

<p><b>1. EFFECT OF BILL 25 ON THE OPERATION OF TRANSIT SERVICE</b></p>
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**COMMITTEE RECOMMENDATION**

**That the Transit Commission receive this report for information.**

**DOCUMENTATION**

1. General Manager, OC Transpo and Acting Regional Solicitor's joint report dated 7 Feb 00 is immediately attached.
2. Extract of Draft Minute, Transit Services Committee meeting of 23 Feb 00, follows the report and contains a record of all votes.

Our File/N/Réf.  
Your File/V/Réf.

DATE: 7 February 2000

TO/DEST: Co-ordinator, Transit Services Committee

FROM/EXP: General Manager and Acting Regional Solicitor

SUBJECT/OBJET: **EFFECT OF BILL 25 ON THE OPERATION OF TRANSIT SERVICE**

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### **DEPARTMENTAL RECOMMENDATION**

**That the Transit Services Committee recommend the Commission receive this report for information.**

### **BACKGROUND**

The *Fewer Municipal Politicians Act, 1999* (Bill 25) introduces a number of changes to the organization of public transit service. However, most of the legislative changes are unlikely to bring about significant changes in day-to-day operation of transit services.

### **Overview of Changes**

The most obvious change introduced by the legislation is the dissolution of the Ottawa-Carleton Regional Transit Commission effective 1 January 2001. All of the Commission's assets, liabilities, contractual obligations, interests and approvals will become those of the new city. The provisions of the *Regional Municipality of Ottawa-Carleton Act*, including those provisions granting the Region and the Commission exclusive franchise for the operation of passenger transport services, will be repealed.

### **Extent of Exclusive Franchise**

The new city will be able to enact a by-law pursuant to paragraph 210 § 104 of the *Municipal Act* to maintain an exclusive right to operate buses within the new city. A bus is not defined in the *Municipal Act*, but is defined in the *Highway Traffic Act* as a vehicle designed to carry ten or more passengers. The new city will also be able to license and regulate taxis which have been defined in past court decisions to include vehicles carrying up to seven passengers.

As a result, there is the possibility that vehicles carrying between eight to ten passengers will be able to operate without municipal regulation in competition with bus and taxi service. This concern has been communicated to staff with the Ministry of Municipal Affairs and Housing.

### **Transit Levies and Regulation**

Bill 25 will preserve the right to impose a transit levy on those areas serviced by public transit. The amount of these levies may differ between areas of the new city. The new city will also have the authority to regulate and control operation of the transit system.

### **Effect of Dissolution of Commission**

OC Transpo operates its service into the City of Hull on a regular basis. Under the *Constitution Act, 1867* undertakings connecting one province to another are federal undertakings. The status of OC Transpo as a federal undertaking was confirmed in 1983 by the Ontario Court of Appeal in the case of Re Ottawa-Carleton Transit Commission and Amalgamated Transit Union, Local 279. The most significant effect of this status is to make the public transit operation subject to federal legislation in relation to labour relations and conditions of employment.

In the early 1990s, Regional Council considered integration of OC Transpo into municipal operations. It is recognized that, following any integration of public transit operations within the municipality, those employees whose functions relate predominantly to public transit operations will continue to be subject to federal laws as they relate to labour relations, employment standards, occupational health and safety, employment equity and human rights. While integration of employees may have given rise to difficulties in the early 1990s as it related to pensions for employees, this potential problem has been overcome through the enrolment of OC Transpo employees into OMERS. There remains potential difficulties with respect to proper union affiliation of a small number of employees fulfilling a mixture of public transit and general municipal functions. These employment-related issues will give rise to some problems, but these problems do not appear to be insurmountable.

### **CONCLUSION**

Bill 25 introduces some changes to the legislation governing public transit operations in this area. The dissolution of the Commission and integration of public transit operations within the new city will give rise to some difficulties, but these difficulties are not insurmountable. Concerns have been raised about the scope of the exclusive franchise for passenger transport available to the new city. There is a possibility that unregulated services could emerge which would compete with bus operations and taxi service. Staff with the Ministry of Municipal Affairs and Housing have been approached about possible amending legislation which would avoid this potential difficulty.

*Approved by*  
*Gordon Diamond*

*Approved by*  
*E.A. Johnston*

Extract of Draft Minute  
Transit Services Committee  
23 February 2000

EFFECT OF BILL 25 ON THE OPERATION OF TRANSIT SERVICE

- General Manager and Acting Regional Solicitor's joint report dated 7 Feb 00

Mr. Paul Hughes, Manager, Civil Litigation, regional Legal Department presented the report. He began by saying the most significant impact is that the Commission will no longer exist as an entity and will be brought into the new City of Ottawa. He pointed out there may be labour relations issues, since OC Transpo is a federal undertaking for constitutional purposes and its employees are subject to federal labour regulations. Mr. Hughes said another issue relates to the scope of the franchise for the bus operation once it is within the new City of Ottawa. He indicated that, under the *Municipal Act*, the new City can grant itself an exclusive franchise for bus operation. Currently, OC Transpo has an exclusive franchise for everything other than taxis. Mr. Hughes spoke about the potential for unregulated service caused by the definition of buses and taxis, and he noted staff have already approached the Ministry of Municipal Affairs and Housing with this concern. He added that, when the City of Toronto's operations were changed, its exclusive franchise was of a scope that took in vehicles which were bigger than a taxi but smaller than a bus.

Mr. Hughes spoke about Transition Board regulation 100 of 2000, saying it will likely have a much bigger and more immediate impact on the operations of the Transit Services Committee, the Commission and OC Transpo on a day-to-day basis. One of the most significant aspect deals with the fact that contracts, financial liabilities, obligations and delegated authority extending beyond the calendar year will require Transition Board approval, or, if the Board passes guidelines, matters will have to come within the guidelines. The regulations/guidelines will also apply to hiring, promotion and job classification changes or appointments to positions, increases in compensation packages, and the disposal of real or personal property where the purchase price or current value is over \$50,000. The use of reserve funds and debentures, as well as non-budgeted expenditures over \$10,000 will also be covered.

The Acting Regional Solicitor, E. Johnston, informed the Committee he was aware that a great deal of work is underway and there is optimism that guidelines will be forthcoming. He added that the intent of those working on the guidelines is that there will be a business as usual approach, and that the guidelines will cover most of normal activity; only the variances and/or exceptions to normal business will require special consideration by the Transition Board. The Committee Chair, A. Loney, asked when staff expect to receive further guidance from the Board. Mr. Johnston replied that, while he hesitated to pick a date, he would speculate that information will be available within one week.

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Committee discussion focused on hiring/appointments to positions, Chair Loney inquiring whether prior approval would be required in this respect. Mr. Johnston suggested that activities in this area should be approached with caution. He said he thought appointments could be made, subject to Transition Board approval, with actual offers of employment being delayed until the guidelines are in place.

Commissioner J. Legendre spoke about the lower tier municipalities being responsible for taxi licensing, and he inquired whether this matter will be examined by the Transition Board when the municipalities cease to exist at the end of the year. The Commissioner added this will be a huge and very contentious dossier, and he stressed the importance of providing some input into the issue sooner rather than later. Mr. Johnston indicated he could not respond to the question, but that he will consult with the Chief Administrative Officer on this matter. He indicated that the Regional CAO's have put in place a number of groups to address various issues. Taxis will require a great deal of study, because, at the end of the year, there will be one city and one licensing authority. Commissioner Legendre expressed the hope that OC Transpo will take an interest in this issue. He posited that the taxi industry is part of the public transportation system and the Commission has an interest in ensuring this system functions as well as it can.

**That the Transit Services Committee recommend the Commission receive this report for information.**

CARRIED