

Bill 60 – Building Transit Faster Act, 2020 Amendments: City of Toronto Transit Expansion Division Comment Submission**Summary of Feedback**

Overall, the proposed amendments to the Building Transit Faster Act are designed to expand some of the existing powers under the Building Transit Faster Act, 2020 (BTFA) to not just construction, but also to operations and maintenance of these projects. Additionally, the proposed changes would allow for greater delegation of these powers and reduced timelines for notice and negotiation prior to the use of certain powers. Taken as a whole, the proposed changes could enable greater use of these powers, which encroach on the City's permit, licenses, and approval processes. City of Toronto staff do not support the proposed amendments.

Section of Schedule	Description of Change	Impact Assessment and Comments	Level of Support
Section 12, 26, 27, 34, 52	<p>Currently, the authorities provided under the Building Transit Faster Act (BTFA) apply, in general, to the construction of any transit project that Metrolinx has authority to carry out.</p> <p>The proposed amendments would expand some of these authorities to apply to not only during construction, but also to operations and maintenance of these projects. The changes regarding obtaining municipal service and right of way access are also expanded to include access to additional types of municipal infrastructure.</p>	<p>The proposed changes increase the scope of transit projects for which the BTFA authorities would be applicable by extending these powers to operations and maintenance of any Metrolinx transit project, effectively enshrining these authorities in perpetuity for these projects. This includes powers to:</p> <ul style="list-style-type: none"> Remove structures (excluding buildings, road or utility infrastructure, but including parts of a building), trees, shrubs and hedges that are on or within 30 metres of transit corridor land by entering the property and carrying out the work (s. 12). Inspect where the Minister thinks that certain things pose an immediate danger to health and safety of persons working on the construction, operation or maintenance of a provincial transit project (s. 26). Enter property and eliminate something that is an immediate danger to the health and safety of persons working on the construction, operation or maintenance of a provincial transit project (s. 27). Inspect for due diligence in planning, constructing, operating and maintaining a provincial project (s. 34). Obtaining municipal service and right of way access for the construction, operation or maintenance of a provincial transit project (s. 52). Rights of access are now expanded to include buildings (as opposed to just infrastructure) and may be related to not just sewage works, water work or fire hydrants (which are already covered under the current version of the legislation), but also relate to bridges, tunnels, life safety systems in buildings, or any other prescribed infrastructure. <p>Overall, the BTFA can impose limits on the City of Toronto's ability to rely on its permits, licence, and approval (PLA) processes, as the Province can bypass these approvals using the BTFA powers. In some instances, this may limit the confidence of the City of Toronto that the Province and/or Metrolinx will negotiate in good faith on PLAs, when the BTFA authorities provide an opportunity to override these PLA processes. This may be further eroded by having the above-listed powers apply not just to construction of a Metrolinx transit project, but also to its operations and maintenance work.</p> <p>As the Eglinton Crosstown LRT (ECLRT) and Finch West LRT (FWLRT) are expected to open for service in the near-future, the proposed amendments could apply BTFA powers to these projects during operation. For example, the Province could use these authorities to dictate the terms of their access or use of the City's right-of-way, bridges, and other infrastructure that interfaces with Metrolinx's LRT infrastructure when the parties disagree, which could produce outcomes that are costly or administratively burdensome for the City.</p>	Do Not Support
Section 59	<p>Currently, the statute allows the Minister to delegate its functions to Metrolinx, or a public body (within the meaning of the Public Service of Ontario Act, 2006) that is prescribed. This is proposed to be amended to also allow delegation to the Deputy Minister or any other person employed in the Ministry. The bill also expands the types of matters that can be delegated to now include the Minister's authority to issue and revise orders for access to municipal service and right of way (s. 59).</p>	<p>The Province has previously communicated that the BTFA authorities are intended to be used as a last resort when the parties are unable to reach agreement to ensure project timelines are not jeopardized. While City staff cannot be certain of the intention of this amendment, this raises concerns of the potential for these authorities to be used more frequently.</p>	Do Not Support
36	<p>The proposed amendments would reduce timelines from 30 to 15 days for:</p> <ul style="list-style-type: none"> reaching an agreement for obstruction removal (ss. 14, 17 and 19); and the Minister to provide notice of a preview inspection under s. 34 (s. 36). 	<p>The Province has previously communicated that the BTFA authorities are intended to be used as a last resort when the parties are unable to reach agreement to ensure project timelines are not jeopardized. Reducing timelines for negotiating agreements by half, may not provide sufficient time for the parties to negotiate in good faith or fully consider potential impacts of the obstruction removal.</p>	Do Not Support