

[AS REPORTED FROM THE ROAD SAFETY AND COMMUNICATIONS
COMMITTEE]

House of Representatives, 20 June 1991.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Hon. W. Rob Storey

TRANSPORT (LOCAL AUTHORITY WORKS AND SERVICES)

ANALYSIS

Title 1. Short Title	PART I AMENDMENTS 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
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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.

*Price
incl. GST \$2.30*

No. 61—2

PART I

AMENDMENTS TO TRANSIT NEW ZEALAND ACT 1989

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). 5

New

2A. Expenditure subject to competitive pricing procedure—(1) Section 20 of the principal Act is hereby amended by repealing subsection (3) (as amended by section 2 (2) of the Transit New Zealand Amendment Act 1990), and substituting the following subsection: 10

“(3) Payments may be made under subsection (1) of this section to a local authority trading enterprise within the meaning of the Local Government Act 1974 only if— 15

“(a) The local authority trading enterprise is a company that has no fewer than 3 directors, of whom—

“(i) Where there are fewer than 6 directors, not more than one is a member or employee of any local authority: 20

“(ii) Where there are 6 or more directors, not more than 2 are members or employees of any local authority; and

“(b) In the case of payments made or to be made after the 30th day of June 1994, no equity securities or debt securities in the local authority trading enterprise are held directly or indirectly by any regional council (other than the Chatham Islands County Council); and 25

“(c) The Authority is satisfied that the local authority trading enterprise has been established and is being operated in accordance with the provisions of the Local Government Act 1974.” 30

(2) Section 2 (2) of the Transit New Zealand Amendment Act 1990 is hereby consequentially repealed. 35

3. Special provisions relating to minor and ancillary road works, and in-house professional services—The

*1989, No. 75

Amendment: 1990, No. 122

principal Act is hereby amended by inserting, after section 20,
the following section:

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

5 “(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;—
and such payments may be made to any local
authority:

15 “(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.

Struck Out

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 *New*

30 “(2) The total amount of the works to which this section
applies that are carried out by a local authority in any financial
year is hereby deemed to constitute a significant activity for the
purposes of sections 223D, 223E, and 223F of the Local
Government Act 1974, and the total amount of the services to
which this section applies that are provided by a local authority
in any financial year is hereby deemed to constitute a separate
significant activity for the purposes of those sections of that
Act.

35 “(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.

Struck Out

- “(4) This section applies to—
- “(a) Works determined by the Authority to be minor and ancillary roading works; and 5
- “(b) Services determined by the Authority to be in-house professional services.

New

- “(4) This section applies to— 10
- “(a) Works associated with any local road that are determined by the Authority to be minor and ancillary roading works; and
- “(b) Services associated with any local road that are determined by the Authority to be in-house professional services. 15
- “(4A) Nothing in this section applies to works or services associated with any State highway.
- “(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 arbitrator appointed by the Minister and the following provisions shall apply: 20
- “(a) No member or employee of the local authority or the Authority shall be qualified to be an arbitrator under this subsection: 25
- “(b) The local authority and the Authority shall be the parties to the arbitration:
- “(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.” 30 35

PART II

AMENDMENTS TO LOCAL GOVERNMENT ACT 1974

5 **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).

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

10 **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:

“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—

15 *Struck Out*

“(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:

20 *New*

25 “(a) May hold any equity securities or debt securities in any passenger transport company formed or acquired by that council, being a company that has acquired, or acquires no later than the 1st day of July 1991, the whole or any part of a passenger transport undertaking of that council:

30 “(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 or acquired 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 or acquired 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

“(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,—

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:

“(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.”

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:

“(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—

(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”:

(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

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”.