EX35.18

TORONTO

REPORT FOR ACTION

2018 Levy on Railway Roadways and Rights-of-Way and on Power Utility Transmission and Distribution Corridors

Date: June 4, 2018
To: Executive Committee
From: Interim Chief Financial Officer
Wards: All

SUMMARY

This report seeks Council authority for the introduction of the by-law necessary to levy and collect taxes for the 2018 taxation year on railway roadways and rights-of-way and on land used as transmission or distribution corridors owned by power utilities, totalling approximately $7.1 million in taxation revenue, of which the municipal share is $6.6 million and the provincial education share is $0.5 million.

RECOMMENDATIONS

The Interim Chief Financial Officer recommends that:

1. City Council authorize the levy and collection of taxes for the 2018 taxation year on railway roadways and rights-of-way and on land used as transmission or distribution corridors owned by power utilities, in accordance with subsection 280 (1) of the *City of Toronto Act, 2006* and subsection 257.7 (1) the *Education Act.*

FINANCIAL IMPACT

The 2018 levy of taxes on railway roadways and rights-of-way and on power utility transmission or distribution corridors will raise approximately $7.1 million in taxation revenue, of which the municipal share is $6.6 million and the provincial education share is $0.5 million.

Comparatively, the total revenue for 2017 was approximately $7.1 million, of which the municipal portion was $6.5 million and the provincial education portion was $0.6 million.

Table 1, below, summarizes the acreage rates prescribed by the Province, the total acreage for each group of properties, and the resulting 2018 and 2017 levy on railway roadways or rights-of-way and on power utility transmission or distribution corridors.

Table 1: Levy Amounts for 2018 and 2017 on Railway Roadways or Rights-of-way and on Power Utility Transmission or Distribution Corridors

	Municipal Rate per Acre	Education Rate per Acre	Total Rate per Acre	Acreage	Municipal Levy	Education Levy	Total Levy
2018 Levy							
Canadian National Railway	$624.33	$822.69	$1,447.02	137.05	$85,564	$112,750	$198,314
Canadian Pacific Railway	$624.33	$822.69	$1,447.02	493.99	$308,413	$406,401	$714,814
Power Utility – Hydro One	$834.02	$1,208.66	$2,042.68	2720.99	$2,269,360	$3,288,752	$5,558,112
Metrolinx	$624.33	$0.00	$624.33	974.95	$608,691	$0	$608,691
Total				4326.98	$3,272,028	$3,807,903	$7,079,931
Adjusted Total (City retaining Education share of Hydro One levy)[1]					$6,560,780	$519,151	$7,079,931
2017 Levy							
Canadian National Railway	$617.33	$822.69	$1,440.02	137.93	$85,148	$113,474	$198,622
Canadian Pacific Railway	$617.33	$822.69	$1,440.02	493.99	$304,955	$406,401	$711,356
Power Utility – Hydro One	$834.02	$1,208.66	$2,042.68	2720.99	$2,269,360	$3,288,752	$5,558,112
Metrolinx	$617.33	$0.00	$617.33	974.59	$601,644	$0	$601,644
Total				4327.50	$3,261,107	$3,808,627	$7,069,734
Adjusted Total (City retaining Education share of Hydro One levy)[1]					$6,549,859	$519,875	$7,069,734

Notes:

1. For Hydro One properties, the City retains the education portion of taxes. In the rows labelled "Adjusted Total", the education portion for Hydro One properties has been included in the Municipal Portion of taxes. Prior to April 1, 1999, under a revenue sharing arrangement for Ontario Hydro properties, the City retained both the education and municipal portions of taxes. Section 361.1 of the Municipal Act was amended effective April 1, 1999 to establish that the taxes payable were included in the definition of payment-in-lieu (PIL) properties. This allowed the City to continue to retain both the municipal and education portion of taxes, and this has been continued under the City of Toronto Act, 2006.

Table 2 provides a comparison of the change in acreage and levy from 2018 to 2017. The per-acre rate for railway roadways and railway rights-of-way has changed from $617.33 in 2017 to $624.33 in 2018 (an increase of 1.13%).

Table 2: Change in Levy from 2017 to 2018

Company Name	Acreage	Municipal Levy	Education Levy	Total Levy
Canadian National Railway	-0.88	$416	-$724	-$308
Canadian Pacific Railway	0.00	$3,458	$0	$3,458
Power Utility – Hydro One	0.00	$0	$0	$0
Metrolinx	0.36	$7,047	$0	$7,047
Total	-0.52	$10,921	-$724	$10,197
Adjusted Total (City retaining Education share of Hydro One levy)		$10,921	-$724	$10,197

Overall, the net revenue retained by the City for 2018 has increased by $10,921 from 2017. The net revenue is the result of an increase in the acreage rate for railway rights-of-way from $617.33 in 2017 to $624.33 in 2018 (representing a gain of $11,242), and due to a decrease in the total acreage of railway roadways and hydro corridor rights-of-way from 4,327.50 acres in 2017 to 4,326.98 acres in 2018 (representing a decrease of 0.52 acres and a loss of $321):

- Canadian National Railway's total acreage has decreased by 0.88 acres (137.93 acres to 137.05 acres) due to a sale of land, some of which was acquired by Metrolinx. The remaining portions of land were purchased by a private company.
- Metrolinx's total assessable acreage has increased by 0.36 acres (974.59 acres to 974.95 acres) due to acquisition of land, which was acquired from Canadian National Railway.

The decrease in the acreage and the increase in the acreage rate for railway rights-of-way resulted in an increase of $10,921 in the municipal portion of the levy (includes the City retaining both the municipal and education levy for Hydro One properties). The decrease in the acreage resulted in a reduction of $724 in the provincial education portion of the levy.

DECISION HISTORY

At its meeting held on July 6, 7 and 8, 2010 City Council, in adopting Executive Committee report EX45.10: “2010 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors," also approved the following:

2. City Council reaffirm its position adopted in 2009 with respect to Executive Committee Item EX33.14 and EX33.14a, as follows:

> "4. City Council approve seeking an amendment to:
>
> > a. Regulation 387/98 and 392/98 to require an annual inflationary adjustment in the “mature rate”.
> >
> > b. the “mature rate” prescribed by Regulation so as to phase in rate changes that more properly reflect the market value of the land over a period of time be reviewed.
>
> 5. City Council request the City Manager to actively pursue this matter in concert with other municipalities in Ontario.

6. City Council authorize the Deputy City Manager & Chief Financial Officer and the Treasurer, in consultation with Intergovernmental Relations, to work in conjunction with the Regional Treasurers of Ontario group, the Municipal Finance Officers' Association, the Association of Municipal Clerks and Treasurers and the Association of Municipal Tax Collectors, to advance the position to the Province of Ontario that railway and hydro rights of way should be assessed and taxed on a Current Value Assessment basis.

7. Deputy City Manager & Chief Financial Officer and the Treasurer report on their progress annually."

The report and decision document of Council can be accessed at:
2010 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors (EX45.10)

At its meeting held on July 16, 17, 18 and 19, 2013 City Council, in adopting Executive Committee Report EX33.25: "2013 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors," authorized the levy and collection of taxes for the 2013 taxation year. At this meeting, City Council also amended the recommendations to request the Province of Ontario to enact regulations to prescribe a levy reflecting inflationary increases since 2005 and to adjust the rate annually to reflect an average annual inflationary increase.

The report and decision document of Council can be accessed at:
2013 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors (EX33.25)

City Council also adopted the annual levy on railway rights-of-way and hydro corridors in each of 2015-2017, through the reports below:

2015: 2015 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors (EX7.23)
2016: 2016 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors (EX16.23)
2017: 2017 Levy on Railway Roadways and Rights of Way and on Power Utility Transmission and Distribution Corridors (EX26.20)

The 2016 Ontario Economic Outlook and Fiscal Review announced that the Province had initiated a review of the property taxation of railway rights-of-way in response to municipal requests. As part of the review, the Province held consultations with municipalities and representatives of the railway industry. Based on these consultations, in the 2017 Ontario Budget, the Province announced that it is taking action to address issues related to indexation of rates, variation in rates and implications for shortline railways. For 2018, the Province has made further rate adjustments as part of its commitment to modernizing the property taxation of railway rights-of-way.

Building Ontario Up for Everyone: Ontario Economic Outlook and Fiscal Review

At its meeting held on December 5, 2017 the City Council adopted Item EX29.43: “Municipal Property Taxation for Railway Rights-Of-Way," recommending the following:

1. City Council request the Provincial Government to amend Regulation 387/98 Tax Matters - Taxation of Certain Railway, Power Utility Lands, such that a new system of municipal property taxation for railway rights-of-way is based on an assessed value, which is to include tonnage.

City Council also adopted the motion requesting the City Treasurer to report on the potential revenue the City could raise if the Province were to implement a modified taxation system based on tonnage.

The report and decision document of Council can be accessed at:
Municipal Property Taxation for Railway Rights-Of-Way (EX29.43)

At its meeting held on April 24, 2018 the City Council received Item EX33.13: "Acreage and Tonnage Taxation Systems for Railway Rights-of-Way" for information related to the property taxation of railway rights-of-way using the acreage and tonnage systems and the financial implications for the City of Toronto if Ontario were to switch to a taxation system based on tonnage.

The report and decision document of Council can be accessed at:
Acreage and Tonnage Taxation Systems for Railway Rights-of-Way (EX33.13)

ISSUE BACKGROUND

Ontario Regulations 387/98 under the *Municipal Act, 2001* (continued by O.Reg. 121/07 under the *City of Toronto Act, 2006*) and O.Reg. 392/98 under the *Education Act*, as amended, have prescribed the applicable rates for railway and power utility rights-of-way acreage levies since 1998. Beginning in 1998 and ending in 2005, the Province prescribed what were termed "transition rates" each year, to phase-in changes to the taxation level of these right-of-way properties. In 2005, a uniform rate of taxation was reached within each of eight geographic regions across the Province. The acreage tax rates established in 2005 are called 'mature rates' and apply to all years beyond 2005.

In the 2017 Provincial Budget, the property tax rates on railway rights-of-way was increased by $6 per acre for 2017. Through the release of the 2018 Provincial Budget, the railway rights-of-way tax rates were updated and increased by $7 per acre for 2018, however, the tax rates for Hydro corridors remain unchanged.

COMMENTS

Subsection 280(1) of the *City of Toronto Act, 2006* requires the City, in accordance with the regulations, to levy an annual tax for municipal purposes on railway roadways, and rights-of-way and on land used as transmission or distribution corridors owned by power utilities.

Subsection 257.7(1) of the *Education Act* requires the City to levy and collect taxes based on the rates prescribed for school purposes on the railway and power utility lands described in subsection 280(1) of the *City of Toronto Act, 2006.*

Ontario Regulation 121/07 under the *City of Toronto Act, 2006* and 392/98 under the *Education Act*, (as amended by O. Reg 123/07), prescribe the applicable rates for 2018 for the municipal portion and education portion of taxes respectively, for railway and power utility rights-of-way acreage levies.

To calculate the taxes payable on acreage properties, the City of Toronto requires the area of each property and the applicable tax rates. The acreage figures are provided to municipalities by the Municipal Property Assessment Corporation (MPAC) on the returned assessment roll each year and are available for 2018.

As provided in Table 1 above, the revenue for 2018 from all the railway and power utility rights-of-way is approximately $7.1 million, of which the municipal share is $6.6 million and the education share is $0.5 million. Of the $6.6 million municipal share, $608,691 will be received in the form of payment-in-lieu of taxes from Metrolinx.

Legislative Amendments

At various times since 2006, City Council has made recommendations to the Minister of Finance to amend regulations to require an annual inflationary adjustment in the "mature rate" and the "mature rate" prescribed by Regulation so as to phase in rate changes that more properly reflect the market value of the land over a period of time. Council's position and requested changes on the assessment and taxation of railway rights-of-way and hydro corridors has been identified to the Province on several different occasions by staff.

By way of letter dated April 3, 2018 to the Municipal Treasurer, the Ministry of Finance has advised of measures the Province is undertaking to modernize the property taxation of railway rights-of-way for the 2018 taxation year (see Attachment 1). The Province announced in the 2018 Ontario Budget that it is taking action to address further rate adjustments for railway rights-of-way. Building on progress made in 2017, mainline railway right-of-way property tax rates for 2018 will continue to be updated to reflect average annual commercial property tax changes. In Toronto for 2018, this represents an increase of $7 per acre. The acreage rates for railway roadways and railway rights-of-way have changed from $617.33 in 2017 to $624.33 in 2018. The Ministry of Finance has introduced a new regulation which has increased the rate as outlined in the attached letter. No announcements have been made regarding the indexation of tax rates for Hydro corridors.

CONTACT

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SIGNATURE

Joe Farag
Interim Chief Financial Officer

ATTACHMENTS

Attachment 1 - Letter from the Ministry of Finance dated April 3, 2018 regarding the measures that the Province is undertaking to modernize the property taxation of railway rights-of-way for the 2018 taxation year.

ATTACHMENT 1: Letter from the Ministry of Finance dated April 3, 2018

Ministry of Finance
Provincial-Local Finance Division
10th Floor
777 Bay Street
Toronto, ON M5G 2C8
Tel (416) 327-0264
Fax (416) 325-7644

Ministère des Finances
Division des relations provinciales-municipales en matière de finances
777, rue Bay, 10e étage
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Ontario

April 3, 2018

Dear Municipal Treasurer/Clerk-Treasurer:

I am writing to advise you of certain property taxation and assessment measures that the Province is undertaking as part of the *2018 Ontario Budget*.

Supporting Fair and Accurate Property Assessments

The government has announced initiatives to improve the property assessment process. As you may be aware, an Advance Disclosure process was introduced for the 2016 reassessment to enhance the accuracy and transparency of the Municipal Property Assessment Corporation's (MPAC) valuation process by enabling business property owners and municipalities to contribute to the determination of assessed values before assessment rolls are finalized.

To further strengthen the pre-roll engagement process, the Province is proposing that an earlier valuation date be used as the basis for property assessments. For the next reassessment, which will take place for the 2021 taxation year, assessments would be based on a valuation date of January 1, 2019. The intent of the earlier date is to facilitate a more effective valuation process that allows for meaningful and open exchange of information among MPAC, property owners and municipalities, leading to more transparent and accurate property assessments.

The Province also wants to make it easier for property owners to comply with MPAC's requests for information. Work is underway to review the format of MPAC's requests, ensuring they are clear and reasonable. As well, the *2018 Ontario Budget* announced a plan to introduce a framework for addressing non-compliance with MPAC's information requests.

These measures aim to create an environment that encourages the full exchange of information in order to improve the accuracy of property assessments and support a fair and transparent property tax system.

Business Vacancy Rebate and Reduction Programs

In response to municipal and other stakeholders' requests, the Province provided municipalities broad flexibility to modify the vacant rebate and reduction programs for 2017 and future years. This greater flexibility enables municipalities to tailor these programs to best reflect local circumstances, while considering the interests of local businesses. While municipalities have implemented a variety of changes, 80 per cent of those municipalities will phase-out the municipal component by 2020.

With respect to education property taxes, the Province currently mirrors municipal property tax decisions related to the vacancy programs. This has resulted in different treatments of education property taxes across the province as each municipality modifies the programs to best suit its local needs.

As a result, the Province announced in the *2017 Ontario Economic Outlook and Fiscal Review* that it would review approaches related to the education property tax portion of the vacancy rebate and reduction programs in consultation with municipalities and the business community. In response to feedback received from the review, the *2018 Ontario Budget* announced that the education property tax portion of the vacancy programs will be aligned with changes made by municipalities, ensuring greater consistency across the province.

To align with the majority of municipal changes, the Province will phase out the education property tax portion of these programs. However, to avoid undue administrative burden for municipalities that have already made changes to the programs, the Province will continue to mirror these municipal changes, with respect to the education property tax portion of the vacancy programs. This initiative will begin in 2019 to ensure that businesses have time to plan for program changes.

Railway Right-of-Way Property Taxation

As you are aware, the Province initiated a review of the property taxation of railway rights-of-way in 2016. Based on consultations with municipalities and the railway industry, the Province announced changes in the *2017 Ontario Budget* to address three key issues related to indexation of rates, variation in rates, and implications for shortline railways.

In the *2018 Ontario Budget*, the Province announced further rate adjustments as part of its commitment to modernizing the property taxation of railway rights-of-way. The proposed measures for 2018 include the following:

Key Issues	Proposed Measures for 2018
Indexation of Rates: Municipalities have expressed concerns that, prior to 2017, property tax rates on railway rights-of-way had not been updated since the late 1990s.	Building on progress made in 2017, mainline railway right-of-way property tax rates for 2018 will continue to be updated to reflect average annual commercial property tax changes. This means that municipal property tax rates will increase by $7 per acre for 2018.
Variation in Rates: Municipalities have also expressed concerns about the significant variation in railway right-of-way property tax rates across the province.	The Province will further reduce rate inequities by increasing the lowest property tax rates on mainline railway rights-of-way to a minimum of $110 per acre in 2018. The lowest mainline rate in 2016 was approximately $35 per acre.

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Key Issues	Proposed Measures for 2018
Shortline Railways: The railway industry expressed concerns about the impacts of potential property tax increases on shortline railways.	The Province will continue to freeze shortline railway property tax rates at 2016 levels in recognition of the challenges faced by this sector of the railway industry.

The education property tax rates on railway right-of-way properties will continue to be maintained at 2016 levels for the 2018 taxation year.

The 2018 railway right-of-way property tax rates for your municipality are provided in the attached table. The attachment also provides a list of railway right-of-way properties in your municipality, for your reference.

The Province will also be responding to municipalities' concerns regarding the revenue they receive in respect of high-tonnage rail lines. Beginning in 2018, municipalities can request an increase to the rates per acre for certain high-tonnage rail lines. The Ministry of Finance will provide additional information to municipalities that it anticipates may have high-tonnage rail lines for which the higher tax rate would be appropriate, based on preliminary data.

For 2019 and future years, the government will continue to adjust rates and, in consultation with stakeholders, will review additional options to reflect tonnage in railway right-of-way property taxation.

For further information about the railway right-of-way property taxation system, please contact Sara Tune, Manager, Strategic Policy Liaison Unit, at sara.tune@ontario.ca.

Sincerely,

Original signed by

Allan Doheny
Assistant Deputy Minister
Provincial-Local Finance Division

Enclosure