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## **Official Report of Debates (Hansard)**

**Wednesday 17 May 2006**

## **Journal des débats (Hansard)**

**Mercredi 17 mai 2006**

**Standing committee on  
general government**

Stronger City of Toronto  
for a Stronger Ontario Act, 2006

**Comité permanent des  
affaires gouvernementales**

Loi de 2006 créant  
un Toronto plus fort  
pour un Ontario plus fort

Chair: Linda Jeffrey  
Clerk: Susan Sourial

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENTCOMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Wednesday 17 May 2006

Mercredi 17 mai 2006

*The committee met at 1552 in room 151.*

## APPOINTMENT OF SUBCOMMITTEE

**The Chair (Mrs. Linda Jeffrey):** Good afternoon. The standing committee on general government is called to order. We meet today to resume clause-by-clause consideration of Bill 53, the Stronger City of Toronto for a Stronger Ontario Act.

We have a motion to appoint a member to our subcommittee, and I believe Mr. Lalonde had the motion. Could somebody move the motion with regard to Mr. Tabuns? Mr. Rinaldi, thank you.

**Mr. Lou Rinaldi (Northumberland):** I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or on the request of any member thereof, to consider and report to the committee on the business of the committee;

That the subcommittee be composed of the following members: the Chair as chair; Mr Rinaldi; Mr. Ouellette; and Mr. Tabuns;

That the presence of all members of the subcommittee is necessary to constitute a meeting; and

That substitutions be permitted on the subcommittee.

**The Chair:** Any discussion?

**Mr. Peter Tabuns (Toronto–Danforth):** Maybe because I'm new here, but why would we not have a Conservative representative on the subcommittee as well?

**Mr. Rinaldi:** We do. Mr. Ouellette.

**Mr. Tabuns:** Oh. I haven't seen Mr. Ouellette around the table.

**The Chair:** On occasion people have been subbed on, so you're never quite sure who the subcommittee is, but, as a rule, this is the individual who normally should be on that committee.

**Mr. Tabuns:** Fair enough. Thank you, Madam Chair.

**The Chair:** You're welcome.

All those in favour of the motion? All those opposed? That's carried.

STRONGER CITY OF TORONTO  
FOR A STRONGER ONTARIO ACT, 2006LOI DE 2006 CRÉANT  
UN TORONTO PLUS FORT  
POUR UN ONTARIO PLUS FORT

Consideration of Bill 53, An Act to revise the City of Toronto Acts, 1997 (Nos. 1 and 2), to amend certain

public Acts in relation to municipal powers and to repeal certain private Acts relating to the City of Toronto / Projet de loi 53, Loi révisant les lois de 1997 Nos 1 et 2 sur la cité de Toronto, modifiant certaines lois d'intérêt public en ce qui concerne les pouvoirs municipaux et abrogeant certaines lois d'intérêt privé se rapportant à la cité de Toronto.

**The Chair:** Committee, we were on section 114 of the bill and we had just voted on that section. We now have an NDP amendment on page 27 that creates a new section, 114.1. Mr. Tabuns, it's a new 27.

**Mr. Tabuns:** Sorry, Madam Chair. You're sure that page 26—

**The Chair:** It was old 26 and now it's 27. But it's 114.1.

**Mr. Tabuns:** My text is different from the text on new 27—oh, sorry. Yes, I see what you're getting at. Okay.

I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following section after section 114:

“Holding provision bylaws

“114.1(1) This section applies if the city passes a bylaw under section 34 of the Planning Act respecting the use of the holding symbol in connection with the use to which lands, buildings and structures may be put in the future.

“Conditions

“(2) As a condition of removing the holding symbol with respect to land, buildings or structures,

“(a) the city may require an owner of the land to enter into an agreement with the city relating to the criteria established for removing the holding symbol;

“(b) the agreement may be registered against the land to which it applies; and

“(c) the city may enforce the agreement against the owner and any and all subsequent owners of the land.”

This gives the city increased control over planning under its jurisdiction, thus the reason for moving this motion.

**The Chair:** Any discussion?

**Mr. Ernie Hardeman (Oxford):** I understand that the committee got started before my arrival, so I guess I'll need some hint as to where the committee is at and what we are discussing.

**The Chair:** We're on the old page 26, new page 27, section 114.1. While you're looking for that, can I go to Mr. Duguid and we'll come back to you?

**Mr. Hardeman:** Yes, that's fine.

**Mr. Brad Duguid (Scarborough Centre):** The government side won't be supporting this. Zoning with conditions is a better way to do it: It would provide more certainty. The conditions are definable and conditions can be registered on-title. The problem with this is, when the removal of the holding provision comes up, it could create another negotiating period. We don't think that's really fair or appropriate. Where there's zoning with conditions, once you meet the conditions, you don't then have to go into a renegotiation to ask or beg counsel to take off your holding provision.

**The Chair:** Any other discussion? Seeing none, all those in favour of the motion? All those opposed? That's lost.

Section 115: Mr. Tabuns.

**Mr. Tabuns:** I move that subsection 115(5) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out and the following substituted:

"Power to hear appeals

"(5) The city may by bylaw empower the appeal body to hear appeals with respect to any planning matter, despite the Planning Act."

This gives the city of Toronto an opportunity, a process for all planning matters, not just those with regard to minor variances and consents. It would help the city of Toronto provide proper protection for its neighbourhoods.

**The Chair:** Any discussion?

**Mr. Duguid:** The government side won't be supporting this. This, in essence, replaces the OMB. We think it's going way too far at this point in time, and probably at any point in time. The OMB has a very important role to play in these matters. We think we've gone as far as we should go in this, and that's to provide for a local appeal body for variances and consents. They are generally minor and community-based in nature, and certainly there's a lot less provincial impact or interest in those areas.

**The Chair:** Any further discussion?

**Mr. Tabuns:** No; simply a recorded vote, that's all.

**The Chair:** I'll come back to you. Mr. Hardeman.

**Mr. Hardeman:** I agree with the parliamentary assistant, not so much on whether the appeals process or the appointment of an appeals process for minor variances and consents is appropriate, but because the same body that is being challenged on their decision gets to appoint the hearing board to hear an appeal. I think that creates a bit of a conflict. In fact, we've had other parts of the bill where amendments have been made or are being made to open it up and give the city more power as to how they instruct the boards and commissions that they appoint. My understanding would be that this appeal body would be governed by those criteria too. So it could, at the end, give the appearance of a kangaroo court: "Yes, you can appeal our decisions, but remember that the people who are going to hear that appeal are the people we appoint. Not only that, but we tell them how they must come about making their approach and their decisions." So I

have real concern with the appeal appointment ability altogether, but I surely would not suggest that would be an acceptable manner to deal with all planning matters. That just goes beyond, to me, natural justice for anyone, to say that they would turn down the application, but you can appeal and you appeal to the body that we appoint.

**1600**

It was in a comedy routine that I heard once. They went in with the application. It was turned down and the mayor said, "But sir, you can appeal to council." They said, "When can we go there?" He said, "Well, that was yesterday." "Well, when do they meet again?" "A month from now. That would be one day after your appeal period ran out. So your chances of appeal are nil." I think that's what this would create. In fact, the city could fix it so you really didn't have an appeal from their decision at all. So I cannot support this resolution.

**Mr. Tabuns:** I think it's an amusing story, but I note that governments appoint panels all the time that review decisions of those governments. Those panels are considered to be valid and capable of operating on an arm's-length basis.

I think I've made my arguments. I'd like a recorded vote.

#### Ayes

Tabuns.

#### Nays

Brownell, Duguid, Flynn, Hardeman, Rinaldi.

**The Chair:** That's lost.

Shall section 115 carry? All those in favour? All those opposed? That's carried.

Mr. Tabuns, you have the next motion.

**Mr. Tabuns:** I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following section after section 115:

"Status of certain bylaws under the Building Code Act, 1992

"115.1 For the purposes of section 8 of the Building Code Act, 1992, the applicable law includes any bylaws passed under sections 108 and 111 of this act, any zoning conditions imposed under section 113 of this act, any site plan approvals given under section 114 of this act and any bylaws passed under this act prohibiting or regulating the destruction or injuring of trees."

In this case, it gives the city of Toronto's bylaws precedence in terms of protecting trees as opposed to the Building Code Act.

I would just like to say, because I think this question has come up before, the city of Toronto faces severe air quality problems, it faces overheating problems. Protection of the tree canopy is a significant matter in the city. The city is asking for action to ensure the protection of the tree canopy is fairly strong protection, thus the motion before you.

**The Chair:** Any discussion?

**Mr. Duguid:** Again, we won't be supporting this. There was a similar philosophical motion put forward before. The building code should be as standard as possible across the province. We have made some leniency for green roofs here, but we don't really want to go beyond that. This is something, though, that can be done through regulations, so it's something that perhaps could be looked at down the road, but at this point in time we are not willing to entertain it.

**Mr. Hardeman:** Again, I agree. I oppose the recommendation. I think it goes back to the concern expressed by some of the deputants that the city, as autonomous as it needs to be, shouldn't be in a position to actually rewrite the building code in any way, that the rules that apply in the building code would apply universally across the province. This would, in fact, take that universality away from the building code. I would oppose that, so I can't support the resolution.

**Mr. Tabuns:** I can see the direction the committee is headed in.

**The Chair:** All those in favour of the motion? All those opposed? That's lost.

Yours is the next motion.

**Mr. Tabuns:** I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following section after section 115:

"Environmental Assessment

"Class environmental assessment process

"115.2(1) Without limiting section 7 and 8, those sections authorize the city to pass a bylaw establishing and governing a class environmental assessment process for those projects in the city where the city is the proponent and which have impacts that are solely local and urban.

"Same

"(2) If a process established by a bylaw under subsection (1) applies, any class environmental assessment process established under the Environmental Assessment Act does not apply in the circumstances."

This is giving the city of Toronto greater control over processes that are of local urban impact and increasing the city's ability to control the environment within which it operates.

**The Chair:** Discussion?

**Mr. Duguid:** I guess I'm a little surprised that the NDP would move a motion that would be providing greater flexibility for—see what happens: You hear thunder. I'm not the only one surprised.

**Mr. Tabuns:** Someone disagrees with your position.

**Mr. Duguid:** I'm not sure. I think the earth could be moving.

**The Chair:** I'm not recognizing the sound outside the room. Mr. Duguid, you have the floor.

**Mr. Duguid:** This motion, in effect, gives Toronto greater flexibility over environmental assessments within the city. The province and the Minister of the Environment right now are reviewing the environmental assessment process with a view to providing greater flexibility. We certainly support that, and we think that con-

sideration should be part of that review. But it really is good to see the NDP agreeing that greater flexibility on environmental assessments is required. Hopefully, that will be a harbinger of perhaps a co-operative approach as we move forward to make those changes in the future. But we can't support it at this time. This is part of an overall review of the environmental assessment process. I'd just ask for a recorded vote.

**The Chair:** Mr. Hardeman.

**Mr. Hardeman:** Again, I'm opposed to this amendment. If our environmental process is an appropriate process for the people of the province of Ontario, the size of the municipality in which the project is happening would be irrelevant to me. If, for whatever reason, the city of Toronto believes that the process is too onerous and that development should not have to go through that process, I don't think they should be in a position to say, "That's okay, because we can shorten it any way we want. We can make this thing work for us, but the rest of the province must still follow this process." Because of the size of the city of Toronto and their ability to influence government, I think they should then be influencing government to help develop a process that would work better for the whole province, as opposed to just saying, "We will just develop something totally different for the city of Toronto."

The other part I want to emphasize is that if the body that is going to need the process approved or the process completed is the same body that sets up and can set the new rules of how it's going to be done, I'm not so sure that we're going to have a consistent approach even in the city of Toronto. That could then be changed to meet the needs of the city from time to time, and not necessarily in the best interest of the environment in the city or of the environment of the total province, because all of a sudden it becomes a bit of a conflict again. If for an environmental point of view it's not the right one, are we sure that the city is going to make the decision for the right interest? So I can't support this resolution.

**Mr. Tabuns:** Just so that the record is clear, I appreciate the nimbleness of Mr. Duguid in leaping from this act to variations in the Environmental Assessment Act. I have to give you credit for that. But I want to say that, on a preliminary basis, commenting on the other act, I don't see that the changes are actually going to be useful. I would say that the city of Toronto consistently has taken a stronger environmental position than the province. Certainly, its position on building code changes is much stronger than anything the province is currently prepared to contemplate.

I would actually see here an opportunity for tougher environmental regulation. That's where I think the city is headed. I think the province is headed in a different direction. Just so there is no confusion about my intent and approach on this, that's what informs my direction on this.

**The Chair:** A recorded vote has been requested.

**Ayes**

Tabuns.

**Nays**

Brownell, Duguid, Flynn, Hardeman, Lalonde, Rinaldi.

**The Chair:** That's lost.

Next, Mr. Brownell.

1610

**Mr. Jim Brownell (Stormont–Dundas–Charlottenburgh):** Schedule A to the bill, subsection 118—

**The Chair:** Oops, sorry. I was too eager to move on.

There are no amendments in sections 116 and 117. All those in favour of those sections? All those opposed? That's carried.

Mr. Brownell, you have the floor.

**Mr. Brownell:** I move that subsection 118(1) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding at the beginning "Upon the recommendation of the Attorney General."

**The Chair:** Mr. Duguid, did you want to elaborate on that?

**Mr. Duguid:** Just a brief explanation: This is here at the request of the Attorney General's ministry. The Attorney General, of course, is responsible for the administration of justice. If, down the road, the city decides that it wants to set up an alternative parking dispute appeals board or something like that, it would have to be done through regulation. And rather than it being done through regulation coming through the Minister of Municipal Affairs and Housing, it's more appropriate that it be done through regulation coming through the Attorney General's office. So the Attorney General's office has asked that we put this in.

**The Chair:** Further discussion? Seeing none—sorry. Mr. Hardeman, was that a signal that you wanted to speak?

**Mr. Hardeman:** I just need a clarification on what we're actually changing. The Lieutenant Governor in Council—are they right out of this? Are they replaced by the Attorney General in both cases? It's just adding upon the recommendation of the Attorney General?

**Mr. Duguid:** Yes.

**Mr. Hardeman:** It's just an add-on to what's there.

**Mr. Duguid:** It still has to go through cabinet. All regulations, of course, have to go through cabinet, as with this.

**Mr. Hardeman:** Okay. Thank you.

**The Chair:** Any more discussion? No? All those in favour? All those opposed? That's carried.

Shall section 118, as amended, carry? All those in favour? All those opposed? That's carried.

There are no changes in sections 119 to 123. All those in favour? All those opposed? That's carried.

Section 125: Mr. Lalonde, will you be reading 125? Page 32. Mr. Flynn.

**Mr. Kevin Daniel Flynn (Oakville):** I move that the English version of subsection 125(1) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by striking out "corporation" and substituting "body corporate."

**The Chair:** Any discussion? Mr. Duguid, go ahead.

**Mr. Duguid:** This is just here at the request of the city. It is really wordsmithing and, as far as we can tell, has absolutely no legal impact or effect.

**The Chair:** Any discussion? Mr. Hardeman, you had a question?

**Mr. Hardeman:** If it has no material effect, I guess the question is, then why is the change being made? There must be some reason someone thought that "body corporate" is different than "corporation."

**Mr. Duguid:** It's to make it more consistent with the wording in the Municipal Act. But, from our perspective, it didn't really have a legal impact one way or another. The city requested it, and we felt that if they wanted it, we're fine with it.

**Mr. Hardeman:** I guess I need to request from the legal branch if there is a difference. I have real concern, not that it changes this act, but I think in the Municipal Act almost entirely the word "corporation" is used, as opposed to "body corporate." I wonder why this would change in this act and whether there's any significance at all.

**The Chair:** Is there someone here from staff who can assist us with that?

**Mr. Scott Gray:** Scott Gray from the Ministry of Municipal Affairs, legal branch. The language that's used in the Municipal Act is "body corporate," as opposed to "corporations." Over the years, there has been a variety of requests as to, "Why don't you call us corporations?" So we took this as an opportunity to update the legislation. Once the city had it, they said, "That's confusing, because we have a variety of things called 'corporations' now. The city is a corporation, the city boards are corporations and we can create other corporations," and they found it confusing. They said, "It would be useful if you left the language for the city and for the city-created boards as 'body corporate.'" When they create business corporations or Corporations Act corporations, they'll use "corporations" in those circumstances.

Legally, as far as we're concerned, it has no impact whatsoever. The city just felt it was confusing to have the city as a corporation, city boards as a corporation, and in the Business Corporations Act, corporations, obviously, are corporations. They said, "Oh, we're getting swamped by corporations."

**The Chair:** Any further questions?

**Mr. Hardeman:** It seems to me that to jump right out and change the name to avoid confusion, when in fact that confusion exists in our total municipal field today, as it does in this bill as it presently exists, that "the city of Toronto is hereby continued as a corporation"—not "become" a corporation, but "continued" as a corporation—and then to say, "Oh, no, that's confusing, because there are so many other corporations," why don't

we change the structure of Toronto, the existence of Toronto, and say that it is now the “body corporate” instead of a corporation?

**Mr. Gray:** That’s what this motion is doing. It’s changing it to “body corporate.”

**Mr. Hardeman:** Yes, but are there any other instances where “body corporate” is used in the municipal field to define a municipality?

**Mr. Gray:** In the Municipal Act, yes.

**Mr. Hardeman:** In the Municipal Act it is?

**Mr. Gray:** This was a change for the city of Toronto, and now the city of Toronto is saying, “We’d prefer not to have that change. We’d rather be treated like all other municipalities and be called the ‘body corporate.’”

**Mr. Hardeman:** Thank you very much. That’s what I needed to hear. I thought it was the other way around.

**The Chair:** Any further discussion? All those in favour of the motion? All those opposed? That’s carried.

Shall section 125, as amended, carry? All those in favour? All those opposed? That’s carried.

I skipped over section 124, which has no amendments. All those in favour? All those opposed? That’s carried.

Sections 126 through 132 have no amendments. All those in favour? All those opposed? That’s carried.

Section 133, Mr. Lalonde.

**Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell):** I move that section 133 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following subsection:

“Same

“(1.1) Without limiting clause (1)(c), the mayor’s role includes providing information and making recommendations to council with respect to council’s role under clauses 131(d) and (e).”

**The Chair:** Mr. Duguid.

**Mr. Duguid:** In order to explain this, maybe if I could get members to turn to pages 76 and 77 in the bill to just follow along because it bounces around a little bit.

Section 133 outlines the role of the mayor and has (a), (b), (c), (d) and (e) number of roles. This adds that the mayor also has a role with respect to 131(d) and (e), which is “to ensure that administrative policies, practices, procedures and controllership policies, practices and procedures are in place ... to ensure accountability and transparency ... including the activities of the senior management....” So it’s just further defining the role of mayor to ensure that the mayor has the ability to lead in these areas and inform and advise council in those areas. Council retains the ultimate authority, of course, but it’s just to ensure that the role of mayor is further defined.

Our intention with this, in all likelihood—of course, I can’t speculate entirely. We’re looking at this, as we move forward with changes to the Municipal Act, that this would likely be similar, if not the same, for all mayors across the province.

**The Chair:** Mr. Hardeman.

**Mr. Hardeman:** I don’t have any great concern with the mayor having that authority. I’m just concerned that by emphasizing just those two, the assumption is now

going to be made that the mayor does not get involved in developing and evaluating the policy and programs for the city. When you add these from that list that council looks after, it would seem that you then exclude those areas that you don’t specifically reference, that the mayor has the ability to take those issues and bring them to council and have council deal with them.

**Mr. Duguid:** I don’t share that concern. The role of mayor would be defined, I think, as different councils and different mayors would likely define it in practice. Different mayors manage in different ways, and I think we want to allow some flexibility. Right now, the city is undergoing a review of their structure. We’re awaiting their decisions with respect to that to see whether in fact they will amend their governance structure in a way that most—not all, but most—or a majority of people in the province and certainly in Toronto would hope to see. We’re waiting to see that, but we do want to provide them with some flexibility as they move forward.

1620

**Mr. Hardeman:** Just to simplify my question, the amendment says that this is so that the mayor has the ability to make “recommendations to council with respect to council’s role under clauses 131(d) and (e),” which you pointed out to us. I wonder why the mayor would not be able to make recommendations with respect to council’s role under (b) of that same section. It would seem to me that if we hadn’t mentioned it at all, the mayor could do that, but because we mentioned two, I would have to assume that we intended the others not to be included in that.

**Mr. Duguid:** In practice, the mayor doesn’t tend to develop and evaluate policies; that’s really what committees and members of council do. Mayors lead, and through leadership may indicate what they support and what they don’t support, or they may make suggestions to council and bring forward ideas. But in the end, it’s the committees and council that develop and evaluate the policies and programs. The mayor’s office really wouldn’t be responsible for doing that.

**The Chair:** Further debate? Seeing none, all those in favour of the motion? All those opposed? That’s carried.

Shall section 133, as amended, carry? All those in favour? All those opposed? That’s carried.

There are no amendments in sections 134 through 138. All those in favour? All those opposed? That’s carried.

Mr. Rinaldi, section 139.

**Mr. Rinaldi:** I move that subsections 139(1) and (2) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out and the following substituted:

“City auditor

“(1) The city shall appoint an auditor licensed under the Public Accounting Act, 2004 who is responsible for,

“(a) annually auditing the accounts and transactions of the city and its local boards and expressing an opinion on the financial statements of these bodies based on the audit; and

“(b) performing duties required by the city or local board.”

**The Chair:** Any discussion? Mr. Hardeman?

**Mr. Hardeman:** I'm looking for an explanation.

**The Chair:** Yes. Mr. Duguid.

**Mr. Duguid:** In the original version of the bill, it said, "Performing duties designated by the Minister of Municipal Affairs and Housing...." We feel that's not really in keeping with the spirit of this act. So this motion would eliminate the province's power to give the city auditor duties. If we want to audit the city, we can certainly go in and do that, but we shouldn't be able to go to the city auditor and give direction. We thought that was going too far.

**The Chair:** Any further discussion?

**Mr. Hardeman:** On that explanation: What we're really suggesting here, then, is just taking the two sections off that are presently providing an ability for the minister to be involved, and the minister is no longer involved with the auditor?

**Mr. Duguid:** That's correct.

**Mr. Hardeman:** If the minister is not involved at all in this section, what is there in place that will make sure that this actually happens?

**Mr. Duguid:** In terms of accountability—it's later in the act—it's mandatory that the city appoint an auditor general who would be independent of the city to oversee the city's operations, similar to our Auditor General. This is not the auditor general; this is the city auditor function. We just felt that—in fact, I can't think of too many circumstances where a minister would need to advise the city auditor. We don't pay the city auditor; we don't hire the city auditor. It's their city auditor, not ours.

**The Chair:** Further discussion? All those in favour of the motion? All those opposed? That's carried.

Mr. Tabuns, your next motion is a duplicate, and a very good one, I might add; I think it's exactly the same. But I think you need to withdraw that one.

**Mr. Tabuns:** Thank you for that validation, Madam Chair. Yes, I will withdraw it.

**Mr. Hardeman:** I would assume that that was a recommendation from the city.

**The Chair:** I'm sure it was.

Shall section 139, as amended, carry? All those in favour? All those opposed? That's carried.

Section 139.1: Mr. Brownell.

**Mr. Brownell:** I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following section after section 139:

"Chief administrative officer

"139.1 The city may appoint a chief administrative officer who shall be responsible for,

"(a) exercising general control and management of the affairs of the city for the purpose of ensuring the efficient and effective operation of the city; and

"(b) performing such other duties as ... assigned by the city."

**The Chair:** I think the wording is "as are assigned by the city." You said "as assigned."

**Mr. Brownell:** "As are," yes.

**The Chair:** Okay. Mr. Duguid, did you want to give some detail?

**Mr. Duguid:** This motion mirrors an identical section in the Municipal Act, so it's really just trying to clarify the positions and responsibilities, roles and responsibilities. It really doesn't go much further than that.

**The Chair:** Any other questions?

**Mr. Hardeman:** I'm just concerned. I know it was presented to us in one of the deputations that dealt with making sure there was a clear delineation between and a definition of the responsibilities of the political and the administrative functions within the city. The act presently doesn't have any reference to appointing a chief administrative officer. If we're adding this in, the government mustn't see a need to make sure that the city does have a chief administrative officer, because if it wasn't for that, they would fit right in with all the other staff they can hire for "the efficient and effective operation of the city."

If the government believes it's important that they have a chief administrative officer, it would seem to me that the appointment should have more force than this, because as I read this amendment, they may do it, and then again, they may not. And if they do it, the direction of who they appoint as the chief administrative officer is so general that I don't know why you would put this in the act. If someone in the city, as a ratepayer, was to come to the conclusion that they don't believe the city is running effectively and that they should have a chief administrative officer, I don't know how they would use this section to facilitate something happening at the city, because the first answer would be, "The word 'may' starts it all off. We don't have to do that at all. It's just up there for decoration. It really doesn't do anything." I just wonder why we would be amending a bill by putting in a new section that has absolutely no force of law in it at all.

**Mr. Duguid:** I know Mr. Hardeman has served in municipal office as well. I don't know if he's ever had the experience, but there are sometimes occurrences where there are conflicts in terms of defining roles between CAOs, mayors and councils.

Not all municipalities have chief administrative officers. Certainly, in the city of Toronto, there are other structures they could entertain—I don't know if they're any better—that wouldn't have one, so we don't want to tell them they have to have one. But if they do, we want to ensure that there is some definition of role. It's very general. It's not too specific in terms of what they would do, but it just sort of defines what they would do vis-à-vis the political arms of governance.

**Mr. Hardeman:** Madam Chair—

**The Chair:** Can I just recognize another speaker, and then I'll come back to you? Mr. Tabuns.

**Mr. Tabuns:** I will pass. The questions I was going to ask have been asked.

**Mr. Hardeman:** Again, I totally agree with the explanation, but my contention is that this amendment doesn't do the suggestion that you're making. This doesn't define what they're supposed to do if they decide to have a chief administrative officer, because it's so

general that it's motherhood. Of course, if you decide to appoint a chief administrative officer, "exercising general control and management of the affairs of the city for the purpose of ensuring the efficient and effective operation of the city" doesn't really give you any idea of what that means. I don't know how anyone on council, or citizens in the street, would take from that the conditions of the act were being met or not being met, because it's so general. It would seem to me that we could have saved a lot of time and a whole page in the amendments by saying nothing about this, because the end result would be exactly the same. It just seems to me like it's filling a page.

1630

**The Chair:** Further discussion? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Shall section 139.1 carry? All those in favour? All those opposed? That's carried.

**Mr. Duguid:** On a point of order, Madam Chair: These are identical motions, and we're happy to let the NDP move this motion. We'll support it.

**The Chair:** Great. So you want to withdraw number 37?

**Mr. Duguid:** We'll withdraw 37 in favour of 38.

**The Chair:** Mr. Tabuns, you have the floor.

**Mr. Tabuns:** I move that subsection 140(1) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by striking out "including a neighbourhood committee and a community council" in the portion before paragraph 1.

**The Chair:** Any discussion?

**Mr. Hardeman:** I'd like an explanation of what the intent of the motion is.

**The Chair:** Mr. Tabuns, would you like to?

**Mr. Tabuns:** It's simply to leave authority with the city in terms of deciding composition.

**Mr. Hardeman:** Again, I question the purpose of the amendment changing it from where it presently is.

**The Chair:** Mr. Duguid, did you want to help?

**Mr. Duguid:** I understand what the city was looking for. This was a request from the city. They just thought we were being too prescriptive in including a neighbourhood committee and a community council in this section, that in fact they would do that as a matter of course. They fully intend to do that and will always probably have that in there. I think they were concerned with why we were prescribing these and maybe not others and that it's better for drafting purposes just to have it out of there. Our legal people and our ministry agreed.

**The Chair:** Any further discussion? All those in favour? All those opposed? That's carried.

Mr. Tabuns, you have the next motion.

**Mr. Tabuns:** Before I read this out, just so I'm clear, I've been reading the titles of these. It was raised with me yesterday that what you need—

**The Chair:** You're supposed to read the whole motion into the record.

**Mr. Tabuns:** The whole motion?

**The Chair:** Yes.

**Mr. Tabuns:** So if I started with "I move that subsections 140(4)," would that be adequate for your purposes?

**The Chair:** I think so. Yes.

**Mr. Tabuns:** Fine.

**Mr. Hardeman:** But you read so well.

**Mr. Tabuns:** I'll remember that compliment.

**The Chair:** Just read it accurately. That's the most important part.

**Mr. Tabuns:** Okay. I move that subsections 140(4), (5) and (6) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out.

These subsections set out a variety of rules regarding the operation of city committees, city boards, and the city's position is, "We should be able to decide that structure." This is micromanaging on the part of the province to prescribe in this detail. On that basis, I think they have a valid argument, and I put forward this motion.

**The Chair:** Any discussion?

**Mr. Duguid:** I wasn't entirely sure what the city was looking for here, except it appears that they want to have full control over the term limits of their appointments. I guess it's something that may be worthy of further consideration down the road, but right now, the biggest concern we would have is one council appointing somebody for a very long period of time, and they may not be in office three years hence; it'll be four years hence now. That person will be appointed to serve under the new council. So we thought the three-year appointment period is appropriate. They can reappoint every three years. That's my read of what they were trying to achieve through this, and we prefer to keep it with limits in terms of the number of years for their appointments.

**The Chair:** Further discussion? Mr. Hardeman.

**Mr. Hardeman:** I'm confused, because what I read in the amendment is not what I just heard from the parliamentary assistant. The present act determines that city council can decide the term of office and remuneration to boards, so city council could—according to my understanding of that, at least—appoint someone well beyond the term of council and decide how much they were going to get paid.

What the amendment implies to me is that that will be removed, so it will not refer to whether they can appoint the term of office. They presently can, in the act: The term of office and remuneration of the board is number 4; the number of votes of board members is number 5. This amendment intends to remove that, so it won't speak of it. I guess they would still have the authority, but it doesn't speak to what authority it would have. I'm confused as to what this amendment is supposed to do, and what it does if it passes or doesn't pass.

**The Chair:** Maybe we can go back to the mover. Mr. Tabuns.

**Mr. Tabuns:** What's intended here is to give the city of Toronto the discretion to set the rules around the oper-

ation of committees. Unless Mr. Duguid has information that I'm not aware of, I don't think there was a concern on the part of the province to say, "You can only set terms that go to the end of a council's time in office," because that isn't here. What the city has asked for is simply that these matters be left entirely in their hands; no need for the province to be as prescriptive as it is. It's as simple as that.

**Mr. Hardeman:** That's the interpretation that I had, but I'm not sure I would agree that in section 140, (4), (5) and (6) are in any way being prescriptive. It doesn't say that they "must" make those decisions. It's almost like a reference of the type of decisions they could make. So if you take them out and leave the rest, one could, I suppose, question whether they had the power to make those three, if they were no longer listed, that they do have. I think it might actually curtail their ability, rather than help their ability.

**Mr. Tabuns:** I would say that their position is, no, in fact, they would like to have this room for decision-making.

**The Chair:** Further debate?

Seeing none, all those in favour of the motion? All those opposed? That's lost.

Shall section 140, as amended, carry? All those in favour? All those opposed? That's carried.

Section 141: Is somebody going to be reading number 40?

Page 40: Mr. Flynn, since you are plugged in, maybe you could read it.

**Mr. Flynn:** I move that the English version of subsection 141(1) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by striking out "corporation" and substituting "body corporate."

**The Chair:** Any debate? Mr. Hardeman.

**Mr. Hardeman:** I have a question. I'm not sure if anyone can answer. Are we sure that nowhere in this document the word "corporation" appeared prior to the point where we changed the name from "corporation" to "body corporate," now recognizing that we're going to go all the way through and have these amendments to change "corporation" to "body corporate"?

**The Chair:** Are you asking a question of our legal staff?

**Mr. Hardeman:** Yes. Are we sure that it hadn't appeared before anywhere in the act?

**The Chair:** Could we get an answer to that?

**Mr. Gray:** You mean before section 141?

**Mr. Hardeman:** Yes.

**Mr. Gray:** It appeared at least once. I don't know how many times we've had this motion, but we made one previous change a few motions ago. We think we've gone through the act and changed it. I think there were four or five different places where it's describing either the city or a city board, and they described them as "corporation." We changed each one of them to "body corporate."

**Mr. Hardeman:** On page 73, 125, "City continued": We changed the "The city of Toronto is hereby continued

as a corporation...." That's where we changed it to the "body corporate." Nowhere in pages 1 to 72 does the word "corporation" appear?

**1640**

**Mr. Gray:** We don't think so—not describing either the city or a city board. I think "corporation" probably does appear in other contexts, when they're talking about the city creating—

**Mr. Hardeman:** But not as the city.

**Mr. Gray:** Yes.

**Mr. Hardeman:** Okay. Thank you.

**The Chair:** Any further discussion? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Mr. Tabuns, your motion is a duplicate.

**Mr. Tabuns:** I will withdraw.

**The Chair:** Thank you very much. The next motion is virtually the same, only it's subsection 141(4). Could somebody read that into the record?

**Mr. Lalonde:** I move that the English version of subsection 141(4) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by striking out "corporation" and substituting "body corporate."

**The Chair:** Any discussion? Seeing none, all those in favour of the motion? Sorry, Mr. Hardeman?

**Mr. Hardeman:** No, it's fine. Thank you.

**The Chair:** Okay. All those in favour? All those opposed? That's carried.

Shall section 141, as amended, carry? All those in favour? All those opposed? That's carried.

There are no changes to sections 142 and 143. All those in favour of those two sections? All those opposed? That's carried.

Section 144: Mr. Tabuns.

**Mr. Tabuns:** This matter has been settled in a previous vote, and that being the case, I'll withdraw the motion.

**The Chair:** So that's page 43 you're withdrawing. Okay. So you have—

**Mr. Tabuns:** If the city's legal interpretation is right. It's a pain, but I think we've gone through that one.

**The Chair:** And 44 is yours as well.

**Mr. Tabuns:** I move that clauses 144(3)(f) and (g) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out.

This motion will allow the city to dissolve or change a local board that's a corporation as established under section 147 of Bill 53 and will allow the city to dissolve or change a local board that is an appeal body under section 115. That's the intent of the motion.

**The Chair:** Any discussion?

**Mr. Duguid:** We have difficulty supporting this one, simply because the motion would give the city the ability to override the provincial regulations with regard to, I guess, local appeals bodies and corporations.

**Mr. Hardeman:** I won't be supporting the regulations, although I appreciate the city putting it forward, recognizing the minister's comments about the act being an act that was going to give the city authority. This is

one of the areas that that authority was being asked for, but personally being of the opinion that there needs to be the protection or the ability to make sure that we are consistent across the province in some of these issues, I can't support the change. I do support the member for bringing it forward.

**The Chair:** Further debate? All in favour of the motion? All those opposed? That's lost.

Shall section 144 carry? All those in favour? All those opposed? That's carried.

There are no changes to sections 145 to 150. All those in favour? All those opposed? That's carried.

Section 151 is a recommendation, not a motion. Is there any debate on 151? Mr. Hardeman, this is your recommendation, but it's not a motion.

**Mr. Hardeman:** There's not an amendment here, but I think it's very important. This is the section that we heard a lot about in the presentations about the powers in the bill and the trust we have in the city of how they're going to operate as a mature level of government, how they're going to operate in an efficient and effective manner in the best interests of the population. Recognizing that the structure of the governance within the city—I think both the city and the province realize that some changes need to be made for that effective operation. This section, at least from what we've heard, is almost totally there to let the province take over because the city hasn't got around to it. I guess I'm almost shocked about the point that there aren't amendments here from the city dealing with this section, except they totally disagree with it.

The challenge we have here, and that's why I wanted to speak to it for a moment, is that they made the assumption that when the government side looked at this section and listened to what was said, they would agree with not voting for this section. If we think of the governance of the city, and we heard that from both the city and the people who were on the other side—in fact, there were a couple of presenters who said, "Don't implement this act until the structure is changed." Because it wasn't changeable by amendments, I don't think anyone, as we were looking through the bill—and I just want to point out that my bill is highlighted with red at this section because of the problem. It would seem to me that because everyone agreed it should be totally removed, we didn't have any debate on it, because there were no amendments.

So I really have concerns that this is the ability of the province to totally take over the structuring of the new council. I would suggest that we should have been working as a province with the city to get that structure in place even before this act was introduced so that you could develop the act around the structure. But that not being possible now, they should at least have the structure decided on locally, or decide that it isn't going to be decided locally, then decide what the best structure is and get it in place before we set this whole act in place and expect the city to start governing according to these rules and regulations and set up their administration and

not have any idea what their council and the administration of the whole city is going to look like a year from now, because if they can't come to a conclusion, the Minister of Municipal Affairs is going to decide how that's going to happen. This is the section that's going to allow him to do that.

I'll just turn it over to my colleague. I'm sure he has a few words to say on this section.

**Mr. Tabuns:** I'm very appreciative of the position taken by Mr. Hardeman. I find this an extraordinary part of the legislation. The city of Toronto will make good decisions and it will make bad decisions, just as individual humans make good and bad decisions, just as provincial and federal governments make good and bad decisions. What the province has reserved here is the power and the structure to go in and dictate the structure of that government. I think that's a profound problem for the city of Toronto. I think it's a problem for the province. I think it's a problem for the voters of the city of Toronto, who expect to have a council that's responsive to them and that will answer to them for questions around political structure.

I think the government should vote with us on this one, should take section 151 out, as recommended by Mr. Hardeman. It's consistent with the views of many Torontonians, including David Crombie, who I thought spoke quite eloquently in that clip we saw presented by Councillor Walker's assistant. David Crombie is a pretty level-headed guy. I've disagreed with him from time to time, but he seems to have the interests of the city at heart and has spoken well on the need to ensure that there's an openness and an access to politicians in this city that the structure proposed in the legislation would not provide.

I would again thank Mr. Hardeman for bringing this forward, and ask the government members to side with Mr. Hardeman and myself and vote against section 151.

**Mr. Duguid:** I was almost going to say, "It must be nice to be in opposition," but really, it's probably not all that nice to be in opposition. The fact is, here the NDP doesn't want any kind of accountability at all. Just, "Here's the City of Toronto Act. It doesn't matter that we've heard from a number of people, not just the business community," but the business community spoke loud and clear. We also heard from the likes of Anne Golden, David Pecaut and others, a number of city builders and city leaders, that there is a need for greater accountability and structural governance changes for the city.

Many of these individuals also said, including the board of trade in their report, that it's really important that these structural changes take place. We trust that the city will move forward, as they've indicated they will, with some significant governance changes that will ensure greater accountability. We trust that. We look forward to them debating it.

**1650**

We don't think—and perhaps that's the Tory position, but it's hard to tell—that we should come upfront and

impose anything. We think that's showing a lack of faith in members of Toronto council. At the same time, we have a public responsibility to the people of Toronto to ensure that if they don't get that governance structure right, if they don't enhance accountability within their governance structure, then with these enhanced powers, there may be a need down the road for the province to assist in moving forward with some of those changes that many individuals have been calling for from all political spectrums and from all sectors in the city. So it's very important that we have the regulatory ability to work with the city in bringing forward some strong governance changes, but we're very confident that these are regulations that, in fact, the city will not likely make us have to impose.

**The Chair:** Further discussion?

**Mr. Hardeman:** I can't believe what I just heard. It's not a matter of whether you're in opposition or whether you're in government. When you're at committee, you're here to design the best possible bill we can for the governance of the city of Toronto. Of course, as opposition, we do have the advantage of being able to look at what each section does and what it doesn't do. We can take a position to make it better, knowing full well that at the end of the day, the government is going to be bringing this bill back into the House and that's going to be the law of the land. I'm not naive enough to believe that that isn't going to happen, but at the same time, I'd like to think that the process gave us the opportunity to discuss those issues that have been put in place in the big picture. But through hearing the depositions and so forth, that opinion has changed and the needs have changed, or hopefully some people's opinions have changed.

As an opposition, I have the ability to say, "You know, I heard what they said, and it makes sense to make that change. That's why I bring that forward." I hope that the government side would look at that and say, "Yes. Most of the time I don't agree with the opposition, but in this case, what he's telling us is exactly what all"—I take that back; not all, but the vast majority—"of the deputants, both those who supported the bill and those who didn't support the bill, put forward that we needed more clarification on, making sure that before this bill was passed, we had a system in place that would be different from the governance we presently have."

If, and it's a large "if", the government really believes that they know what the solution is—and they must, because they're convinced that by putting this section in the bill, if the city of Toronto doesn't come to where they want them to come, then they have the ability to change that. So they must already know that the present structure is not what the government is prepared to accept. If they know what it is they don't want, I dare say that, with all the work they've done and all the information they've gathered, they must have some idea of what they do want done.

Now, this is where we get to the part where there's a difference between being on the government side and representing the opposition and the Tories. I don't

believe that you put a section in there saying, "We want to give you all this power. We want you to make the decisions because you know what's best for your people, but if your decision is not what we want, we will have the hammer to change it."

I would think that if that's what you wanted to do, if you're going to make the final decision, if the provincial government is going to make the final decision, they wouldn't print this in the bill and say, "Why don't you go out and spend a year or two and find out what the solution is? Oh, we don't want it to be that long, do we? So we'll give you six months. You come up with a solution we like, and if you don't, we will impose the solution."

I think being upfront and saying, "We have a view of what governance should look like, and this is what we want you to do"—put that in place. If you take this section out, a year from now or two years from now, if the city doesn't like what the province imposed and it isn't in the best interest of their people, they can change their governance model. That's what this bill does: give them power to set their own destiny, to develop their own destiny. To me, this section is strictly, "We want the appearance that we're giving authority to the city, but we don't trust them to do it right, so we put in not just that we will assist them"—as the parliamentary assistant suggests—"we will assist them in making decisions in their best interest."

I think it's important that we put on the record a little bit what this section actually says.

"The Lieutenant Governor in Council may make regulations:

"(a) requiring the city to establish an executive committee from among the members of council and prescribing the composition, powers and duties of the committee including, for example, requiring the committee to provide strategic directions for the city." Not only is it asking or allowing the province to set the committees, but they actually can set the committees' agendas. That is a long way from giving the power to the city, giving the ability to decide their own destiny.

"(b) requiring the head of council to appoint the chairs and vice-chairs of specified committees of council and specified local boards." The mayor can no longer make a decision on which committees he will appoint a chair to? Incidentally, the act doesn't say that the mayor has that power now, so if the city decides that the mayor shouldn't have that power, the minister can say, "No, that's wrong. We're not going to accept that. We want the mayor to be able to do that. That's not something that we think the elected officials in the city should be allowed to do. The mayor should be doing that."

"(c) requiring the head of council to appoint one or more deputy heads of council from among the members of council and prescribing the duties of the persons appointed." If the city doesn't come up with a plan, the Minister of Municipal Affairs can decide how many deputy mayors we need in the city? I just can't imagine they would put this kind of thing in.

“(d) requiring the head of council to nominate or to appoint one or more persons who will have the prescribed responsibilities, powers and duties of a chief administrative officer for the city.” In the previous section we had a debate that I said was somewhat redundant, and now I realize why it is: They may appoint a head of council, but if they don’t, the minister can force them to in this section. Again, we’re taking away the power of the mayor.

“(f) establishing procedures relating to the dismissal of persons who are nominated or appointed under clause (d).” Again, the minister could actually decide that what’s been happening, the reports they’ve received from the city that were required in the last six months aren’t quite the way the minister would like them. The minister could actually pass a regulation to start the process of dismissing the chief executive officer of the city of Toronto. It just boggles the mind that the minister would have those types of powers.

“(g) prescribing transitional matters relating to the exercise of powers and performance of duties under clauses (d) and (e).” Now he can decide that the chief executive officer should be dismissed. He can then, by regulation, set the process in place that the city of Toronto must follow to dismiss the chief executive officer.

“(h) requiring council to appoint specified committees composed of members of council elected from specified geographic areas of the city and requiring the city to delegate prescribed powers and duties to the committees.” Not only can the province, by regulation, appoint heads of the committees, they can actually appoint the members of council to the committee they want them on. We’re talking about self-governance? In fact, the minister has the ability to take away governance in the city of Toronto. The only part he didn’t do—at least I don’t think so; maybe the parliamentary assistant will correct me—is that he hasn’t decided yet that these people could be appointed from outside of council, when they talk about committees, although he cannot give them any powers.

“(i) specifying procedures for the adoption by the city of a budget ... or the adoption or re-adoption of a budget under section 224.” He can tell them how they must proceed to deal with the budget.

**1700**

“(j) specifying the duties of the head of council in respect of the adoption or re-adoption of such a budget by the city.” So he can actually set a regulation in place that says that he must consult with the mayor of Toronto so that the mayor of Toronto can be told how he should proceed with the budget process.

“Conflict

“(2) In the event of a conflict between a regulation made under this section and a provision of this or any other act or regulation, the regulation made under this section prevails.”

So it doesn’t matter what else happens in here; any part of this bill can be overridden by the regulations in this section.

I just can’t believe that the city of Toronto didn’t have every one of their amendments on this section. It gives the ability of totally overriding, by regulation, everything else that’s in the bill. Having said that, obviously, Madam Chair, you may have guessed by now that I don’t support this section.

**The Chair:** I was coming to that conclusion. Mr. Tabuns

**Mr. Tabuns:** You are quite discerning in your ability to see what’s actually happening.

I have to say Mr. Hardeman set out the case very strongly. I do find it extraordinary. I think it’s pretty clear that if the city of Toronto doesn’t come forward with a structure that reflects what’s here in section 151, the government has set the stage to shape, in a very detailed, very prescriptive, very micromanaging sort of way, the way that that government is going to operate, the way the mayor is going to operate.

The accountability of council is largely removed; their responsibility for their structure is removed. It reminds me of a saying attributed to Henry Ford: “You can buy any colour Model T you want, as long as it’s black.” The city of Toronto is being given a similar option.

I don’t know what led to this motion. I’ve heard Mr. Duguid talk about the board of trade and other business groups making representation and being concerned about the structure, which is all well and good. They’re bodies that have a role in this city, that have credibility in this city. They’re more than welcome to talk to the city councillors, who are responsible for the government of this city, but in the end they’re just one amongst a number of interest groups who’ve put forward their position, and their position should not be dictating the structure of the city. It should be the people on the council, elected by the voters of this city, the citizens of Toronto, who decide the structure and be accountable for that structure. We on this committee should strike out section 151.

**Mr. Duguid:** This bill provides the city of Toronto with powers, access to alternative sources of revenue, flexibility and accountability that other cities in this country have never had. There is a duty on behalf of this government to ensure that, for the sake of the people of Toronto, their futures and fortunes are protected as well.

As a former city of Toronto councillor, as a Toronto MPP, as a resident of this city, I hold the province accountable, as we move forward through these changes, to ensure that in fact with the great powers that we’re giving the city, with the significant shift in powers, there’s also an ability to ensure accountability. That’s what this is about: ensuring accountability.

Now, I know that the NDP doesn’t have to be accountable to anybody anyway. They just want to give the city everything it wants. In fact, they’ve just taken the city’s motions and requests and said, “We support anything the city’s asked for.” They can do that because they don’t have to account for the results of this act. We have to look at everything the city’s asked for and determine what we think is in the public interest, and we’ve done that with the support of the city. In fact, I spoke to Mayor

David Miller today, who's very enthusiastic about this act going through as it is. He's not exercised about the fact that the province wants to retain control if need be to ensure that these governance changes are made; he's committed to making those governance changes.

These regulations will probably not have to be used, but it would be absolutely irresponsible of our government to just say, as the NDP want us to do, "Just do whatever the hell you want, and we don't care if it's accountable to the people, we don't care if it's going to work, we don't care if it's in keeping with the new powers that you have." That would be irresponsible.

Secondly, here we have the Tories. Keep in mind what these people did to our cities. Keep in mind what they did to Toronto. Toronto could not even change the names of their wards under the legislation these governments put forward. All other cities in the province could do that. Toronto could not change the boundaries of their wards. Toronto was told that they had to slash the number of councillors twice—not once, but twice—by this government. They were told they had to amalgamate, despite the fact that 76% of the people in the city voted not to. I mean, to me, that is draconian, that is imposition.

The Tories sort of are saying, impose on one hand and take away the ability to hold accountable on the other hand. Well, we're not going to impose. We want to give the city every opportunity that they have, as they've committed to do, to consult with the people of Toronto and come up with the best possible governance structure. We will ensure that we have the ability to hold them to account for that. They've agreed to do it, but we're not just going to say we're not going to accept that we have some accountability and responsibility here. We do. We have responsibility to the people of Toronto to ensure that, in fact, the city lives up to their commitment to reform their governance structure.

Having worked under the governance structure that they currently work within, there's a fair amount of dysfunction there. There's a need for change. Virtually everybody who came before us, if asked, would have probably agreed with that. So we're allowing the city to go out and do their work, do their consultation, come forward with a proposal that hopefully will serve the needs of accountability to the city and will work well with these new enhanced powers they're getting that no other city in this country has. We're not alone in thinking that. This is not just a board of trade suggestion, although the board of trade is supportive. We shouldn't ignore the board of trade. They're important. We need jobs in this city. We need a good business climate in this city.

So that's important, but the likes of Alan Broadbent, Joe Berridge, Paul Bedford, David Pecaut, Anne Golden, just to name a few—and they're just a few of the city leaders. Any list of city leaders—if you're going to get 10 people in a room, these people would be on it. Virtually all of them have said there's a need for greater accountability, a need for governance changes, and they support the direction we're taking here.

So I recognize the concerns expressed opposite.

Don't agree with them. I think we're heading in exactly the right direction on this. We're giving the city the ability to go out and get the job done, but we're also ensuring that we're accountable to the people who elect us in Toronto, the people of Toronto. After all, they're the people who are going to benefit from this City of Toronto Act more than anybody else.

**The Chair:** Mr. Tabuns.

**Mr. Tabuns:** Mr. Duguid has made his points. I don't think there's a particular need to get into the virtues or lack of virtues of any party. I think we can spend our time on the matters before us.

In the end, the city of Toronto is fully accountable to the electors of Toronto. Governments get voted in; governments get voted out. Councillors get voted in; councillors get voted out. I as a politician and the party I belong to can be voted in; I can be voted out. This act retains elections in the city of Toronto. Councillors, mayors are still required to go out and get the support democratically of the voters in this city in order to continue in office.

So to say that the city of Toronto is unaccountable, I think, is incorrect and certainly not in keeping with an understanding of democracy in this society. They have to get votes. If they don't perform in a way that's satisfactory to people, they get the boot, and it's the same for everyone who sits around this table who's elected. If you don't do what people expect you to do, if you act contrary to their interests, it may take more than one election, but you'll get the boot.

I would say that to suggest that the people around this table who are elected are not accountable is not accurate, and certainly to suggest that the city of Toronto council will not be accountable unless it has a particular structure prescribed by the government is also inaccurate. I've heard the arguments. I don't know if there's a lot more to canvass, but I think that what you're putting forward is contrary to the arguments you make about giving the city of Toronto responsibility.

**1710**

I was certainly one of the people very active in opposing the megacity initiative on the part of the previous Conservative government. We felt that the interference in the internal affairs of the city of Toronto was outrageous. We were right, and I think that this section continues that legacy. It doesn't break with it, it continues it, and thus is contrary to the arguments you've made, Mr. Duguid, in other fora.

Others may speak to it. I've made my point.

**The Chair:** Mr. Hardeman.

**Mr. Hardeman:** Again, in response to the comments from the government side, I just want to point out that this is an issue of dealing with this bill. If I had been there to help draft the bill or to be part of drafting the bill, it likely would have been drafted in a considerably different way. It also wouldn't have started off with the preamble to this bill, which is that it is now a mature level of government responsible to the people of the municipality, and they can be trusted to do the right thing

for those people, and then be fully covered off in the ability to override those duly elected representatives on any issue.

The parliamentary assistant talked a little bit about the powers we're giving the city. This isn't just small stuff. They get new taxing powers. They get new regulating powers. They may go awry with that. We're all told that that wouldn't happen, and some of us question whether it might or might not. I'm not maybe as convinced as the parliamentary assistant was that everybody will always do the right thing, that if they're short on money at budget time, they will not decide to get it from someplace where it's gettable, even though it may have a negative impact on that part of the economy. I'm not saying they would. I'm just saying I'm not as sure as the parliamentary assistant.

I believe, for those types of things, there needs to be protection in the bill to make sure that the province, which has the ultimate responsibility—this isn't a charter. This isn't giving them a third state of government. They're still part of the provincial municipal government structure. So I think the province has a certain responsibility. We may get into that later, but this section doesn't deal with that.

This section deals with the most basic part of the structure of governance, which is city council. In the bill they have all kinds of abilities and powers to set up boards and commissions to deal with the function of the city. They have the ability in the bill to change the structure of governance itself. The province says that it feels comfortable in giving them that power, but this then turns it around, that by regulation, if we don't like what they do, even if it's in the best interest of the city and the city believes—as was just mentioned, they have to go back to the people, so the chances of them designing a structure that will not work in the best interest of the population of Toronto is not likely a very good assumption. In fact, I would think there would be a greater chance that the minister's regulation would produce a council that was less comfortable for the people of Toronto than the city would, because the minister and the executive council are not totally responsible or totally relying on the city of Toronto. The city of Toronto council is, so they're going to make decisions in the best interest of all the people of Toronto.

I'm not sure that's necessarily true for the province of Ontario. There are a lot of people in the cabinet, in the executive council, who do not come from Toronto, as I don't. I'm not sure that my decision would be more appropriate than the decision taken by the council of Toronto. If that decision, after much wisdom, is to stay with the status quo, I don't see the need for the province to be able to jump in with, "No, we don't like that." In fact, we heard a lot of people say that they didn't like that. If that's what we're going to base the decisions on, then let's get on with basing that decision on it right now and not make a charade of saying, "You get to make your own decisions but only if they're decisions we want made." I think, really, that's what this section does.

I want to point out what I think is so important, that this section is only with the structure of governance. I am recommending we vote against the whole bill so the next sections would be included, but if you start reading the next section, it deals with what the province can do with regulations over boards and commissions within the city. Again, it's more of the same. This section is strictly on the council and its boards. Talk about draconian: the ability to "pre" this section until the regulations are made. It looks like the city has all kinds of ability to deal with the structure of council but in the end what the cabinet decides is what we get—no ifs, ands or buts. They can design everything down to the individual members sitting at the committee and telling them how they're going to conduct their business at that committee meeting. It can all be done by regulations and I see absolutely no local governance left if the minister decided to implement every one of these.

Incidentally, the majority vote at cabinet would not be from Toronto. So I think that we are taking the power to govern in Toronto away from Torontonians and into the cabinet room at Queen's Park. The government should reconsider and vote this section down.

**Mr. Tabuns:** A question through you, Madam Chair, to Mr. Duguid: Correct me if I'm wrong, but I've had a sense from discussion or comment you've made in the course of these hearings that a number of the changes you're putting forward in this act may well be utilized to change the acts as they apply to other municipalities; for instance, Hamilton, London, Ottawa, Windsor. Is there an intention on the part of the government at this point to install this kind of legislative language in legislation covering other municipalities in this province in the years to come?

**Mr. Duguid:** The government is currently in discussions with AMO, in particular through our MOU process, on changes to the Municipal Act. We've received information from a number of municipalities through resolutions and discussions, and nothing has been drafted at this point in time in terms of the Municipal Act changes. We expect them to be coming forward and we're hoping that they'll be brought forward and introduced this spring.

**Mr. Tabuns:** Nothing has been drafted, but is it your intention to go in this direction with other municipalities?

**Mr. Duguid:** I can't speculate on that. Like I said, the legislation hasn't even been drafted and you're asking me to speculate on whether a regulation such as this could be put in place. Again, the Municipal Act is being considered in consultation with AMO. Whether this is something AMO would want in the act or not, I don't know.

**The Chair:** Any further discussion on section 151?

**Mr. Hardeman:** Just one more question. I keep hearing the parliamentary assistant suggest that it's done in consultation with AMO and the city of Toronto. I wonder how much consultation on the structure was done with the general public, or if there was any done. The general public who presented here, who were not present city councillors—in fact, even some city councillors.

Knowledgeable people came forward who didn't subscribe to this approach.

The other one, of course—it's not in here—is the term of office that was in the budget bill, where we extended the term of office. There were presenters here in this venue—and I guess that makes it appropriate to bring it up—who were opposed to that. How much of the consultation on this was done with the people presently outside the political structure?

**Mr. Duguid:** As opposed to the previous government, which had very little—

**Mr. Hardeman:** This wasn't a question about comparison; I wondered how much was done by this government.

**The Chair:** Mr. Hardeman, please let him answer the question.

1720

**Mr. Duguid:** Sometimes comparison is interesting. As opposed to the previous government, when they amalgamated the city and completely turned it upside down—a state from which the city is still trying to recover—where there was no consultation at all, we had unprecedented consultation. For the first time in the history of this province, I believe, the city and the province together embarked on a consultation that took place in every community across this city, with thousands of people having the ability to participate, discuss and have input on these particular matters. Governance was one of the most discussed topics during those consultations.

**Mr. Hardeman:** I just want to ask—it was a very nice answer, but it had nothing to do with my question—was there any consultation done as to the structure of council with the general public where I could be confident that this is what the public wants, a two-stage process: Give the city a chance to look at what's required, then turn around and, if they don't come up with the right answer, the province can impose it? Was the decision that that was the right way to deal with it from the general public or from city council?

**Mr. Duguid:** As I said, not only did we embark in a historic joint consultation with the city to hear directly from the people of Toronto, but the city commissioned Ann Buller and a number of others to put together a report and consult with the people and come back with recommendations, which they've done and which the city has considered and is in the process of considering as they move toward their decision. So there's been consultation at the city level directly and there's been joint consultation with the city and the province together. There has been a great degree of consultation on these particular matters.

**Mr. Hardeman:** Has there been any consideration of suggesting to the city that, prior to the passing of this bill, they come to a conclusion on that report so we would know what the structure would look like and whether it was going to be provincially imposed or not?

**Mr. Duguid:** That makes sense to me. The regulation is there to ensure that we have the ability to reach a conclusion in this. Our belief is that the city will work

extremely effectively in putting forward a governance structure that's going to work very well for the people of Toronto. We feel we have a responsibility to ensure that that happens. In doing so, that's why you have this regulatory ability within the legislation in front of you.

**Mr. Hardeman:** I'm still concerned about why it would have to be so specific in the regulatory ability. Why would this not just say that in the event the city doesn't find a solution, the minister can, by regulation, impose a different type of government, as opposed to telling them that they can appoint chairs to committees, telling them how their agendas must work and things like that? It just seems like the process is so micromanaged that I find it very difficult to believe that there is any intent for local control of this operation.

**Mr. Duguid:** That was a question?

**Mr. Hardeman:** Yes, I had the question in there. I've got all day. Was there any intent or consideration given to making it less prescriptive in this section, to say that because we've protected the local interest, the Lieutenant Governor in Council can have the ability to make regulations to implement a different form of governance as opposed to telling them to establish procedures relating to the dismissal of a person who was nominated or appointed under clause (d)? This is getting pretty micromanaged. I find it hard to understand why that would be considered local autonomy.

**Mr. Duguid:** Well, if you look at a governance structure, if you really wanted to put in regulations to completely impose a full governance structure, you'd probably need to be even more specific than that in a number of other areas. But we felt that there's a need to ensure that as the city moves forward, it does eventually get to approval of a governance structure that will work for the people of Toronto. This provides us with the ability to ensure that they get to that. We're very confident. In fact, as I said, I spoke to Mayor Miller today at a Walk of Fame event in Scarborough, and he's very excited about moving forward with this legislation and quite comfortable with the way it's drafted.

**Mr. Hardeman:** I keep hearing that you've had continuous conversation with Mayor Miller. Have you done the same with the other councillors? Obviously, the opinion of the council of Toronto is not consistent. I've heard some suggestions that this has been put in place in order to deal with, if the mayor can't convince the majority of council to do what he wants, he's going to use this as the hammer: "If you don't do it my way, the province will do it to you." Have you had any further discussions with members who have different views of whether this is a good idea or not?

**Mr. Duguid:** One of the advantages of having served on a previous council is that when you're going through reforms, everybody on that council knows you personally. You can rest assured that I've spent a fair amount of time talking to a number of my former colleagues. They don't all share the same opinion. In fact, I have two of my former colleagues who are serving in this Legislature with us: Mr. Berardinetti and Mr. Balkissoon.

**The Chair:** Any further debate? Seeing none, all those in favour of section—

**Mr. Tabuns:** Recorded vote.

### Ayes

Brownell, Duguid, Lalonde, Rinaldi.

### Nays

Hardeman, Tabuns.

**The Chair:** That's carried.

I'm looking down at sections 151 to 154. There are no amendments. Shall they carry? All those in favour? Sorry; Mr. Hardeman.

**Mr. Hardeman:** There are no amendments, but there is discussion. I have a problem with section 152. Again, the same problem exists. This is where we micromanage how we structure council, and now we're going to micromanage how we deal with the boards and commissions: "(g) providing for matters that, in the opinion of the minister, are necessary or desirable to allow the city to act as a local board, to exercise the powers of a local board or to stand in the place of a local board for any purpose." So the minister can, by regulation, replace a local board.

I just want to point out that this tendency in these sections to override the permissiveness of the bill is being overridden by the regulatory powers that the minister can make at any given time and take us away from this self-governance model that the minister spoke about.

Now you can have both sections in the same one.

**The Chair:** Okay. Sections 152 to 154: Any discussion? All those in favour? All those opposed? That's carried.

Part V: Accountability and transparency. Mr. Tabuns, you have the motion: page 46.

**Mr. Tabuns:** Yes, but again, it speaks to matters around the Child and Family Services Act, and given we've settled that, I'll just withdraw it.

**The Chair:** You'll withdraw it?

**Mr. Tabuns:** Yes.

**The Chair:** Okay. Shall section 155 carry? All those in favour? All those opposed? That's carried.

Mr. Tabuns, you have the next motion.

**Mr. Tabuns:** I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following section after section 155:

"Extended application

"155.1 Sections 164 and 165 (Registration re lobbying), 166 to 172 (Ombudsman) and 173 to 177 (Auditor General) apply, with necessary modifications, with respect to the board of health continued by section 400 and the library board continued by section 407."

Simply, lobbying registration requirements and Ombudsman functions and Auditor General duties apply to the board of health and library board.

1730

**The Chair:** Any discussion?

**Mr. Duguid:** We'll not be supporting that.

**Mr. Hardeman:** For clarification, it's just an add-on, that presently those officers do not apply to those boards?

**Mr. Tabuns:** Currently, that's right. This would make sure that lobbying requirements have consequence for the board of health as well and the library board, and Ombudsman functions and Auditor General duties.

**The Chair:** Any further discussion?

All those in favour of the motion? All those opposed? That's lost.

Sections 156 and 157: There are no amendments. Shall they carry? All those in favour? All those opposed? That's carried.

Next is section 158.

**Mr. Rinaldi:** I move that subsection 158(1) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out and the following substituted:

"Responsibilities

"(1) The commissioner is responsible for performing in an independent manner the functions assigned by city council with respect to the application of the code of conduct for members of city council and the code of conduct for members of local boards (restricted definition) and with respect to the application of any procedures, rules and policies of the city and local boards (restricted definition) governing the ethical behaviour of members of city council and of local boards."

**The Chair:** Any discussion? Seeing none, all those in favour of the—sorry, Mr. Hardeman, are you voting or asking a question?

**Mr. Hardeman:** I'm just asking for a clarification of what's changing.

**The Chair:** Mr. Duguid, did you want to respond to that?

**Mr. Duguid:** Yes. It expands the functions of the Integrity Commissioner that can be assigned by council to include the application of code of conduct and procedures, rules and policies governing the ethical conduct of local board members.

**The Chair:** Any further discussion? All those in favour of the motion? All those opposed. That's carried.

Mr. Tabuns, your next motion is a very good one and clearly is a duplicate of that first one.

**Mr. Tabuns:** Thank you for the positive reinforcement. I withdraw it.

**The Chair:** I want you to feel positive.

**Mr. Tabuns:** I can tell that.

**The Chair:** Thank you for withdrawing that. Yours is the next one.

*Interjection.*

**Mr. Tabuns:** I knew the committee had a purpose.

I move that section 158 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following subsection after subsection 158(1):

"Reports

"(1.1) City council may require the commissioner to make reports about the conduct of members of local

boards (restricted definition) to council instead of to the board.”

It just flows from the previous motion applying the code of conduct to members of local boards. This lets council decide whether those reports by the Integrity Commissioner come to the council itself or to the local boards.

**The Chair:** Any discussion?

**Mr. Duguid:** I know that Mr. Hardeman will ask for an explanation, so I might as well give it. As far as we can tell—we had a little bit of difficulty figuring out exactly why they wanted this. They already can require the Integrity Commissioner to do this, because they will define the authority of the Integrity Commissioner. We don’t think it’s necessary, and unless there’s another reason we’re not aware of, we can’t support it.

**The Chair:** Any further debate?

**Mr. Hardeman:** I guess, in opposition to the motion, I gather from it that this could allow council to ask for a report that the board had not yet seen.

**Mr. Tabuns:** Possibly, yes.

**Mr. Hardeman:** Other than that, what would be the reason you would want to do this? They can already appoint, and it can come through the board to council. Would this just be to avoid the board?

**Mr. Tabuns:** No. As I understand it, it’s simply to give the city the power to go one way or the other. I don’t know if it means that they would avoid the board. It occurs to me that if you had a board that had gone sour and you didn’t have confidence in the chair or the members of that board, the council could, on its own, review the report of the Integrity Commissioner and take action as necessary.

**The Chair:** Any further debate?

All those in favour of the motion? All those opposed? That’s lost.

Mr. Tabuns, you have the next motion.

**Mr. Tabuns:** Right. I’ll just note that my motion is similar to government motion number 54. I’ll move my motion, and then the government can take whatever action necessary.

I move that section 158 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following subsections:

“Duty to furnish information

“(5) The city and its local boards (restricted definition) shall give the commissioner such information as the commissioner believes to be necessary to perform his or her duties under this part.

“Access to records

“(6) The commissioner is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the city or a local board (restricted definition) that the commissioner believes to be necessary to perform his or her duties under this part.

“No waiver of privilege

“(7) A disclosure to the commissioner under subsection (5) or (6) does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege.”

**The Chair:** Any discussion?

**Mr. Duguid:** We support the majority of it, but the wording that we have in 54, we feel, is a little clearer, and there’s an aspect of this—I’m trying to remember which one it was. I think it was the final subsection, (7), which talked about solicitor-client privilege, litigation privilege and settlement privilege. We’re not sure that’s actually needed or even a good idea.

**Mr. Tabuns:** I say call the vote, Madam Chair.

**The Chair:** Any further discussion?

All those in favour of the motion? All those opposed? That’s lost.

Shall section 158, as amended, carry?

All those in favour? All those opposed? That’s carried.

**Mr. Tabuns:** Don’t you have an amendment to 158 coming up?

**The Chair:** No.

**Mr. Tabuns:** For your purposes, don’t you want to reject my amendment and then go to the amendment of the government?

**The Chair:** I’m going to go in order, because it’s not exactly the same. There is enough difference, and I have to go through my road map here. I’ll go in the ditch if I don’t follow the rules the clerk has given me.

Section 159 is a government motion.

**Mr. Brownell:** I move that clauses 159 (1)(a) and (b) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out and the following substituted:

“(a) in respect of a request made by city council, a member of council or a member of the public about whether a member of council or of a local board (restricted definition) has contravened the code of conduct applicable to the member; or

“(b) in respect of a request made by a local board (restricted definition) or a member of a local board (restricted definition) about whether a member of the local board (restricted definition) has contravened the code of conduct applicable to the member.”

**Mr. Duguid:** This just expands the number of triggers for an inquiry. It currently has city council or a member of council. This expands it to include a member of the public as being able to request an investigation.

**The Chair:** Any discussion? Seeing none, all those in favour of the motion? All those opposed? That’s carried.

The next motion is yours, Mr. Tabuns.

**Mr. Tabuns:** Madam Chair, this is effectively the same as the motion we just voted on, and on that basis, I’ll withdraw.

**The Chair:** Thank you.

The next motion is a government motion.

1740

**Mr. Rinaldi:** I move that subsection 159(3) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out and the following substituted:

“Information

“(3) The city and its local boards (restricted definition) shall give the commissioner such information as the commissioner believes to be necessary for an inquiry.

“Same

“(4) The commissioner is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the city or a local board (restricted definition) that the commissioner believes to be necessary for an inquiry.

“Penalties

“(5) City council may impose either of the following penalties on a member of council or of a local board (restricted definition) if the commissioner reports to council that, in his or her opinion, the member has contravened the code of conduct:

“1. A reprimand.

“2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days.

“Same

“The local board (restricted)—

**The Chair:** Could you read the number in, Mr. Rinaldi?

**Mr. Rinaldi:** Sorry.

“(6) The local board (restricted definition) may impose either of the penalties described in subsection (5) on its member if the commissioner reports to the board that, in his or her opinion, the member has contravened the code of conduct, and if city council has not imposed a penalty on the member under subsection (5) in respect of the same contravention.”

**The Chair:** Any discussion?

**Mr. Duguid:** The effect of this amendment was a request from the city of Toronto. It provides the Integrity Commissioner with the right to obtain information from the city and local boards for the purposes of an inquiry. It also provides city council or a local board with the ability to impose certain penalties on a member of a local board who has contravened the code of conduct. It stipulates that the local board cannot impose a penalty if council has already done so.

**Mr. Hardeman:** A question on the ability to impose penalties on the city council based on a commissioner’s report: Is that the same authority that they would have on one of their own? If the Integrity Commissioner found an infraction on a member of council, does city council have the same ability to impose these penalties on them?

**Mr. Duguid:** Yes. The original drafting didn’t include local board as having the ability but council as having the ability to impose the penalty. This will also allow the local board to impose the penalty. But if council has already imposed a penalty, then the local board cannot.

**Mr. Hardeman:** If I could ask one further question, on the penalty section, if we look at the Integrity Commissioner provincially, the ability is in the hands of the Integrity Commissioner to decide the size and the

need for the penalty. Why is it in the hands of city council here, after the Integrity Commissioner’s report?

**Mr. Duguid:** The Integrity Commissioner doesn’t impose a penalty but can recommend a penalty. Let me just check the section here to make sure I’ve got the right wording. The Integrity Commissioner can indicate that a member has contravened the code of conduct, and it’s up to council to impose a penalty. The Integrity Commissioner can recommend. So council would still have to issue either a reprimand or a suspension of remuneration for the member, which, according to this act, is for a period of up to 90 days. That would be a decision of council.

**Mr. Hardeman:** I understand, in this case, it is in council’s hands. I guess the question is if any consideration has been given to making it the same as it is provincially, which is that the penalty is also in the hands of the Integrity Commissioner, not in the hands of the Legislature.

**Mr. Duguid:** I’m not aware of any such discussion. I may have, but I’m not aware of any such discussion.

**The Chair:** Further debate? Seeing none, all those in favour of the motion? All those opposed? That’s carried.

Mr. Tabuns, you have the next motion.

**Mr. Tabuns:** Madam Chair, since it’s largely covered by the government motion, I will withdraw.

**The Chair:** Thank you. Committee, shall section 159, as amended, carry? All those in favour? All those opposed? That’s carried.

There are no amendments for section 160. Shall section 160 carry? All those in favour? All those opposed? That’s carried.

Next government motion: Mr. Brownell.

**Mr. Brownell:** I move that subsections 161(2) and (3) of the City of Toronto Act, 2006, as set out in schedule A to the bill, be struck out and the following substituted:

“Report about conduct

“(2) If the commissioner reports to city council or to a local board (restricted definition) his or her opinion about whether a member of council or of the local board has contravened the applicable code of conduct, the commissioner may disclose in the report such matters as in the commissioner’s opinion are necessary for the purposes of the report.

“Publication of reports

“(3) City council and each local board (restricted definition) shall ensure that reports received from the commissioner by council or by the board, as the case may be, are made available to the public.”

**The Chair:** Any discussion?

**Mr. Duguid:** This is just consequential to the amendments we made in section 159. It just makes this section consistent with that with regard to the local board.

**The Chair:** Any further debate? Seeing none, all those in favour of the motion? All those opposed? That’s carried.

Shall section 161, as amended, carry? All those in favour? All those opposed? That’s carried.

There are no amendments in sections 162 to 164. All those in favour? Those opposed? That's carried.

Section 165: government motion. Mr. Flynn?

**Mr. Flynn:** I move that section 165 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following paragraphs:

"6. Establish a code of conduct for persons who lobby public office holders.

"7. Prohibit former public office holders from lobbying current public office holders for the period of time specified in the bylaw.

"8. Prohibit a person from lobbying public office holders without being registered.

"9. Impose conditions for registration, continued registration or a renewal of registration.

"10. Refuse to register a person, and suspend or revoke a registration.

"11. Prohibit persons who lobby public office holders from receiving payment that is in whole or in part contingent on the successful outcome of any lobbying activities."

**The Chair:** Any discussion?

**Mr. Tabuns:** Generally speaking, I think that this is a right direction, and I have some additional amendments to add on the next page.

One question that was raised with me—and I would like to have, I assume through you, the opinion of legislative counsel or the parliamentary assistant—is that there's concern that breaches of the code of conduct may not be enforceable, and I need to know whether breaches of the code of conduct can result in the penalties set out in 9 and 10. Is there any legal problem there? Is enforceability solid?

**The Chair:** Do you want to ask that of legislative staff?

**Mr. Duguid:** I think it would be best to refer it to legislative staff, given that it's a legal question.

**The Chair:** Is there someone here from the ministry who wants to respond to that?

**Mr. Jeffrey Levitt:** My name is Jeffrey Levitt. I'm with the legal branch of the Ministry of Municipal Affairs and Housing.

The question, as I understand it, was the code of conduct which is to be established, its enforcement and the consequences. Under some of the other provisions which are in this same motion, including, for example, conditions for registration, it's conceivable that a condition of maintaining a registration is complying with the code of conduct. Non-compliance with the code of conduct thereby would be a breach of a condition of registration and lead to possible enforcement action through the registrar.

**Mr. Tabuns:** So possible enforcement action through simply refusing to allow them to carry on their trade; they wouldn't be able to lobby anymore, which would be of consequence to some.

**Mr. Levitt:** The enforcement could be, as it says in section 10, the suspension or revocation. Assuming the

bylaw requires registration to engage in the activity of lobbying, then it would conceivably have that effect.

**Mr. Tabuns:** So you're very comfortable that enforcement is possible, doable, within the framework of this legislation.

**Mr. Levitt:** Yes.

1750

**Mr. Tabuns:** On the record; that's good.

**Mr. Hardeman:** I want to follow that same vein. It seems to me that the total reason for a lobbying registry is so we know who's out there trying to convince politicians to make decisions in the best interests of someone else—that's the basic thrust of lobbying. The reason we need a registry is so the public would know that an individual is in that activity. If the penalty for contravening the code of conduct is that you no longer are registered, how do you proceed to enforce no longer lobbying? It would seem to me that the people who are the problem are the same group that exists before you have a registry. If you don't know who is lobbying, then the public will never know whether lobbying is taking place. If somebody is deregistered, it doesn't mean they're not still playing golf. How do we know they're no longer lobbying? I don't know how you would enforce that. I guess that's really in the same vein as my colleague was asking about. How do you have enforcement of that if they contravene the code of conduct, other than financial penalties?

**Mr. Levitt:** If I understand, the question is, "How do you know if someone is contravening this particular legislation, the requirement to register?" I'm not sure that's any different than how you know anybody is contravening—people contravening any kind of legislation is a general problem. I suppose the same enforcement techniques are used in other instances where people are supposed to do things and don't; they would use similar mechanisms.

**Mr. Hardeman:** My concern is just that I don't know how we define whether you're a lobbyist if you're not registered and you were previously a lobbyist.

**Mr. Levitt:** One aspect might be that the city is empowered to define what lobbying is. I guess there are two sides to lobbying. The person being lobbied may be aware that the person is not registered and may therefore take appropriate steps. The activity has two sides to it, and that may assist in compliance and enforcement.

**Mr. Tabuns:** Just so I'm very clear and so it's on the record, this legislation will allow the city to bar from lobbying—bar from registration to lobby—a person who violates the code of conduct for those who lobby public office holders. Is that correct?

**Mr. Levitt:** The legislation is empowering, and what it does will depend on how the city decides to set it up. But there is authority to impose conditions on registration, to refuse to register, to suspend or revoke a registration, and also to have conditions on people becoming registered in the first place. How it's ultimately enforced and where it goes, I guess, will depend on what the city chooses to do with this authority.

**Mr. Tabuns:** The empowerment here in no way would make it difficult for the city of Toronto to say that compliance with the code of conduct is a necessary condition for registration, and thus, if someone violates the code of conduct the city sets out, the city will then be able to say, “You can no longer lobby here because we will not register you.”

**Mr. Levitt:** Again, it depends on how the city decides to implement it. But as you can see in paragraph 9, the ability to impose conditions is wide and there are no restrictions in the legislation. So it’s not explicitly excluded, and there’s considerable breadth there.

**Mr. Tabuns:** Okay. So the explicit room gives the city the power to say, “If you, a lobbyist, violate our code of conduct, we will bar you from lobbying our members of council.”

**Mr. Levitt:** The answer to that question probably depends on what the code of conduct is, how the city implements it and the process that’s around there. But there is wide authority there for the city to set up that type of legislative infrastructure.

**Mr. Tabuns:** Fine.

**Mr. Hardeman:** In the same vein, the legislation does require anyone who is lobbying the city to be registered, right?

**Mr. Levitt:** Section 165—the initial parts—permits the city to provide for a system of registration. So the city is required to establish and maintain a registry where registration returns filed by persons lobbying will be filed, but the city is empowered to design the registration system itself.

**Mr. Hardeman:** Empowered, but not mandated.

**Mr. Levitt:** It’s basically a permissive authority. However, the registry itself is mandatory, so that would seem to indicate that there’s an expectation that returns would be filed. But the system itself is within the city’s powers.

**Mr. Hardeman:** The problem I have is that it’s permissive for the city to set up, but then, by law, if they set it up, does that mean that all people who do must be registered? And what is in there to deal with non-registered lobbying if the city has decided to exercise the authority to set up a registry?

**Mr. Levitt:** I guess the answer to the first question is that the city will be making those decisions about the type of people who have to register and the obligation, but people who are supposed to have complied with whatever system is developed and do not comply will be subject to the usual range of sanctions for people who violate city bylaws.

**Mr. Hardeman:** The city would sanction the people for non-compliance?

**Mr. Levitt:** There would be the possibility. What I’m trying to say in this case is that this would be an individual who doesn’t comply with a requirement, a bylaw of the city, and there may well be other people who don’t comply with other bylaws, who are supposed to do things that they don’t—the same range of enforcement would be available to the city. For instance, non-registration—not

to comply with the registration bylaw—could conceivably be made an offence. It might be that the city has the power to make non-compliance with its bylaws an offence.

**Mr. Hardeman:** Under the Provincial Offences Act?

**Mr. Levitt:** No. I believe that’s under the City of Toronto Act itself, under this act. So there may be the possibility that if someone has contravened a bylaw requiring registration, if it’s made an offence, there might be the possibility of enforcement action that way.

**Mr. Hardeman:** It becomes important whether it’s— if it’s just under the City of Toronto Act, then if you look at other municipal acts, if the enforcement is the same, the recourse is always, “Quit doing what you’re doing, because the bylaw says you can’t do it,” but there’s no recourse for a penalty for having done it. You’re suggesting that under this one there will be the ability to impose a penalty?

**Mr. Levitt:** In the same way that anybody who doesn’t comply with a bylaw, and it’s an offence, could be prosecuted for not complying with the bylaw, or I believe there is the ability to have injunctive relief as well for non-compliance with the bylaw. But I guess a typical penalty for non-compliance with a bylaw is that the person is charged with the offence of not complying with the bylaw—the provincial offence.

**The Chair:** Any further questions?

All those in favour of the motion?

**Mr. Tabuns:** A recorded vote.

### Ayes

Brownell, Duguid, Flynn, Hardeman, Lalonde, Rinaldi, Tabuns.

**The Chair:** It’s unanimous. That carries.

The next motion is yours, Mr. Tabuns.

**Mr. Tabuns:** I move that section 165 of the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following paragraphs—and for those who are following the text, I have modified it:

“12. Prohibiting persons from making payments to persons who lobby a public office holder that are in whole or in part contingent on the successful outcome of any lobbying activities.

“13. Prohibit persons who lobby a public office holder from engaging in fundraising activities on his or her behalf.

“14. Regulate the lobbying activities of former public office holders.”

### 1800

So I’ve eliminated the duplicates with the government motion on page 57. I note that the city of Toronto has gone through the whole process of the Bellamy inquiry. People are somewhat more sensitized to and aware of—

**The Chair:** Mr. Tabuns, can I just get a clarification for the clerk’s edification? You’ve taken your original motion and taken paragraph 6 out. What happened to paragraph 10?

**Mr. Tabuns:** I've taken it out as well, because there's a section of the previous motion—

**The Chair:** So you've changed paragraphs 7, 8 and 9 to 12, 13 and 14?

**Mr. Tabuns:** Correct.

**The Chair:** All right. Sorry.

**Mr. Tabuns:** No problem. So having gone through the Bellamy inquiry and having learned a lot from that, the city has asked for a number of amendments beyond those put forward by the government. I think they're reasonable and I'd ask that they be adopted.

**The Chair:** Any further discussion?

**Mr. Hardeman:** What number are we talking about?

**The Chair:** His motion is page 58, and what he's tried to do is complement the previous motion by changing the numbering on his. His motion read from paragraphs 6 to 10. He's removed paragraphs 6 and 10 and changed paragraphs 7, 8 and 9 to 12, 13 and 14, so everybody understands.

**Mr. Duguid:** I know the intent is good here. In looking at these, a few things jump out: prohibiting people who lobby to engage in fundraising activities. I'm not so sure that that's not an infringement of a fundamental right of people to contribute to the political process. I'm not sure if constitutionally—in fact, I've asked our lawyers. They weren't sure either whether constitutionally we could do that or not. I don't know if I would support it.

“Regulate the lobbying activities of former public office holders...” How the heck do you do that? Do you follow people around? They could be lobbying another level of government. In here, we have the ability to provide time that must pass before they can lobby their own government. We have some difficulties with this and won't be supporting it.

**Mr. Hardeman:** I can't support these. I think they're very close to the edge of the total purpose for lobbying. The people who are doing it obviously are not doing it because it was a personal interest; it was in someone else's interest. I would suggest that most of us do what we do in life to get paid and to make a living. To say that that can't be done doesn't make a lot of sense. I think this is going well beyond the public's right to know that lobbying is taking place.

**Mr. Tabuns:** Without belabouring the point, lobbying can be quite powerful, particularly if the lobbyist in question is a major fundraiser for a politician or a group of politicians. I remember the famous story in the *Globe and Mail* of a reporter walking past an office and hearing a lobbyist scream at one councillor, “Well, that's the last batch of baseball tickets I'm selling for you, given the position you have taken on this particular law.” I think that having a person come into an office and make an argument about a particular piece of legislation and set out the reasons why the legislation is useful and valid—that's life. That's part of the political process. But the extent that the lobbyist deepens their power in the relationship with a politician by being a major source of

funding moves us away from argument, logic and advocacy to a deeper influence that can be problematic.

**Mr. Hardeman:** I do believe that the onus of that is on the politician, not on the people who are putting forward their position. They have a job to do, which is to present the case to get a decision. The politicians have to make the decision whether they're taking that in an unethical way. The registry is meant to aid the public's right to know who's doing what and why they're doing it. I think that would go far enough. I can't support this.

**The Chair:** Any further debate? Seeing none, all those in favour of the motion?

**Mr. Tabuns:** A recorded vote.

### Ayes

Tabuns.

### Nays

Brownell, Duguid, Flynn, Lalonde, Rinaldi.

**The Chair:** That's lost.

Shall section 165, as amended, carry? All those in favour? All those opposed? That's carried.

Section 165.1: government motion.

**Mr. Lalonde:** I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following section after section 165:

“Prohibition on contingency fees

“165.1 Without limiting sections 7 and 8, those sections authorize the city to prohibit a person on whose behalf another person undertakes lobbying activities from making payment for the lobbying activities that is in whole or in part contingent on the successful outcome of any lobbying activities.”

**The Chair:** Any discussion?

**Mr. Duguid:** This just clarifies the prohibition of contingency fees or success fees. That's all it does.

**The Chair:** Any further discussion? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Shall section 165.1 carry? All those in favour? All those opposed? That's carried.

Government motion page 60: Mr. Rinaldi.

**Mr. Rinaldi:** I move that the City of Toronto Act, 2006, as set out in schedule A to the bill, be amended by adding the following section after section 165.1:

“Registrar for lobbying matters

“165.2(1) Without limiting sections 7 and 8, those sections authorize the city to appoint a registrar who is responsible for performing in an independent manner the functions assigned by city council with respect to the registry described in subsection 164(1) and the system of registration and other matters described in section 165.

“Powers and duties

“(2) Subject to this part, in carrying out these responsibilities, the registrar may exercise such powers and

shall perform such duties as may be assigned to him or her by city council.

“Delegation

“(3) The registrar may delegate in writing to any person, other than a member of city council, any of the registrar’s powers and duties under this part.

“Same

“(4) The registrar may continue to exercise the delegated powers and duties, despite the delegation.

“Status

“(5) The registrar is not required to be a city employee.”

**The Chair:** Any discussion? Seeing none, all those in favour of the motion? All those opposed? That’s carried.

Mr. Tabuns, I believe the next one is withdrawn. It’s a duplicate.

**Mr. Tabuns:** Withdrawn.

**The Chair:** Thank you.

Shall section 165.2 carry? All those in favour? All those opposed? That’s carried.

I gather there’s a replacement motion on section 165.3. Mr. Hardeman.

*Interjection.*

**The Chair:** We can go more quickly, if people cooperate.

**Mr. Hardeman:** No, I think the time of adjournment has arrived.

**The Chair:** It is after 6. Since it’s after 6, we’re going to have to adjourn.

**Mr. Duguid:** Madam Chair, we’re willing to continue—

**The Chair:** Are the opposition willing to continue? Would you like to continue so we can get through this bill?

**Mr. Hardeman:** No. I can only sit so long.

**The Chair:** Okay. Committee, we’re going to have to adjourn now, as it is after 6 of the clock. The next time that we’re going to be able to sit is June 12, as we have already committed to sitting on another bill for this committee. I’d like to tell the committee that on this issue this committee stands adjourned until—

**Mr. Duguid:** I would expect probably that the House leaders may have some discussion.

**The Chair:** Well, until further notice, we’re adjourned on clause-by-clause on this bill.

*The committee adjourned at 1810.*

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