

TRANSPORT (LOCAL AUTHORITY WORKS AND SERVICES) BILL

EXPLANATORY NOTE

THIS Bill amends the Transit New Zealand Act 1989 and the Local Government Act 1974 to facilitate the provision of minor transport related works and passenger transport services by local authorities.

Clause 1 relates to the Short Title. It is expected that the Bill will be divided into the Transit New Zealand Amendment Bill and the Local Government Amendment Bill.

PART I

AMENDMENT TO TRANSIT NEW ZEALAND ACT 1989

Clause 2 provides that this Part of the Bill is to be read with the Transit New Zealand Act 1989.

Clause 3 inserts into the Transit New Zealand Act 1989 a new *section 20A*.

Subsection (1) enables local authorities to receive Transit New Zealand subsidies to carry out minor and ancillary roading works, and in-house professional services, without being subject to the restrictions imposed by section 20 of the Transit New Zealand Act 1989. Section 20 of the Act presently requires such works and services to be subject to a competitive pricing procedure approved under section 19 of the Act, and also effectively provides that a local authority must form a local authority trading enterprise in order to qualify for subsidies for such works and services.

Subsections (2) and (3) apply the accounting provisions of sections 223D to 223F of the Local Government Act 1974 to works and services subsidised under the section.

Subsection (4) enables Transit New Zealand to determine whether a project comprises minor and ancillary roading works, or in-house professional services. It is expected that the section will apply to minor roading works and associated design and supervision activities.

Subsection (5) provides for arbitration by a single arbitrator appointed by the Minister of Transport where there is a dispute or difference as to whether a work or service is one to which the section applies. The provisions of the Arbitration Act 1908 relating to the enforcement of awards made by arbitrators, and their remuneration, will apply to arbitrations under this subsection.

No. 61—1

Price
incl. GST \$2.20

PART II

AMENDMENTS TO LOCAL GOVERNMENT ACT 1974

Clause 4 provides that this Part of the Bill is to be read with the Local Government Act 1974.

Clause 5 replaces section 594ZU of the Local Government Act 1974 (as inserted by section 2 of the Local Government Amendment Act (No. 4) 1989). The section presently prevents a regional council from forming a local authority trading enterprise for the purpose of providing passenger transport services. The new section makes this possible but requires the regional council to divest itself of its equity securities and debt securities in the enterprise in accordance with a divestment plan approved under section 594ZZA of the Act.

Clauses 6 to 12 effect amendments of a consequential nature only.

Hon. W. Rob Storey

TRANSPORT (LOCAL AUTHORITY WORKS AND SERVICES)

ANALYSIS

Title	
1. Short Title	
	PART I
	AMENDMENT TO TRANSIT NEW ZEALAND ACT 1989
2. This Part to be read with Transit New Zealand Act 1989	
3. Special provisions relating to minor and ancillary road works, and in-house professional services	
	PART II
	AMENDMENTS TO LOCAL GOVERNMENT ACT 1974
	4. This Part to be read with Local Government Act 1974
	5. Regional council not to have interest in passenger transport undertaking or operation
	6. Divestment units
	7. Function of divestment units
	8. Sale to territorial authorities
	9. Determination and approval of regional council divestment plan
	10. Passenger transport interests, undertakings, and operations to be sold
	11. Duty to act in furtherance of objects of this Part of Act
	12. Regional council not to enter into contracts

A BILL INTITULED

An Act to facilitate the provision of certain transport related works and services by local authorities

BE IT ENACTED by the Parliament of New Zealand as follows:

- 5 **1. Short Title**—This Act may be cited as the Transport (Local Authority Works and Services) Act 1991.

PART I

AMENDMENT TO TRANSIT NEW ZEALAND ACT 1989

- 10 **2. This Part to be read with Transit New Zealand Act 1989**—This Part of this Act shall be read together with and

deemed part of the Transit New Zealand Act 1989* (in this Part of this Act referred to as the principal Act).

3. Special provisions relating to minor and ancillary road works, and in-house professional services—The principal Act is hereby amended by inserting, after section 20, the following section: 5

“20A. (1) Notwithstanding any other provision of this Act,—

“(a) After the 30th day of June 1991, payments may be made from—

“(i) The Account in respect of any works or services to which this section applies that are carried out by the Authority under this Act; or 10

“(ii) The Land Transport Disbursement Account of any local authority in respect of any works or services to which this section applies;— 15
and such payments may be made to any local authority:

“(b) Nothing in section 20 of this Act shall be read as requiring the price of any works or services to which this section applies to be determined by a competitive pricing procedure. 20

“(2) Works to which this section applies are hereby deemed to be a significant activity for the purposes of sections 223D, 223E, and 223F of the Local Government Act 1974, and services to which this section applies are hereby deemed to be a separate significant activity for the purposes of those sections of that Act. 25

“(3) No payment in respect of any works or services shall be made under subsection (1)(a) of this section unless those provisions of sections 223D, 223E, and 223F of the Local Government Act 1974 that relate to significant activities have been complied with in the case of those works or services. 30

“(4) This section applies to—

“(a) Works determined by the Authority to be minor and ancillary roading works; and 35

“(b) Services determined by the Authority to be in-house professional services.

“(5) If there is any dispute or difference between a local authority and the Authority as to whether any works or services should be determined to be works or services to which this section applies, the question shall be determined by a single 40

*1989, No. 75

Amendment: 1990, No. 122

arbitrator appointed by the Minister and the following provisions shall apply:

- 5 “(a) No member or employee of the local authority or the Authority shall be qualified to be an arbitrator under this subsection:
- “ (b) The local authority and the Authority shall be the parties to the arbitration:
- 10 “(c) Sections 13 and 22 of the Arbitration Act 1908 (which relate to enforcement and remuneration respectively) shall apply in relation to an arbitration under this subsection as if this subsection were a submission to arbitration within the meaning of that Act, but no other provisions of that Act shall apply in relation to an arbitration under this subsection.”

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PART II

AMENDMENTS TO LOCAL GOVERNMENT ACT 1974

4. This Part to be read with Local Government Act 1974—This Part of this Act shall be read together with and deemed part of the Local Government Act 1974* (in this Part of this Act referred to as the principal Act).

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*R.S. Vol. 25, p. 1

5. Regional council not to have interest in passenger transport undertaking or operation—The principal Act is hereby amended by repealing section 594ZU (as inserted by section 2 of the Local Government Amendment Act (No. 4) 1989), and substituting the following section:

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“594ZU. (1) Notwithstanding section 594H of this Act, but subject to subsection (2) of this section, after the 30th day of June 1991 a regional council—

30 “(a) May hold any equity securities or debt securities in a passenger transport company formed by that council from a passenger transport undertaking existing on the 1st day of July 1991:

35 “(b) Shall not hold any equity securities or debt securities or have any interest whatever in any body corporate (other than a passenger transport company formed by that council) or unincorporate that engages, directly or indirectly, in any passenger transport operation or includes in its assets any passenger transport undertaking:

“(c) Shall not include in its assets any passenger transport undertaking (other than a passenger transport company formed by that council).

“(2) It shall be a condition of—

“(a) Holding any security referred to in **paragraph (a)** of **subsection (1)** of this section; and 5

“(b) Holding or conducting any security, interest, or undertaking referred to in **paragraph (b)** or **paragraph (c)** of that subsection that was acquired before the 1st day of July 1991,— 10

that the regional council shall divest itself of that security, interest, or undertaking in accordance with an approved divestment plan.”

6. Divestment units—Section 594zv of the principal Act (as so inserted) is hereby amended by repealing subsection (1), and substituting the following subsection: 15

“(1) If a regional council holds or conducts any securities, interests, or undertakings to which **section 594zu (2)** of this Act applies it shall, not later than the 1st day of January 1993, or such later date as the Minister in any particular case may allow, constitute and adequately fund a divestment unit, which shall comprise such persons as the regional council considers appropriate having regard to the functions of the divestment unit.” 20

7. Function of divestment units—(1) Section 594zw of the principal Act (as so inserted) is hereby amended by repealing paragraph (a), and substituting the following paragraph: 25

“(a) Identify the securities, interests, and undertakings to which **section 594zu (2)** of this Act applies:”

(2) Section 594zw of the principal Act (as so inserted) is hereby further amended— 30

(a) By omitting from paragraphs (b), (d), and (e) the words “interests, undertakings, and operations”, and substituting in each case the words “securities, interests, and undertakings”: 35

(b) By inserting in paragraph (c), before the word “undertakings” in both places where it occurs, the words “securities or”.

8. Sale to territorial authorities—Section 594zy of the principal Act (as so inserted) is hereby amended by omitting the words “interests, undertakings, and operations” wherever they 40

occur, and substituting in each case the words “securities, interests, and undertakings”.

5 **9. Determination and approval of regional council divestment plan**—Section 594ZZA of the principal Act (as so inserted) is hereby amended by omitting from subsection (5), and also from subsection (10), the words “interest, undertaking, or operation” wherever they occur, and substituting in each case the words “security, interest, or undertaking”.

10 **10. Passenger transport interests, undertakings, and operations to be sold**—Section 594ZZB of the principal Act (as so inserted) is hereby amended by omitting the words “interests, undertakings, and operations”, and substituting the words “securities, interests, and undertakings”.

15 **11. Duty to act in furtherance of objects of this Part of Act**—(1) Section 594ZZC of the principal Act (as so inserted) is hereby amended by inserting in subsection (1) (a), and also in subsection (3), after the words “passenger transport”, the words “securities and”.

20 (2) Section 594ZZC (1) (c) of the principal Act (as so inserted) is hereby amended by omitting the word “undertaking”, and substituting the words “securities and undertakings”.

(3) Section 594ZZC (2) (a) of the principal Act (as so inserted) is hereby amended by inserting, after the words “passenger transport”, the words “securities or”.

25 **12. Regional council not to enter into contracts**—(1) Section 594ZZD (1) of the principal Act (as so inserted) is hereby amended by omitting the words “is not in compliance with the provisions of section 594ZU of this Act”, and substituting the words “holds or conducts any securities, interests, or undertakings to which section 594zu (2) of this Act applies”.

30 (2) Section 594ZZD (2) of the principal Act (as so inserted) is hereby amended by omitting the words “is not in compliance with section 594ZU of this Act”, and substituting the words
35 “holds or conducts any securities, interests, or undertakings to which section 594zu (2) of this Act applies”.