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Report of the Commissioner of Finance

***Cutting Red Tape to Build More Homes Act, 2024 (Bill 185) –  
Proposed Changes to *Development Charges Act, 1997****

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## 1. Recommendations

1. This report and Appendix A be submitted to Minister of Municipal Affairs and Housing in response to Bill 185, *Cutting Red Tape to Build More Homes Act, 2024*, and as comments on Environmental Registry of Ontario posting #[019-8371](#) on proposed changes to *Development Charges Act, 1997*.
2. Regional Clerk forward this report to local Members of Provincial Parliament and local municipalities.

## 2. Purpose

This report provides Council with an update on the proposed changes to *Development Charges Act, 1997*, through *Cutting Red Tape to Build More Homes Act, 2024* (Bill 185). It also seeks Council approval to submit report and Appendix A to the Ministry of Municipal Affairs and Housing as the Region's response to Environmental Registry of Ontario (ERO) posting #019-8371, as it relates to proposed changes to *Development Charges Act, 1997*.

### Key Points:

- Bill 185 proposes amendments to the Act, largely premised upon reversing some of previously-introduced changes through Bill 23, [More Homes Built Faster Act, 2022](#) (Bill 23), including repealing the development charges (DC) rate phase-in provision and reinstating growth-related studies as a DC eligible cost
- Based on preliminary analysis, proposed changes to *Development Charges Act, 1997* (Act), through Bill 185, could reduce previously estimated 'known' Bill 23 impacts by over 50%, or \$370 million over next 10 years

- Further amendments to the Act could help guarantee housing receiving DC exemptions or discount remain affordable and that rental tenure be maintained
- Council continues to request upper-tier municipalities be eligible for funding under Building Faster Fund

### 3. Background

#### **Fall 2022, Bill 23 introduced changes to *Development Charges Act, 1997* reducing Region's ability to fund growth-related infrastructure**

On November 28, 2022, Province passed Bill 23, which negatively impacted Region's ability to fund growth-related infrastructure. Key changes reducing DC collections were:

- Phase-ins of Council-approved DC rates
- Removing Housing as DC-eligible service
- Removing growth-related studies and land costs, for prescribed services, as DC-eligible cost
- Providing discounts for rental developments
- Providing exemptions for non-profit developments
- Capping interest rates at Prime +1%

To estimate impact from other changes introduced through Bill 23, including affordable and attainable residential DC exemptions, further provincial guidance is needed.

#### **Schedule 6 of Bill 185 proposes to amend *Development Charges Act, 1997* and reverse some Bill 23 provisions**

On April 10, 2024, the Province tabled [Bill 185](#), an omnibus bill amending various acts, including the *Planning Act*, *Municipal Act, 2001*, and *Development Charges Act, 1997 (Act)*. Schedule 6 of Bill 185 proposes amendments to the Act, largely premised upon reversing previous changes through Bill 23. As of April 16, 2024, Bill 185 was in its second reading.

#### **Province is seeking feedback on Bill 185 proposed changes to Act through the ERO**

On April 10, 2024, the Province released ERO posting #019-8371 seeking feedback from stakeholders on the proposed changes to the Act. The ERO posting has a 30-day commenting period, ending on May 10, 2024.

## 4. Analysis

### **Many proposed Bill 185 changes to the Act will positively impact the Region**

Staff support the positive impact of proposed legislative amendments to the Act. The proposed changes would improve the Region's ability to fund growth-related infrastructure by reversing changes introduced in Bill 23 that reduced DC collections.

### **Bill 185 would repeal DC rate phase-in provisions introduced through Bill 23 allowing the Region to resume collecting 100% of Council-approved 2022 DC Bylaw rates**

Bill 23 amended the Act, requiring municipalities phase-in DC rates over five years for DC Bylaws passed on or after January 1, 2022. With phase-ins, DC rates were reduced to 80% of Council-approved rates in the first year of the bylaw, increasing by 5% each year after, until reaching 100% in the fifth year. Since the Region's 2022 DC Bylaw was passed on May 26, 2022, DC rates were subject to phase-ins. In December 2022, Council [endorsed](#) preliminary staff [comments](#) on this matter, highlighting the challenges created by phase-ins of DC rates, and recommended it be revisited.

Bill 185, if passed as tabled, would repeal this provision upon Royal Assent, allowing the Region to collect 100% of Council-approved 2022 DC Bylaw rates. Developments that already froze their DCs at phased-in rates, under section 26.2 of the Act<sup>1</sup>, would not be impacted by this change.

### **Growth-related studies are proposed to be reinstated as a DC-eligible cost**

Bill 23 removed growth-related studies as a DC-eligible cost. This change applied to municipalities when they update their next DC Bylaw (i.e., it did not impact the Region's 2022 DC Bylaw). This would have impacted the Growth Studies 'service' and other growth-related studies, including the DC background study and potentially Environmental Assessments and Infrastructure Master Plans.

The Province has proposed, through Bill 185, growth-related studies once again be eligible for DC recovery. This change takes effect when Bill 185 receives Royal Assent.

### **Bill 185 and associated regulatory proposals provide other positive changes for municipalities**

Table 1 summarizes other changes proposed to Act through Bill 185 and associated regulatory proposals.

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<sup>1</sup> Section 26.2 allows DC rates to be frozen at site plan or zoning bylaw amendment application date

**Table 1**  
**Other Bill 185 Proposed Changes**

Area	Current Treatment	Proposed Amendments
Time limit on frozen DC rates*	DC rates frozen at site plan or zoning bylaw amendment application; once application approved, a time limit of 2 years applies before freeze lapses	Time limit on rate freeze reduced to 18 months
Time-limited streamlined process to amend DC bylaws*	DC Bylaw update or amendment requires background study and other procedural steps and can be appealed to Ontario Land Tribunal (OLT)	Streamlined approach to amending DC Bylaw provided to: <ul style="list-style-type: none"> <li>• Municipalities that passed DC bylaws on, or after, November 28, 2022, and included rate phase-ins and studies cost removal; must be completed within 6 months after Royal Assent</li> <li>• Municipalities extending DC bylaws to 10 years without changing rates</li> </ul> Not be subject to OLT appeal
Public notice delivery (Regulatory <a href="#">proposal</a> )**	Public notices under the Act (e.g., for public meeting) provided through local newspapers	Provide notice on municipality’s website if local newspaper unavailable

\* Changes take effect upon Royal Assent of Bill 185

\*\*Official response and comment provided in report of Chief Planner on agenda on *Cutting Red Tape to Build More Homes Act, 2024* (Bill 185), dealing with Planning Act and Provincial Policy Statement matters

**Province announced that affordable residential DC exemptions, introduced in Bill 23, will come into effect on June 1, 2024; however, further guidance is still needed**

Bill 23 introduced DC exemptions for affordable and attainable residential housing, which are yet to be proclaimed. As noted in the [October memorandum](#), Bill 134, *Affordable Homes and Good Jobs Act, 2023* amended the definitions of affordable residential housing, to incorporate both income- and market-based approaches to determine qualification for exemptions.

Additional details on how to calculate affordable unit thresholds are still required. These details are expected to be provided by Ministry of Municipal Affairs and Housing through an Affordable Residential Units Bulletin, not yet released. As noted in the Ontario Newsroom [Backgrounder](#), municipalities can expect these DC exemptions to take effect on June 1, 2024.

**Despite positive changes introduced through Bill 185, Council continues to advocate for Housing Services to be reinstated as a DC-eligible service**

Bill 185 introduced positive changes that will help York Region grow in a fiscally sustainable way, as work is made towards achieving the Provincial housing target of 1.5 million homes by 2031.

To deliver vital community housing to most vulnerable members of the community, Region [requests](#) Housing Services be reinstated as DC-eligible service, as it was made ineligible through Bill 23. Prior to this service being ineligible, Region’s 2022 DC Bylaw included \$109 million to help fund growth-related share of costs to construct nearly 1,500 new community housing units over next 10 years.

**Further amendments to Act could help ensure housing receiving DC exemptions or discount remain affordable and rental tenure be maintained**

While Council supports delivery of much needed rental and affordable housing (be it for profit or non-profit), these DC discounts and exemptions would benefit from additional guarantees of tenure and affordability. Key changes previously requested by Council are provided in Table 2.

**Table 2**  
**Additional Proposed Changes to Act Previously Requested by Council**

Area/Date of most recent Council request	Proposed Amendment Requested
Affordable housing DC exemption <a href="#">(October 2023)</a>	<ul style="list-style-type: none"> <li>To ensure affordability maintained, it is requested agreements be required to be registered on title; should affordability of unit change within first 25 years, DCs which would have ordinarily been due, become immediately payable plus interest, at a rate of Prime +1%*</li> </ul>
Rental discounts <a href="#">(October 2023)</a>	<ul style="list-style-type: none"> <li>To ensure market rental tenure maintained, it is requested Province provide municipalities with ability to secure rental tenure for a period of 25 years, by way of agreement on title; should rental tenure change within the first 25 years, DCs which would have ordinarily been due, become immediately payable plus interest, at a rate of Prime +1%*</li> </ul>
Non-profit DC exemption <a href="#">(January 2024)</a>	<ul style="list-style-type: none"> <li>To ensure non-profit residential developments deliver affordable housing, they must be developed under a prescribed federal, provincial, or municipal program that includes affordability criteria; where a non-profit housing development was developed without assistance qualification determined by the municipal Council</li> <li>To ensure non-profit status, as defined under Act, is maintained for 25 years**, it is requested that agreements be required to be</li> </ul>

Area/Date of most recent Council request	Proposed Amendment Requested
	registered on title; should non-profit status of development change within first 25 years, DCs which would have ordinarily been due, become immediately payable plus interest, at a rate of Prime +1%*

\* Interest rate of Prime+1% aligns with maximum interest charge applicable to freezing and installment provisions under sections 26.1 and 26.2 of the Act

\*\*Timeframe aligning with affordable ownership exemptions under Act

### **Council continues to request upper-tier municipalities be eligible for funding under Building Faster Fund**

In fall 2023, the Province announced Building Faster Fund, providing up to \$400 million in total funding per year, for three years, to municipalities on track to meet their housing targets. Upper-tier municipalities, like the Region, are not eligible for this funding, despite the vital housing-related infrastructure they provide.

As a result Council, in November 2023, passed a [resolution](#) requesting Province make upper-tier municipalities eligible for funding under Building Faster Fund.

## **5. Financial Considerations**

### **Repealing phase-in provisions and reinstating growth-related studies could reduce previous estimate of ‘known’ Bill 23 impacts by over 50%, or about \$370 million**

As part of Region’s 2024 [Fiscal Strategy](#), staff estimated, as a result of the ‘known’ Bill 23 changes to Act, DC collections would be reduced by approximately \$700 million over the next 10 years. If Bill 185 is approved, as tabled, staff’s preliminary analysis estimates that repealing phase-in provisions and reinstating growth-related studies as a DC-eligible cost, could reduce this previous estimate by over 50%, or about \$370 million. Table 3 provides further details of staff’s preliminary estimate. An updated DC collections forecast will be completed as part of the 2025 Budget.

Other changes to Act, proposed by Bill 185 and associated regulatory proposals, such as time limit on frozen DC rates discussed in Table 2, while having a positive impact on Region’s development, are estimated to have minimal financial impact.

**Table 3**  
**Bill 185 - Revised DC Collections Reduction Estimate**

Area	DC Collections Reduction 2024-2033 (\$ Millions)
Previous estimate – ‘Known’* Changes to Act	700
<i>Bill 185 changes</i>	
Repeal Phase-in provisions	(340)
Reinstate Growth-related studies	(30)
<b>Bill 185 changes subtotal</b>	<b>(370)</b>
<b>New Revised estimate – ‘Known’ Changes to Act</b>	<b>330</b>

\*Known changes: Phase-in of DC rates, removal of Housing Services, growth studies and land costs, interest rate cap, rental discounts, non-profit exemptions

## 6. Local Impact

Timely emplacement of Regional growth-related infrastructure is vital to local municipalities and their ability to grow. Changes proposed by Bill 185 will help Region continue to deliver that infrastructure in a fiscally sustainable way, as we work toward achieving provincially mandated housing targets.

## 7. Conclusion

Bill 185 proposed changes to Act will have a positive financial impact on Region and its ability to fund growth infrastructure. Council continues to advocate for additional changes, outlined herein, to ensure housing receiving exemptions or discounts maintain their level of affordability or tenure.

This report and comments contained in Appendix A will serve as York Region’s submission to ERO posting [#019-8371](#) on proposed changes to Act. Staff will continue monitoring Bill 185's progress and any associated regulatory framework and report back as needed.

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For more information on this report, please contact Bonny Tam, Director (A), Treasury Office, at 1-877-464-9675 ext. 75885. Accessible formats or communication supports are available upon request.

Recommended by:



**Laura Mirabella**

Commissioner of Finance and Regional Treasurer



Approved for Submission:

**Erin Mahoney**

Chief Administrative Officer

April 17, 2024

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Appendix A - York Region's comments on ERO posting #019-8371



## YORK REGION'S COMMENTS ON ERO POSTING #019-8371

**Table 1: Comments on Changes to *Development Charges Act, 1997* to Enhance Municipalities' Ability to Invest in Housing-Enabling Infrastructure ([ERO # 019-8371](#))**

Change	Regional Comment
Repeal phase-ins of DC rates*	Support repeal as allows Region to start collecting 100% of Council-approved 2022 DC Bylaw rates, helping to ensure growth-related infrastructure is funded in a fiscally sustainable way
Reinstate growth-related studies' costs as DC-eligible*	Support reinstatement as provides that studies required to support growth are funded by growth, helping to ensure growth-related infrastructure is funded in a fiscally sustainable way
Time limit on frozen DC rates, when site plan/zoning bylaw amendment approval, reduced from 24 to 18 months	Support reducing time limit on frozen DC rates as it could encourage developments to advance to building permit faster
Time-limited streamlined process to amend DC bylaws	Support time-limited streamlined process to amend DC bylaws; while not applicable to the Region, other municipalities would benefit.

\* Developments that already froze their DC rates, under section 26.2 of the Act, would not be impacted by this

**Table 2: Further amendments to *Development Charges Act, 1997* to help community, affordable, rental, and non-profit housing**

Area	Regional Comment
Housing Services as DC-eligible service ( <a href="#">February 2023</a> )	<ul style="list-style-type: none"> <li>• Required to support delivery of vital community housing</li> </ul>
Affordable ownership DC exemption ( <a href="#">October 2023</a> )	<ul style="list-style-type: none"> <li>• Required to ensure affordability is maintained for 25 years and that it is legislated</li> <li>• Should affordability change within 25 years and Province's desired outcome not reached, the Region should be able to recover its DCs</li> </ul>

Rental discounts  
([October 2023](#))

- Required to ensure rental tenure is maintained for 25 years and that it is legislated
- Should tenure change within 25 years and Province's desired outcome not reached, the Region should be able to recover its DCs

Non-profit DC exemption  
([January 2024](#))

- Required to ensure non-profit residential developments, delivering affordable housing, are developed under a prescribed federal, provincial, or municipal program that includes affordability criteria; where a non-profit housing development was developed without assistance qualification determined by the municipal Council
  - Required to ensure non-profit status is maintained for 25 years and that it is legislated
  - Should non-profit status change within 25 years and Province's desired outcome not reached, the Region should be able to recover its DCs
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