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Legislative Assembly of British Columbia

BILL 36

POLICE AMENDMENT ACT, 2023

Honourable Mike Farnworth
Minister of Public Safety and Solicitor General and Deputy Premier

Explanatory Notes

CLAUSE 1: *[Police Act, section 3]*

- clarifies that agreements under section 3 (2) (b) of the Act are entered into by the minister on behalf of the government;
- is consequential to the addition by this Bill of sections 3.1 and 3.2 to the Act.

CLAUSE 2: *[Police Act, sections 3.1 and 3.2]*

- in specified circumstances, requires a municipality with a population of more than 5 000 persons to request ministerial approval respecting the means by which the municipality proposes to provide policing and law enforcement;
- sets out powers and duties that apply to municipalities, the minister and other entities in relation to requests for ministerial approval;
- in specified circumstances, authorizes the minister to make orders requiring a municipality to provide policing and law enforcement by the means specified in the order.

BILL 36 – 2023

POLICE AMENDMENT ACT, 2023

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

1 Section 3 of the Police Act, R.S.B.C. 1996, c. 367, is amended

- (a) in subsection (1) (c) by striking out “that contract with the minister” and substituting “that enter into an agreement under subsection (2) (b)”**,
- (b) in subsection (2) by striking out “A municipality” and substituting “Subject to the approval of the minister under section 3.1 (2) (a), a municipality”**,
- (c) in subsection (2) (b) by striking out “entering into an agreement with the minister” and substituting “entering into an agreement with the minister on behalf of the government,” and**
- (d) in subsection (2) (c) by striking out “with the approval of the minister.”**

2 The following sections are added:

**Ministerial approval of means
of providing policing in municipality**

- 3.1** (1) A municipality must, in either of the following circumstances, request approval of the minister respecting the means under section 3 (2) by which the municipality proposes to provide policing and law enforcement:
- (a) the director has notified the municipality that the population of the municipality has reached more than 5 000 persons;
 - (b) the municipality proposes to change the means under section 3 (2) by which the municipality is providing policing and law enforcement under that section.
- (2) After receiving a request under subsection (1), the minister may do either of the following:
- (a) approve the means by which the municipality proposes to provide policing and law enforcement;

CLAUSE 2: *[Police Act, sections 3.1 and 3.2 – continued]*

CLAUSE 3: *[Police Act, section 17]* authorizes the director and minister to exercise powers under the section if a municipality is not complying with section 3.1 (4) of the Act, as added by this Bill.

- (b) reject the means proposed by the municipality if the minister considers that the provision of policing and law enforcement by that proposed means would adversely affect the ability of the minister or municipality to fulfill their respective duties under sections 2 and 15 (1).
- (3) The following must provide to the minister any information, plans or records that the minister may require for the purposes of making a decision under subsection (2):
 - (a) the municipality;
 - (b) other municipalities that the minister considers may be affected by the decision;
 - (c) the municipal police board or municipal police department of a municipality referred to in paragraph (a) or (b) of this subsection;
 - (d) the provincial police force.
- (4) Except as otherwise permitted by the minister,
 - (a) the means approved under this section by which a municipality is to provide policing and law enforcement must be implemented by the municipality, and
 - (b) the implementation must be carried out in accordance with directions issued, if any, by the director under section 40 (5).

**Ministerial order imposing means
of providing policing in municipality**

- 3.2** (1) The minister may, by order, require a municipality to which section 3.1 (1) (a) applies to provide policing and law enforcement by the means specified in the order if
- (a) the municipality has not requested approval under section 3.1 (1) within a reasonable time after being notified by the director that the population of the municipality has reached more than 5 000 persons, or
 - (b) the minister has decided under section 3.1 (2) (b) to reject the means by which the municipality proposes to provide policing and law enforcement.
- (2) Not less than 3 months before making an order under this section, the minister must give notice of the proposed order to the municipality.
- (3) The means specified in an order made under this section is deemed to be the means approved by the minister under section 3.1 (2) (a).

3 *Section 17 is amended by striking out* “If the director considers that a municipality to which section 15 (1) applies is not complying with that section” *and substituting* “If the director considers that a municipality with a population of more than 5 000 persons is not complying with section 3.1 (4) or 15 (1)”.

CLAUSE 4: *[Police Act, section 18]* is consequential to amendments made by this Bill to section 3 (2) of the Act.

CLAUSE 5: *[Police Act, section 23]* is consequential to the addition by this Bill of sections 3.1 and 3.2 to the Act.

CLAUSE 6: *[Police Act, section 40]* clarifies that the director’s powers include superintending the implementation of the means by which a municipality is required to provide policing and law enforcement and, for that purpose, authorizes the director to issue directions to specified entities.

CLAUSE 7: *[Transition – City of Surrey]* requires the City of Surrey to provide policing and law enforcement by the means referred to in section 3 (2) (a) of the *Police Act*, as amended by this Bill, and provides transitional rules in relation to that requirement.

- 4 *Section 18 (2) is amended by striking out “with the minister”.*
- 5 *Section 23 (1) is amended by striking out “Subject to the minister’s approval, the council of a municipality required to provide policing and law enforcement under section 15 may provide policing and law enforcement by means of a municipal police department governed by a municipal police board consisting of” and substituting “If the council of a municipality is required to provide policing and law enforcement by the means referred to in section 3 (2) (a), the municipal police department must be governed by a municipal police board consisting of”.*
- 6 *Section 40 is amended by adding the following subsection:*
- (5) Without limiting section 39 (1), the director may do the following:
 - (a) superintend the implementation of the means by which a municipality is required to provide policing and law enforcement under section 3 (2);
 - (b) for the purposes of exercising the power referred to in paragraph (a) of this subsection, issue directions to any of the following:
 - (i) a municipality;
 - (ii) a municipal police board or municipal police department;
 - (iii) the provincial police force.

Transitional Provisions

Transition – City of Surrey

- 7 (1) In this section:
- “**agreement**” means the Municipal Police Unit Agreement between the government and the City of Surrey dated April 1, 2012;
 - “**minister**” means the minister charged with the administration of the *Police Act*.
- (2) Despite the *Police Act*, the City of Surrey must provide policing and law enforcement by the means referred to in section 3 (2) (a) of that Act.
- (3) The means referred to in subsection (2) by which the City of Surrey is required to provide policing and law enforcement is deemed to have been approved by the minister under section 3.1 (2) (a) of the *Police Act*.
- (4) The minister may terminate the agreement by giving written notice of the termination to the City of Surrey.
- (5) If the agreement is terminated by notice under subsection (4), the termination takes effect, despite Article 22 of that agreement, on the date specified in the notice.

CLAUSE 7: *[Transition – City of Surrey – continued]*

CLAUSE 8: *[Transition – Surrey Police Board]* authorizes the Lieutenant Governor in Council to appoint administrators for the purposes of implementing the means under clause 7 (2) of this Bill by which the City of Surrey is required to provide policing and law enforcement and, during the period when administrators are appointed for those purposes, suspends the membership of persons who are members of the municipal police board of the City of Surrey.

- (6) For certainty, sections 3.1 (4) and 40 (5) of the *Police Act* apply in relation to the implementation of the means, as referred to in subsection (2) of this section, by which the City of Surrey is required to provide policing and law enforcement.

Transition – Surrey Police Board

- 8** (1) In this section:
- “**administrator**” means a person appointed under subsection (2) (a) as an administrator;
 - “**board**” means the municipal police board of the City of Surrey;
 - “**director**” has the same meaning as in section 1 of the *Police Act*;
 - “**minister**” means the minister charged with the administration of the *Police Act*;
 - “**revocation order**” means an order of the Lieutenant Governor in Council that revokes the appointment of each person who is an administrator;
 - “**transition period**” means the period that
 - (a) starts on the effective date of the first order made under subsection (2), and
 - (b) ends on the effective date of a revocation order.
- (2) For the purposes of implementing the means referred to in section 7 (2) by which the City of Surrey is required to provide policing and law enforcement, the Lieutenant Governor in Council may, by order, do the following:
- (a) appoint one or more persons as an administrator;
 - (b) if 2 or more persons are appointed as administrators, designate one of those persons as the chief administrator.
- (3) During the transition period, the membership of each person who is a member of the board is suspended.
- (4) During the transition period,
- (a) if only one person is appointed as an administrator, the administrator is deemed to be both the board and the chair of the board, and
 - (b) if 2 or more persons are appointed as administrators,
 - (i) the administrators are deemed to be the board, and
 - (ii) the chief administrator is deemed to be the chair of the board.
- (5) During the transition period, the Lieutenant Governor in Council may, by order, disapply or vary a provision of an enactment that imposes a duty or confers a power on the board or the chair of the board.
- (6) If, during the transition period, a person is appointed to the board under section 23 (1) (b) or (c) of the *Police Act*, the appointment is suspended and does not take effect until the transition period ends.

CLAUSE 8: *[Transition – Surrey Police Board – continued]*

- (7) The minister must recommend that the Lieutenant Governor in Council make a revocation order after the director determines that
 - (a) administrators are no longer required for the purposes of implementing the means referred to in section 7 (2) of this Act, or
 - (b) the means referred to in section 7 (2) of this Act has been implemented.
- (8) On the effective date of a revocation order, each of the following are members of the board:
 - (a) the mayor of the council of the City of Surrey;
 - (b) unless the term of the person's appointment has expired, a person appointed to the board whose
 - (i) membership was suspended under subsection (3), or
 - (ii) appointment was suspended under subsection (6).
- (9) This section applies despite the *Police Act*.

Commencement

- 9 This Act comes into force on the date of Royal Assent.