDULE 2 MUNICIPAL ACT, 2001

Currently, section 218.1 of the *Municipal Act, 2001* provides that for the 2018 regular election the head of council of certain regional municipalities shall be elected by general vote. The section is re-enacted to provide that for the regular election in 2018, the head of council for certain regional municipalities shall be elected by a general vote and that the head of council for certain other regional municipalities shall be selected by appointment. Related regulation making authority is provided. Paragraph 2.1 of subsection 218 (1), which provides that the head of council of certain regional municipalities shall be elected by general vote for a regular election after 2018, is repealed. A new section 218.2 provides that a regional municipality referred to in section 218.1 is not prevented from changing the method for selecting its head of council for any regular election after 2018.

SCHEDULE 3 MUNICIPAL ELECTIONS ACT, 1996

The *Municipal Elections Act, 1996* is amended by adding special rules regarding the 2018 regular election in the City of Toronto. Except for the head of council, the nomination day for this election is September 14, 2018, and the nomination day as set out in section 31 of the Act is deemed not to have occurred. A person who filed a nomination must notify the clerk of the office on the council or on a school board, as the case may be, for which the person wishes to be nominated. Regulation making authority with respect to related and transitional issues is provided.

The Act is also amended to deem nominations for the office of head of council of a municipality referred to in subsection 218.1 (1) of the *Municipal Act, 2001* to have been withdrawn. Regulation making authority with respect to carrying out the 2018 regular election in these municipalities is provided.

**An Act to amend the City of Toronto Act, 2006, the Municipal Act, 2001
and the Municipal Elections Act, 1996**

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

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

Short title

3 The short title of this Act is the *Better Local Government Act, 2018*.

**SCHEDULE 1
CITY OF TORONTO ACT, 2006**

1 Paragraph 3 of section 2 of the *City of Toronto Act, 2006* is repealed and the following substituted:

3. Determine the appropriate structure for governing the City other than with respect to the composition of city council and the division of the City into wards.

2 Paragraphs 2 and 3 of subsection 4 (3) of the Act are repealed.

3 Paragraph 1 of subsection 8 (2) of the Act is repealed and the following substituted:

1. Governance structure of the City and its local boards (restricted definition) other than with respect to the composition of city council and the division of the City into wards.

4 Section 127 of the Act is amended by adding the following subsection:

Application

- (2) This section does not apply after city council is organized following the 2018 regular election.

5 Sections 128 and 129 of the Act are repealed and the following substituted:

Division of wards after 2018 regular election

128 (1) On the day city council is organized following the 2018 regular election, the City is divided into wards whose boundaries are identical to those of the electoral districts for Ontario that are within the boundaries of the City.

Same

- (2) For the purposes of subsection (1), the electoral districts for Ontario are those determined under the *Representation Act, 2015* as it read on the day the *Better Local Government Act, 2018* received Royal Assent.

Conduct of 2018 regular election

- (3) The 2018 regular election shall be conducted as if the division of the City into wards, as determined under subsections (1) and (2), was already in effect.

Regulations

- (4) The Minister may make regulations for implementing the purposes, provisions and intention of this section and, without restricting the generality of the foregoing, the Minister may make regulations governing transitional matters that arise out of the implementation of this section.

Retroactivity

- (5) A regulation made under subsection (4) is, if it so provides, effective with reference to a period before it was filed.

Conflicts

- (6) In the event of a conflict between a regulation under subsection (4) and a provision of this Act or any other Act or regulation, the regulation made under subsection (4) prevails.

Same

- (7) In the event of a conflict between this section and a provision of any other Act or a regulation made under any other Act, this section prevails.

By-law not passed

129 A by-law passed under section 128, as that section read immediately before the *Better Local Government Act, 2018* received Royal Assent, is deemed not to have been passed.

6 Section 130 of the Act is amended by adding the following subsection:

Application

- (2) This section does not apply after city council is organized following the 2018 regular election.

7 Section 135 of the Act is repealed and the following substituted:

City council following 2018 regular election

135 (1) Commencing with the city council that is organized following the 2018 regular election, city council shall be composed of,

- (a) the head of council; and
- (b) other members, the number of which equals the number of wards as determined under section 128.

Rules re composition of city council

(2) The following rules apply to the composition of city council:

1. The members of city council shall be elected in accordance with the *Municipal Elections Act, 1996*.
2. The head of council shall be elected by general vote.
3. One member of council shall be elected for each of the wards determined under section 128.

Conduct of 2018 regular election

(3) The 2018 regular election shall be conducted as if the composition of city council, as determined under subsections (1) and (2), was already in effect.

Regulations

(4) The Minister may make regulations for implementing the purposes, provisions and intention of this section and, without restricting the generality of the foregoing, the Minister may make regulations governing transitional matters that arise out of the implementation of this section.

Retroactivity

(5) A regulation made under subsection (4) is, if it so provides, effective with reference to a period before it was filed.

Conflicts

(6) In the event of a conflict between a regulation under subsection (4) and a provision of this Act or any other Act or regulation, the regulation made under subsection (4) prevails.

Same

(7) In the event of a conflict between this section and a provision of any other Act or a regulation made under any other Act, this section prevails.

Rules re previously passed by-law changing city council

135.1 (1) A by-law passed under section 135, as that section read immediately before the *Better Local Government Act, 2018* received Royal Assent, is deemed not to have been passed.

Exception re s. 83 (1) of the *Municipal Elections Act, 1996*

(2) An order shall not be made under subsection 83 (1) of the *Municipal Elections Act, 1996* by reason only of the clerk of the City doing anything, before a by-law passed under section 135 of this Act, as it read immediately before the *Better Local Government Act, 2018* received Royal Assent, in relation to the conduct of the 2018 regular election,

- (a) as if the by-law were not already in effect; or
- (b) as if the by-law were already in effect.

8 Paragraphs 3 and 4 of subsection 151 (2) of the Act are repealed.

Commencement

9 This Schedule comes into force on the day the *Better Local Government Act, 2018* receives Royal Assent.

SCHEDULE 2
MUNICIPAL ACT, 2001

1 (1) Paragraph 2 of subsection 218 (1) of the *Municipal Act, 2001* is amended by striking out “Subject to paragraph 2.1” at the beginning.

(2) Paragraph 2.1 of subsection 218 (1) of the Act is repealed.

2 Section 218.1 of the Act is repealed and the following substituted:

Head of regional council

Appointment

218.1 (1) On the day the new council is organized following the regular election in 2018, the head of council of the following regional municipalities shall be appointed by the members of council:

1. The District Municipality of Muskoka.
2. The Regional Municipality of Niagara.
3. The Regional Municipality of Peel.
4. The Regional Municipality of York.

General vote

(2) On the day the new council is organized following the regular election in 2018, the head of council of the following regional municipalities shall be elected by general vote in accordance with the *Municipal Elections Act, 1996*:

1. The Regional Municipality of Durham.
2. The Regional Municipality of Halton.
3. The Regional Municipality of Waterloo.

Conduct of 2018 regular election

(3) The regular election in 2018 shall be conducted as if the method of selecting the head of council described in subsection (1) or (2), as applicable, was already in effect.

Regulations

(4) The Minister may make regulations that, in the opinion of the Minister, are advisable or necessary for implementing the purposes of this section and, without restricting the generality of the foregoing, the Minister may make regulations,

- (a) varying the operation of any provision of this Act for those purposes;
- (b) governing transitional matters that arise out of the implementation of this section.

Retroactivity

(5) A regulation made under subsection (4) is, if it so provides, effective with reference to a period before it was filed.

Conflict

(6) In the event of a conflict between a regulation made under subsection (4) and a provision of this Act or of any other Act or regulation, the regulation made under subsection (4) prevails.

Power to change method for selecting head of council

218.2 Nothing in section 218.1 limits the power of a municipality referred to in subsection 218.1 (1) or (2) to change the method of selecting its head of council under section 218 for any regular election after 2018.

Commencement

3 This Schedule comes into force on the day the *Better Local Government Act, 2018* receives Royal Assent.

**SCHEDULE 3
MUNICIPAL ELECTIONS ACT, 1996**

1 The *Municipal Elections Act, 1996* is amended by adding the following sections before the heading “Election Officials”:

2018 regular election, City of Toronto

10.1 (1) Except as otherwise provided, this section applies with respect to the 2018 regular election within the City of Toronto.

Exception, head of council

(2) Subsections (3) to (9) do not apply to a nomination for the office of head of council.

New nomination day

(3) Despite section 31, nomination day is September 14, 2018 and the following rules apply:

1. Nomination day as set out in section 31 is deemed not to have occurred.
2. The period for filing a nomination is deemed to have run continuously from May 1, 2018 until September 14, 2018.

Notifying the clerk re office on the council

(4) If a person has filed a nomination under section 33 for an office on the council and wishes to continue to be a candidate in the election, the person shall notify the clerk in writing before 2 p.m. on September 14, 2018 of the office on the council, other than the office of head of council, for which the person wishes to be nominated.

Notifying clerk re office on a school board

(5) If a person has filed a nomination under section 33 for an office on a school board and wishes to continue to be a candidate in the 2018 regular election, the person shall notify the clerk in writing before 2 p.m. on September 14, 2018 of the office on the same school board for which the person wishes to be nominated.

Same, not a new nomination

(6) The giving of notice to the clerk under subsection (4) or (5) does not constitute a new nomination.

Same, not multiple campaigns

(7) For the purposes of subsection 88.24 (3), a person who has notified the clerk under subsection (4) or (5) shall not be considered to be a candidate for more than one office on the same council or school board, as the case may be.

Deemed withdrawal of nomination

(8) A person who has filed a nomination is deemed to have withdrawn his or her nomination if he or she has not notified the clerk under subsection (4) or (5).

Notice by clerk

(9) As soon as possible after the day the *Better Local Government Act, 2018* receives Royal Assent, the clerk shall notify in writing each person who filed a nomination under section 33 for an office on the council, other than the office of head of council, or for an office on a school board and the notice shall include the following:

1. A statement that if the person wishes to continue to be a candidate in the 2018 regular election, the person must notify the clerk under subsection (4) or (5), as applicable.
2. A statement that if the person does not notify the clerk under subsection (4) or (5), the person will be deemed to have withdrawn his or her nomination.
3. Any other information as may be prescribed.

Regulations

(10) The Minister may make regulations for implementing the purposes, provisions and intention of this section and, without restricting the generality of the foregoing, the Minister may make regulations,

- (a) prescribing anything that is referred to, in this section, as prescribed;
- (b) varying the operation of any of the provisions of this Act for the purposes of the 2018 regular election; and
- (c) with respect to this Act, governing transitional matters that arise out of the implementation of this section, including any such transitional matters that may arise for the 2022 regular election or any by-election that takes place before the 2022 regular election.

Same

(11) A regulation made under subsection (10) may limit the circumstances in which an order under subsection 83 (1) may be made in relation to the conduct of the 2018 regular election.

Retroactivity

(12) A regulation made under subsection (10) is, if it so provides, effective with reference to a period before it was filed.

Conflict

(13) In the event of a conflict between a regulation made under subsection (10) and a provision of this Act or of any other Act or regulation, the regulation made under subsection (10) prevails.

2018 regular election, certain regional municipalities**Deemed withdrawal of nominations**

10.2 (1) A person who has filed a nomination for the office of head of council of a municipality referred to in subsection 218.1 (1) of the *Municipal Act, 2001* in the 2018 regular election is deemed to have withdrawn his or her nomination under section 36 of this Act immediately before the applicable deadline set out in that section.

Regulations

(2) The Minister may make regulations that, in the opinion of the Minister, are advisable or necessary for the purposes of carrying out the 2018 regular election for the municipalities referred to in subsection 218.1 (1) of the *Municipal Act, 2001* and, without restricting the generality of the foregoing, the Minister may make regulations,

- (a) varying the operation of any of the provisions of this Act for those purposes;
- (b) governing transitional matters that arise out of the implementation of section 218.1 of the *Municipal Act, 2001*.

Same

(3) A regulation made under subsection (2) may limit the circumstances in which an order under subsection 83 (1) may be made in relation to the conduct of the 2018 regular election for the municipalities referred to in subsection 218.1 (1) of the *Municipal Act, 2001*.

Retroactivity

(4) A regulation made under subsection (2) is, if it so provides, effective with reference to a period before it was filed.

Conflict

(5) In the event of a conflict between a regulation made under subsection (2) and a provision of this Act or of any other Act or regulation, the regulation made under subsection (2) prevails.

Commencement

2 This Schedule comes into force on the day the *Better Local Government Act, 2018* receives Royal Assent.