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Report of the Commissioner of Finance

**Bill 131, *Transportation for the Future Act, 2023* – Recommendations**

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## 1. Recommendations

1. The Province be requested to clarify:
  - a. How future GO Transit stations will be funded if a municipality does not use the new Station Contribution Fee and if this represents a shift in responsibility for funding GO Transit stations, from the Province to municipalities.
  - b. There is no ability for developers to ‘opt out’ of participation, once a municipality is prescribed, and the background study process is undertaken.
  - c. That the new Station Contribution Fee may be levied either on a municipal-wide or area-specific basis.
  - d. The type of offsets that municipalities levying the new fee will be required to provide developers; whether the quantum of those offsets must be commensurate/equal to additional costs associated with the new fee; and in a two-tier jurisdiction where the upper-tier municipality levies the fee if a local municipal offset would satisfy this requirement.
2. The Province include the York Region in its consultation regarding the regulations supporting the new Station Contribution Fee.
3. The Regional Clerk forward this report to the Ministry of Infrastructure, Ministry of Transportation, local Members of Provincial Parliament, and the local municipalities.

## 2. Purpose

This report provides Council with an update on the recently tabled Bill 131, *Transportation for the Future Act, 2023* (Bill 131). This report will serve as the Region’s recommendations to the Province, to inform potential amendments to Bill 131, as well as a request for participation in the regulation-making process in support of the bill.

## Key Points:

- Bill 131 proposes a new voluntary tool that any prescribed municipality (i.e., upper-tier, single-tier, or local municipality) could use to advance and fund new GO Transit stations, called a Station Contribution Fee
- The Province is requested to clarify:
  - How future GO Transit stations will be funded if a municipality does not use the tool and if this represents a shift in funding responsibilities for GO Transit stations, from the Province to municipalities
  - That there is no ability for developers to ‘opt out’ of participation in the Fee
  - The new fee may be levied either on a municipal-wide or area-specific basis
  - As it relates to the requirement to help offset the costs associated with the new fee;
    - What type of offsets municipalities are required to provide developers
    - Whether the quantum of those offsets must be commensurate/equal to the additional costs associated with the new fee
    - Whether or not, in a two-tier jurisdiction, where the upper-tier municipality levies the fee, if a local municipal offset would satisfy this requirement
- Many details associated with the new Station Contribution Fee are to be prescribed through the regulation-making process and it is being requested that the Region be included in the consultation process.
- Should the Province update its GO Transit development charges bylaw, it is recommended it clarify whether it will include new GO Transit station infrastructure.
- Bill 131 also proposes to amend the *City of Toronto Act, 2006*, to improve cross boundary transit system integration.

## 3. Background

### Bill 131 introduces a new voluntary tool to help build GO Transit stations

On September 25, 2023, the Province tabled Bill 131, which introduces a new act, the *GO Transit Station Funding Act, 2023* and a new associated fee, called a Station Contribution Fee (also referred to as a transit station charge).

Bill 131 is in response to requests made by municipalities for a new optional funding tool to raise revenues needed to build new GO Transit stations. The Station Contribution Fee would allow a municipality to fund design, construction, and other related costs for a new GO Transit station by having multiple benefiting developers contribute to costs. The concept of this new fee originates from Metrolinx’s current market driven approach to funding new GO Transit stations,

where often one benefiting developer contributes to costs of funding the station. The new Station Contribution Fee may be a more equitable approach to funding GO Transit stations than the market driven approach, in that it seeks contributions from multiple developers who may also be benefitting from the associated value uplift of their lands.

Finally, costs related to other transit infrastructure or stations, such as stations to support the Yonge North Subway Extension or York Region Transit (YRT), would not be eligible for recovery using this tool (as it has been proposed).

### **Bill 131 proposes to amend the *City of Toronto Act* to improve cross boundary transit system integration**

Bill 131 also proposes changes to the *City of Toronto Act, 2006*. Proposed amendments would have the effect of helping the City of Toronto better integrate its transit services with other regional transit networks by allowing the Toronto Transit Commission (TTC) to enter into cross-boundary service agreements with neighbouring transit agencies like YRT. At this point, it is unclear how this would impact neighbouring transit agencies like the YRT. Staff will continue to monitor this and report back when more information is made available.

### **In October, Committee of the Whole received a memorandum on Bill 131 and requested staff report back with recommendations to the Province**

On October 12, Committee of the Whole received a [memorandum](#) from the Commissioner of Finance title, “Bill 131, Transportation for the Future Act, 2023 – Update”. This memorandum provided a summary of the key details of Bill 131. At that meeting, members of Committee of the Whole requested staff report back to the October meeting of Regional Council with recommendations to the Province.

## **4. Analysis**

### **Municipalities need clarification as to how new GO Transit stations will be funded, if a Station Contribution Fee is not used**

Given available information, the new Station Contribution Fee would appear to be a permissive power that prescribed municipalities can use to fund GO stations they wish to advance faster than what the Province has planned.

Municipalities need clarification as to how new GO Transit stations would be funded if a municipality does not use this tool and that this does not represent a shift in funding responsibilities to developers and municipalities.

### **Only prescribed municipalities will be eligible to levy new Station Contribution Fee**

The *GO Transit Station Funding Act, 2023*, provides that only prescribed upper-tier, single-tier or local municipalities may, by bylaw, levy this new fee. Neither the Region nor any other

municipality has been prescribed so far. It is unclear as to what process would need to be undertaken to be prescribed.

Upon being prescribed, a municipality considering levying this fee would have to be guided by the principle that new funding supports the following three objectives:

- Creation of local and regional transit connections;
- Creation and growth of transit-oriented communities near the GO Transit station;
- Recovery of costs related to construction of the new GO Transit station in a reasonable, transparent, and fair manner.

### **Once a municipality is prescribed, it is requested that the Province clarify that there is no ability for developers to ‘opt out’ of participation in the Fee**

Bill 131, which is an extension of the province’s market driven approach to funding GO Transit stations, seems to download future station planning and construction to municipalities and developers. Municipalities with identified, but unfunded, future stations are being asked to work/negotiate with developers (and potentially reduce other development related costs by providing developers with offsets) to get stations funded and constructed. The Province should clarify that this tool is to provide greater certainty for municipalities to advance GO Transit stations where they want to increase densities supported by transit infrastructure,

Finally, given the Station Contribution Fee spreads the costs of new GO Transit stations across multiple benefitting developers with a potential value uplift to their lands, it is requested that the Province also clarify that once a municipality is prescribed, and the background study process undertaken, that developer participation is mandatory.

### **The Province is being requested to clarify that prescribed municipalities can levy a Station Contribution Fee on either a municipal-wide or area-specific basis**

Bill 131 does not prescribe whether a municipality must levy this new fee on a municipal-wide or area-specific basis. Insofar as this is not prescribed, those municipalities who wish to levy this fee would appear to be able to do so on a municipal-wide basis, provided that a municipal-wide benefit can be shown, or an area-specific basis.

Despite the clarity provided in Bill 131, at the September 28, 2023 debate on the bill, Deepak Anand, Parliamentary Assistant to the Minister of Labour, Immigration, Training and Skills Development, was [quoted](#) as saying, “the applicable fee is only to new development. It’s voluntary and applies only to new development. **It is area-specific, applicable only within a specified area surrounding a new GO station**, identified by municipalities” [emphasis added].

Given the uncertainty caused by this statement, it is recommended the Province amend Bill 131, explicitly clarifying that this new fee may be levied on a Region-wide, local-municipal-wide, or area-specific basis.

## **While municipalities levying a Station Contribution Fee would need to help offset other development costs, clarification is requested as to the type of offsets to be used and whether they need be equal to the increased costs**

A Station Contribution Fee will ordinarily be due at building permit issuance, although prescribed municipalities would have the ability to enter into early or late payment agreements (e.g., prepayment or deferral agreements)<sup>1</sup>.

As noted in the [Ontario Newsroom release](#), prescribed municipalities who levy this new fee would need to show a reduction in other development costs to help provide an offset for developers. The Bill however does not provide clarity as to what offsets municipalities would be required to provide, nor does it speak to the quantum of those offsets (e.g., must they be commensurate/equal to the additional costs associated with the new fee).

Based on information publicly available, a municipality could provide an offset through:

- Prioritizing capacity for transit-oriented developments benefitting from the new GO Transit station
- Relaxing parking requirements
- Expediting planning approvals
- Reducing fees

It is unclear if an upper-tier municipality were to levy this new fee, whether an offset provided by the local municipality would satisfy this requirement.

As a result, it is requested that the Province clarify the types of offset that a municipality levying the new fee will be required to provide developers; whether the quantum of those offsets must be commensurate/equal to additional costs associated with the new fee; and in a two-tier jurisdiction where the upper-tier municipality levies the fee, if a local municipal offset would satisfy this requirement.

## **Bill 131 provides other key requirements for the enabling Station Contribution Fee bylaw; however, much will be prescribed during the regulation-making process and Council requests the Region be included**

Bill 131 provides requirements to pass the enabling bylaw, and levy a Station Contribution Fee, the key details of which are provided in Table 1 below. Still many details remain yet to be prescribed, with an expectation of further clarity being provided as part of the regulation-making process. While municipalities are anticipating being engaged as part of that process, it is unclear which municipalities will be included and as such the Region is requesting its inclusion in that consultation (and any potential technical working groups).

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<sup>1</sup> Note: Municipalities may charge interest at a rate not above Prime +1

**Table 1**

**Station Contribution Fee – Key Details**

**(Information requiring further regulatory clarification has been bolded)**

<b>Area</b>	<b>Key Detail(s)</b>
When can Station Contribution Fee be imposed	<p>For developments requiring:</p> <ul style="list-style-type: none"> <li>✓ passing of a zoning by-law or an amendment under section 34 of the Planning Act (Act)</li> <li>✓ approval of a minor variance under section 45 of the Act</li> <li>✓ approval of a plan of subdivision under section 51 of the Act</li> <li>✓ consent under section 53 of the Act</li> <li>✓ approval of a description under section 9 of the Condominium Act, 1998</li> <li>✓ issuance of a permit under the Building Code Act, 1992</li> </ul>
Excluded/exempted development	<ul style="list-style-type: none"> <li>✓ Municipalities and school boards</li> <li>✓ <b>Other development to be prescribed</b></li> </ul>
Requirement to pass a Bylaw	<ul style="list-style-type: none"> <li>✓ <b>Complete a background study meeting prescribed requirements (Province could also prescribe the maximum life of the enabling bylaw)</b></li> <li>✓ Public notice of the background study and proposed bylaw, consult as the municipality deems appropriate</li> <li>✓ <b>Pass a resolution requesting that the Minister consent to passing of the bylaw, forward to the Minister with the prescribed information and obtain Minister’s consent to pass the bylaw (with potential Ministerial modification)</b> <ul style="list-style-type: none"> <li>• Resolution must identify the area to which the proposed bylaw would apply and a draft of the proposed bylaw</li> </ul> </li> </ul>
Eligible costs	<ul style="list-style-type: none"> <li>✓ Related to construction of new GO Transit stations and includes any interest the municipality pays on any debt it incurs to pay any costs for which the fee is imposed</li> </ul>
Requirements of the Bylaw	<ul style="list-style-type: none"> <li>✓ Map of the area within which the fee is imposed</li> <li>✓ Rules to determine if a transit station charge is payable and the rules to determine the amount of the charge</li> <li>✓ <b>Anything required by regulation</b></li> </ul>
Timing of payment - rental and institutional development	<ul style="list-style-type: none"> <li>• <b>Subject to further regulatory clarification</b></li> </ul>

<b>Area</b>	<b>Key Detail(s)</b>
Establishment of special reserve	<ul style="list-style-type: none"> <li>• <b>Minister may, through regulation, require a municipality to establish a reserve fund for Station Contribution Fees collected</b></li> </ul>
Statement of the Treasurer	<ul style="list-style-type: none"> <li>✓ Treasurer annually provide Council a statement detailing costs related to construction of the stations that have been funded by the fee and the amount of such costs that are to be funded by transit station charges that remain unfunded, as well as <b>other prescribed information</b></li> <li>✓ <b>Statement be made publicly available on the municipality's website or office in a manner as prescribed</b></li> </ul>

**While the new Station Contribution Fee appears similar to a development charge, there are distinct differences**

While many provisions in the *GO Transit Station Funding Act, 2023* appear to be similar to those under the *Development Charges Act, 1997* there are key differences, summarized in Table 2.

**Table 2**

***Development Charges Act, 1997 versus GO Transit Station Funding Act, 2023***

<b>Development Charges Act</b>	<b>GO Transit Station Funding Act</b>
Development charge rates frozen at application for site plan approval or zoning bylaw amendment	No such provision for the Station Contribution Fees
Exemption for affordable, attainable, non-profit housing, and second/additional suites	No such provision
Discounts for rental developments	No such provision
Development charges rates phased in:	
80% of the new rate in year 1 of the Bylaw	No such provision
85% in year 2	
90% in year 3	
95% in year 4	
100% in years 5-10	
Maximum timeframe for bylaw – 10 years	No such provision

<b>Development Charges Act</b>	<b>GO Transit Station Funding Act</b>
Appeal rights on a new development charges bylaw; ability to file a complaint when development charges are due	No such provisions, redress through courts

### **Fifteen GO Transit stations, yet to be built, were identified in the Region’s 2022 Transportation Master Plan**

The 2022 Transportation Master Plan includes 15 GO Transit Rail stations that are yet to be built (as shown in the Appendix A, Map – 2022 Transportation Master Plan – Existing and Recommended GO Stations). These stations are needed to address the travel demands of future population and employment as forecast by the Province.

Should the Region become a prescribed municipality and decide to help fund these new stations and levy this fee, there would be debt implications to be considered. Bloomington Station, which opened in 2017 in Richmond Hill, is [reported](#) to have cost just over \$82 million.

### **Should the Province update its GO Transit development charges bylaw, it is recommended that it clarify whether or not it will include new GO Transit station infrastructure**

York Region’s GO Transit Development Charges Bylaw (Bylaw) was enacted in 2001 for a two-year term. The background study, in support of the Bylaw, included approximately \$1 billion in gross, growth-related infrastructure. The Bylaw term has been extended every three years since 2001, by way of regulation, and most recently in 2022. These extensions did not involve updating growth-related capital costs (e.g., to enhance Regional GO rail systems to support transit-oriented communities) or development charges rate calculation methodology (e.g., to capture legislative changes to the *Development Charges Act, 1997*).

GO Transit development charges, which are only applied to residential development, are collected by the Region and other participating municipalities, with the Region remitting the funds to Metrolinx on a quarterly basis. In 2022, the Region [collected](#) just over \$2.5 million in GO Transit development charges. It is unclear how much, if any, of the GO Transit development charge revenues Metrolinx collects goes to fund new GO Transit stations.

Finally, should the Province update its Bylaw, it is recommended that it clarify whether Station Contribution Fees or development charges would be the primary tool to fund new GO Transit stations.



## **Responding to Bill 131 supports York Region’s ‘Vision’ focus of good government and economic vitality**

York Region’s [Vision](#) of good government is one that is democratic and reliable. Responding to Bill 131, as part of the legislative process, is part of this democratic process. This response is also evidence of the reliability of Regional Council. The feedback contained herein is informed by the Vision focus of ensuring the economic vitality of the Region, with the need to grow and employ infrastructure, in a financially sustainable manner.

### **5. Financial Considerations**

There are no direct financial implications from this report. Staff will report back when Bill 131 receives Royal Assent, if there are any financial implications.

### **6. Local Impact**

The new Station Contribution Fee would be available to any prescribed municipality that wishes to advance and fund new GO Transit stations.

New GO Transit stations benefit York Region and the local municipalities by providing greater access to regional rail transit services, influencing land use development and assisting in achieving provincially mandated intensification and housing targets.

### **7. Conclusion and Next Steps**


Bill 131 provides an optional, voluntary tool municipalities can seek authority to use to advance and fund new GO Transit stations. Clarification is however being recommended on a few key areas, including that this new fee does not represent a shift in funding responsibilities for GO Transit stations. It is also being requested that the Province engage with municipalities, including the Region, as part of the regulation-making process in support of the new Station Contribution Fee.

Finally, as of October 18, 2023, Bill 131 was being considered at the Standing Committee on Heritage, Infrastructure and Cultural Policy, as part of its second reading. Staff will continue monitoring progress of the Bill, and the expected regulation-making process, and report back as necessary.

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For more information on this report, please contact Ed Hankins, Director, Treasury Office and Deputy Treasurer at 1-877-464-9675 ext. 71644. Accessible formats or communication supports are available upon request.

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Appendix A – Map – 2022 Transportation Master Plan – Existing and Recommended GO Stations

