



Federation of
South Toronto
RESIDENTS'
ASSOCIATIONS

BILL 39

Better Municipal Governance Act

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FoSTRA's Submission for Bill 39, *The 'Better Municipal Governance' Act*

Bill 39 severely restricts democracy in Toronto and the Regional Municipalities of Niagara, Peel and York. The heads of Council in these municipalities will be able to introduce and approve bylaws on the most important issues of the day – with only a third of the citizen-elected Council representatives!

This is only the latest assault on local democracy by Ontario's Progressive Conservative (PC) government. It began immediately after the 2018 election.

A History of the Assault on Local Democracy

In 2014, Toronto had embarked on a Ward Boundary Review. More than 20 consultations led to an expansion of the number of wards – to facilitate what the Canadian Charter of Rights calls “electoral listening.” Upon appeal, the Ontario Municipal Board had approved the 47 Wards, and the 2018 municipal election had been organized along those lines.

Two-thirds of the way through that campaign, without prior warning, Toronto's electoral map was abruptly changed. On 14 August 2018, the PC government reduced the number of councillors and wards from 47 to 25.

Despite its Orwellian-titled *Better Local Government Act*, Bill 5 decreased local control and, in the process, favoured conservative candidates. Most progressive candidates lost the ridings they were running in, or were left to compete with long-term incumbents in expanded wards. The gerrymandering worked. Toronto City Council was politically divided in favour of conservatives, at least until the recent 2022 municipal elections.

Councillors of all political stripes are still struggling to represent their drastically enlarged constituencies – each with a greater population than 95% of Ontario municipalities, as well as most provincial and federal electoral districts.

Not content with this assault on democracy, on 20 October 2020, in legislation to protect businesses from COVID-related lawsuits, the PCs snuck in a Schedule preventing the introduction of ranked ballots in municipal elections – thus reversing legislation approved by the previous provincial Liberal government, and scuttling preparations by the City of Toronto for the 2026 municipal elections.

Kingston and Cambridge were slated to introduce ranked ballots (aka alternative voting or AV) in 2022, following referendums that supported it overwhelmingly. It was too late for London, which was already in the midst of its 2018 elections with ranked ballots. As a result, 93% of London's councillors had the support of over 50% of those who voted. And almost 40% of its electorate voted. When these electoral reforms were reversed for 2022, only 25% of its citizens even bothered.

With the existing First-Past-The-Post system in municipal elections, candidates can win with less than 30% of the popular vote, as did Scarborough North's Cynthia Lai with only 27.02% in 2018. In that same election, 18 of the 25 Toronto councillors won with less than 50% of the votes, maintaining the advantage of incumbents, especially conservatives.

Once again, in 2022, the governing PCs brought in Bill 3, *The Strong Mayors, Building Homes Act*, although no mention had ever been made of their intentions during the campaign.

Bill 3 destroyed several democratic principles.

The supremacy of City Council is no more. Bill 3 will allow the Mayor to veto bylaws approved by the majority of councillors, bylaws that he feels are not in keeping with the not-yet-defined "provincial priorities." Only a two-thirds or 'super majority' of Council can override this veto. The power of Torontonians' duly elected representatives is now subjugated to the will of the Mayor.

The potential exists for judicious application of the veto in situations where NIMBYism might present itself. However, a far greater risk of abuse exists unless there is a clear understanding of the circumstances that would warrant its application and the Mayor's accountability when it is used.

Bill 3 maintains the powers of the Mayor to vote in Council and increases his or her ability to manipulate other councillors with the threat of a veto. The manipulation of councillors is compounded by the Mayor's powers in Schedule 1 to appoint not only his Executive Committee, but also all chairs of City committees and members of agencies, boards and commissions.

Even more egregious, empowering the Mayor to appoint all senior City staff dispenses with the principle of administrative independence and the neutrality of civil servants. Toronto councillors will no longer be able to look to City staff for impartial advice, since it will be provided at the pleasure of the Mayor.

Bill 23, *The More Homes Built Faster Act*, passed on 28 November 2022. Along with many harmful amendments to existing legislation, this Bill limits the ability of Ontario citizens to participate in and be consulted on developments in their communities. It compromises their planning departments, environmental standards, heritage protections and affordable housing policies. It threatens or disallows previously approved bylaws supported by citizens. It prevents their education and protection by Conservation Authorities. And by making municipalities pay for development, it forces citizens to accept either drastically reduced services and infrastructure, or **taxation without representation**.

Bill 39 turns Toronto City Council into a consultative body.

Reducing the voice of the people by the previous legislation was apparently not enough. The day after the 2022 Toronto municipal election, which brought in a new wave of progressive councillors, Bill 39 was introduced. This was done at the request of John Tory, although he had made no mention of his desire during the campaign. In fact, he claimed he would only use the “strong mayor” powers bestowed by Bill 3 reluctantly. But, not content to veto bylaws he doesn’t like, the Mayor will be able, thanks to Bill 39, to introduce and have bylaws approved with the support of only one-third of the City Council – eight of the 25 councillors plus himself.

How can a provincial government, elected by **majority** rule impose **minority** rule on Toronto and other municipalities? With all of the powers already provided by Bill 3, Toronto City Council will become little more than an advisory body under Bill 39, and a select group of councillors will, along with the Mayor, make all of the major decisions.

This gradual erosion of democratic principles raises another spectre. The recent dismal turnout in the municipal elections may well be a reflection of the sense of despair of the average voter observing the destruction of meaningful consultation, the failure of their votes to count, and the compromised ability of their councillors to represent the interests of their constituents. Why bother to vote at all?

Schedule 3 of this Act extends these same bylaw powers to the Council heads of the Regional Municipalities of Niagara, Peel and York. These heads of Council will henceforth be appointed by the Minister of Municipal Affairs and Housing, instead of being elected, further reducing democracy in southern Ontario. At least Toronto still gets to vote for its mayor – albeit one beholden to the provincial government.

Lest we forget about the governing PCs’ continuing campaign to compromise Ontario’s environment, Schedule 2 of Bill 39 also removes protections from lands adjacent to the Green Belt. The Duffins Rouge Agricultural Preserve, first protected in 2005 – a protection upheld by the Superior Court in 2007 – will now be opened for development. This is the only agricultural preserve in the province and is highly valued farmland. Protection of the Conservation Land Act will no longer apply and this Schedule will prevent lawsuits for damages or other legal proceedings against those responsible. And who will benefit? The media is beginning to show us.

Joni Mitchell first sang about it over 50 years ago:

They took all the trees
Put 'em in a tree museum
And they charged the people
A dollar and a half just to see 'em

"Don't it always seem to go
That you don't know what you've got
Till it's gone
They paved paradise
And put up a parking lot

RECOMMENDATION:

Withdraw Bill 39