



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Planning Committee
COMMITTEE DATE:	November 14, 2023
SUBJECT/REPORT NO:	Ontario Regulatory Registry Posting 23-MOI004, Proposed <i>GO Transit Station Funding Act, 2023</i> (PED23245) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Dave Heyworth (905) 546-2424, Ext. 1279
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That staff be directed to advise the Province that the cost of designing and constructing Government of Ontario GO Stations continue to be funded by the Province;
- (b) That Council endorse the submissions and recommendations as attached in Appendix “A” to Report PED23245 regarding the proposed Bill 134, *Affordable Homes and Good Jobs Act, 2023*;
- (c) That the Acting Director of Planning and Chief Planner be authorized and directed to confirm the submissions and recommendations made to the Province resulting from Council’s review and decisions on Report PED23245;
- (d) That staff report back to Council should Bill 131, proposed *GO Transit Station Funding Act, 2023* be proclaimed on any required process, fee and By-law changes necessary to implement the proposed changes.

EXECUTIVE SUMMARY

On September 25, 2023 the Province posted Bill 131 to seek comments on the *GO Transit Station Funding Act, 2023*. Comments had to be submitted by October 25, 2023. Bill 131 has received second reading in the Ontario Legislature. If enacted Bill 131 would allow municipalities to fund the design and construction of new GO Stations and

recoup the costs through a charge on new development within specified areas surrounding those new stations.

The use of the tool, known as the station contribution fee, will only be permitted in municipalities where the Province has determined a new GO Station is warranted. Municipalities will be required to provide a background study and pass a by-law, which clearly identifies the area to which the station contribution fee will apply, to be forwarded to the Province for approval. Municipalities given approval to use the station contribution fee will be prescribed in a regulation.

The Government of Ontario requested comments on the proposed legislation with a deadline of October 25, 2023. Given the commenting deadline, staff-level comments contained in Appendix “A” attached to Report PED23245 have been submitted to the Province.

The Province has historically been responsible for all costs associated with the construction of new GO Stations. Staff would like this to continue and has concerns with the potential downloading of the cost of designing and constructing GO Stations to municipalities. Staff have also identified financial, timeline, and administration concerns and concerns with affordability in that this levy would be a significant charge per dwelling unit, eroding affordability.

Staff have also noted uncertainties regarding the calculation methodology, implementation procedures, and financial implications of the charge based on what is currently available for review. Full regulations are required to provide a detailed assessment.

While not specifically stated in the draft legislation, it is understood that it is intended to be high level at this time, and there will be further follow-up and consultation with municipalities. Additionally, it is understood that it is intended for new GO Stations only. At present, the City of Hamilton has two existing GO Stations and one under construction, and there are no formal plans for additional Regional Rail stations in the City.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The legislation states that the fee would be for “costs related to the construction of a GO Transit station that the municipality has agreed to pay” (s. 3 (1)). The statement that the Municipality has agreed to pay appears to be a larger matter of downloading Provincial Infrastructure costs onto municipalities. If the collections under a by-law are insufficient to cover the “costs related to the construction of a GO Transit station that

the municipality has agreed to pay” (s. 3 (1)), municipalities would have to cover the shortfall.

Transit oriented developments can take years and even decades to be planned and constructed. This means that it could take 20+ years for the City to fully collect the anticipated levy, resulting in increased borrowing costs and financial risk to municipalities if the development is not realized.

Staffing: City staff will have extra administrative responsibilities in preparing the background study and by-law, consultation around the preparation of these documents and ultimately collection of fees.

Legal: Legal staff will need to review the Background Study and be involved in the preparation of the required by-law. It will be important for the by-law to be explicit on situations where the fee will be charged and how it will be collected.

HISTORICAL BACKGROUND;

Historically, the direct cost for design and construction of GO Stations in Hamilton, and elsewhere, has been funded by senior levels of government. However, the City does collect development charges for GO Transit which are submitted to the Province annually.

The West Harbour GO Station, which was completed in phases starting in 2015, was funded by the Province and similarly the Confederation GO Station is funded by the Province with the Province announcing in 2022 that it was investing \$50 million to complete construction. Aside from the existing three GO Stations, there are no other new GO Stations that have been identified for the City.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Under Bill 131 the council of a municipality may, by by-law, impose transit station charges on development to pay for costs related to the construction of a new GO Station. A transit station charge by-law must include a map of the area where charges may be imposed and rules for determining if a charge is payable and the amount of the charge (Section 4). Before passing a transit station charge by-law, the council of a municipality must complete a background study, give notice of and consult on the study and proposed by-law, pass a resolution requesting the Minister’s consent and obtain such consent (Section 6).

A transit station charge is payable when a building permit is issued. Some exceptions are provided for including agreements with the municipality for charges to be payable at

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

a different time. A municipality may charge interest on unpaid charges and an unpaid charge may be collected in the same manner as taxes (Sections 7 to 11). Transit station charges may be used to pay only the costs the charges were imposed for, interest on amounts a municipality borrows to pay such costs and any other amounts provided for in the transit station charge by-law (Section 12).

Under the proposed legislation, a transit station charge may be imposed only for development that requires:

- (a) The passing of a zoning by-law or of an amendment to a zoning by-law under Section 34 of the *Planning Act*;
- (b) The approval of a minor variance under Section 45 of the *Planning Act*;
- (c) A conveyance of land to which a by-law passed under Subsection 50 (7) of the *Planning Act* applies;
- (d) The approval of a plan of subdivision under Section 51 of the *Planning Act*;
- (e) A consent under Section 53 of the *Planning Act*;
- (f) The approval of a description under Section 9 of the *Condominium Act, 1998*; or,
- (g) The issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.

RELEVANT CONSULTATION

Staff from the Transportation Planning and Parking Division and Financial Planning, Administration and Policy Division were consulted in the drafting of this report and appendix.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Staff have concerns with the proposed legislation. As indicated the Province has historically been responsible for all costs associated with the construction of new GO Stations and staff are concerned with the potential downloading of the cost of designing and constructing GO Stations to municipalities. Given the current structure of the legislation, there are significant concerns the City would not recoup all costs necessary in a timely fashion.

Staff are concerned with how this levy would impact the City's ability to enact Inclusionary Zoning around new GO Stations through a Protected Major Transit Station Area. Ontario Regulation 232/18 requires the City to complete an Assessment Report to determine the market feasibility of implementing Inclusionary Zoning. The inclusion of a new levy that increases the cost of residential developments could negatively impact market feasibility. Further, staff are concerned that this levy would be a significant charge per dwelling unit, eroding affordability. The City is also undertaking policy planning for Major Transit Station Areas. The "on ground" fruition of such

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

planning is dependent in part on the timely construction of transit, including GO Transit stations.

There are substantial uncertainties regarding the calculation methodology, implementation procedures, and financial implications of the charge based on what is currently available for review. Full regulations are required to provide a detailed assessment.

Passing a transit station charge by-law is less predictable than the Development Charges equivalent. There is no right of appeal for developers, and for municipalities there is no certainty or timeframe for Ministerial approval.

For more detailed comments refer to Appendix "A" attached to Report PED23245 which identifies all the areas of concern or where clarification is needed within the proposed legislation.

ALTERNATIVES FOR CONSIDERATION

Council may amend the staff-level comments attached as Appendix "A" to Report PED23256 or supplement the staff-level comments with additional comments.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED23245 - Staff comments on Ontario Regulatory Registry Posting 23-MOI004, Bill 131, *Transportation for the Future Act, 2023, Proposed GO Transit Station Funding Act, 2023*

DH/mb