

# Memorandum to Council

Legal and Enforcement Services

Legal Services Division



**To:** Mayor and Members of Council

**CC:** Fuwing Wong, Commissioner of Financial Services/ Treasurer  
Christopher Harris, Director of Legislative Services and Town Clerk

**Acknowledged by M. Gaskell,  
Chief Administrative Office**

**From:** Francesco Santaguida, Commissioner of Legal and Enforcement Services/ Town Solicitor and Brent Harasym, Associate Solicitor

**Date:** June 21, 2024

**File #:** FS 21-24 - Re: 2025 Budget Schedule and Engagement

**Subject:** Strong Mayor Powers and Multi-Year Budgets

## Executive Summary

The purpose of this memo is to provide a brief overview of the authority of the Mayor to bring forward a multi-year budget using strong mayor powers. Under the *Municipal Act, 2001* (the “MA”), with respect to a multi-year budget:

- The Mayor must bring forward a yearly budget prior to February 1 of the year to which the budget applies. That budget must contain, among other things, the items required by Section 290 of the MA;
- There is no requirement to bring forward a multi-year budget nor a prohibition on bringing forward a multi-year budget. Similarly, there is no requirement for, nor prohibition against, a Mayor exercising “Strong Mayor” powers to bring forward a multi-year budget.
- The estimates of sums required under s. 290(1) of the MA are only required for the first year of the multi-year budget;
- A multi-year budget must be reviewed, required changes must be made, and the budget must be re-adopted for the second year and each subsequent year of the

multi-year budget. This review can occur in the year, or in the year immediately preceding the year to which the budget applies;

- Where a multi-year budget applies in a year following an election year, the review, change and re-adoption can only occur in the year to which the budget applies;
- A multi-year budget is permitted for up to five (5) years and may include a time beyond a municipal election; however, a multi-year budget may be amended by Council.

### **Strong Mayor Powers-Mayor's Authority to Propose a Multi-Year Budget**

[Section 290 of the MA](#) requires a local municipality to prepare and adopt a budget in the year, or the year immediately preceding, the year to which the budget will apply. Section 290 sets out what must be contained in the budget.

Section 291 gives the Town the authority to prepare and adopt a multi-year budget. Section 291 applies despite section 290 and allows a budget for a period of two to five years to be adopted. A multi-year budget can be adopted in the year, or the year immediately preceding the first year to which the multi-year budget will apply. Given that municipal elections take place every four years in Ontario, s. 291 of the MA specifically permits a multi-year budget to apply beyond the current term of Council.

A municipality "shall" adopt a yearly budget, but it "may" adopt a multi-year budget.

Section 284.16(1) of the MA assigns the powers of a municipality with respect to proposing and adopting a budget to the mayor. This means that section 290 of the MA can be read as though the words "a municipality" is replaced with "the head of council." Any authority or ability with respect to the proposing and adopting of a budget which was previously held by the municipality is now held by the Mayor.

Technically speaking, the requirement of the Mayor to propose a budget is mandatory. Accordingly, Council motions with respect to municipal budgets, which are brought prior to the proposal of the budget, should be phrased to indicate that the Mayor consider including or excluding an item from a future budget. Any amendments which Council wished to make to the proposed budget may be made by passing a resolution within thirty (30) days of receiving the proposed budget. Such a resolution should be phrased in the same manner as any other resolution.

The Mayor may veto a resolution passed by Council following the proposal of the budget. Council may then override the veto, if two-thirds of the Council vote to override the veto.

If the Mayor does not propose a budget by February 1<sup>st</sup> of each year, as required by the MA, council then has the ability to prepare and adopt a budget.

Section 291 provides the statutory authority for a municipality to prepare and adopt a multi-year budget. While this section is unclear in that it does not explicitly state that it applies to a "strong mayor" budget, it does not explicitly exclude a Mayor from introducing a multi-year budget.

[O. Reg. 530/22](#) relates to the strong mayor powers and sets out further requirements with respect to those powers. Three mandatory requirements are placed on the mayor in bringing forward a budget,

- The mayor must prepare a proposed budget that includes the estimate of sums required by section 290(1) of the MA;
- The proposed budget must be provided to each member of council and the clerk; and
- The proposed budget must be made available to the public.

Overall, the MA provides a general authority for the Mayor to bring forward a budget and does not differentiate between an “annual” or “multi-year” budget with respect to the Mayor’s authority to bring forward a budget. For instance, there is no legislative direction indicating that a Mayor could not develop a budget forecast covering multiple years and bring forward annual budgets based on the forecast.

### **Mandatory Review of Multi-Year Budget**

Section 291(4) of the MA requires a municipality that adopts a multi-year budget to review the budget on an annual basis. This review must occur in the year, or in the year immediately preceding the second or each subsequent year of the budget. For example, if Council were to pass a multi-year budget for 2025-2027, the first mandatory review would take place in either 2025 or 2026 and would be a review of the 2026 budget year.

For the second and each subsequent year, the municipality shall:

- Review the budget for that year.
- Make changes that are required to ensure the budget complies with section 290 for that year; and
- Readopt the budget for that year and for subsequent years to which the budget applies.

Adopting a multi-year budget which would cover years following a regular election is permitted and specifically contemplated by the MA. However, where a year for which the budget is being reviewed is a year immediately following an election year, the budget can only be re-adopted in the year to which it applies. For example, if council were to adopt a budget for 2025-2027, the budget could only be re-adopted for the 2027 year in 2027. This provision was likely placed in the MA to ensure that the newly elected council had the opportunity to review, consider and potentially revoke a multi-year budget passed by the previous council.

Should you have any questions regarding this Memorandum, please contact the Commissioner of Legal and Enforcement Services/Town Solicitor.

## **APPENDIX “A” – RELEVANT STATUTORY PROVISIONS**

### ***Municipal Act, 2001, S.O. 2001, C. 25***

#### **Powers and duties re. budget**

**284.16** (1) In accordance with this section and subject to the regulations, the powers and duties of a municipality with respect to proposing and adopting a budget are assigned to the head of council of the municipality.

#### **Proposed budget**

(2) The head of council shall, in accordance with the regulations, prepare a proposed budget for the municipality and provide the proposed budget to the council for the council’s consideration.

#### **Council may adopt or amend budget**

(3) After receiving the proposed budget, council may, in accordance with the regulations, pass a resolution making an amendment to the proposed budget.

#### **Veto power**

(4) The head of council may, in accordance with the regulations, veto a resolution passed under subsection (3).

#### **Override of veto**

(5) Council may, in accordance with the regulations, override the head of council’s veto under subsection (4) if two-thirds of the members of council vote to override the veto.

#### **Adoption of budget**

(6) The budget for the municipality shall be adopted in accordance with the regulations.

#### **Same**

(7) For greater certainty, the regulations may provide for the circumstances in which the budget is deemed to be adopted.

#### **Yearly budget, local municipalities**

**290** (1) For each year, a local municipality shall, in the year or the immediately preceding year, prepare and adopt a budget including estimates of all sums required during the year for the purposes of the municipality, including,

- (a) amounts sufficient to pay all debts of the municipality falling due within the year;

- (b) amounts required to be raised for sinking funds or retirement funds; and
- (c) amounts required for any board, commission or other body.

### **Exception**

(1.1) Despite subsection (1), a budget for a year immediately following a year in which a regular election is held, may only be adopted in the year to which the budget applies.

### **Detail and form**

(2) The budget shall, in such detail and form as the Minister may require, set out the following amounts:

1. The estimated revenues, including the amount the municipality intends to raise on all the rateable property in the municipality by its general local municipality levy and the amount it intends to raise on less than all the rateable property in the municipality by a special local municipality levy under section 312.
2. The estimated portion of the estimated revenues described in paragraph 1, if any, to be paid into the municipality's reserve, sinking and retirement funds.
3. The estimated expenses, subject to any regulation made under clause 292 (2) (a).
4. The estimated portion of the estimated expenses described in paragraph 3, if any, to be paid out of the municipality's reserve, sinking and retirement funds.

### **Reserve fund adjustment**

(3) The total calculated under paragraph 1 shall be at least equal to the total calculated under paragraph 2:

1. The amount described in paragraph 1 of subsection (2), added to the amount described in paragraph 4 of subsection (2).
2. The amount described in paragraph 2 of subsection (2), added to the amount described in paragraph 3 of subsection (2).

### **Allowance**

(4) In preparing the budget for a year, the local municipality,

- (a) shall not include in the estimated revenues described in paragraph 1 of subsection (2) the estimated proceeds of any borrowing during the year;
- (b) shall treat as estimated revenues any surplus of any previous year that resulted because,
  - (i) revenues for that year were greater than the amount described in paragraph 1 of subsection (2) for that year, or

- (ii) expenses for that year were less than the amount described in paragraph 3 of subsection (2) for that year;
- (c) shall provide for any deficit of any previous year that resulted because,
  - (i) revenues for that year were less than the amount calculated by deducting for that year the amount described in paragraph 2 of subsection (2) from the amount described in paragraph 1 of subsection (2), or
  - (ii) expenses were incurred by the municipality that were not in the budget for that year and were not paid for that year from a reserve, sinking or retirement fund;
- (d) shall provide for the cost of the collection of taxes and any abatement or discount of taxes;
- (e) shall provide for taxes and other revenues that in the opinion of the treasurer are uncollectible and for which provision has not been previously made;
- (f) may provide for taxes and other revenues that it is estimated will not be collected during the year; and
- (g) may provide for such reserve funds as the municipality considers necessary.

(5) REPEALED:

#### **Yearly budget from boards, etc.**

(6) Despite any other Act, for the purpose of preparing and adopting its budget for a year, the local municipality may by by-law require that the year's budget of every board, commission or other body, other than an upper-tier municipality or school board, for which the municipality is required by law to levy a tax or provide money, be submitted to the municipality on or before a date specified by the local municipality, and that the budget shall be in such detail and form as the by-law provides.

#### ***Legislation Act, 2006***

(7) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement of the Minister under subsection (2).

#### **Definition**

(8) In this section,

“reserve fund” includes a reserve.

#### **Multi-year budget**

**291** (1) Despite sections 289 and 290, a municipality may prepare and adopt a budget covering a period of two to five years in the first year to which the budget applies or in the year immediately preceding the first year to which the budget applies.

## **Restriction**

(2) Despite subsection (1), if the first year of a multi-year budget immediately follows a year in which a regular election is held, the budget may only be adopted in the first year to which the budget applies.

## **First year**

(3) Except as provided in subsection (1), the provisions of the budget for the first year to which the multi-year budget applies shall comply with the requirements of section 289 or 290, as the case may be.

## **Other years, mandatory review of annual budget**

(4) For the second and each subsequent year to which a multi-year budget applies, the municipality shall, in the year or the immediately preceding year,

- (a) review the budget for that year;
- (b) make such changes as are required for the purpose of making the provisions of the budget for that year comply with the requirements of section 289, except clause 289 (4) (b), or section 290, except clause 290 (4) (b), as the case may be; and
- (c) readopt the budget for that year and for subsequent years to which the budget applies.

## **Exception**

(5) Despite subsection (4), if a year for which a budget is being reviewed and changed is a year immediately following a year in which a regular election is held, the budget may only be readopted in the year for which the budget is being reviewed and changed.

## **Power and duty not affected**

(6) Nothing in this section,

- (a) limits the power of a municipality to amend or revoke a budget adopted or readopted under this section; or
- (b) removes the obligation of a municipality to levy taxes in each year.

## **Deemed adoption**

(7) The budget for the first year of a multi-year budget adopted under subsection (1) and the budget for the first year of the remaining years in a multi-year budget readopted under subsection (4) is deemed, for the purposes of this and every other Act, to be the budget or estimates adopted for the year under section 289 or 290, as the case may be,

and, before a budget is adopted or readopted for the year under this section, the municipality is deemed, for the purposes of this and every other Act, not to have adopted a budget or estimates for that year under this Part.

#### **Submission of budgets of boards, etc.**

(8) Despite any other Act, for the purpose of adopting a multi-year budget for two or more years or readopting a multi-year budget for one or more remaining years, a municipality may by by-law require that a budget for the year or years of every board, commission or other body, other than a school board, for which the municipality is required by law to levy a tax or provide money, be submitted to the municipality on or before a date specified by the municipality and that the budget shall be in such detail and form as the by-law provides.

#### **O. Reg. 530/22: Part VI.1 of the Act**

##### **Annual budget**

7. (1) The head of council shall, on or before February 1 of each year,

- (a) prepare a proposed budget for the municipality that includes the estimates of sums required under subsection 289 (1) or 290 (1) of the Act, as the case may be;
- (b) provide the proposed budget to each member of council and to the clerk; and
- (c) make the proposed budget available to the public.

(2) If the head of council does not propose a budget to council by February 1 in accordance with subsection (1), the council shall prepare and adopt the budget for the municipality.

(3) Subject to subsection (4), within 30 days after receiving the proposed budget from the head of council in accordance with clause (1) (b), the council may pass a resolution making an amendment to the proposed budget.

(4) A council may in a year pass a resolution to shorten the 30-day period referred to in subsection (3) for the year.

(5) If council does not pass a resolution under subsection (3) within 30 days, or, if a shorter period is set under subsection (4), within that period, the proposed budget shall be deemed to be adopted by the municipality.

(6) Subject to subsection (7), within 10 days after the expiry of the time period for council to pass a resolution under subsection (3), the head of council may veto a resolution passed by council under subsection (3) by providing on the day of the veto to each member of council and to the clerk a written veto document that includes the veto and the reasons for the veto.



(7) The head of council may in a year shorten the 10-day period referred to in subsection (6) for the year by providing to each member of council and to the clerk a written document specifying a shorter period.

(8) If the head of council vetoes a resolution in accordance with subsection (6), the resolution shall be deemed not to have been passed by council.

(9) If the head of council does not veto a resolution in accordance with subsection (6) within 10 days or, if a shorter period is set under subsection (7), within that period, the proposed budget shall be deemed to be adopted by the municipality.

(10) Subject to subsection (11), within 15 days after the expiry of the time period for the head of council to veto a resolution under subsection (6), council may override the head of council's veto if two-thirds of the members of council vote to override the veto.

(11) A council may in a year pass a resolution to shorten the 15-day period referred to in subsection (10) for the year.

(12) For greater certainty, the head of council may vote as a member of council in a vote to override a veto.

(13) If the council overrides the veto under subsection (10), subsection (8) does not apply, and the resolution shall be deemed to be passed by council.

(14) After the expiry of the time period for council to override the head of council's veto under subsection (10), the proposed budget is deemed to be adopted by the municipality.