

**Joint Ontario – City of Toronto Task Force
to Review the *City of Toronto Act, 1997*
and other Private (Special) Legislation**

May 2005

Staff Progress Report



**Message of Transmittal
from the Deputy Minister of Municipal Affairs and Housing
and the City Manager, City of Toronto**

Dear Minister Gerretsen and Mayor Miller,

We are pleased to present you with the staff progress report of the Joint Ontario-City of Toronto Task Force to Review the City of Toronto Act and Other Legislation. This document details the progress to date officials from the province and the City of Toronto have made in developing recommendations for a new legislative framework for Canada's largest city. Further work and analysis will be provided over the coming months.

Since September 2004, we have been working in a spirit of partnership and cooperation to achieve a shared vision of a culturally vibrant, economically strong, and environmentally sustainable Toronto.

The planned new bill is a massive undertaking; the outcome will be exciting and historic, but the enormous amount of work now underway and continuing throughout 2005 will take a lot of time and effort.

This report represents an important milestone in our collective endeavour. We are continuing to work together on analysis and recommendations that will help your governments introduce change that could benefit Toronto, its residents and all Ontarians for many years to come.

John Burke

Shirley Hoy

Introduction

On September 17, 2004 Premier Dalton McGuinty and Mayor David Miller officially launched a joint Toronto-Ontario review of the *City of Toronto Act, 1997* and other private (special) legislation.

The purpose of the review is to develop recommendations for a modernized City of Toronto Act that provides Ontario's capital city with an enabling legislative framework commensurate with its responsibilities, size and significance to the province.

Related objectives of this review are to:

- Make the City of Toronto more fiscally sustainable, autonomous and accountable
- Provide it with the tools it needs to thrive in the global economy
- Reshape the relationship between Ontario and its capital city.

The goal is for a modernized City of Toronto Act to be introduced at Queen's Park by the end of 2005.

Purpose

The purpose of a modernized City of Toronto Act is to provide Toronto with comprehensive, enabling new powers that:

- Are commensurate with the city's size, needs, responsibilities and capacity
- Recognize Toronto's importance as the economic engine of Ontario and Canada
- Recognize that Toronto is a mature order of government capable of exercising its powers in a responsible and accountable fashion.

Creation of the Joint Task Force

On May 23, 2003, Toronto City Council endorsed the principles and components of an improved legislative framework for Toronto. Council also adopted a resolution inviting the province to participate in a joint Ontario – City of Toronto task force to review the *City of Toronto Act, 1997* and other legislation pertaining to the city, using the endorsed legislative framework as a basis for this review.

Premier McGuinty made a commitment to participate in a joint Ontario – City of Toronto task force to review the *City of Toronto Act, 1997* in a letter dated May 5, 2004.

On September 17, 2004, Premier McGuinty and Mayor David Miller formally launched the review of the *City of Toronto Act, 1997*, which will lead to a modernized act being introduced in the Legislature by the end of 2005. In order to facilitate this work, the Ontario government and the City of Toronto established a joint Ontario-City of Toronto task force (JTF), co-chaired by the Deputy Minister of the Ministry of Municipal Affairs and Housing and the City

Timeframes

Phase One: September, 2004

Establishment of JTF

Work begins

Phase Two: Winter, Spring 2005

Work continues

Progress Report

Public Consultation

Phase Three: Summer, Fall 2005

Drafting of Legislation

Phase Four: Fall 2005

Introduction of Legislation

Manager of the City of Toronto. The co-chairs are supported by a staff working group from both the Government of Ontario and the City of Toronto.

Scope of the Work

As a government, as an employer and as buyer and seller of goods, the City of Toronto is regulated by hundreds of pieces of legislation, both private and public. Through the first half of this review, staff of the City of Toronto and the Province of Ontario has engaged in extensive discussion and analysis of many of these pieces of legislation. Staff's work has included:

- A systematic review of all special (private) legislation (more than 350 acts) relevant to the City of Toronto and the former pre-amalgamation municipalities
- Analysis of the advantages, disadvantages and limitations of the existing legislation, e.g. the City of Toronto Acts, Municipal Act 2001, etc.
- Reviewing Toronto's legislative framework document, entitled 'Key elements of an improved Legislative Framework for Toronto', as adopted by Toronto City Council in May 2003
- Reviewing and considering the significance and implications of other municipal legislation and governance models
- Engaging other ministries in discussions relevant to the particular ministry's legislation as it applies to Toronto.

Provincial and Municipal Goals and Objectives

The establishment of the JTF and the City of Toronto Act initiative mark the beginning of a new era of co-operative, productive relations between Toronto and Ontario. The JTF is committed to developing recommendations for a modernized City of Toronto Act that appropriately reflects the interests of both the province and city.

Provincial Goals and Objectives

- A city that works - with a liveable downtown, great neighbourhoods, fabulous arts and culture, ample parks and recreation, quality public transit, affordable and decent housing, social diversity and civic tolerance, great public schools, colleges and universities, accessible health care and diverse economic opportunities
- A Strong Toronto – an economically strong, socially and culturally vibrant, and environmentally sustainable city that plays a leading role as the heart of a vibrant region, serving as an economic engine for the province and the nation and attracting talent and investment from around the world
- A city government that is responsible, responsive and self-reliant, supported by a framework that is fiscally sustainable, autonomous and accountable
- A city government with decision-making that is open, transparent and participatory

- A legislative framework for the City of Toronto that ensures clarity and certainty, while not inhibiting innovation and adaptability and that gives the city the tools it needs to thrive in the global economy
- A mature new partnership between Ontario and its capital city based on recognition of, and respect for, municipal, provincial and federal areas of jurisdiction.

City of Toronto Goals and Objectives

- The City of Toronto is provided with the requisite (legislative) authority and financial resources to fulfil its responsibilities and address existing and future community needs, which include:
 - Safeguarding the health, protection and well-being of persons and property
 - Acting as a steward of the natural environment and the city's public assets
 - Fostering social cohesion among the city's diverse residents
 - Enhancing the economic vitality of the city
 - Providing good government.
- As Ontario and Canada's leading economic engine, the City of Toronto is equipped to compete successfully against other world-class cities for private capital, research and development, skilled workers, entrepreneurs, immigrants, tourists, and business.
- Toronto is recognized as an order of government and provided with a "seat at the table" when provincial and federal policy and program deliberations are undertaken on issues that significantly impact the city (e.g. transit, affordable housing, immigration, etc.)

Progress of Joint Task Force Discussions

The JTF has drawn two significant conclusions that will serve as the basis of its final recommendations to Toronto City Council and the Government of Ontario regarding a modernized City of Toronto Act:

1. The modernized City of Toronto Act should effectively function as the City's "charter" by replacing the *Municipal Act, 2001*, the *City of Toronto Act, 1997 (No. 1 & No. 2)*, and most (if not all) of the 350 + private acts that currently apply to the city.
2. The modernized City of Toronto Act should fundamentally change the way Ontario empowers Toronto. The new City of Toronto Act should start from the premise that Toronto can exercise broad permissive governmental powers within its jurisdiction, subject only to specific exceptions in the provincial interest.

Understanding the Broad Permissive Powers Approach

The broad permissive approach would provide Toronto with governmental powers within its territorial jurisdiction and with respect to city purposes.

Specific governmental powers encompassed by the concept of enabling powers include (but are not necessarily limited to) the authority to:

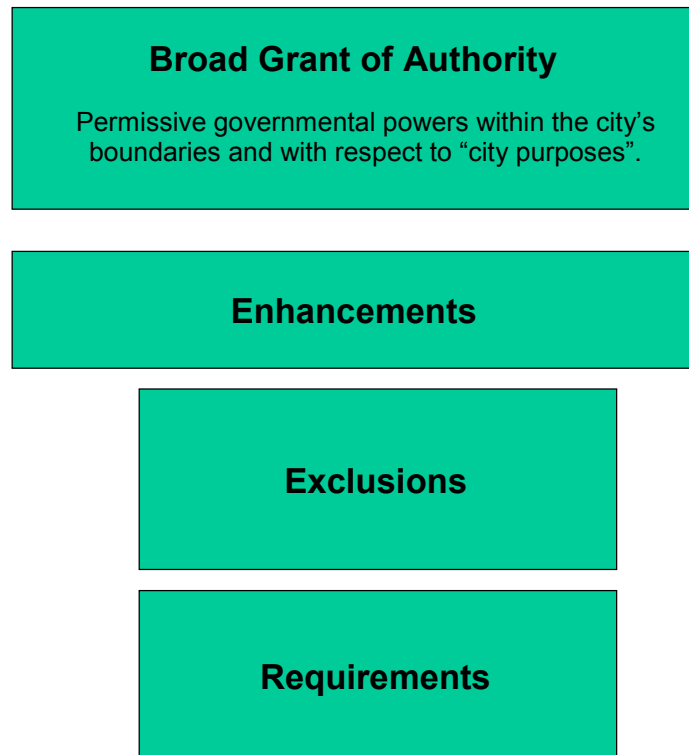
- Regulate
- Prohibit
- Provide for a system of licenses, permits, approvals or registrations and impose conditions with respect to city purposes
- Provide for compliance
- Require persons to do things
- Create offences and enforce by-laws
- Raise revenue.

Providing Toronto with governmental powers with respect to city purposes as well as natural person powers would give city council significantly more flexibility than it now has to (i) legislate, (ii) raise revenue, and (iii) organize itself to provide local services and good government.

Toronto would remain subject to certain provincial requirements, even when exercising its powers with respect to local matters. In addition, certain policy domains and corresponding provincial legislation would likely be excluded from the purview of the city government (e.g. legislation related to income redistributive social service programs such as the *Ontario Works Act*, labour relations, and the administration of justice). Taken together, the exclusions and requirements contained in a modernized City of Toronto Act would be an expression of the province's goals and objectives.

In addition to general government powers, the new act would also include a number of "enhancements" (or specific powers) to give the city authority over matters not otherwise covered by the general powers granted to it (e.g. authority to enter into agreements to provide services outside city boundaries). Taken together, the grant of permissive government powers and list of enhancements in a modernized City of Toronto Act will give expression to the City of Toronto's interests.

Thus, a modernized City of Toronto Act based on the enabling powers approach would reflect both the City of Toronto and Province of Ontario's interests by containing the following key elements:



Examples of New Policy Options under a new City of Toronto Act

A modernized City of Toronto Act based on the broad permissive government powers approach would provide the city with increased discretion and flexibility to develop policies that align with city priorities and governance mechanisms that enhance accountability. Some examples of policy options related to land use planning and good governance mechanisms that should receive serious consideration are:

Planning

- Like Vancouver, Toronto would have the option to require development proposals to meet a range of public performance objectives (design, environmental, economic and social) before approval is granted. Council might use this authority to create an urban design review panel with approval authority (not just advisory authority) for certain kinds of development proposals, or to require trees to be planted in city rights-of-way that abut new developments.
- To promote intensification and sustainable city-building, Toronto would have the option to establish minimum density requirements for new development in certain areas (e.g. along transit corridors or major avenues), not just maximum density limitations.
- Just like many large US cities, Toronto would have the option to put in place "inclusionary-zoning" requirements to ensure that new residential or mixed-use development over a certain size contain a set percentage of affordable housing units.

Good Governance Mechanisms

Toronto would have the option of establishing an integrity commissioner function with the powers necessary to do the job.

Toronto would have the option of establishing an effective lobbyist registry.

Shared Policy Domains

There are both city and provincial interests in a number of policy domains (e.g. environment). The JTF is examining various mechanisms with which to appropriately define the relationship between the city and province in this “shared space”.

Other Areas of Discussion

The JTF has held substantive policy discussions on a broad spectrum of issues over the past several months. General consensus has been reached by the JTF on various items related to each of the following “envelopes” of issues:

- Principles of city government
- Principles of city-provincial relations and intergovernmental relations
- City purposes
- Democratic control and council accountability.

Principles of City Government

The JTF agrees that principles of city government reflected in a modernized City of Toronto Act should include (but not necessarily be limited to) the following:

- Democratically elected
- Accountable to residents and community
- Responsive to existing and future needs
- Committed to citizen engagement
- Autonomous within its jurisdiction
- Respectful of broader provincial interests and the “public good” of the province as a whole
- Committed to, and empowered to implement, good governance.

Principles of City-Provincial Relations & Intergovernmental Relations

The JTF recognizes the importance of a strong, consultative, relationship between the city and the province and agrees that principles of city-provincial relations and intergovernmental relations reflected in a modernized City of Toronto Act should include (but not necessarily be limited to):

- Mutual respect
- Implicit or explicit recognition of the need for a “mature relationship”
- Implicit or explicit recognition that the objective of strong city-provincial relations is to improve the health and well-being of the community

- Need for consultation between the province and city on various matters, which could include:
 - Changes to this act and other legislation impacting Toronto
 - Changes to the City of Toronto's boundaries
 - Changes to revenue transfers and cost-sharing arrangements affecting Toronto
 - Changes to provincial programs and laws that have a significant financial impact on Toronto
- Need for consultation between the province and the city on any assignment of new responsibilities and resources required to fulfil the responsibilities
- Need for co-operation and co-ordination between the province and city on matters of mutual interest
- Recognition of the city's ability to negotiate and enter into agreements and partner with the Government of Canada, regional and other municipal governments and agencies on matters of mutual interest, unless such activity is expressly prohibited by the Province of Ontario
- Recognition that Toronto is an order of government and should, as such, be provided with a "seat at the table" when provincial and federal policy, program and funding commitments are undertaken on issues that significantly impact the city (e.g. transit, affordable housing, immigration, etc.), and in the development of formal bi-lateral and tri-lateral agreements on these matters (e.g. the federal gas tax initiative).

City Purposes

The JTF agrees that city purposes reflected in a modernized City of Toronto Act should include (but not necessarily be limited to):

- Providing the services and other things that the city considers are necessary or desirable for the city
- Managing and preserving the public assets of the city
- Fostering the current and future economic, social and environmental well-being of the city
- Providing peace, order, good government, health and the general well-being of the city and its inhabitants.

Democratic Control and Council Accountability

The JTF agrees that as a responsible and accountable order of government the City of Toronto should be afforded broad powers in a modernized City of Toronto Act in respect of:

- Determining the size and composition of council
- Establishing, changing, dissolving and naming its wards
- Neighbourhood committees and community councils and greater flexibility in determining their functions
- Flexibility to delegate matters to committees of Council and staff in order to allow Council more time to focus on city-wide priorities and issues
- Implementing good governance mechanisms (e.g. lobbyist registry, integrity commissioner, code of conduct, etc.).

It is also generally agreed that there should be a common provincial standard for eligibility of persons to vote and seek elected office.

Next Steps

The work of the Joint Task Force is continuing. In addition to refining its recommendations with respect to the issues already covered, upcoming JTF discussions will focus on the following “envelopes” of issues:

- Financial management
- Revenue sources
- Legal proceedings and by-law enforcement
- Transition provisions
- Mechanisms, procedures and rules for defining how the city and province (and their respective laws) relate to each other in “shared” policy domains (e.g. environment, economic development) or areas of overlapping jurisdiction
- Intergovernmental relations.

Want to know more?

You can find out more about the joint Government of Ontario and City of Toronto review at:

www.mah.gov.on.ca

or

www.toronto.ca