

Bill 177 - Schedule 35: General Overview and Potential Impact on Municipal Operations

Date: June 12, 2018

To: Government Management Committee

From: Acting Director of Court Services and City Solicitor

Wards: All

SUMMARY

This report provides City Council with information on Bill 177 - Schedule 35 and its potential impact on municipal operations. An overview of the legislation is provided along with potential impacts to the Operating Budget for Court Services that are currently being assessed by City staff. This report will also describe the ongoing consultation process between City staff and the Province regarding opportunities for efficiencies arising from the new legislation. These consultations are taking place under the Toronto-Ontario Co-operation and Consultation Agreement (TOCCA).

On December 14, 2017, the Province enacted *Bill 177 Stronger, Fairer Ontario Act (Budget Measures), 2017*. Schedule 35 of the Bill amends portions of the *Provincial Offences Act, 1990* (POA). These amendments are consistent with a 2011 report from the Law Commission of Ontario on Modernization of the POA.

RECOMMENDATIONS

The Acting Director of Court Services and City Solicitor recommend that:

1. City Council receive this report for information.

FINANCIAL IMPACT

Using the Province's current staffing model, the potential impact on the Operating Budget for Court Services is \$1.9 million. This figure does not include costs for training, licencing, facilities, and supplies. The actual financial impact cannot be determined at this time given the many factors including court master plans, staffing, facilities space, and information technology requirements, which have not yet been fully assessed. City

staff are also looking to optimize new business processes to find further efficiency savings as a result of the amendments which will require further analysis.

As the discussions with the Province are in a preliminary stage, staff will report back to Council on recommended options along with any financial impacts through a standalone report once more details regarding process and regulation changes pertaining to the amendments to the POA become available.

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

DECISION HISTORY

This report provides information on new provincial legislation. There is no Committee or City Council history.

COMMENTS

Background

The City of Toronto is currently responsible for court administration, court support, and the prosecution of certain offences under the POA and the federal Contraventions Act as provided for under the POA and the federal *Contraventions Act*. In August 2011, the Law Commission of Ontario released a report on the Modernization of the Provincial Offences Act which made several recommendations on modernization of the process and systems in place dealing with provincial offences.

In 2017, the Legislature, through Bill 177 - Schedule 35, put into place some of the recommendations in the report on modernization including a streamlined dispute resolution process, the enforcement of administrative penalties associated with defaulted fines, and the transfer of Part III prosecutions to municipalities through an agreement between the municipality and the Province.

Overview of Bill 177 - Schedule 35

There are thirteen major elements of Bill 177 - Schedule 35. These elements are outlined in an explanatory note from the Legislative Assembly of Ontario. The note can be found at the following link:

http://ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=5316&detailPage=bills_detail_the_bill

Bill 177 - Schedule 35 allows the City to develop the following new processes and procedures through consultation with the Province:

- Permitting Early Resolution Meetings by email, or other online platform, if such an option is offered on the offence notice.
- Permitting the Clerk of the Court to approve extensions of time to pay a fine and reopening applications, after a fine has been imposed.
- Permitting the Clerk of the Court to enter a conviction for failure to respond to a Part I offence or failure to attend an Early Resolution Meeting.
- Permitting the Attorney General to enter into agreements to transfer responsibility to municipalities to take carriage of additional prosecutions under the POA or the *Contraventions Act* (Canada), including Part III offences.
- Permitting the use of certified statements as evidence for Part I offences where a set fine has been specified for the offence or if the offence is specified by the regulations (therefore no longer requiring the attendance of the enforcement staff).

In addition, Bill 177 - Schedule 35 requires a person with multiple fines to pay them in order of default date and provides that administrative monetary penalties imposed for default are not affected by an extension of time to pay. A fine may result in multiple administrative penalties if it goes into default multiple times after extensions of the time to pay.

Discussions under the Toronto-Ontario Cooperation and Consultation Agreement (T-OCCA)

The Toronto-Ontario Cooperation and Consultation Agreement (T-OCCA) provides a formal process for ongoing City-Provincial consultation on matters of mutual interest. The Province and the City of Toronto have been involved in such consultations for several years to better understand the opportunities and costs associated with POA modernization. This included preliminary conversations in February 2016 on proposed changes and a follow-up consultation in September 2016 on potential draft legislation.

After receiving feedback from the City of Toronto and other stakeholders, the Province submitted amendments to the Legislature to modernize the POA. These amendments are set out in Schedule 35 of Bill 177 which received Royal Assent on December 14, 2017.

City staff are currently working with the Province to understand what new business processes could be created that are consistent with the amendments to the POA. Certain processes, such as the provision of early dispute resolutions by written electronic correspondence, require new regulations. Other processes, such as the transfer of Part III POA prosecutions, require the City to enter into a formal agreement with the Province. These issues will need to be addressed through further consultation with the Province as well as other stakeholders including enforcement agencies, and the judiciary. The discussions with the Province are in a preliminary stage and staff will report back to Council as more details regarding process and regulation changes pertaining to the amendments to the POA become available.

Potential Impact on the Operating Budget

If Court Services were to absorb the cost under the current provincial prosecution staffing model related to Part III prosecutions, the result could be an expenditure increase of \$1.9 million.

This figure does not include costs for training, licencing, facilities, and supplies. Actual financial impact cannot yet be determined at this time given the many factors including court master plans, staffing, facilities space, and information technology requirements, which have not yet been fully assessed. City staff are currently also looking to optimize new business processes to find further efficiency savings as a result of the amendments. However further analysis is still required on these as well.

The strengthening of fine enforcement tools in the new version of the POA has the potential to increase City revenues. Multiple administrative default penalties and order of payment of defaulted fines may motivate those with defaulted fines to pay. Actual financial impact will depend on the behaviour of individuals with defaulted fines. These trends are not known at this time.

The transfer of administrative responsibilities related to entering convictions and approving/denying extension of time to pay and reopening requests may have an impact on staffing levels within Court Services. The division will review the new requirements to determine whether the work can be absorbed by the current staff complement.

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ATTACHMENTS

No attachments