

**Comment on Bill 39, Better Municipal Governance Act  
Standing Committee on Heritage, Infrastructure and Cultural Policy**

Bill 39 should be withdrawn as it offends the basic democratic principles that confer legitimacy on our system of governance.

The Charter of Rights and Freedoms provides Democratic Rights, among them the right to vote. This right is not limited to being able to vote, it is also interpreted as the right to effective representation. The Charter also guarantees equality rights, meaning being treated equally before and under the law.

The adoption of minority rule as proposed by Bill 23, whereby municipal by-laws proposed by a head of council can be adopted with the support of only one third of council, effectively treats citizens unequally. The vote on Council of each representative who supports the head of council's proposal is given more weight than the vote of each representative who opposes the proposal. In the case where the bare minimum of 1/3 is achieved to pass the bylaw, the vote of each councillor in support is worth 1.5 votes but the vote of each councillor in opposition is only worth .75 of a vote. If I am represented by one of the councillors in opposition, then my right to effective representation is infringed compared to my neighbour in the next ward whose councillor supports the proposal.

If, as is normal in most or all public legislative bodies, the votes of all members are given equal weight, I can bear a result that I do not support. This is the bargain of democracy. The majority prevails. If the process is fair and my representation in the process was given due respect, concern and consideration, I have no complaint. But if the decision rule is set up in a way that gives my representation less weight than that of my peers, then it's an intolerable injustice, which threatens the very heart of democracy.

The Bill covers changes to the City of Toronto Act for the purpose of giving its head of council this superpower. (Schedule 1).

It covers a change of status for the Duffins Rouge Agricultural Preserve. (Schedule 2)

It provides authority for the Minister to appoint and fix the term of the head of council for three regional municipalities (Niagara Falls, Peel and York). Also undemocratic in my opinion. (first part of Schedule 3).

The rest of Schedule 3 deals with the addition to the Municipal Act of section 284.11.1, which would confer the superpower to the head of council of a designated municipality, without naming any, and without describing the process by which municipalities would so be designated. Ottawa is not specified in the Bill.

The Bill does not make mandatory the use of the superpower. It puts in place a procedure that the head of council who is entitled to do so must follow to invoke it, that is, to give proper notice of intention and to provide the rationale for its use. And it specifies that a one third minority would be sufficient to pass it. This would apply to bylaws made under the Municipal Act, the Planning Act and any other prescribed act or regulation.

With this understanding of the total Bill, our view is that:

- Changes proposed in Schedule 1 should be rejected. There is no reason to disenfranchise the residents of Toronto, or any Ontario city.
- Changes proposed in the first part of Schedule 3 should be rejected. It is very undemocratic for the Minister to have the power to appoint and fix the term of any elected official.
- The addition of section 284.11.1 to the Municipal Act in Schedule 3 should be rejected. It is abhorrent and offends democratic norms to give the head of council of any Ontario municipality the power to pass bylaws with the support of only one third of council, even if it is discretionary.

Paul Johanis, PhD (Public Policy)  
Chair, Greenspace Alliance of Canada's Capital