
2004 BUDGET BRIEFING NOTE: TTC and the Employment Standards Act

Issue/Background:

The purpose of this briefing note is to explain the Employment Standards Act (ESA) as it impacts the 2004 TTC Operating Budget.

TTC has been ordered to pay for meal breaks to comply with ESA requirements. Specifically, that all employees be provided with a meal break in accordance with the act or paid in lieu of such a break. This is an additional “below the line” (over and above any new/enhanced budget items and the recommended base budget) budget pressure of \$5.0 million in 2004. This amount is not included in the City’s 2004 \$344 million operating pressure due to affordability constraints. The 2004 Recommended Net Operating Budget for the TTC conventional system is \$219.524 million, or \$37.362 million, 20.5%, over the 2003 Council Approved Net Operating Budget. The ESA would increase this amount by an additional \$5.0 million to \$224.524 million which is \$42.362 million higher than the 2003 Council Approved Net Operating Budget. Initially, the TTC had estimated the ESA impact to be \$6.0 million in 2004 and \$10.5 million in 2005.

Key Point(s):

- Employment standards are enforced under the *Employment Standards Act, 2000* (ESA) which sets out the minimum standards which employers and employees must follow. The ESA does not apply to work regulated by the Government of Canada, such as airlines, banks, shipping, radio and television stations, and inter-provincial transport of goods and services. As such, TTC is regulated by the ESA; the act is administered by the Ontario Ministry of Labour.
- Based on a January 28, 2004 arbitration decision, the TTC, in accordance with the ESA, has confirmed that the financial impact of paying for meal breaks will be \$5.0 million in 2004. The full year impact of the ESA in 2005 will be \$5.4 million, \$0.4 million higher than the 2004 impact.
- The issue impacting the TTC in 2004 is that of payment for meal breaks. Specifically, Section 20(1) of the act provides that:

“An employer shall give an employee an eating period of at least 30 minutes at intervals that will result in the employee working no more than five consecutive hours without an eating period.”

- In the matter of arbitration between the TTC and the Amalgamated Transit Union, Local 113, by Mr. Kevin Burkett, Arbitrator at a hearing held on January 28, 2004, the following order was rendered thereto:

“On the issue of meal break compensation, I order that the Commission pay to each operator, including (W)heel-Trans, collectors and suppliers actively employed as at January 28, 2004 the sum of five hundred (\$500.00) dollars less applicable deductions in full payment of all meal break obligations from July 21, 2003 to March 27, 2004.”

“From March 28, 2004, forward, the Commission is required to pay at straight time or provide a meal break to each employee in accordance with each employee’s individual entitlement. The first payment is required to be made by June 1, 2004.”

- The decision to pay for meal breaks was made in the matter of arbitration on the January 28, 2004. Based on these newly applied standards, the Arbitrator determined that, when considered in totality, the work rules provide a greater minimum standard or greater benefit than the minimum provisions of the Act.
- The impact of ESA legislation on the City’s other ABCs and departments is unknown at this time.

Questions & Answers:

Q. Is the TTC required to pay for meal breaks?

A. Based on an arbitration ruling of January 28, 2004, the TTC must pay for meal breaks, the financial impact will be \$5.0 million in 2004 and \$5.4 million in 2006.

Date: February 17, 2004