



Report to: Development Services Committee

Meeting Date: March 26, 2024

SUBJECT: Bill 131, GO Transit Station Funding Act, 2023 (City-wide)

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RECOMMENDATION:

- 1) That the staff report titled “Bill 131, GO Transit Station Funding Act, 2023 (City-wide)” be received;
- 2) That Council request the Province to allow municipalities to calculate their Station Contribution Fee in a similar manner to Hard Development Charges and align the eligible capital costs to the Development Charge regime, specifically including land and study-related costs; and
- 3) That Council request the Province to provide clarification on the following matters:
 - a. Whether there will be a mechanism for municipalities to collect Station Contribution Fees, or similar contributions, from benefiting developers in advance of their developments occurring, to reduce cash flow risks.
 - b. 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.
 - c. Whether developers have an ability to ‘opt out’ of participation, once a municipality is prescribed, and the background study process is undertaken.
 - d. Whether the new Station Contribution Fee may be levied either on a municipal-wide or area-specific basis.
 - e. With the type of development costs or charge reductions that municipalities will be required to provide to developers to offset the new Station Contribution Fee,
 - i. whether the quantum of those offsets must be commensurate/equal to additional costs associated with the new fee;
 - ii. in a two-tier municipal jurisdictional structure where the upper-tier municipality levies the fee, whether a local municipal offset would satisfy this requirement;
 - iii. if the offset is increased development density, how would it apply if the increased density has already been granted.
 - f. Whether a Station Contribution Fee can be levied for a GO station that has yet to be supported by Metrolinx.

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- 4) That this resolution be forwarded by the City Clerk to the Ministry of Infrastructure and York Region; and further;
 - 5) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

This report provides an overview of the GO Transit Station Funding Act, brought in through [Bill 131, Transportation for the Future Act, 2023](#), as well as identify some key areas of the Act that require further clarification before the legislative regulations can be enacted. Council approval is requested to forward recommendations and comments contained in this report as the City's comments to the Ministry of Infrastructure's posting #24-MO1003 on the Ontario Regulatory Registry seeking feedback on the GO Transit Station Funding Act regulations.

BACKGROUND:

The Province introduced Bill 131, Transportation for the Future Act (Bill 131), or GO Transit Station Funding Act, in September 2023, to provide a new municipal funding tool for the implementation of new GO Transit stations. The Bill received Royal Assent and came into effect on December 4, 2023.

Bill 131 introduces a new Station Contribution Fee on developments, which originates from Metrolinx's current market driven approach to fund new GO Transit stations where often one benefiting developer contributes to costs of funding the station, and is an opportunity to get contributions from multiple developers who may also be benefitting from the associated value uplift of their lands.

DISCUSSION:**Bill 131 is intended to support developments near new GO stations and is a revenue tool to fund those GO stations**

The Station Contribution Fee in Bill 131 outlines a mechanism for municipalities to collect money from benefiting developments for the costs associated with building GO Transit stations. It will require a "prescribed municipality" to pass a bylaw with objectives:

- a) to support the creation of local and regional transit connections;
- b) to encourage the creation and growth of transit-oriented communities near the GO Transit station; and
- c) to recover costs related to the construction of the GO Transit station in a reasonable, transparent and fair manner.

Bill 131 implies that municipalities can fund these stations in a manner akin to development charges (DCs), including similar style background studies, and public meetings. Municipalities can also hold back on issuing building permits until the Station Contribution Fees have been paid.

Station Contribution Fees could be applied at two proposed GO stations in Markham

The 2022 York Region Official Plan – Map 10 Rapid Transportation Network and 2022 York Region Transportation Master Plan both identify ‘GO Rail Stations subject to further study’ at Denison Street and at Major Mackenzie Drive. City growth plans also include these two proposed new GO stations on the Stouffville GO Line, both of which were endorsed by Council in 2016 and reflected in the current secondary plan studies being completed for Milliken Centre and Markham Road-Mount Joy areas respectively. Preliminary feasibility studies conducted for both proposed stations demonstrated their need.

No funding and timelines for implementation for either of the two stations have been identified yet. To advance these station planning efforts, an Initial Business Case will need to be undertaken by Metrolinx for both stations once the corresponding secondary plans are adopted by Council.

Details on how the Act can be used are not clear yet

There is not enough detail and clarity in Bill 131 to fully understand how the Station Contribution Fee will be calculated and administered.

Although not explained in the Bill, but noted in the Ontario Newsroom release, prescribed municipalities who levy this new Station Contribution Fee would need to show a reduction in other land development costs to help provide an offset for developers. This could mean any number of measures, including, but not limited to, allowing increased density, reducing parking requirements, expediting planning approvals, or reducing development fees.

Also not explicitly outlined in Bill 131, staff have been informed that the actual fee methodology may be much different than the preferred simple rate approach outlined below, in that the amount collected per development could be on a *land value capture* approach. That is, as developers are granted increased density around the station corridors, a portion of the increase in land value can be collected, similar to how Section 37 revenues were generated (before they were replaced with Community Benefit Charges). The issues with a *land value capture* approach are: 1) if municipalities have already granted increased density, there may not be any land value uplift to capture; and 2) there is no guarantee, or even high likelihood, that the full costs of the station(s) will be recouped.

Preferred approach to calculate the Station Contribution Fee is a simple rate

To ensure municipalities can fully collect these costs, Bill 131 would likely need to follow a similar methodology as hard services DCs. Under the hard services DC regime, a municipality estimates the total costs of the infrastructure and then applies a per unit charge to each residential unit or square metre of non-residential space, which is then updated on a regular basis (every 5 or 10 years) to recalibrate costs and remaining development projections.

A simple illustration (ignoring carrying costs) would be if the transit station and associated costs are \$100M, and 5,000 residential units are expected to be built in the benefiting areas, then the charge per unit would be \$20,000 (\$100M/5,000 units). This methodology helps to ensure that a municipality recovers the full cost of the infrastructure (i.e. land, studies, design, construction and any other related costs).

Preferred simple rate approach will still require supporting regulations

The preferred methodology attempts to make sure municipalities are made whole, but there are still concerns with this approach in that there would be a significant upfronting of money to build a station and would likely take several decades to fully recoup the costs. With Hard Services DCs, this is less of an issue as they cover a wide array of capital projects. For the Station Contribution Fee, the GO Stations will likely be built in advance of the majority of the growth in the area. By upfronting all the costs, there are risks for the City in recouping the costs associated with declining development projects, increases in interest rates, or changes to legislation.

To mitigate these risks, the Province should consider a methodology that would allow municipalities to collect the Station Contribution Fee, or similar contributions, from benefiting developers towards a new station in advance of their development occurring. This would help reduce the funding and cash flow risks for municipalities.

York Region has reported on Bill 131 and the GO Transit Station Funding Act and has asked the Province for clarifications

York Region Council endorsed a [report on Bill 131 on October 26, 2023](#) that provided many of the same concerns as outlined above. Regional staff provided a follow-up report to the [March 7, 2024 Regional Committee of the Whole on the GO Transit Station Funding Act](#) that provided further details on their key areas of concern on the Act and requested clarifications from the Province on those specific areas.

Province seeking feedback on regulations to implement the Station Contribution Fee

As noted above, there are details of the Act that are not clear, and implementing regulations to the Act have not been enacted yet. Key regulations such as the definition of “prescribed” municipalities, methodology for determining the Station Contribution Fee and other clarifications identified above will be needed before this funding tool can be applied.

The Province has posted on the Ontario Regulatory Registry a “[Proposal to create regulation to support implementation of the GO Transit Station Funding Act, 2023](#)”. Through that registry, the Ministry of Infrastructure is seeking feedback by March 29, 2024 on the anticipated costs and benefits of implementing the regulation for the Station Contribution Fee.

Staff recommend that the comments provided in this report be submitted to the Ministry of Infrastructure to meet the consultation deadline of March 29, 2024, and that any further Council comments be submitted as a follow-up.

HUMAN RESOURCES CONSIDERATIONS:

Not applicable.

ALIGNMENT WITH STRATEGIC PRIORITIES:

Improving the transit system in Markham aligns with the strategic focus for a Safe & Sustainable Community, through providing an improved transit option to residents. It is also consistent with various policies in the City Official Plan on complete communities, City-building and encouraging more non-automobile use in Markham.

BUSINESS UNITS CONSULTED & AFFECTED:

Finance and Planning have been consulted in the preparation of this report.

FINANCIAL IMPLICATIONS:

The contents of this report do not have a direct financial implication for the City. If, however the City were to be designated as a “prescribed municipality” in the future, the Station Contribution Fee has the potential to serve as a funding source for GO stations. Even with the Station Contribution fee in place, however, there remain concerns with the City’s ability to recoup the entire cost associated with building a GO Station along with cashflow constraints arising from the stations being built in advance of growth. To mitigate this funding and cashflow risk, staff have proposed that the Province consider permitting municipalities to collect the Station Contribution fee or similar contributions, in advance of growth and provide a system that allows for full cost recovery.

RECOMMENDED BY:

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