

Our File/N/Réf. T.2.4.204
Your File/V/Réf.

DATE 7 February 2000

TO/DEST. Co-ordinator
Transit Services Committee

FROM/EXP. General Manager
Acting Regional Solicitor

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

DEPARTMENTAL RECOMMENDATION

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granting the Region and the Commission exclusive franchise for the operation of passenger transport services, will be repealed.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