



Office of the Regional Solicitor
Legal & Court Services Department

Memorandum

To: Members of Committee of the Whole

From: Joy Hulton
Regional Solicitor

Date: March 1, 2018

Re: **AMO Submission on Bill 175, *Safer Ontario Act***

On February 12, 2018 the Association of Municipalities of Ontario (AMO) made written submissions to the Standing Committee on Justice Policy regarding Bill 175, *Safer Ontario Act, 2017*. AMO shared its submissions with its members and encouraged municipal governments to make written submissions to the Committee to reinforce the concerns identified in the submission. The deadline for written submissions to the Standing Committee is March 1, 2018 at 6:00 p.m.

This memo is provided to Committee of the Whole to recommend that Council endorse AMO's submissions, and to seek Council's endorsement of written submissions to be made on Council's behalf in support of AMO's position. Given the short timeframe for submissions, staff were not able to bring this matter to Council in advance of the deadline. Any additional comments from Committee's consideration of the submission will be included before it is submitted.

Bill 175 focuses on community safety planning and police oversight

Bill 175 was introduced on November 2, 2017. It represents the most comprehensive amendments to policing legislation in more than 25 years. The legislation focuses on five main themes:

- Shifting to a collaborative approach to Community Safety and Well-being Planning;
- Enhancing police accountability to the public;

- Strengthening the police oversight system;
- Outlining police responsibilities and community safety service delivery; and,
- Ensuring sustainability of First Nations policing

The most significant changes in Bill 175 are in the areas of police accountability. New legislation will implement many of the recommendations of the Report of the Independent Police Oversight Review conducted by Justice Tulloch in 2016.

Community consultation focused on community safety planning and sustainability of policing costs

Prior to introducing this legislation, the Province conducted consultations with stakeholders including community representatives, municipalities, and police services boards and police services. While the focus of the public consultation was community safety and police accountability, police employers and the municipalities responsible for police services also raised concerns about the costs of the policing and sought changes to the *Police Services Act* to enable improvements to the efficiency of effectiveness of policing. Such changes have been the goal of municipal elected officials for many years, and was the subject of study and consultation between the Province, AMO and other stakeholders for over 5 years.

Despite extensive review and the important initiatives identified during the consultation with municipal stakeholders, Bill 175 does little to modernize the delivery of police services and provides no relief to the burden on taxpayers to sustain municipal police services.

Written submissions on behalf of Council will endorse AMO's submission and focus on three areas of concern to York Region

Staff recommend that the attached written submission be provided to the Standing Committee on Justice Policy to reflect Council's endorsement of AMO's submissions and to support the call for changes in the proposed legislation to address issues of concern to municipalities. It highlights three areas of particular concern to municipalities:

1. Community Safety and Well-Being Plans;
2. Appointments to the Police Services Board;
3. Responsibility for appointment and oversight of Special Constables.

Community Safety and Well-being Plans

Under Bill 175, every municipal council will be required to prepare and adopt a Community Safety and Well-being Plan. Further details on the Community Safety and Well-being are set out in the Report the Commissioner of Community and Health Services (item G.2.4). The written submission supports the recommendations set out in that report, including calling on the Province to provide funding for the development of the Plan and ensuring that police services are represented on the Advisory Committee.

Appointments to the Police Services Board

Bill 175 will introduce changes to the appointment of members of council to the police services boards. Every municipality that maintains a police services board will be required to prepare and, by resolution, approve a diversity plan to ensure that the members of the board appointed by council are representative of the diversity of the population in the municipality. Plans must be reviewed at least every four years.

The Province also appoints members to the boards. In the case of a seven-person board such as York Region's, the Province appoints three members. There is nothing in Bill 175 to require the Province to have regard for the municipality's diversity plan in making its appointments to the board. Staff recommend that Bill 175 be amended to ensure that all appointments are made in accordance with council's diversity plan. The submission also calls on the Province to amend its appointment process to ensure that appointments are made in a more timely fashion. Currently, most boards including York Region's experience prolonged vacancies due to extensive delays in appointments.

Appointment and oversight of Special Constables

Currently, Special Constables must be appointed by the local police services board even if they are employed by another employer. YRT Special Constables are employed by York Region but appointed by the York Regional Police Services Board. Under Bill 175, the Region will become responsible for the appointment and oversight of its Special Constables. In addition, under Bill 175 all Special Constables will fall within the mandate of the Special Investigations Unit. These changes bring new responsibilities to non-police employers. Staff recommend that implementation of these changes be deferred to allow for a reasonable transition.

Bill 175 still requires Third Reading and Royal Assent

Bill 175 is expected to receive Third Reading and Royal Assent before the Legislature rises for the provincial election. It is likely that implementation of the bill will be phased through a series of Proclamation dates. Many provisions still require regulations which have yet to be drafted.

Staff will continue to monitor the progress of Bill 175 and report to Council on the full implications of this legislation once it is enacted.

Joy Hulton
Regional Solicitor

Attachment (1)

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Attachment 1

**THE REGIONAL MUNICIPALITY OF YORK
WRITTEN SUBMISSION TO THE STANDING COMMITTEE
ON JUSTICE POLICY**

Bill 175, Safer Ontario Act, 2017

Joy Hulton, Regional Solicitor

March 1, 2018

The Regional Municipality of York (“York Region”) respectfully makes the following submissions to the Standing Committee on Justice Policy (the “Committee”) on Bill 175, *Safer Ontario Act, 2017*.

Introduction

York Region is comprised of 9 local municipalities (Township of King; Towns of Aurora, East Gwillimbury, Georgina, Newmarket, Richmond Hill and Whitchurch-Stouffville; and the Cities of Markham and Vaughan) with a total population of 1.187 million. York Region is policed by the York Regional Police, under the governance of the Regional Municipality of York Police Services Board. Municipal taxpayers bear most of the burden of policing costs, while municipalities are also required to deliver a multitude of other services, including those directed at the health, safety and well-being of residents.

Summary

As a municipality, York Region supports the modernization of policing and police oversight. Bill 175 focuses on modernization of police oversight and includes some operational changes that will be positive for police services. However, despite years of consultation on the cost of policing and modernization of service delivery, the proposed legislation does little to provide meaningful legislative change to enable improvements in the efficiency and effectiveness of policing, nor does it address the fiscal sustainability of policing. The lack of tools to address the cost of policing is concerning to municipalities. Bill 175 also introduces new requirements for municipal governments and police services boards which are of concern.

Although the proposed Bill focuses largely on policing issues, it also introduces a new requirement that each municipality in Ontario develop a Community Safety and Well-being Plan and to establish an Advisory Committee to guide the Plan. No funding has been provided to support the development of such plans despite the fact that they represent a new area of responsibility for municipalities.

In addition, Bill 175 shifts responsibility for non-police special constables from police services boards to employers who employ special constables, and broadens the mandate of the Special

Investigation Unit to include special constables whether or not they are employed by a police service. This will create new obligations and requirements for municipal employers who employ special constables, including those like York Region who employ special constables for their transit services. Time and resources will be required for non-police employers to prepare for the new measures required of them under Bill 175.

York Region supports the principle that police modernization should focus on enabling municipalities to meet the demands for service and safety in today's society, and to enhance accountability in policing. However changes must also address the financial sustainability of delivering such service. Given the additional administrative burden that Bill 175 would create for municipalities, along with absence of any measures to address fiscal pressures, municipalities will continue to be challenged to sustain high levels of service and community safety.

York Region endorses AMO's submissions to the Standing Committee

York Region endorses the submissions made by the Associations of Municipalities of Ontario (AMO) to the Standing Committee in writing on February 12 and orally on February 22, 2018. In particular, York Region endorses AMO's submissions with respect to changes that impact the obligations of municipal governments and that otherwise negatively impact municipal taxpayers.

York Region Submissions

While fully endorsing AMO's submissions, York Region submits the following additional comments and recommendations with respect to the proposed amendments set out in Bill 175 with respect to:

1. Community Safety and Well-Being Plans;
2. Appointments to the Police Services Board;
3. Responsibility for appointment and oversight of Special Constables.

1. Community Safety and Well-Being Plans

York Region supports the objectives of community safety planning. York Region already engages in extensive stakeholder consultation and collaboration for such planning but we share AMO's concerns about the mandatory nature of the requirements set out in Bill 175. York Region shares AMO's concerns with respect to the requirement that municipalities will be responsible for ensuring the participation of representatives and stakeholders over whom the municipality has no jurisdiction. York Region agrees with AMO's position that the impact of this requirement on municipalities has not been fully considered.

York Region is also concerned that Bill 175 does not include specific reference to the role of police services in the mandatory Advisory Committee. Collaboration with other stakeholders is important but all appropriate stakeholders need to be involved for Plans to be effective.

A municipal council's responsibility for establishing these plans must be supported financially by the Province in order to develop a plan that can best meet the needs of a community. The Ministry of Community Safety and Correctional Services began working with stakeholders on community plans in 2012. Eight municipalities were selected by the Ministry to pilot aspects of community safety planning and each received funding in the range of \$80,000 to \$185,000. Funding should be made available to all municipalities to meet the obligations imposed by Bill 175 in the amounts that were available during the community pilots. In addition, further guidance and resources, in addition to financial support, from the Province are necessary for optimal Plan development.

Finally, York Region submits that the mandatory requirements for Community Safety and Well-Being Plans should be sufficiently flexible to allow each municipality to comply in a manner that best reflects its community, resources and existing working relationships with other stakeholders.

We respectfully submit that Bill 175 should be clarified to ensure that police services are represented on the Advisory Committee

We also request that funding be provided to support an effective collaborative process to developing Community Safety and Well-Being Plans (Part VIII, Section 187)

2. Appointments to the Police Services Board

Bill 175 will require municipal councils to prepare a diversity plan for appointments to their police services board to ensure that the board members are representative of the diversity of the population in the area they serve. Under Bill 175, the Province will continue to appointment members to police services boards. Currently, Provincial appointments are not made in consultation with the municipality or board, and there is nothing in Bill 175 to require that the Province must have regard for the municipality's diversity plan in making its appointments to police services boards. York Region submits that the Province must be legislated to comply with municipal and board diversity plans in making appointments to police services boards.

In addition, changes should be introduced to the appointment process to require that the Provincial appointments be done in a more timely fashion to avoid the significant periods of vacancies under the current system. Such vacancies undermine the governance of police services and present challenges to the practical administration and coordination of board business.

To ensure consistency, the Province should provide guidance, resources and financial assistance for the development of municipal diversity plans.

We respectfully submit that Bill 175 be amended to ensure that provincial appointments to the police services board are done in consultation with the municipality and in accordance with the municipality's diversity plan to ensure that the Board composition requirements are met (Part IV, s. 28, 29, 33)

3. Responsibility for appointment and oversight of Special Constables

Under the proposed legislative amendments, the responsibility for non-police Special Constables will be transferred from police services boards to employers who employ individuals with special constable designations. In addition, Special Constables will come under the oversight jurisdiction of the Special Investigations Unit.

Municipalities and other non-police employers of special constables have little or no experience with the legislative obligations related to the appointment, potential for investigations into conduct, discipline or termination of special constables. Municipal employers were not consulted on this issue and most were unaware of it until Bill 175 was introduced. They will require sufficient time to implement policies and resources necessary to carry out these new responsibilities.

While York Region takes no position on the transfer of responsibilities from police services boards to employers of special constable employers, it does submit that implementation of this responsibility should be deferred to allow employers of Special Constables time to prepare for the responsibilities they will assume.

We respectfully submit that proclamation of Part VII allow for a reasonable transition period for the assumption of responsibilities of Special Constables (Part VII, Sections 124, 125, 126)

Conclusion

We respectfully submit that the above noted technical amendments and issues be considered by this Committee in its consideration of Bill 175.

The legislation as currently drafted has significant administrative and financial impacts on municipal budgets and does not allow for sufficient flexibility in service delivery. Any changes to the legislation and scope of responsibility will impact our operating budget greatly and we ask for consideration of all recommendations put forth in this document.

Thank you for taking the time to review our submission.

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