



Management & Administrative Services Department

February 1, 2008

The Honourable Dalton McGuinty
Premier of Ontario
Minister of Intergovernmental Affairs
Legislative Building
Queen's Park
Toronto ON M7A 1A1

The Honourable Dwight Duncan
Minister of Finance
7 Queen's Park Crescent
7th Floor
Toronto, ON M7A 1Y7

The Honourable Jim Bradley
Minister of Transportation
77 Wellesley Street West
Ferguson Block, 3rd Floor
Toronto, ON M7A 1Z8

The Honourable Jim Watson
Minister of Municipal Affairs & Housing
777 Bay Street
17th Floor
Toronto, ON M5G 2E5

*Please see Page #3 for Distribution List

Re: Ontario Auto Insurance Legislation (File A27)

The following recommendation of the Committee of Council Meeting of January 23, 2008 was approved by the Council of the Corporation of the City of Brampton on January 30, 2008:

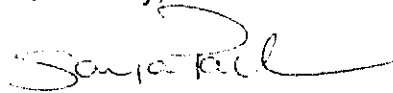
- CW031-2008
1. That the report from P. Honeyborne, Interim Commissioner of Finance and Treasurer, and Director of Treasury Services and Deputy Treasurer, and R. Parzei, Senior Manager of Investments, Insurance and Risk Management, Finance, dated January 4, 2008, to the Committee of Council Meeting of January 23, 2008, re: **Ontario Auto Insurance Legislation (File A27)** be received; and,
 2. That the Province of Ontario review the impact on public transit of its No-Fault and Accident Benefit legislation with consideration that all public transit be exempted from the Accident Benefit legislation, or alternatively the creation of a modified No-Fault/Accident benefit regime for public transit; and,

<p>FILED</p> <p>FEB 14 2008</p> <p>General Admin</p>
--

3. That all Ontario municipalities who operate a Transit system be requested to endorse this recommendation of the City of Brampton; and,
4. That a copy of this recommendation be forwarded to the Association of Municipalities of Ontario.

A copy of the subject report is attached for your information. It is requested that the recipients acknowledge receipt of this correspondence.

Yours truly,



Sonya Pacheco
Legislative Coordinator
City Clerk's Office
Tel: 905-874-2178 / Fax: 905-874-2119
sonya.pacheco@brampton.ca
/sp (CW – G4-2)

cc: D. McFarlane, Interim Commissioner of Finance and Treasurer
T. Mulligan, Commissioner of Works and Transportation
S. Bass, Director of Transit, Works and Transportation
P. Honeyborne, Director of Treasury Services and Deputy Treasurer, Finance
R. Parzei, Senior Manager of Investments, Insurance and Risk Management,
Finance

Re: Ontario Auto Insurance Legislation (File A27)

***Distribution List:**

The Association of Municipalities of Ontario
City of Barrie, John R. Sisson, Clerk
City of Belleville, Stephen G. Hyndman, CAO
Town of Blind River, Ken Corbiere, Clerk-Treasurer
City of Brantford, Darryl Lee, Clerk
City of Brockville, Sandra Seale, Clerk
City of Burlington, Kim Phillips, Clerk
Township of Chapleau, Allan Pellow, Clerk/ CAO
Municipality of Chatham-Kent County, Elinor Mifflin, Clerk
City of Clarence-Rockland, Daniel Gatién, Clerk/ CAO
Town of Cobourg, Richard G. Stinson, Clerk
Town of Cochrane, Jean-Pierre Ouellette, Clerk
Town of Collingwood, Sara J. Almas, Acting Clerk
City of Cornwall, Denise Labelle-Gélinas, Clerk
City of Dryden, Colleen Brosseau, Clerk
Regional Municipality of Durham, Patricia M. Madill, Clerk
Township of Dysart ET AL, Tammy McKelvey, Clerk
City of Elliot Lake, Lesley Sprague, Clerk
Town of Espanola, Joel MacKenzie, Clerk
Town of Fort Erie, Carolyn J. Kett, Clerk
Town of Fort Frances, Glenn W. Treftlin, Clerk
Municipality of Greenstone, Deborah B. Stevens, Clerk
City of Guelph, Lois A. Giles, Clerk
Town of Halton Hills, Karen Landry, Clerk
City of Hamilton, Kevin C. Christenson, Clerk
Town of Hanover, William G. Roberts, Clerk
Town of Hearst, Claude J. Laflamme, Clerk
Town of Huntsville, Kathleen Gilchrist, Clerk
Town of Ingersoll, Elaine Clark, Clerk
Town of Kapuskasing, Barbara Major, Clerk
City of Kawartha Lakes, Judy Currins, Clerk
City of Kenora, Joanne McMillin, Clerk
City of Kingston, Carolyn Downs, Clerk
County of Lanark, Cathie Ritchie, Clerk
Town of LaSalle, Keving Miller, Clerk
Municipality of Leamington, Brian R. Sweet, Clerk
City of London, Kevin Bain, Clerk
Loyalist Township, Brenda Hamilton, Clerk
Township of Machin, Tammy Rob, Clerk
Municipality of Meaford, Lynda Galbraith, Clerk

Town of Midland, Sue Gignac, Clerk
Town of Milton, Troy McHarg, Clerk
City of Mississauga, Crystal Greer, Clerk
City of Niagara Falls, Dean Iorfida, Clerk
Regional Municipality of Niagara, Pam Gilroy, Clerk
City of North Bay, Catherine Conrad, Clerk
Township of North Huron, Kriss Snell, Clerk
Municipality of North Perth, Patricia Berfelz, Clerk
Town of Oakville, Cathie L. Best, Clerk
Town of Orangeville, Cheryl Johns, Clerk
City of Orillia, Laura S. Lee, Clerk
City of Ottawa, Pierre G. Page, Clerk
City of Owen Sound, Marion Koepke, Clerk
Regional Municipality of Peel, Charlotte Gravlev, Clerk
City of Pembroke, LeeAnn Eckford, Clerk
Township of Perth East, Kerri Ann O'Rourke, Clerk
City of Peterborough, Nancy Wright-Laking, Clerk
County of Peterborough, Lynn Clark, Clerk
Village of Point Edward, Peggy Cramp, Clerk
City of Port Colborne, Janet Beckett, Clerk
Municipality of Port Hope, Fran Aird, Clerk
County of Prince Edward, Victoria Leskie, Clerk
City of Quinte West, R. William Arthur, Clerk
County of Renfrew, Norm Lemke, Clerk
Town of Renfrew, Kim R. Bulmer, Clerk
City of Samia, Brian W. Knott, Clerk
City of Sault Ste. Marie, Donna P. Irving, Clerk
Township of Schreiber, Lila Cresswell, Clerk
City of St. Catharines, Kenneth R. Todd, Clerk
Separated Town of St. Marys, Bruce Grant, Clerk
City of St. Thomas, Wendell Graves, Clerk
City of Stratford, Joan Thomson, Clerk
City of Greater Sudbury, Angeline Hache, Clerk
City of Temiskaming Shores, Christopher W. Oslund, Clerk
City of Thorold, John K. Bice, Clerk
City of Thunday Bay, John Hannam, Clerk
City of Timmins, R. Jack Watson, Clerk
City of Toronto, Uli S. Watkiss, Clerk
Municipality of Trent Hills, Margaret Montgomery, Clerk
Regional Municipality of Waterloo, Kris Fletcher, Clerk
Township of Wawa (Michipicoten), Chris Way, Clerk
City of Welland, Craig A. Stirtzinger, Clerk
Municipality of West Elgin, Norma Bryant, Clerk
Municipality of West Perth, Patricia Taylor, Clerk
City of Windsor, Brenda Andreatta, Clerk
City of Woodstock, Louise Gartshore, Clerk
Regional Municipality of York, Denis Kelly, Clerk



G4-2-1

Report

Committee of Council

Standing Committee of the Council
of the Corporation of the City of Brampton**Date:** January 4, 2008**File:** A27 (F06-08)

COMMITTEE OF COUNCIL

Subject: Ontario Auto Insurance LegislationDATE: January 23, 2008**Contact:** Roman Parzei, Senior Manager
Investments, Insurance and Risk Management, Finance Department**Overview:**

- **Accident Benefits, first introduced under Ontario Motorist Protection Plan (OMPP) legislation in 1990, was primarily intended for private passenger vehicles.**
- **In 2002, the Province of Ontario set up the Auto Insurance Review Committee to review the Auto Insurance legislation. On behalf of all Transit commissions in the GTA area, City of Mississauga wrote to the Auto Insurance Review Committee about the impact the Accident Benefit legislation was having on public transit. It was also requested that public transit be exempted from the Accident Benefit legislation.**
- **Today, the impact of the mandatory Accident Benefits on the City's transit insurance premium and claims experience has been astronomical.**
- **59% of the 2006 Transit claims were related directly to Ontario's No Fault Auto Insurance legislation and/or the Accident Benefits legislation. The severity of the 59% of Transit claims related to Ontario's No Fault Auto Insurance legislation and/or the Accident Benefits accounted for 82% of the 2006 funds expended on Transit claims.**
- **From 1997 to 2006 OMEX, the City's insurer has paid out over \$7.6 million in transit claim settlements. This is on top of the \$3.3 million that the City has paid that falls within the self-insured/deductible portion. That is a total payment of \$10.9 million on transit claims over the 10-year period with the majority of the payments related directly to Ontario's No Fault Auto Insurance legislation and/or the Accident Benefits legislation.**

Overview:

- The City pays premiums on 11 separate lines of insurance coverage. Transit insurance premiums generally accounts for 50% of the total cost of the annual premiums.
- All of the issues that were raised before the Auto Insurance Review Committee in 2002 on the impact that the Accident Benefit legislation on public transit are still valid today

Recommendations:

- 1) That the Finance Department report "**Ontario Auto Insurance Legislation**" dated January 4 2008, be received;
- 2) That the Province of Ontario review the impact on public transit of its No-Fault and Accident Benefit legislation with consideration that all public transit be exempted from the Accident Benefit legislation, or alternatively the creation of a modified No-Fault/Accident benefit regime for public transit;
- 3) That all Ontario municipalities who operate a Transit system be requested to endorse this position of the City of Brampton; and
- 4) That a copy of this decision of Council be forwarded to AMO.

Background:

Following receipt of a report dated May 18, 2007, re: **Budget Amendment - Insurance Claims and Risk Management - 2006 Annual Report**, Committee of Council at its June 6, 2007 meeting passed a motion (CW260-2007) that included the following:

That staff be directed to advise the Province of Ontario of concerns regarding costs to municipalities which operate transit systems as a result of accident benefit provisions of "no fault" automobile insurance

Current Situation:

Accident Benefits, first introduced under Ontario Motorist Protection Plan (OMPP) legislation in 1990, was primarily intended for private passenger vehicles and are, for the most part, mandatory first party coverage.

In 2001, in response to the impacts that the Accident Benefit legislation was having on public transit, a series of meetings was held with public transit providers in the GTA, including Brampton Transit. The result was that the City of Mississauga wrote to the Auto Insurance Review Committee on two occasions: January 4, 2002 and October 4, 2002, expressing concern about and the impacts that the Accident Benefit legislation was having on public transit. At that time it was also requested that public transit be exempted from the Accident Benefit legislation. CORRESP08-017

On July 2, 2003 the provincial government released reforms via a White Paper, *Automobile Insurance Affordability Plan for Ontario: Next Steps*, that they felt would reduce fraud and abuse of the system as well as ensure injured people are treated fairly. Much of the review focused on changes to the automobile legislation, *Bill 59*, which legislated the manner in which Accident Benefit coverage was administered.

Today, the impact of the mandatory Accident Benefits on the City's transit insurance premium and claims experience has been astronomical.

Of particular concern is the matter of soft tissue injury. There are many instances where the medical costs associated with a minor soft tissue injury from an alleged bump of a shoulder against a pole, or jostling in a vehicle, have involved multifaceted designated assessment centre evaluations ("DACs") which have alone generated costs in excess of \$20,000.00 per claim. This is the cost to simply address one small step in the process, and does not include various assessments and treatment plans, other medical examinations and report costs, and treatment costs. Nor does it encompass claims for other benefits that are typically involved, such as income replacement benefits. These types of alleged minor soft tissue injuries, and the massive infrastructure surrounding them, are generating enormous and often unwarranted medical and legal costs. Similar bumps or jostles which occur outside the universe of the auto insurance scheme, such as incidents in one's own backyard, certainly do not seem to generate the same degree of medical attention and cost—indeed if they generate any at all. Studies involving soft tissue injuries in countries such as Norway and Lithuania, suggest that human beings are reasonably hardy and resilient, and can actually recover extremely quickly from these types of injuries without the massive compensation and medical regimes in place.

Typical of many urban municipal public transit systems, the City is self-insured (\$10,000 up to 2006, and \$100,000 as of 2007) for a major portion of all Accident Benefit claims and bodily injury tort claims, which are paid directly from the municipal operating budgets.

The City pays premiums on 11 separate lines of insurance coverage. Transit insurance premiums generally accounts for 50% of the total cost of annual premiums. In 2006, the Transit insurance premium (with a \$10,000 deductible or self-insured) was \$1.7 million of the total insurance premiums of \$3.0 million or 57%. In 2007 the deductible/self-insured was increased to \$100,000 the Transit

insurance premium was reduced to \$1.1 million of the total insurance premiums of \$2.3 million or 48%.

Of the 201 Transit claims received in 2006,

- 59% were related directly to Ontario's No Fault auto insurance legislation and/or the Accident Benefits legislation. No-fault insurance means that if you get into an accident, regardless of whether or not it's your fault, your own insurance pays for the damage to your vehicle and for your injuries.
 - There were 81 claims, or 41% of all transit claims received in 2006, where the City must look to its own insurer for recovery of damages by 3rd parties who were at fault causing damage to our busses.
 - There were 36 accident benefit claims, or 18%, where the City had to cover personal injury suffered by a passenger who had no auto insurance of their own.

It is interesting to note that the severity of the 59% of Transit claims related to Ontario's No Fault Auto Insurance legislation and/or the Accident Benefits accounted for 82% of the 2006 funds expended on Transit claims.

From 1997 to 2006 OMEG, the City's insurer has paid out over \$7.6 million in transit claim settlements. This is on top of the \$3.3 million that the City has paid that falls within the self-insured/deductible portion. That is a total payment of \$10.9 million on transit claims over the 10-year period with the majority of the payments related directly to Ontario's No Fault auto insurance legislation and/or the Accident Benefits legislation.

All of the issues that were raised before the Auto Insurance Review Committee in 2002 on the impact that the Accident Benefit legislation has on public transit are still valid today.

These issues that were raised at the time are summarized as follows:

1. There is little accountability on a passenger to putting in an accident benefit claim, as they will not be impacted by any automobile insurance rate increase. In many cases, after conducting an investigation, claimants who have appropriate coverage available, still make a point of attempting to claim under the transit service provider policy.
2. Due to the high cost of insurance, many transit service providers retain large deductibles on accident benefit coverage. It is very difficult to transfer these costs into increased fare hikes. Higher fares result in negative impacts, such as increased automobile usage and related congestion and air quality deterioration as well as an increased financial burden on those who have no other means of transportation.
3. Public transit is extremely vulnerable under this legislation. The cost of handling both an Accident Benefit claim and a bodily injury tort claim, which

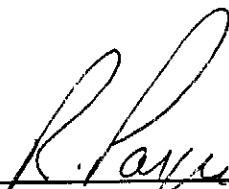
must be handled separate of one another, further impacts the operating budget since in most cases, the City is claimed against twice.

4. Accident Benefit claims are payable regardless of fault. Public transit is in the business of transporting large amounts of people at any given time. Unlike private passenger vehicles, public transit is exposed to a higher degree of risk, including unpredictable traffic and passenger safety conditions. The safety features applicable to an automobile are not applicable to public transit. In addition, no matter how much driver safety training is provided and safety features are introduced, the fact remains, public transit is overly susceptible for Accident Benefit claims.
5. There is no duty to report an incident to the public transit driver or police at the time of the incident occurring. Reports are received days later many times without the driver having any knowledge of the incident.
6. The frequency and severity of these no fault payments are uncontrollable with little or no possibility of effective risk management.


Conclusion:

Given the large impact on the operating budget and on the insurer, it is recommended that the Province of Ontario review the impact on public transit of its No-Fault and Accident Benefit legislation with consideration that all public transit be exempted from the Accident Benefit legislation, or alternatively the creation of a modified No-Fault/Accident benefit regime for public transit.

Further that all Ontario municipalities who operate a Transit system be requested to endorse this position of the City of Brampton and that a copy of this decision of Council be forwarded to AMO.



Roman Parzei
Senior Manager, Investments,
Insurance and Risk Management



Peter Honeyborne
Interim Commissioner of Finance
& City Treasurer

RsP/