



June 2015 Summary  
Bill 73 – Amendments to Ontario Development Charges Act 1997

The Ontario Development Charges Act (DCA) 1997 was enacted to ensure that the development industry shares equitably in the costs of capital needs arising from development. However, certain aspects of the existing legislation that relate to transit represent a legacy from a time when investment in transit was relatively stagnant and when the true benefits of transit's crucial role in supporting economic growth and development were not recognized.

It is now widely recognized that:

- land use planning and transportation planning are inextricably linked and as such the efficiency, effectiveness and sustainability of one is dependent upon the other; and
- having an effective, efficient and progressive transit system is a critical strategy supporting economic, environmental and community access benefits for successfully growing Ontario municipalities.

There are a number of issues with respect to the DCA, in respect of how transit is treated that are counter-productive to the objectives of growth paying for growth, and such growth investment being sustainable, which is the principle behind the DCA, a principle that should continue to be maintained.

OPTA, on behalf of the Ontario transit industry, tabled a series of recommendations to address the identified issues, namely:

1. eliminate the 10% statutory reduction for transit having the effect of treating investment in transit in the same light as roads, that is, a key/related infrastructure elements associated with a sustainable transportation system
2. eliminate the restriction that discounted service cannot be combined with a service that is not discounted e.g. roads (undiscounted) and transit (discounted – 10% arbitrary discount) cannot be combined notwithstanding they are both key and linked infrastructure elements of a municipality's transportation system
3. provide municipalities with discretion in allocating grant funding supporting the elimination of the grant offset requirements. The grant offset requirements creates a de-facto subsidization of new development and developers versus having the grant apply to the benefit of all taxpayers
4. move from a retrospective standard to a prospective standard for transit. A standard based upon a 10 year history is regressive and counter-productive to forward thinking Transportation Master Plans and the principles of smart growth.
5. eliminate 10 year maximum planning period for transit services

The recommendations were provided to the Ministry of Municipal Affairs and Housing as part of the public consultations respecting the DCA and were also included in OPTA's pre 2014 provincial budget submission.

In March 2015, following initial public consultations, the Province tabled draft Bill 73. The draft Bill amends the DCA and the Planning Act. The draft Bill is currently under legislative review.

The draft Bill, specific to the transit industry's recommendations:

- permits the use of forward looking service levels to determine maximum eligible costs as opposed to average service levels over the past 10 yrs. (moves to a progressive standard versus a retrospective standard);
- eliminates the 10% mandatory (statutory) reduction re transit capital investment
- in eliminating the 10% reduction re: transit capital, transit is no longer considered as a discounted service and as such roads and transit services can be combined into a single "transportation DC service"

The above changes are significant and will have a significant positive impact on the extent that growth funds growth, limiting reliance on property tax assessment.

Two of the transit industry recommendations were not addressed under Bill 73, they are:

- providing municipalities with discretion in allocating grant funding supporting the elimination of the grant offset requirements (from provincial and federal programs). The grant offset requirement creates a de-facto subsidization of new development and developers versus having the grant apply to the benefit of all taxpayers. Without the specific exclusion it will be necessary for respective grant programs to have such an inclusion noted in the program particulars as is the case with the dedicated Provincial gas tax for transit. The transit specific Provincial gas tax program has as one of its governing principles that Provincial gas tax cannot be used to reduce other sources of municipal transit investment (capital and/or operating); and.
- elimination of the 10 year maximum planning period for transit services

In addition, Bill 73 introduces a number of other administrative requirements affecting the application of the DC by-law and development of same. All the changes being considered are intended to provide for transparency and accountability, be more responsive to community needs and ensure fairness and equity.

One specific area of change is the requirement to prepare, in a prescribed manner, an asset management plan that reflects full life cycle costs. This will add to the background study requirements associated with DC studies going forward. It will also affect the standard/criteria for developing asset management plans.

A Development Charges Working Group has been established to recommend to the government:

- a DC formula that would better reflect the needs of growing communities,
- increase eligible capital cost for municipal services beyond just transit; and
- advise which services should be eligible for the collection of DC's

The Working Group is expected to complete its work by the end of 2015. It is through the Working Group that the possibility exists for the transit industry to have the Government re-consider:

- providing municipalities with discretion in allocating grant funding supporting the elimination of the grant offset requirements (from provincial and federal programs); and.
- elimination of the 10 year maximum planning period for transit services

Specific to the issue of the DC formula for transportation/transit, the formula should be predicated upon the direction of a City's Transportation Master Plan (going forward) which in turn should be congruent with the City's Official Plan.