

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 13 September 1979.

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 double rule, or with double rule before first line and after last line.

Mr D. M. J. Jones

WAITEMATA CITY (PASSENGER TRANSPORT)

[LOCAL]

ANALYSIS

Title	4. Power to acquire shares in companies providing passenger transport services
1. Short Title	5. Commerce Act 1975 not to apply
2. Interpretation	6. Council may advance money
3. Power to acquire rights and interests in passenger transport services	7. Company to borrow only from Council

A BILL INTITULED

An Act to empower the Waitemata City Council to (*establish and*) carry on passenger transport services

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. **Short Title**—This Act may be cited as the Waitemata City (Passenger Transport) Act 1979.

Struck Out

10 **2. Interpretation**—In this Act, unless the context otherwise requires,—
“Council” means the Waitemata City Council;
“District” means the City of Waitemata;
15 “Authority” means any local or regional authority;
“Company” means a company within the meaning of the Companies Act 1955.

No. 40—2

New

2. Interpretation—In this Act, unless the context otherwise requires,—

“Authority” means any local or regional authority:

“Company” means the Whenuapai Bus Company Limited:

“Council” means the Waitemata City Council:

“District” means the district of the Council.

3. Power to acquire rights and interests in passenger transport services—Subject to the provisions of Part VII of the Transport Act 1962, the Council may acquire and dispose of any right or interest operated by the company in any service for conveying passengers to and from any place within the district, or any part thereof, or partly within and partly outside the district, and may operate, maintain, and regulate any such service alone or in conjunction with any other person or persons, including any authority or company.

Struck Out

4. Power to acquire shares in companies providing passenger transport services—The Council shall have the power to purchase, acquire, subscribe for, hold, and dispose of the whole or any part of the shares in any company carrying on or providing, or being established to carry on or provide, a service for conveying passengers within the district or any part thereof, or partly within or partly outside the district and, while the Council holds any such shares in any such company, the following provisions shall apply, notwithstanding anything to the contrary in any Act or rule of law:

New

4. Power to acquire shares in company—The Council shall have the power to purchase, acquire, subscribe for, hold, and dispose of the whole or any part of the shares in the company and, while the Council holds such shares in the company, the following provisions shall apply, notwithstanding anything to the contrary in any Act or rule of law:

- (a) The Council may exercise all the rights, powers, and remedies vested in the shareholders by the Companies Act 1955 or by the Memorandum of Association or the Articles of Association of *(any such)*

the company for the purpose of conducting the business and affairs of the company in accordance with and subject to the provisions of this Act and of disposing of **(such)** the shares and of dissolving or winding up such company:

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(b) Officers or elected members of the Council or any nominee or nominees of the Council shall be capable of being appointed as and remaining as directors of **(any such)** the company:

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(c) The income derived by **(any such)** the company in which all the shares are held by or on behalf of the Council, as and from the date on which the Council acquired all of the shares, shall be deemed for all purposes to become the income of the Council:

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(d) Notwithstanding anything in the Companies Act 1955, the accounts of **(every such company in which the Council has an interest)** the company, while the Council has an interest in it, shall be audited by the Audit Office, which for that purpose shall have and may exercise all such powers as it has under the Public Finance Act 1977 in respect of public money and public stores and the audit of Authorities' accounts:

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(e) **(Any such)** The company shall be deemed to have power to transfer the whole or any part of its property or undertaking to the Council, with or without consideration, but no such transfer shall operate to affect the rights existing at the time of transfer of any creditor of **(any such)** the company, whether secured or unsecured, and such rights shall if necessary enure against the Council.

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5. Commerce Act 1975 not to apply—The provisions of the Commerce Act 1975 shall not apply to the purchase or acquisition of any rights or interests by the Council pursuant to this Act.

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6. Council may advance money—The Council, either alone or in conjunction with any other person or persons including any Authority or company, may advance or grant

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or provide assistance to any company or undertaking carrying on or providing, or being established to carry on or provide, a service for conveying passengers within the district or any part thereof, or partly within or partly outside the district, out of money held or lawfully borrowed by the Council, such sum or sums as the Council may from time to time consider necessary or expedient for the conduct of the business of such company or undertaking; and any advances shall be included in the accounts of the Council and the Council may subsidise any such company or undertaking or contribute towards the service provided by such company or undertaking and guarantee the financial obligations of such company or undertaking.

7. Company to borrow only from Council—No company in which the Council, pursuant to this Act, holds any shares, nor any undertaking in which the Council has a proprietary interest pursuant to this Act, shall borrow money otherwise than from the Council unless specifically authorised to do so by resolution of the Council.

New

6. Council may advance money—(1) The Council, either alone or in conjunction with any other person or persons (including any authority or public body), may advance or grant or provide assistance to the company, out of money held or lawfully borrowed by the Council for the purpose, such sum or sums as the Council may from time to time consider necessary or expedient for the conduct of the business of the company.

(2) Any such advances shall be included in the accounts of the Council and the Council may—

- (a) Subsidise the company or contribute towards the service provided by the company; and
- (b) With the consent of the Local Authorities Loans Board and subject to such terms and conditions as that Board thinks fit to impose, guarantee the financial obligations of the company.

(3) Where the Council becomes liable to make any payment under any such guarantee, it may make the payment out of the general revenues of the district or out of any money borrowed under this section.

New

(4) For the purpose of providing funds to enable it to make any payment for which it becomes liable pursuant to this section, or for the purpose of refunding to the general revenues of the district any money paid thereout under this section, the Council may borrow money by way of special loan under the Local Authorities Loans Act 1956, by special order, and, notwithstanding anything in section 34 of that Act, without the prior consent of the ratepayers.

10 **7. Company to borrow only from Council**—While the Council holds any shares in the company, the company shall borrow money only from the Council unless specifically authorised to do otherwise by resolution of the Council.