

13

BILL 14, *ACCESS TO JUSTICE ACT*, 2005

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, December 8, 2005, from the Regional Solicitor:

1. RECOMMENDATIONS

It is recommended that:

1. The Regional Chair send a letter to the Attorney General requesting that Schedule B of Bill 14, the *Access to Justice Act*, 2005 be separated out and enacted forthwith to provided relief to the *Provincial Offences Act* court system by enabling the appointment of per diem Justices of the Peace.
2. A copy of this report be circulated to AMO, MARCO and all York Region MPPs.

2. PURPOSE

The purpose of this report is to provide Regional Council with a brief overview of Bill 14, *Access to Justice Act*, 2005 to recommend that the Region advocate for the immediate enactment of Schedule B containing amendments to the *Justices of the Peace Act*.

3. BACKGROUND

Regional Council has received numerous reports over the past two years identifying the impact of shortage of Justices of the Peace in Central East Region. At its meeting on November 17, 2005, Regional Council authorized a further request to the Attorney General for appointments of Justices of the Peace in Central East Region to address the current vacancies and anticipated attrition.

The shortage of Justices of the Peace is clearly interfering with proper administration of justice in the Provincial Offences Court system throughout the Province. This issue recently gained public attention through the media, and shortly thereafter on October 27, 2005, the Provincial Government introduced Bill 14, *Access to Justice Act*, 2005. This omnibus bill consists of six schedules amending several pieces of legislation dealing with the appointment of Justices of the Peace as well as the regulation of paralegals; changes in the administration of civil and family courts; introducing alternative dispute resolution in municipal matters; and provision for electronic presentation of evidence in POA matters.

4. ANALYSIS AND OPTIONS

Attorney General Michael Bryant has stated that the *Access to Justice Act*, 2005 would modernize the justice system and improve access to justice. The amendments contained in Bill 14 are intended to provide greater openness, transparency and accountability, and bolster public confidence in the justice system. Bill 14 includes proposed amendments to several pieces of legislation including the *Courts of Justice Act*, *Limitations Act*, *Justice of the Peace Act*, *Public Authorities Protection Act* and *Law Society Act*. It also proposes the introduction of a new *Legislation Act* to provide a consolidated source of authority on statutes, regulations, proof of legislation and the interpretation of statutes.

The schedule most relevant to municipalities is Schedule B addressing the Justice of the Peace system.

Schedule B – Justices of the Peace Act and Public Authorities Protection Act Amendments

The amendments to the *Justices of the Peace Act* are intended to ensure a more open and transparent appointment process for Justices of the Peace, increase the efficiency of Provincial Offences Courts and allow greater flexibility in dealing with the workload of the courts. If passed, the *Access to Justice Act*, 2005 would:

- Establish minimum qualifications for the appointment of a Justice of the Peace;
- Establish a new Justices of the Peace Appointments Advisory Committee within each judicial region to develop and oversee a recruitment and selection process for appointments of Justices of the Peace;
- Expand the functions of the Justices of the Peace Review Council to improve the complaints and discipline process and make it more effective;
- Allow for retired Justices of the Peace to continue to serve on a per diem basis until the mandatory retirement age of 70;
- Phase out non-presiding Justices of the Peace and appoint all new Justices of the Peace as full-time presiding;
- Enable the Senior Regional Justice to dedicate Justices of the Peace to particular matters including the Provincial Offences Courts.

The amendments pertaining to the appointment of per diem Justices of the Peace and the assignment of dedicated Justices of the Peace for *Provincial Offences Act* matters would provide immediate relief to the backlog in the courts created by the shortage of Justices of the Peace. These appointments would not result in a new cost to municipalities since Justices of the Peace are currently paid on an hourly rate when presiding over POA matters.

The proposals contained in Schedule B of Bill 14 are fairly straightforward and, if enacted, would bring immediate relief to Ontario's backlogged POA courts. However, the remainder of Bill 14 contains complex and potentially contentious amendments which will no doubt require lengthy legislative process in order to be enacted. The result, that potential relief for POA courts from the appointment of per diem Justices of the Peace may be delayed for several years. The delay could be avoided if Schedule B is separated out from the remainder of Bill 14 and enacted forthwith.

5. FINANCIAL IMPLICATIONS

There are no direct financial implications associated with this report.

6. LOCAL MUNICIPAL IMPACT

Local municipalities are impacted by the current backlog in the Region's POA courts and would benefit from the relief achieved through the expeditious passage of Schedule B of the *Access to Justice Act*, 2005.

7. CONCLUSION

The shortage of Justices of the Peace in Central East Region threatens to undermine public confidence in the justice system in York Region. If the shortage continues without relief and demands on the system continue to escalate, the Region's POA court system will not be able to provide appropriate access to justice. The expeditious passage of Schedule B of the *Access to Justice Act*, 2005 would bring relief to the shortage of Justices of the Peace by permitting the appointment of retired Justices of the Peace on a per diem basis.

The Senior Management Group has reviewed this report.