



PSA submission to the Transport and
Infrastructure Committee on the
**Land Transport Management
(Regulation of Public Transport)
Amendment Bill**

April 2023

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28 April 2023

About the PSA

The New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (the PSA) is the largest trade union in New Zealand with over 85,000 members. We are a democratic and bicultural organisation representing people working in the Public Service including ministries, departments, Crown agents and other crown entities, and state-owned enterprises; local authorities; tertiary education institutions; and non-governmental organisations working in the health, social services and community sectors.

People join the PSA to negotiate their terms of employment collectively, to have a voice within their workplace and to have an independent public voice on the quality of public and community services and how they're delivered.

About this submission

This submission draws on:

- The views of PSA members working in the transport sector
- Our policy position on public transport, which includes support for:
 - Increased government investment in building high-quality, climate-resilient, equitably distributed public transport systems that are well-integrated with active transport infrastructure
 - Accessible public transport networks built with all people in mind
 - Increased government funding to subsidise public transport fares to make them free or reduced, especially for people on low incomes
 - Fair pay and working conditions for people working in the public transport system, both because it's the right thing to do, and because it helps to ensure a reliable public transport system that with the capacity needed to meet the needs of its users
 - Public transport delivered by government instead of being contracted out to companies seeking to extract profit.

Summary of our position on the bill

Overall the PSA supports this bill. The Public Transport Operating Model (PTOM) is failing to deliver the outcomes we need from our public transport systems, and the model needs to change.

We support legislation that will better enable public transport to be delivered by the public sector for the public good, rather than being outsourced to private companies to extract wealth from an essential service.

We also support legislation that will encourage local government to look wider than simply the financial bottom line.

Under this legislation public transport customers and employees will benefit from councils having more direct influence on services, and more options to address poorly performing public transport operators. It has the potential to encourage an increase in drivers' pay and improvements in working conditions which have been beaten down over time by service providers under the current contracting model.

Improving public transport is not only beneficial, it is also necessary. "The Ministry of Transport forecasts that transport emissions will be nearly double where they need to be in 2035, unless we introduce major interventions to put us on a different pathway."¹ This legislation is one important step towards improving public transport, but it needs to be accompanied by other improvements – in particular, increased funding and investment.

Summary of recommendations

We recommend the following changes to improve the legislation. Each recommendation is covered in further detail below.

- Amend Principle (1)(a) to say "well-used public transport services reduce the adverse environmental and health impacts of land transport, and encourage positive health and environmental impacts".
- Amend Principle (1)(e)(i) to say "providing public transport services assists land transport investment to be efficient".
- Amend Principle (1)(c) to include an emphasis on decent work consistent with ILO Decent Work Agenda.
- Include a principle promoting equitable access to suitable public transport
- Require a public interest test that would need to be met before a decision can be made to contract out a service
- Require consultation with the workers employed by each public transport operator as part of developing regional transport plans
- Require regional public transport plans to include statements of service intent.
- Include the Government's Emissions Reduction Plan and any local/regional climate plans as matters that must be considered when adopting a regional public transport plan
- Consider additional, non-legislative ways to incentivise collaboration between regional councils and territorial authorities
- Strengthen options for councils to end existing contracts where providers have persistently failed to perform as per their contractual requirements

¹ [Ministry for the Environment. 2021. Te hau mārohi ki anamata | Transitioning to a low-emissions and climate-resilient future: Have your say and shape the emissions reduction plan. Wellington: Ministry for the Environment. 2021](#)

- Add more comprehensive financial reporting requirements for firms operating services under the legislation.

Feedback on specific parts of the bill

This section of our submission focuses on specific aspects of the bill, along with specific recommendations for improvement.

Principles

Overall we support the principles contained in the legislation. It is positive to see a shift from the narrow focus on cost in the Land Transport Act 2003, towards a set of principles that also encompass environmental, health, mode-shift, equitable employment.

We recommend the following changes to enhance the proposed principles:

- **Principle (1)(a) should be reworded to say “well-used public transport services reduce the adverse environmental and health impacts of land transport, and encourage positive health and environmental impacts”.** This would make it explicit that it is adverse impacts that the legislation is seeking to reduce; and incentivise decisions that have beneficial impacts (eg, public transport that integrates well with last-mile active transport).
- **Principle (1)(c) should include an emphasis on decent work consistent with ILO Decent Work Agenda.**
- **Principle (1)(e)(i) should be reworded to say “providing public transport services assists land transport investment to be efficient”.** This acknowledges that improved public transport can improve the efficiency of overall transport investment through reducing private car use, and encourages decisions that promote this outcome.
- **The legislation should include a principle promoting equitable access to suitable public transport;** for example through planning public transport networks that address and not exacerbate current inequity in access for lower income areas; and through making transport affordable, especially for the people least able to afford it (not just as a means of supporting mode shift as set out under Principle (1)(b), but as an end in itself).

Addressing the contracting out of public transport services

We believe in public services for the public good, not private profit, and our preference is to see public transport delivered directly by councils. PSA members in the transport sector that we spoke to as part of this submission were overwhelmingly supportive of the move towards enabling councils to directly deliver public transport services.

Members’ views were mixed about the merits of the legislation continuing to allow councils to contract out public transport services, either to CCOs or to the private sector. Members expressed concern that despite the ability to bring services in-house afforded by this legislation, cash-strapped councils faced with pressure to keep rates low will continue to contract out services to the lowest bidder with the same poor outcomes for the workforce and for passengers.

The proposed principles in the bill will go some way towards addressing this by giving less of an advantage to the worst actors within the private sector who would seek to continue the race to the bottom in terms of services and wages. However, it doesn’t change the fact that fundamentally, contracting out services to the private sector means accepting a model that incentivises profit to investors over delivery of essential public services.

If the ability to continue contracting out remains in this bill, an appropriate balance could perhaps be struck by introducing safeguards to ensure contracting out only happens when it really is the most appropriate option, and that it doesn't undermine the outcomes sought by the community.

We recommend that if the legislation continues to allow the contracting out of public transport services, the legislation should require a public interest test that would need to be met before a decision is made to contract out a service. Such a test would consider the impact of outsourcing on democratic accountability and control of a service, employment conditions of workers, any social benefits of contracting out, and an assessment of the full and long-term costs and benefits to the council and the community of contracting out.

Worker consultation as part of public transport planning

Procurement processes and outcomes are greatly enhanced by the inclusion of mandated worker voice through the contract design, procurement and implementation process and should be included as part of public transport planning, especially (but not limited to) situations where a council is considering contracting out a service.

We recommend that section 15 of the bill include a requirement to consult with the workers employed by each public transport operator.

Other considerations that could be included in public transport planning

A requirement in legislation to improve the clarity of service intent could greatly improve public transport service outcomes, by making it clear which specific outcomes the council seeks to meet through the provision of public transport, and ensuring networks and services are designed with those outcomes in mind.

For example, decisions about how a community wishes to prioritise support for people with restricted mobility, versus focusing on extending coverage, or displacing car travel through greater travel time advantage, may affect planning decisions. Making these priorities and intended outcomes clear may help make planning more effective.

We suggest that section 13 of the bill could include a requirement for regional public transport plans to include statements of service intent.

Public transport planning should be closely connected to planning for climate change, since public transport is one of the key interventions we need to make in urban environments to reduce emissions.

We recommend that section 14 of the bill include the following additional matters that must be considered when adopting a regional public transport plan:

- **The Emissions Reduction Plan prepared under the Climate Change Response (Zero Carbon) Amendment Act 2019**
- **Any regional or city/district level emissions reduction plans or strategies.**

We support the requirement to collaborate in the planning and delivery of services, but question whether the statutory requirements in the bill will be enough to ensure productive collaboration between councils. **We recommend the committee consider additional ways to incentivise collaboration between regional councils and territorial authorities.**

Ability to end non-performing contracts

The benefits of the proposed legislation won't be realised until current public transport contracts come to the end of their terms. In the meantime, poor performance and poor working conditions driven by public transport owners using our networks as sources from which to extract wealth will continue.

We recommend the legislation strengthen options for councils to end existing contracts where providers have persistently failed to perform as per their contractual requirements or where providers have demonstrated ongoing failure to act as a good employer.

Financial reporting

We recommend additions to the legislation to provide more comprehensive financial reporting requirements for firms operating services under the legislation, to provide greater public transparency about how private companies benefit financially from tendering services.

Additional investment needed

This legislation is a positive step. But on its own it will not achieve the step-change in the quality of public transport that's needed to move to low-emissions, well-functioning public transport networks in New Zealand cities. Government, at both the central and local level, needs to be willing to invest much more in building, running and maintaining good quality public transport networks.

Conclusion

The PSA appreciates the opportunity to submit on this legislation. We believe it is essential to improve public transport systems across Aotearoa for the sake of our climate and environment, and to make more liveable communities. This legislation is an important step in contributing to this.

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