



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### Supplementary report on legal options to challenge Bill 5, the Better Local Government Act, 2018

**Date:** August 17, 2018

**To:** City Council

**From:** City Solicitor

**Wards:** All

#### REASON FOR CONFIDENTIAL INFORMATION

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This report is about litigation or potential litigation that affects the City of Toronto.

Confidential Attachment #1 to this report contains advice or communications that are subject to solicitor-client privilege.

#### SUMMARY

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This is a supplementary report

Confidential Attachment #1 provides further information and advice regarding this matter.

#### RECOMMENDATIONS

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The City Solicitor recommends that:

1. City Council receive this supplementary report for information.
2. City Council direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it contains advice which is subject to solicitor-client privilege and is about litigation or potential litigation that affects the City of Toronto.

#### FINANCIAL IMPACT

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There is no financial impact resulting from the adoption of the recommendations in this report.

## DECISION HISTORY

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City Council will consider at its meeting of August 20, 2018, a report from the City Solicitor dated August 15, 2018 entitled [Legal options to challenge Bill 5, the Better Local Government Act, 2018](#).

City Council at its meeting on July 23, 24, 25, 26, 27 and 30, 2018 considered item MM44.128, Urgent Consideration of the Provincial Government's Plan to Reduce the Size of City Council - by Mayor John Tory, seconded by Councillor Mary-Margaret McMahon.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.MM44.128>

City Council at its meeting on November 8 and 9, 2016 adopted item EX18.2, which established 47 wards for the City of Toronto for the 2018 election.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX18.2>

## COMMENTS

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Bill 5, the Better Local Government Act, 2018, came into force on August 14, 2018. Bill 5 eliminates the City's authority to establish, divide, re-divide or configure its wards or determine council composition and it sets the number of councillors to 25 with one Councillor per ward for the 2018 election. The introduction of Bill 5 came without any prior notice to or consultation with the City of Toronto. Bill 5 was proclaimed into force more than three months after the 2018 municipal election campaign began. The Municipal Act, 2001, continues to provide other municipalities with the authority to establish, divide, re-divide or configure their wards and determine council composition.

The Province of Ontario filed two regulations associated with Bill 5: Ontario Regulation 407/18 and 408/18. The regulations were filed and in force on August 15, 2018, the day after Bill 5 came into force. The regulations provide guidance to the Clerk on how to administer the 25 ward election now that Bill 5 is in force. The Clerk is the person designated by the MEA to conduct the municipal election and performs a statutory role in this regard, independent from the City. To ensure public confidence in the democratic process, the municipal clerks must maintain independence and neutrality in performing their election duties, and municipal councils cannot direct clerks in their role.

My staff have now had the opportunity to review the regulations and Confidential Attachment #1 to this supplementary report provides further information and advice regarding this matter.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg, City Solicitor

## **ATTACHMENTS**

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Confidential Attachment 1 - Legality of Regulations to Bill 5, the Better Local Government Act, 2018

Attachment 2 - Ontario Regulation 407/18 and 408/18