



REPORT FOR INFORMATION

The Impact of the Better Local Government Act, 2018 (Bill 5) on Toronto's 2018 Municipal Election

Date: August 17, 2018

To: City Council

From: City Clerk

Wards: All

SUMMARY

The Better Local Government Act, 2018 (Bill 5) received Royal Assent on August 14, 2018 amending the City of Toronto Act, 2006 (COTA) and the Municipal Elections Act, 1996 (MEA) requiring the City Clerk to administer the 2018 municipal election on the basis of 25 wards. The Minister of Municipal Affairs and Housing filed regulations under COTA and the MEA providing implementation details for these changes.

The legislative and regulatory changes require the City Clerk to:

- Accept nominations for councillor and school board trustee beginning August 20, 2018 until 2:00 p.m. on September 14, 2018;
- On September 17, 2018:
 - Initiate voting proxy applications;
 - Issue the voters' list to certified candidates; and
 - Begin the revision period for the voters' list.

Nominations for the office of the mayor closed at 2:00 pm on July 27, 2018 and were not extended. The City Clerk has certified thirty-five mayoral candidates whose names will appear on the ballot on October 22, 2018.

Adjusting the administration of the 2018 election from 47 to 25 wards for implementation on October 22, 2018, requires extraordinary efforts and is only possible by leveraging support and partnerships with the Toronto Public Service, Municipal Property Assessment Corporation (MPAC), Elections Ontario, vendors and others.

The City Clerk continues to make the necessary adjustments to administer the 2018 municipal election on the basis of 25 wards while upholding the principles and legislative framework governing elections.

The City Clerk is concerned that further ward boundary changes will provide insufficient time to undertake the actions necessary to administer the election in accordance with the principles of election administration. Further ward boundary changes for implementation on October 22, 2018 in such compressed timelines are likely to compromise the integrity and security of the 2018 municipal election. Additional ward boundary changes so close to the election will result in an unacceptable level of risk to the City.

FINANCIAL IMPACT

The additional costs associated with adjusting the administration of the election from 47 wards to 25 wards is approximately \$2.5M over and above the current budget of \$14.9M.

Funding for the 2018 municipal election is included in the City Clerk's Office approved 2018 Operating and Capital budgets and is recovered from the Election Reserve Fund. The City is required to pay all election-related costs once certified by the City Clerk.

The Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting on July 23, 2018 City Council considered on an urgent basis, the Provincial Government's Plan to Reduce the Size of City Council and made a number of decisions that included that the City Solicitor report backs to City Council at a special meeting on August 20, 2018 with respect to Bill 5, Better Local Government Act, 2018.

City Council also exempted the City Clerk from City policies or procedures related to procurement, human resources, budget and information technology that the City Clerk believes is necessary or desirable in order to conduct the election.

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

Issue/Background

The MEA designates the City Clerk as the person responsible for administering Toronto elections, by-elections and questions on the ballot and performs a statutory role in this regard, independent from the City.

The Clerk is required to administer elections, by-elections and questions on the ballot in compliance with the following principles:

- The secrecy and confidentiality of individual votes is paramount;
- The election should be fair and non-biased;
- The election should be accessible to the voters;
- The integrity of the process should be maintained throughout the election;
- Voters and candidates should be treated fairly and consistently within a municipality;
- There should be certainty that the results of the election reflect the votes cast; and
- The proper majority vote governs by ensuring that valid votes are counted and invalid votes are rejected so far as reasonably possible.

The MEA provides the City Clerk with significant discretion in administering elections and the independence of a municipal clerk for election purposes is a fundamental underpinning of the legislative framework.

To ensure the integrity, fairness and transparency of municipal elections, unless the MEA provides a specific role, municipal councils have no authority to direct the conduct of an election. Given that the City is currently in an election period, directions or requests to the City Clerk with respect to the conduct of the 2018 election are inappropriate.

COMMENTS

City Council requested the City Solicitor to report to City Council at its meeting on August 20, 2018 on a range of matters including whether the capacity of the City Clerk to implement ward changes contemplated by the introduction of Bill 5 impacted the validity of the constitutionality of the legislation. The City Solicitor has also submitted a supplementary report outlining the Regulations recently enacted under COTA and the MEA, which provide further implementation details related to the 2018 municipal election.

This report is supplementary to the City Solicitor's report, Legal Options to challenge Bill 5, the Better Local Government Act, 2018 and provides further information with respect to the administration of the 2018 municipal election and the City Clerk's capacity to implement the legislative changes.

1. Implications on the Administration of the 2018 Municipal Election

Bill 5 became law on August 14, 2018 requiring the City Clerk to administer Toronto's election on October 22, 2018 on a 25-ward model for the offices of councillor and trustee for the Toronto District School Board, Toronto Catholic District School Board, Conseil scolaire Viamonde, and Conseil scolaire catholique MonAvenir.

Nominations for the offices of councillor and school board trustee are extended from August 20, 2018 until September 14, 2018 at 2:00 pm.

Candidates already certified by the City Clerk for the 47-ward model may provide notice to the City Clerk (using a prescribed form) of their intention to run in the 25-ward model and for which ward. Certified candidates who do not notify the City Clerk by September 14, 2018 by 2:00 p.m. will be deemed to have withdrawn and their names will not appear on the ballot. The voters' list will be available to candidates on September 17, 2018.

Nominations for the office of the mayor closed on July 27, 2018 at 2:00 pm and were not extended. The City Clerk has certified thirty-five candidates for the office of mayor whose names will appear on the ballot.

Voting proxy applications will be available beginning September 17, 2018 and this is also the date that the revision period starts, which will enable eligible electors to add, delete or amend their information on the voters' list.

2. Contingency Plans to Administer the Election under a 25-ward Model

Bill 5 was introduced in the Legislature on July 30, 2018 and proposed changes that would significantly impact the administration of Toronto's 2018 municipal election. The City Clerk undertook emergency contingency planning to prepare to administer the election pursuant to the changes in the event that the legislation became law. Until the bill received Royal Assent, the City Clerk continued to administer the election based on 47 wards and ensured that election systems, data and information associated with the 47 ward model was retained and secured.

Extraordinary effort was expended to develop contingency plans in very compressed timelines to prepare to administer the election on a 25 ward basis to comply with Bill 5. Electoral geography is the basis of election administration requiring significant changes to election systems, processes and activities to accommodate new boundaries. The City Clerk leveraged resources from within the City, partnerships with the Municipal Property Assessment Corporation (MPAC), Elections Ontario, Ministry of Municipal Affairs and Housing, City agencies and others in developing a contingency plan. The level of support and cooperation across the Toronto Public Service, partners and vendors has been unprecedented and has been a key factor enabling the City Clerk to prepare for these changes.

The key activities the City Clerk has taken or will take to administer the 2018 municipal election under a 25-ward model include:

- Revising the geography (wards and subdivisions) based on the Provincial electoral districts and assessing all voting locations;
- Adjusting election information technology systems, applications and vote counting equipment to administer the election on revised geography and undertaking additional cyber security testing;

- Additional communications, advertising and outreach to voters about the changes and how, where and when to vote;
- Additional communications and information sessions for candidates;
- Adjusting staffing, warehouse distribution and supply packaging to new wards and subdivisions;
- Assessing advance vote dates and locations; and
- Executing a data sharing agreement with Elections Ontario related to wards and subdivisions, voting locations, staffing models and the voters' list.

The City Clerk is confident that she has the capacity to administer the 2018 municipal election on a 25 ward basis and has taken the necessary steps to develop contingency plans to accommodate these changes in time for October 22, 2018.

3. Additional Ward Changes for the 2018 Municipal Election

In the event a challenge to Bill 5 is successful in the courts (which could be subject to further appeals), the City Clerk has assessed the risk and capacity to revert back to 47 wards in the administration of the October 22, 2018 election.

Assuring compliance with the principles of the MEA and ensuring the integrity and confidence in the electoral process will be severely compromised. Reverting back to a 47 ward model so close to election day raises unacceptable levels of risk and undermines the trust and confidence of candidates and voters. The City Clerk is concerned she will be unable to undertake the necessary due diligence required to administer an election while meeting the principles of the MEA including the ability to

- produce an accurate voters list based a revised 47 ward model.
- secure additional and re-permit voting places that meet the accessibility requirements outlined in legislation;
- design, produce, print and perform logic and accuracy testing of 2 million ballots across 235 ballot types and required end-to-end testing of election systems;
- amend and print training materials and execute training for over 18,000 election day workers; and
- provide revised communication and information to voters, candidates and the public; about their ward and where to vote.

CONTACT

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SIGNATURE

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