




**CITY OF HAMILTON**  
**CORPORATE SERVICES DEPARTMENT**  
**Financial Services and Taxation Division**

<b>TO:</b>	Chair and Members Audit, Finance and Administration Committee
<b>COMMITTEE DATE:</b>	May 02, 2024
<b>SUBJECT/REPORT NO:</b>	Bill 185, <i>Cutting Red Tape to Build More Homes Act, 2024</i> as it Relates to the <i>Development Charges Act, 1997</i> (FCS24034) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Ailish Brooke (905) 546-2424 Ext. 6875
<b>SUBMITTED BY:</b>	Kirk Weaver Acting Director, Financial Planning, Administration and Policy Corporate Services Department
<b>SIGNATURE:</b>	

### RECOMMENDATION(S)

- (a) That Council endorse the proposed submissions and recommendations as provided in Appendix “B” to Report FCS24034 regarding Schedule 6 to proposed Bill 185, *Cutting Red Tape to Build More Homes Act, 2024*; and
- (b) That the General Manager, Finance and Corporate Services, be authorized to make further submissions on Bill 185, *Cutting Red Tape to Build More Homes Act, 2024* and any associated regulations consistent with the comments and concerns raised in Report FCS24034, as opportunities are provided for comments.

### EXECUTIVE SUMMARY

On April 10, 2024, the Minister of Municipal Affairs and Housing introduced Bill 185, *Cutting Red Tape to Build More Homes Act, 2024* (“Bill 185”), which proposes to amend 15 Acts that directly impact municipalities. Schedule 6 to Bill 185 pertains to proposed amendments to the *Development Charges Act, 1997* (“DC Act”). The Province of Ontario has opened a comment period for feedback on the proposed changes to the DC Act (ERO 019-8371) which closes on May 10, 2024.

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

The purpose of Report FCS24034 is to provide an overview of the proposed changes to the DC Act (Appendix “A” to Report FCS24034). In addition, staff recommends Council endorsement of the submission, on behalf of the City of Hamilton, (Appendix “B” to Report FCS24034) of comments to the Province through Recommendation (a) to Report FCS24034.

Bill 185 proposes the reversal of several legislative decisions which came into effect through Bill 23, *More Homes, Built Faster Act, 2022* (“Bill 23”). The proposed amendments to the DC Act include:

- (1) re-defining eligible capital costs to include studies;
- (2) removal of the mandatory five year phase-in of new DC rates;
- (3) simplifying the process to amend DC by-laws passed during a specified period to allow for updates to DC By-laws to reflect the changes in items (1) and (2); and
- (4) decreasing the duration of site plan / zoning by-law amendment rate lock-in from two years to 18 months.

Enactment of these amendments through Bill 185 would have implications to the 2024 DC by-law under consideration via Report FCS23103(b), “2024 Development Charges Background Study, Policies and By-Law – Final Report.”

The reversals of Bill 23 proposed through Bill 185 represent a substantial advancement in improving the City’s capacity to finance growth-related costs without imposing an undue burden on rate and taxpayers. Further amendments aligned with the objectives of Bill 185, as outlined in Appendix “B” to Report FCS24034, would enhance the City’s ability to responsibly meet the infrastructure and service needs of the growth and housing objectives set by the Province.

**Alternatives for Consideration – Not Applicable**

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: There are no financial implications related to the endorsement and submission of comments as recommended through Report FCS24034. Bill 185 would have positive financial implications for the City due to an increased ability to collect DCs. An overview of the financial implications of Bill 185, if enacted, and impacts on financing strategy included in the 2024 Tax and Rate Budgets will be included in the 2025 Budget Outlook Report.

**Staffing:** There are no staffing implications related to the endorsement and submission of comments as recommended through Report FCS24034. Passage of Bill 185, as drafted, would not have an impact on required staffing levels.

**Legal:** There are no legal implications related to the endorsement and submission of comments as recommended through Report FCS24034. Staff will continue to monitor the progress related to the implementation of Bill 185.

## **HISTORICAL BACKGROUND**

In the last five years, the Province has enacted various pieces of legislation amending the DC Act (including Bill 108, *More Homes, More Choice Act, 2019*; Bill 138, *Plan to Build Ontario Together Act, 2019*; Bill 197, *COVID-19 Economic Recovery Act, 2020*; Bill 109, *More Homes for Everyone Act, 2022*; Bill 23, *More Homes, Built Faster Act, 2022*, Bill 134, *Affordable Homes and Good Jobs Act, 2023*) with the intent of facilitating the construction of 1.5 million new homes in Ontario by 2031. The objective of increasing housing availability is shared by the City. These legislative changes have rapidly altered the regulatory landscape of DCs and generally decreased the ability of municipalities to fund growth-related costs while increasing the administrative burden of collecting DCs. Bill 185 represents another significant modification to the DC Act that better positions municipalities to meet the infrastructure needs of growing communities.

Table 1 to Report FCS24034 outlines the legislative changes to the DC Act since 2020 which are proposed for further amendment through Bill 185.

**Table 1  
Summary of Legislative Amendments to the DC Act Since 2020  
Relevant to Bill 185, *Cutting Red Tape to Build More Homes Act, 2024***

<b>Existing Content of the DC Act</b>	<b>Related Legislation and Timing</b>	<b>Bill 185 Proposed Amendment</b>
<p><b>DC Rate Lock-In</b> DC rates are locked in at the date of application for a site plan or zoning by-law amendment for two years from the date of approval. Interest is permitted from the date of application to the date of building permit issuance at a prescribed maximum rate.</p>	<p>Bill 108 January 1, 2020</p> <p>Bill 23 November 28, 2022</p>	<p>Reduce the rate lock-in period from two years to 18 months.</p>
<p><b>Removal of Studies as Eligible DC Capital Costs</b> DC rates are calculated based on eligible capital costs. Studies were eliminated as an eligible capital cost which removed municipalities' ability to collect DCs for this purpose.</p>	<p>Bill 23 November 28, 2022</p>	<p>Include studies as an eligible capital cost.</p>
<p><b>Five Year Phase-In</b> DC By-Laws passed after June 1, 2022 must phase-in DC rates relative to the maximum charge that could be imposed under a by-law. This phase-in requires DCs be discounted according to a prescribed schedule.</p>	<p>Bill 23 November 28, 2022</p>	<p>Eliminate the phase-in.</p>

Note: Table 1 only includes amendments to the DC Act since 2020 which are relevant to Bill 185.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

The purpose of Report FCS24034 is to request Council endorsement of the comments to be provided to the Province in response to the DC Act changes proposed through Bill 185. There are no policy implications or legislated requirements related to the endorsement and submission of comments attached as Appendix “B” to Report FCS24034.

Enactment of Bill 185 has been considered in the drafting of the 2024 DC By-law and related policy recommendations under consideration via Report FCS23103(b), “2024 Development Charges Background Study, Policies and By-Law – Final Report.”

## **RELEVANT CONSULTATION**

Legal and Risk Management Services, Corporate Services Department staff, were consulted in the development of Report FCS24034.

Planning and Economic Development Department staff were consulted with respect to the City's approach to responding to the Environmental Registry of Ontario (ERO) postings related to changes proposed through Bill 185.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)**

The purpose of Report FCS24034 is to provide an overview of the proposed changes to the DC Act (Appendix "A" to Report FCS24034) and recommend Council endorsement of comments on behalf of the City of Hamilton (Appendix "B" to Report FCS24034). The Province has provided for consultation on the DC Act Changes proposed through Bill 185 through ERO 019-8371 from April 10, 2024 through May 10, 2024. Staff's draft comments to the Province are attached as Appendix "B" to Report FCS24034 for Council endorsement through Recommendation (a) to Report FCS24034. A separate report led by the Planning Division, Planning and Economic Development Department is expected to be presented to the Planning Committee on May 14, 2024 and will address the other Schedules to Bill 185 which include non-DC related components to Bill 185.

### **Summary of Key Changes Proposed to the DC Act**

#### Definition of Capital Costs to Include Studies

Bill 185 proposes the definition of eligible capital costs be amended to allow for the inclusion of growth studies, secondary plans, masterplans and the DC Background Study in the DC calculation. This would represent a reversal of the previous legislative decision through Bill 23 which removed the ability for municipalities to include the cost of studies in the DC Calculation. Through the recommendations to Report FCS22085 "*Bill 23, Proposed More Homes Built Faster Act, 2022* as it relates to the *Development Charges Act*," Council endorsed feedback to the Province which requested that studies remain as an eligible capital cost to avoid the transfer of the financial burden of funding the required studies to property tax and rate payers.

Appendix "B" to Report FCS24034 indicates the City is in support of the proposed amendment through Bill 185 to include studies as an eligible capital cost.

### Removal of Five-Year Phase-In of DC Rates

Bill 185 proposes the removal of the mandatory phase-in of DC rates over five years. This would represent a reversal of the previous legislative decision through Bill 23 which enacted the phase-in for DC by-laws passed after January 1, 2022 and required the DCs be discounted by 20% in Year 1, 15% in Year 2, 10% in Year 3 and 5% in Year 4 with the full DC rate applying in Year 5. Through the recommendations to Report FCS22085 “Bill 23, Proposed *More Homes Built Faster Act, 2022* as it relates to the *Development Charges Act*,” Council endorsed feedback to the Province which requested that the phase-in be eliminated as it discounted DCs such that the City would have insufficient DC funding to support growth-related costs.

The removal of the five-year phase-in would initiate a significant shift in the City’s forecasted DC collections versus exemptions and better enable the City to support the costs of growth with less reliance on the property tax levy. An overview of the financial implications of Bill 185, if enacted, and impacts on the financing strategy included in the 2024 Tax and Rate Budgets, will be included in the 2025 Budget Outlook Report.

Appendix “B” to Report FCS24034 indicates that the City is in support of the proposed amendment through Bill 185 to remove the five-year phase-in of new DC rates. This proposal represents recognition from the Province that the costs of growth-related infrastructure and services are defined by need and municipalities must have the ability to fund growth-related costs without undue burden being placed on rate and taxpayers.

### Simplified DC By-Law Amendment Process

Bill 185 proposes a simplified process to amend DC by-laws passed in the period between the enactment of Bill 23 (November 28, 2022) which removed studies as an eligible capital cost and the date Bill 185 receives Royal Assent. This will allow for the addition of studies as an eligible capital cost and the removal of references to DC rate phase-in. The simplified process would be available for six months following the Royal Assent of Bill 185 which would then be repealed. The simplified by-law amendment process waives the typical requirements associated with the amendment of a DC by-law, including the requirements for an updated DC Background Study, public consultation and the opportunity for appeal of the by-law amendment. Further, Bill 185 proposes the ability for municipalities to utilize the simplified amendment process indefinitely when the purpose of the amendment is only to extend the expiry of a DC by-law.

The 2024 DC Background Study and the DC by-law under consideration via Report FCS23103(b), “2024 Development Charges Background Study, Policies and By-Law – Final Report” was not permitted to include the cost of studies. Additional review following the passage of Bill 185 will be undertaken by staff in collaboration with DC Consultants (Watson & Associates Economists Ltd.) to affirm the appropriate steps to calculate and permit collection for DC studies.

Appendix “B” to Report FCS24034 indicates the City is in support of the proposed amendment through Bill 185 to allow for a simplified process to amend DC by-laws to include the capital costs of studies but requests the addition of a grace period to allow for by-laws passed within three months of Bill 185 receiving Royal Assent to be permitted to benefit from the simplified amendment process.

#### Reduction of Site Plan / Zoning By-Law Amendment Rate Lock-In Period

Bill 185 proposes the reduction of the site plan / zoning by-law amendment rate lock-in period from two years to 18 months from the date of approval of the application. The Province has indicated that the intent of this proposal would be to expedite building processes and incentivize developers to obtain building permits promptly following approval of a site plan or zoning by-law amendment application.

Staff do not anticipate significant variations in DC collections because of this proposed amendment. However, the proposal adds administrative complexity to the calculation of DCs. Applications submitted prior to the enactment of Bill 185 will be locked-in for two years, whereas applications submitted after Bill 185 receives Royal Assent will be locked-in for 18 months.

Appendix “B” to Report FCS24034 indicates that the City is supportive towards the proposed amendment through Bill 185 to reduce the site-plan / zoning by-law amendment rate lock-in period.

#### **Additional Information**

The Province has announced that the DC exemption of affordable housing, introduced through Bill 23 and amended through Bill 134, will come into force on June 1, 2024. This exemption applies to residential units (rented and owned) which meet the definition of affordable housing per the DC Act. The Minister of Municipal Affairs and Housing will publish a Bulletin to determine the dollar threshold for a unit to be considered affordable.

When this exemption was introduced through Bill 23, Council endorsed feedback to the Province through the recommendations to Report FCS22085, “Bill 23, Proposed *More Homes Built Faster Act, 2022*, as it relates to the *Development Charges Act*” and through Report PED23256 “Bill 134, Proposed Affordable Homes and Good Jobs Act, 2023”, which rose concerns regarding the level of specificity and localization within the Bulletins. Appendix “B” to Report FCS24034 expands upon the potential challenges of implementing the affordable housing exemption including the process to secure the financial obligation (e.g., registering the obligation on title) and the process for collections in the event of default. Staff will continue to consult with Legal and Risk Management Services to develop a plan for the implementation of the affordable housing exemption and report back to Council as required.

### **Conclusion**

Bill 185 marks a significant amendment to the DC Act, positively shifting the legislative framework to better equip municipalities to manage and provide for the infrastructure needs of growing communities. Bill 185 introduces several beneficial reversals of previous legislation including the re-inclusion of the studies in the definition of capital costs and removal of the mandatory phase-in and the associated simplified by-law amendment process to adjust for each of these reversals. The proposed amendments introduced by Bill 185 represent a substantial advancement in improving the City’s capacity to finance growth-related needs without relying as heavily on rate and taxpayers. Further amendments aligned with the objectives of Bill 185 would enhance the City’s ability to responsibly meet the infrastructure and service needs of the growth and housing objectives set by the Province.

### **ALTERNATIVES FOR CONSIDERATION**

Not Applicable.

### **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report FCS24034 – Summary of Changes Proposed to the *Development Charges Act, 1997* through Schedule 6 to the *Cutting Red Tape to Build More Homes Act, 2024* (Bill 185)

Appendix “B” to Report FCS24034 – City of Hamilton Staff Submission on the Proposed Changes to the *Development Charges Act, 1997* through Schedule 6 to the *Cutting Red Tape to Build More Homes Act, 2024* (Bill 185)

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