

COMMITTEE OF THE WHOLE - OCTOBER 22, 2001

BILL 90 - THE WASTE DIVERSION ACT 2001

Recommendation

The Commissioner of Development Services and Public Works, in consultation with the Executive Director of City Engineering and Public Works, and the Director of Public Works, recommends that the following report to be received for information.

Purpose

This report describes Bill 90 – the Waste Diversion Act, 2001. Bill 90 had its first reading at the provincial legislature on June 26th, 2001.

Background – Analysis and Options

On June 26th, 2001 the Provincial Government introduced Bill 90, the Waste Diversion Act 2001, an act to promote the reduction, reuse and recycling of waste. The Bill has passed first reading and the Ministry of Environment received comments until mid September. The Bill, if passed, will create a corporation called Waste Diversion Ontario (WDO) to develop waste diversion programs and mandate Industry Funding Organizations (IFOs) to pay a portion of the diversion program costs.

Bill 90 was introduced to address and support recommendations of a report submitted in September of 2000 by the Waste Diversion Organization. These recommendations included establishing a permanent waste diversion organization, 50/50 cost sharing between municipalities and industry of the net costs of the Blue Box Program, and, establishing a mechanism to ensure all affected industries pay their respective share.

In a document issued by the Province, Bill 90 is explained as follows:

“The Bill establishes a corporation without share capital named Waste Diversion Ontario and provides for the appointment of its board of directors.

The Minister of the Environment may require Waste Diversion Ontario to develop a waste diversion program (e.g. a program to reduce, reuse or recycle waste) for materials prescribed by regulation as a designated waste. Each waste diversion program must be developed in co-operation with a corporation referred to in the Bill as an industry funding organization. Each industry funding organization is incorporated by Waste Diversion Ontario under Part III of the Corporations Act as a corporation without share capital.

If the Minister of the Environment approves a waste diversion program that has been developed for a designated waste, Waste Diversion Ontario and the designated industry funding organization are required to implement and operate the program. The industry funding organization may make rules designating persons as stewards in respect of the designated waste. Only persons who have a commercial connection to the designated waste or to a product from which the waste is derived may be designated as stewards. Stewards are required to pay the industry funding organization fees prescribed by the organization. The money received is held in trust by the organization to pay for the waste diversion program and for certain other costs related to the Bill.”

“On application, Waste Diversion Ontario or the Minister of the Environment may approve a plan as an alternative to a waste diversion program that is operated by Waste Diversion Ontario and an industry funding organization. If the alternative plan is approved, participants in the plan are exempted from the obligation to pay stewardship fees to the industry funding organization.”

The Bill provides that Waste Diversion Ontario and the industry funding organizations are not agencies of the Crown in right of Ontario. They must prepare annual reports, including annual audits, and the annual reports must be made available to the public.”

At this juncture in the process, Bill 90 does not address all of the recommendations in the report submitted by the Ontario Waste Diversion Organization. Special interest groups, whether they be industry, municipal or other, have been given the opportunity to provide comment on this Bill. One of these organizations/special interest groups that submitted comments subsequent to the first reading of the Bill was the Association of Municipal Recycling Coordinators of Ontario (AMRC), in which City of Vaughan is an active member. As such, staffs' concerns with the existing wording of Bill 90 have been incorporated into AMRC's submission. Some of AMRC's concerns and recommendations concerning Bill 90, as it is presently written, are as follows:

1. **Statement of Intent:** The recommendation of AMRC was to insert a preamble that would establish a clear objective for this legislation. At present, there is no clear statement that establishes a process for implementing rules, regulations and potential funding and responsibility for waste diversion activities.

2. **Designation of Waste:** As the Bill is written, there is no clear definition of blue box waste, and Household Hazardous Waste is not included as a designated waste. The Bill also fails to include a requirement that funding for a designated material be provided effective the date of designation. The recommendation put forth by AMRC was that blue box waste and Household Hazardous Waste be designated immediately, and that funding to municipalities be effective as of the date of the designation.

3. **Members of the Board of Directors:** Under the existing wording of the Bill, the Board of Directors is heavily weighted towards industry representatives both as voting members and as observers. The members currently listed are as follows: 1 member appointed by the Association of Municipalities of Ontario; 1 member appointed from the Brewers of Ontario; 1 member jointly appointed by the Canadian Manufacturers of Chemical Specialties and the Canadian Paint and Coatings Association; 1 member appointed by the Canadian Newspaper Association; 3 members appointed by Corporations Supporting Recycling; 1 member appointed by the Liquor Control Board of Ontario; 1 member appointed by the Retail Council of Canada; 1 member who is employed in the public service of Ontario, appointed by the Minister; and, 1 member who is not employed in the public service of Ontario, appointed by the Minister. The four Observers are all appointed from the industry sector.

The recommendation put forth by AMRC required that a balance be maintained between industry and municipal membership on the Waste Diversion Ontario Board of Directors.

4. **Waste Diversion Programs:** There appears to be no timeline for the development of a plan, and no opportunity for the Minister to intervene in the event a plan cannot be agreed upon. In response, a recommendation was made requesting a limited timeline be applied when developing a waste diversion program for a designated waste. Further, if this time line is not met, the Minister would have the authority under the Act to impose a waste diversion program.

5. **Blue Box Limit on Payment to Municipalities:** The Bill does not clearly obligate industry to pay 50% of a municipal blue box program's total net operating costs, but appears to leave flexibility that industry could pay less than their 50% share.

The recommendation put forward is that a waste diversion program developed under this Act for blue box waste shall provide for payment by industry of an amount equal to 50% of the total net costs (versus net 'operating' costs) incurred by municipalities in connection with the program. The recommendation also states that "in kind" funding is unacceptable.

Conclusion

Bill 90 does support the establishment of a funding scheme to support municipal recycling programs and can potentially be a powerful tool to deal with waste diversion and help relieve the financial burden currently borne by municipalities. However, to ensure that municipalities fully benefit from the provisions of Bill 90, as intended by the Waste Diversion Organization, the recommendations put forward by the AMRC, as so noted above, must be incorporated into the final iteration of the Bill.

It is anticipated that third and final reading will be given to Bill 90 by the end of 2001. If the wording is changed to address the concerns raised the AMRC, the City of Vaughan may receive up to 50% of their net operating costs for the blue box recycling program beginning 2002.

Attachments

None

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