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c 84 The Regional Municipality of Hamilton-Wentworth Amendment Act, 1976

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CHAPTER 84

An Act to amend
The Regional Municipality of
Hamilton-Wentworth Act, 1973

Assented to December 16th, 1976

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The Regional Municipality of Hamilton-Wentworth Act, 1973, being chapter 74, is amended by adding thereto the following Part:

PART III-A

Public Transportation System

53a. In this Part, Interpre-

(a) "Commission" means the Hamilton Transit Commission;

(b) "Company" means The Hamilton Street Railway Company;

(c) "Corporation" means The Corporation of the City of Hamilton;

(d) "deficit" means the cost of operating a transit service, less all applicable revenues and subsidies in respect of such service in an area municipality;

(e) "public transportation service" means a service provided by vehicles operated either underground, above ground or on highways or rights-of-way on the ground surface for the transportation for compensation of passengers, or passengers and express freight that may be carried in such vehicles, but does not include taxi-cabs or vehicles operated on railroads governed by the laws of Canada or vehicles operated by or for the Province of Ontario;
(f) "public transportation vehicle" means a vehicle owned and operated by the Company, including the subsidiary company, in providing public transportation service;

(g) "Regional Public Transportation System" means the Regional Public Transportation System of The Regional Municipality of Hamilton-Wentworth;

(h) "revenue miles" means actual miles travelled by a transit vehicle for the purpose of picking up and putting down passengers;

(i) "subsidiary company" means The Canada Coach Lines, Limited and Safety Service and Adjusters Limited;

(j) "Urban Transit Area" means the City of Hamilton or such greater area as may from time to time be defined by the Minister;

(k) "Urban Transit Service Area" means an area as defined from time to time by the Minister of Transportation and Communications for such purposes as may be designated herein or by the Minister.

53b.-(1) The Regional Corporation is authorized to establish a public transportation system.

(2) The Regional Corporation may by by-law of the Regional Council acquire all the shares of the Company held by the Commission or the Corporation and all other assets and liabilities of the Commission and the Corporation in respect of the shares of the Company without compensation except as provided in subsection 9, and the acquisition of such shares shall carry with it the ownership and control of the subsidiary company.

(3) The Board of Directors of the Company and the subsidiary company are dissolved on the date on which the Regional Corporation acquires the shares of the Company under subsection 2.

(4) Upon the acquisition of all the shares of the Company by the Regional Corporation, the Regional Corporation shall on or before the due date pay to the Corporation all amounts of principal and interest due on any outstanding debt with respect to such shares and if the Regional Corporation fails to make any payment required by this subsection on
or before the due date, the Regional Corporation may be charged interest by the Corporation at the rate of 12 per cent per annum thereof from such date until payment is made.

(5) The Commission shall be deemed to be dissolved on the day of the passing of the by-law under subsection 2.

(6) No area municipality, except with the prior written approval of the Regional Corporation, shall establish a public transportation service after the day of the passing of the by-law under subsection 2.

(7) Subject to subsection 5 of section 53, no person shall operate or cause to be operated in the Urban Transit Service Area after the dissolution of the Commission a public transportation service without having first obtained written approval of the Regional Council and any other approvals required by provincial or federal laws.

(8) Nothing in this Part shall be construed as limiting the right of the holder of an operating licence issued pursuant to The Public Vehicles Act, from operating a public transportation service according to the provisions of such licence through the Urban Transit Service Area or from or to any point within the Urban Transit Service Area.

(9) If the whole, or a substantial part, of the assets of the subsidiary company, including any of its routes, are disposed of by the Regional Corporation, the equity of the Corporation in such assets shall be credited to the Corporation in a manner to be determined by the Regional Corporation and the Corporation, and, in the event agreement cannot be reached, the parties shall submit the matter to arbitration under The Arbitrations Act.

(10) Public transportation service operated by the Company on the 1st day of January, 1977 outside the limits of the Urban Transit Area, as established under this Part shall be continued by agreement between the Regional Council and the council of an area municipality be continued, discontinued, modified or varied.

(11) Public transportation service in an area municipality not within the limits of the Urban Transit Area, as established under this Part, shall be provided at the request of the council of any area municipality at such cost as may be agreed upon and in the event that there is any dispute as to the cost of the provision of such service, the matter shall be submitted to the Municipal Board for determination.
(12) Subsection 5 of section 5 of The Public Vehicles Act does not apply to the acquisition of the shares of the Company under this section.

(13) The contractual relations in respect of terms of employment, including rates of pay, sick leave credits, holidays with pay and superannuation benefits existing on the 1st day of January, 1977, between the Company or the subsidiary company on the one hand and the employees of the Company or the subsidiary company on the other hand remain in force and are binding upon the Regional Corporation and the Board of Directors established under subsection 2 of section 53c, for the remainder of the term of any subsisting agreement or agreements in that regard.

53c.—(1) The Regional Council upon the acquisition of the shares of the Company by the Regional Corporation in accordance with subsection 2 of section 53b shall have the right to hold and vote such shares and shall be solely responsible for the general management, regulation and control of the Company and the subsidiary company, including the provision of public transportation service to any area outside the Regional Area as such public transportation service exists on the 1st day of January, 1977, and the establishment of an appropriate fare structure for the provision of public transportation service within the Urban Transit Area established under this Part.

(2) The Regional Council shall appoint a Board of Directors for the Company and the subsidiary company, whose term of office shall be concurrent with the term of office of the Regional Council, composed of five members of the Regional Council representing the City of Hamilton, four members of the Regional Council representing the remaining area municipalities and the Chairman of the Regional Council, ex officio, and such Board of Directors shall be a commission to be known as "The Regional Municipality of Hamilton-Wentworth Transit Commission".

(3) The Commission established under subsection 2 shall operate and manage the Regional Public Transportation System in accordance with the powers and duties delegated to it by by-law of the Regional Council.

(4) The Commission established under subsection 2 is dissolved on the 31st day of December, 1979, and thereafter no transit commission shall be established to operate and manage the Regional Public Transportation System.
but the Board of Directors shall continue and be appointed from among the members of the Regional Council in such manner as may be prescribed by the Regional Council.

(5) The Regional Corporation may borrow such sums of money as are required by the Company and the subsidiary company for the purposes of providing the public transportation service.

53d.—(1) The City of Hamilton is established as the Urban Transit Area.

(2) The boundaries of the Urban Transit Area may be altered from time to time by the Minister upon application made by the Regional Council, provided that the Urban Transit Area shall always comprise at least the City of Hamilton, and the council of any area municipality affected by such application may make representations thereon to the Minister.

53e.—(1) The Regional Council may by by-law levy against such of the area municipalities as are wholly or partly within the Urban Transit Area the sums required to meet any deficit arising out of the operation of the Regional Public Transportation System within the Urban Transit Area, and such by-law may include any expenditures made by the Regional Corporation required for the provision, planning or improvement of the Regional Public Transportation System in the Regional Area and such levy may also include any expenditures made by the Regional Corporation for the provision, planning or improvement of service provided to such area municipality, or any part or parts thereof, the costs of providing public transportation service to such area municipality, the revenue miles in such area municipality, actual deficits, or the combination thereof pertaining to such area municipality and such other factors that are in the opinion of the Regional Council relevant to such apportionment.

(2) The Regional Council may in its levy under subsection 1 of section 81 include any sums required to provide for any deficit arising out of the operation of the Regional Public Transportation System outside the limits of the Regional Area in so far as such provision has not been provided for in the agreement entered into under subsection 11 of section 53b.

(3) The provisions of section 81 pertaining to equalized assessment apply mutatis mutandis to the calculation of any levy made under this Part.
(4) The clerk of the Regional Council shall within ten days of the passing of a by-law under subsection 1 give written notice to the clerk of each area municipality affected by such by-law of the terms of such by-law and the area municipality may within thirty days of receipt of such notice, appeal the levy under such by-law to the Municipal Board for determination.

(5) An area municipality may pay the amounts charged to it under a by-law passed under subsection 1, or under an agreement entered into under this Part, out of its general funds, or subject to the approval of the Municipal Board may pass one or more by-laws to impose a special rate or rates in one or more defined areas of the area municipality to raise the whole or any part of the amounts charged to such area municipality.

(6) Where a special rate is levied under subsection 5, such amount shall be deemed to be a tax and collectable in the same manner as municipal taxes.

53j. — (1) The Regional Council may establish, construct, manage and operate parking lots and structures for the parking of vehicles in connection with the Regional Public Transportation System and charge fees for parking therein and the Regional Council may pass by-laws to regulate and control the parking of vehicles therein and thereon.

(2) The Regional Council may, by by-law,

(a) acquire by purchase or otherwise, without the approval of the Municipal Board, the transportation facilities and equipment of any person or area municipality;

(b) acquire, by purchase or otherwise, any real or personal property required for its public transportation service; and

(c) subject to The Public Vehicles Act, provide public transportation service beyond the Regional Area throughout Ontario, and whether by chartered trips or otherwise, outside Ontario, subject to compliance with the laws of all jurisdictions in which such public transportation service or chartered trips are to operate.

53g. — (1) The auditors of the Regional Corporation shall be the auditors of the Company and the subsidiary company.
The Municipal Franchises Act does not apply to the public transportation service operated by the Regional Corporation within the Regional Area.

53h.—(1) The Regional Council shall apply to the Minister of Transportation and Communications for the establishment of an area within the Regional Area as an Urban Transit Service Area and such Area when established shall be deemed to be an urban municipality for the purposes of The Public Vehicles Act.

(2) Each area municipality shall, subject to subsection 1, be deemed to be an urban municipality for the purposes of The Public Vehicles Act.

(3) The Minister of Transportation and Communications may by order establish an Urban Transit Service Area upon application by the Regional Council and may refer the application to the Ontario Highway Transportation Board for a report thereon.

(4) The Regional Council, the council of any area municipality and the holder of an operating licence under The Public Vehicles Act that notify the Ontario Highway Transportation Board that they desire a hearing in respect of the application shall be parties to the hearing before the Board.

(5) Nothing in this Part affects the rights of any board of education to provide transportation services for the purposes for which such boards are entitled to transport persons nor any rights existing on the 1st day of January, 1977, of any duly licensed public transportation operator.

53i. Any part of the Regional Public Transportation System operated by the Regional Council outside the Urban Transit Service Area but entirely within the Regional Area shall, subject to the approval of the Minister of Transportation and Communications, be exempt from the provisions of The Public Vehicles Act.

53j.—(1) The Regional Corporation may, consistent with the provisions of this Part, do all such acts and things as may be necessary to provide a public transportation service within the Regional Area and may exercise all the rights, powers and privileges conferred by any Act upon a local municipality, including any area municipality, with respect to the provision of public transit service, including, but without limiting the generality of the foregoing, the
right to enter into agreements with any area municipality for the maintenance or repair of any road or highway in an area municipality on which a public transportation vehicle is operated.

(2) Notwithstanding any other provision of this Part, the Regional Council may, in each year, pay such sums of money as may be sufficient to,

(a) reduce the fares charged to the public or any part of the public served by the Regional Public Transportation System, in such amounts as the Regional Council may determine, and such payments shall be charged back to the area municipality for whose residents the payments were made; or

(b) provide public transportation to any part or parts of the public free of charge as the Regional Council may determine.

53½. The Minister may by order on application of the Regional Council dissolve the Company and subsidiary company, on such terms and conditions as he considers advisable.

2. — (1) Subsection 4 of section 115 of the said Act is amended by striking out "paragraphs 90 and 116" in the second line and inserting in lieu thereof "paragraph 116".

(2) Subsections 9 and 10 of the said section 115 are repealed.

3. The following are repealed:

1. The City of Hamilton Act, 1969, being chapter 142.

2. Section 1 of The City of Hamilton Act, 1966, being chapter 171.


6. The City of Hamilton Act, 1974, being chapter 143.
7. Section 2 of The City of Hamilton Act, 1975, being chapter 97.

4. This Act comes into force on the 1st day of January, 1977.

5. This Act may be cited as The Regional Municipality of Hamilton-Wentworth Amendment Act, 1976.