



Office of the Regional Clerk
Corporate Services Department

MEMORANDUM

To: Members of Regional Council

From: Christopher Raynor
Regional Clerk

Date: November 16, 2022

Re: Bill 39, *The Better Municipal Governance Act, 2022*

Bill 39, *The Better Municipal Governance Act, 2022*, proposes significant changes to the process for appointing the Regional Chair

At tomorrow's Council meeting, following the procedural requirements permitting elected Members to take their seats, the first order of business is the process for appointing the Regional Chair. However, late this afternoon, the province introduced Bill 39, *The Better Municipal Governance Act, 2022* (Attachment 1). Among other things, the proposed legislation would amend the *Municipal Act, 2001* to allow the Minister of Municipal Affairs and Housing to appoint the heads of council for the Regions of Niagara, Peel and York.

In an associated press release (Attachment 2), the Minister of Municipal Affairs and Housing stated his intention to reappoint Jim Bradley in Niagara Region, Nando Iannicca in Peel Region and Wayne Emmerson in York Region. It is anticipated that Bill 39 could be passed by the first full week of December.

Bill 39 creates other uncertainties

Since the proposed legislation was only tabled in the last few hours, this memorandum cannot provide an exhaustive analysis of the implications. However, it is clear that the Minister's proposed powers can overturn any appointment made by Regional Council.

Section 218.3(3) of the Bill states that:

“If the Minister makes an order appointing a head of council...and, on the day the order takes effect, a head of council has been appointed by the members of council, the appointment by the members of council ceases to have effect as of that day.”

As well as the immediate uncertainty around the long-term status of any Regional appointee, there are other considerations. For example, under current legislation, an elected Member of Regional Council who is appointed to the position of Regional Chair, vacates their seat on both the regional and local councils. A vacant seat triggers legislated timelines within which a local municipality must act to fill that vacancy.

Should Bill 39 be enacted as tabled, and that elected Member is subsequently removed as Regional Chair and replaced with a Ministerial appointee, the status of that Member is unclear. In the intervening period, their seat would have been declared vacant under the *Municipal Act, 2001* and the proposed Bill 39 is silent on how such a situation is resolved.

It is also possible that the resulting legislation differs from what has so far been tabled.

Council may wish to consider its options for the Inaugural Meeting

Given the uncertainty resulting from the province’s announcement, the legislation as currently tabled and the potential for further changes to it, Council may wish to consider options.

In the absence of any legislation to the contrary, Council could proceed with the appointment of the Regional Chair as originally intended, recognizing the proposed Bill 39 may subsequently impact the appointment.

Alternatively, Council could consider recessing the Inaugural Meeting prior to the appointment process. This would “pause” the meeting to a future date and allow the proposed legislation to run its course. At the future date, Council could reconvene and take whatever action is appropriate under the circumstances.



Christopher Raynor
Regional Clerk

Attachments (2)
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