

HALIFAX

P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

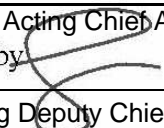
Item No. 14.1.4
Halifax Regional Council
August 2, 2016

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY:

John Traves, Q.C. Acting Chief Administrative Officer

Original Signed by 

Jane Fraser, Acting Deputy Chief Administrative Officer

DATE: June 22, 2016

SUBJECT: Legislative Requests Update

ORIGIN

Spring 2016 sitting of the Nova Scotia House of Assembly (Legislature).

August 6, 2013 Council report "Legislative Requests Review".

LEGISLATIVE AUTHORITY

The relevant HRM Charter sections and authority are outlined for each amendment request in the attached Legislative Amendments tracking sheet.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Continue to advocate for the full suite of commercial tax changes Council originally requested in 2013 and 2015.
2. Approve retaining the recommended seven legislative amendment requests outlined in the report below;
3. Approve removing the three legislative requests outlined in the report below;
4. Approve adding the one new request described in the report below in relation to tax relief for non-profit organizations; and
5. Direct the Mayor to forward the revised list of legislative requests to the Minister of Municipal Affairs.

BACKGROUND

The Legislature closed its spring sitting on May 20, 2016. During the spring session four pieces of legislation passed that pertain to HRM:

- Bill 152 – Municipal seal on debentures
- Bill 154 – Campaign Financing Reform
- Bill 176 – Otter Lake Landfill Act
- Bill 177 – Commercial Tax Assessment

Impacts of these legislative changes are discussed below.

HRM currently has eleven legislative requests with the Province for consideration, some of which date back to 2007 and 2008. The last review of legislation requests took place almost 3 years ago, and the 2013 Council-approved report suggested that reviews of outstanding amendments should continue at regular intervals in the future. Another review at this stage is timely in order to determine the relevance of existing requests and express greater political support for those that are kept.

DISCUSSION

Spring 2016 Legislative Changes

Bill 152 removes the requirement for a municipal debenture to be sealed with the municipal seal. This change was made to both the Municipal Government Act (MGA) and the HRM Charter, at the request of the Municipal Finance Corporation. It is an administrative efficiency intended to modernize government processes and decrease the time it takes to issue a debenture.

Bill 154 gives Halifax Regional Council the authority to enact by-laws with respect to campaign financing for elections to the Council. This was a request of Council's dating from September 2015. It allows Council to make by-laws respecting contributions and expenses for the election campaigns of candidates for Mayor and Councillors, including election campaign spending limits, maximum contribution amounts, disclosure requirements, eligibility to contribute and dates for making contributions. On April 26, 2016 Halifax Regional Council directed staff to initiate a process to consult the public. These consultations will be done in advance of the drafting of the by-law for consideration by Council.

Bill 176 on Otter Lake limits the landfill to 9 cells, and stipulates that none of the cells in the Landfill may exceed 113 metres in height above sea level except as approved by the Department of Environment (an exception is available for cell 6, which may be 119 metres above sea level for a maximum of one year). Council discussed the impacts of this Bill at a special meeting on May 18, 2016 and approved a motion to send a letter to the Minister addressing the lack of formal consultation with the main stakeholder (HRM); a need to identify the financial implications; and a history of consultation relative to solid waste that was not honored by the process for Bill 176.

Bill 177 provides additional flexibility for municipalities in regards to commercial taxation. Bill 177 authorizes municipal councils to make a by-law that would phase-in based on a formula, over a period of up to 10 years, an increase to the taxable assessed value of certain commercial or contaminated properties located in a commercial development district that is serviced by water and wastewater. For clarity, this Bill does not provide Council's 2013 and 2015 motions for changes to commercial tax assessment.

A detailed analysis of Bill 177 is contained in Appendix I: Bill 177 Briefing Note. A broad application of the tool in Bill 177, to most or all commercial properties, could be administratively arduous. It is recommended that HRM continue to advocate for the full suite of changes Council requested in 2013 and 2015.

Review of Outstanding Legislative Requests

As noted above, HRM currently has eleven outstanding legislative requests, some of which date back to 2007 and 2008. The last review of legislation requests took place almost 3 years ago. HRM staff has reviewed the list of requested amendments and recommend removing three. Below is a summary of each outstanding request, and the staff recommendation on retaining or removing the request.

There are three amendments staff are recommending be **removed**:

Request	Amendment Details	Discussion
Notice of Claims (2007)	Add a 21 day limitation period in the Charter for transit and snow and ice claims to allow gathering and preservation of the necessary evidence.	This request was made to resolve an issue with HRM's ability to collect evidence that is transitory and/or impacted by weather. Since this request was made HRM has changed operations which help address the issue, including GPS tracking and video cameras on buses. These changes have mitigated the need for legislative change.
Fine Collections (2008)	Enhance HRM's ability to collect fines by amending the Charter to make fines imposed by a Provincial Court first liens against real property and collectable in the same manner as taxes.	This request was made to increase HRM's ability to collect outstanding fines by collecting them in the same manner as taxes. Since this request was made Service Nova Scotia has taken over fine collection on behalf of municipalities, which appears to have improved HRM's collection rate. If issues remain the Province is open to discussing changes to their collection program.
Charges for Future Use (2008)	Clarify the HRM Charter so that Council has the ability to impose charges against persons who will benefit, in the future, from a service. Charges for future use accommodate development far into the future (e.g., 20 years+).	Given that HRM now has broader authority to impose Capital Cost Contributions, this request is no longer relevant.

Staff recommend **retaining** the following seven amendment requests:

Request	Amendment Details	Discussion
Heritage Property Act (2008)	Requesting sunset clause of 90 days for impact clerical errors have on heritage registration	HRM has followed up on this request many times since 2008 with no action taken. In 2015 the Province undertook an extensive review of the Heritage Property Act and did not include this amendment. HRM discussed the HPA changes with the Province several times; however this request was not included in the final version passed by the Legislature. HRM Heritage staff advise this is a pressing issue which could potentially affect many registered heritage properties. It is recommended that this be raised as a priority issue with NS Municipal Affairs and Communities Culture & Heritage.
Commercial Tax Assessment (2013)	2013: Request to work with Service Nova Scotia and the Property Valuation Services Corporation (PVSC) to change the commercial tax assessment	The change to calculating commercial tax assessment would increase predictability in annual commercial tax bills by evening out increases. HRM also is asking for increased flexibility in setting tax rates, so it could pursue policies that support small

<p>Commercial Tax Assessment (2015) and Greater Taxation Powers</p>	<p>so it is based on 3 past years of assessment rather than one year.</p> <p>2015: Reiterated the 2013 request that the annual valuation is averaged over a three year period, or proposed that the full assessment roll is updated every 3-4 years.</p> <p>Additionally, request amendments to the HRM Charter that would provide Council with greater legislative flexibility in selecting property tax bases and setting tax rates for both residential and commercial properties.</p>	<p>business, business in certain locations, etc.</p> <p>Bill 177 does not address Council's requests. In May 2016, HRM staff presented at Law Amendments, encouraging the Province to consider the Municipality's 2013 and 2015 requested changes. The Municipal Government Act Review currently underway is also studying changes to commercial tax assessment which may support Council's request.</p>
<p>Permanent Resident Municipal Voting Rights (2014)</p>	<p>Include permanent residents as qualified electors to vote in municipal and school board elections in the HRM Charter and the Elections Act.</p>	<p>The Minister asked whether Council's request included the right to nominate candidates and run in elections. In November 2015 Council reaffirmed its request as solely concerning voting rights and resubmitted the legislative request.</p>
<p>Halifax Water Governance (2015)</p>	<p>Make Halifax Regional Municipality the sole shareholder of HRWC with authority to appoint the Board of Directors, manage capital stock, and approve & direct the long-term strategic plan.</p>	<p>These changes would clarify Halifax Regional Council's relationship as Halifax Water's majority shareholder, thereby increasing accountability to ratepayers. It also allows HRM and HW to align the Regional Plan and service boundaries going forward.</p>
<p>Motor Vehicle Act (2015)</p>	<p>Request for Province to consider increasing non-monetary penalties for crosswalk violations.</p>	<p>In December 2015 the Province made changes to the MVA which increased monetary penalties for pedestrians but was silent on the issue of non-monetary penalties. There appears to be broad public support for alternatives to fines for pedestrians, so further discussions may advance some of the proposed non-monetary penalties.</p>
<p>Mount Hermon Cemetery (2015)</p>	<p>Request outlined in the December 8, 2015, in-camera Council report, regarding the leasing of space in existing facilities on the Dartmouth Common.</p>	
<p>Barrington South Heritage District – Potential Development Suspension</p>	<p>Request amendments to the Heritage Property Act and Heritage Conservation Districts regulations, allowing Council to adopt a by-law that would suspend</p>	<p>The purpose is to enable Council to adopt a temporary by-law which identifies and restricts inappropriate development activity while a decision to establish a Heritage Conservation District is made.</p> <p>Under this provision, another bylaw could not be</p>

(2016)	specific types of development, for a period not exceeding one year, within the boundaries of an area that council has identified as part of a background study to establish a Heritage Conservation District.	established for three years, in an area which was previously subject to such a by-law. On May 24, 2016, Council requested a staff report considering amendments to the HRM Charter which would enable Council to implement an Interim Development Control for an area. This is similar to the development suspension request under the HPA so this issue remains a high priority for Council.
--------	---	--

In addition to the above noted existing requests, staff are currently preparing reports on two issues that relate to additional potential legislative changes. These are: requesting enabling legislation in the HRM Charter to allow the municipality to implement interim development controls (May 24, 2016 motion of Council) and considering implications of changes to the Motor Vehicle Act to allow traffic control persons' to direct the movement of traffic for special events (May 24, 2016 motion of Council). Pending Council direction stemming from these reports, additional legislative requests may be added to the list above.

Finally, as described in a March 7, 2016 Information Report to the Grants Committee, there are currently a number of challenges with providing property tax relief to non-profits. Specifically, for a non-profit organization, Council can only provide a reduction to the residential tax rate, unless it is a charity and/or the services provided might otherwise be a responsibility of the Council. Accordingly, without legislative amendments by the Province, HRM may be forced to increase taxes on a wide range of non-profits. The Grants Committee has also considered new approaches to tax relief that are less onerous for non-profits. However, these and other approaches are constrained by currently limitations in the Charter.

Staff continue to work with the province on a broader review of the Halifax Regional Municipality Charter as directed by Council in 2014. This involves examining a wide range of legislative and financial tools and changes that would more broadly empower HRM. Staff are preparing a separate report for Council on this project.

FINANCIAL IMPLICATIONS

None at this time.

RISK CONSIDERATION

There is a low risk associated with the non-profit tax rate issue raised in this report. As noted above, if amendments to the Charter are not made that specifically enable Council to provide a reduced tax rate to non-profits, there remains a risk that HRM might be forced to raise taxes on a number of non-profit organizations. HRM has worked to address this risk by considering new approaches to non-profit tax relief; however a Charter amendment would clarify HRM's powers and provide greater transparency.

COMMUNITY ENGAGEMENT

No community engagement was undertaken in relation to this report.

ENVIRONMENTAL IMPLICATIONS

N/A

ALTERNATIVES

Council could retain some or all of the three requests being recommended for removal. This is not recommended as the three requests recommended for removal are eight and nine years old, and

rationales for most of them are no longer current.

ATTACHMENTS

Appendix I: Bill 177 Briefing Note.

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Anne Totten, Intergovernmental Affairs Advisor, (902) 490-5623

Report Approved by: _____
Maggie MacDonald, Managing Director, Government Relations & External Affairs,
(902) 490-1742

Report Approved by: _____
Martin Ward, A/Director, Legal Services & Risk Management, (902) 490-6532

Bill 177

- Briefing Note (July 5, 2016)

Purpose

The purpose of this note is to provide information on bill 177, an act to amend the *Municipal Government Act*, and the *Halifax Regional Municipality Charter* to authorize municipal councils to make a by-law to phase-in, over a period of up to 10 years, an increase to the taxable assessed value of certain commercial or contaminated properties located in a commercial development district.

Origin

Bill 177 was introduced in the spring 2016 sitting of the Nova Scotia legislature, was given second and third reading and Royal Assent at the close of the session on May 20, 2016, and is now in effect.

Background

As described by the province, Bill 177 amended the *Municipal Government Act* and the *Halifax Regional Municipality Charter* to:

- a) authorize municipal councils to make a by-law providing for the phasing-in, over a period of up to 10 years, of an increase to the taxable assessed value of certain commercial or contaminated properties located in a commercial development district established by the by-law and further providing for the cancellation, reduction or refund of taxes paid as a result of the phasing-in; and
- b) allow a municipal planning strategy to include statements of policy respecting the eligibility criteria for the establishment of a commercial development district.

Discussion

New legislation

In general, broader, less prescriptive municipal powers give a wider range of tools to Council to meet its priorities and objectives. The new changes provide some enabling tools for municipalities. These changes allow a municipality to phase-in tax increases for a commercial area (called a commercial development district) that is part of a municipal planning strategy.

Under the legislation, municipalities may establish, in by-law, a commercial development district. The district:

- must be in accordance with a municipal planning strategy, and
- must be established in an area serviced by wastewater facilities and a water system.

The by-law, which be approved by the Minister, may authorize a tax refund through a formula that:

- would be applied to any increase in taxable assessed value in a year, against a base year,
- limits the refund to not more than half of what the tax increase would have been otherwise,
- is limited to 10 years.

Halifax Regional Council's Current Taxation Request

Halifax Regional Council has been dealing with broader questions around tax stability and predictability, especially as relates to small business.

Appendix 1

On November 10, 2015, Halifax Regional Council approved a motion to director the Mayor to write the Minister of Municipal Affairs to:

1. Request that the Provincial Government, in order to increase predictability for taxpayers, consider making changes to the legislation governing the assessment process so that:
 - a) The annual valuation is averaged over a three year period or,
 - b) The full assessment roll is updated every three to four years, as is the current policy in Saskatchewan and Ontario.

2. And to request amendments to the Halifax Regional Municipality Charter that would provide Council with greater legislative authority in setting taxes and charges respecting the general tax rate and area rates for both residential and commercial properties including
 - a) The authority for Council to determine and set rates and charges that are different for:
 - i. Different areas of the Municipality
 - ii. Different categories and size of businesses, and
 - iii. Different classes of building and size of structures, and
 - b) The authority for Council to determine and set:
 - i. A rate or charge for frontage on a street
 - ii. A uniform charge or amount of tax that is payable per property or per dwelling unit
 - iii. A maximum and minimum charge or amount of tax that is payable, and
 - iv. A surtax or graduated rates.

The changes introduced through Bill 177, specifically, phasing in of assessment increases, are not designed to meet Council's legislative request. It could partially meet the intent of assessment averaging for defined districts, however it does not allow for phasing of decreases or use outside of the serviced area. Regardless, a broad application of the tool, to most or all commercial properties, could be administratively arduous. Administering such a program over multiple years may become quite complex. The municipality would be providing partial rebates for assessment increases at the same time that business owners may be appealing their current and past assessment increases. As the program may be adjusted or renewed in subsequent years, there could be multiple adjustments in current and past tax bills due to program changes, appeals and upcoming assessment increases or decreases.

The new legislative changes do not allow for different categories or sizes of businesses, different classes of building and size of structures or tiered rates. Providing incentives through an assessment phase-in as described in the proposed legislation is also administratively complex and does not provide flexibility that other means, such as determining various rates and changes, would have.

Stakeholder Reaction

Reaction to the newly introduced changes has been mixed. Halifax's Business Improvement Districts presented at law amendments asking for the legislature to consider the full suite of Halifax Regional Council's taxation request to the province which they see as more broadly enabling of changes that would benefit their members.

USNM wrote a letter to the Chair of law amendments recognizing the increased authority and flexibility provided by the changes and also bringing forward a number of concerns that had been raised about the legislative changes including that there was potential for destructive, competitive practices to occur using the tools provided by this legislation, as well as concerns about the competitive disadvantage the legislation may create for areas where areas identified for commercial or industrial development are not already serviced by water and sewer. The UNSM encourages the province to undertake its own review, to ensure the province is being well served by the tool. The UNSM Board recognizes the value of the tool and would be willing to work with the province to ensure it is appropriately applied and to monitor its impact.

Appendix 1

The Municipality of East Hants wrote to all Mayors and Wardens in Nova Scotia to register its objections to the legislation and to encourage them to support delaying the bill pending the *Municipal Government Act* review and a full consultation process.

Next Steps

- Staff will continue to work with the provincial government on the commercial tax changes requested by Halifax Regional Council and on the Halifax Regional Municipality Charter review.