TO: Mayor and Members  
Committee of the Whole  
WARD(S) AFFECTED: CITY WIDE

COMMITTEE DATE: February 8, 2010

SUBJECT/REPORT NO:
Options for Correcting the Current Inequity of Payment-in-Lieu of Taxes on Colleges, Universities, Correctional Facilities and Hospitals ("Heads & Beds") (FCS10015) (City Wide)

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VISION:
To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

VALUES: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

RECOMMENDATION:

a) That report FCS10015 “Options for Correcting the Current Inequity of Payment-in-Lieu of Taxes on Colleges, Universities, Correctional Facilities and Hospitals ("Heads & Beds")” be received for information;

b) That the City of Hamilton Council reaffirm its position with respect to the inequities of the current “Heads & Beds” taxation policy;

c) That the Province of Ontario increase the current prescribed $75 per head/bed to $125 per head/bed for the 2010 taxation year and that, moving forward, this amount be indexed annually for inflation; and

d) That report FCS10015 “Options for Correcting the Current Inequity of Payment-in-Lieu of Taxes on Colleges, Universities, Correctional Facilities and Hospitals ("Heads & Beds")” be forwarded to the Ministers of the Ministry of Finance and Ministry of Municipal Affairs and Housing and local MPPs.
EXECUTIVE SUMMARY

The City of Hamilton, along with many other Ontario municipalities, have long requested that the Province correct the inequity of the “heads and beds” levy paid in lieu of property taxes by colleges, universities, correctional facilities and hospitals. The current $75 per “head” for colleges/universities and “bed” for hospitals/correctional facilities, has not only been frozen since 1987 but it grossly understates the escalating costs of providing municipal services.

Based on the prescribed $75 per head/bed, the City of Hamilton’s 2009 payment-in-lieu of taxes for these institutions was $2.6 million. As shown below, this is significantly less than if the legislated per head/bed amount had been indexed for inflation or if these institutions were liable for a payment-in-lieu of taxes (PIL) based on their current value assessment and the respective municipal tax rates (as is the case with other provincial properties).

<table>
<thead>
<tr>
<th>Payment-in-Lieu Taxes Generated from Hospitals, Universities, Colleges &amp; Correctional Facilities (based on 2009 figures)</th>
<th>Additional Funding to Support Levy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current $75 per “head/bed”</td>
<td>$2.6 million</td>
</tr>
<tr>
<td>Indexed for inflation = $125 per “head/bed”</td>
<td>$4.3 million</td>
</tr>
<tr>
<td>Municipal taxes based on Residential tax rate¹</td>
<td>$13.1 million</td>
</tr>
<tr>
<td>Municipal taxes based on Commercial tax rate¹</td>
<td>$26.1 million</td>
</tr>
<tr>
<td>Municipal taxes based on Industrial tax rate¹</td>
<td>$43.7 million</td>
</tr>
</tbody>
</table>

¹Based on the 2009 exempt assessment. Presumably these properties would be considered either residential or commercial (resulting in municipal taxes likely between $13.1M and $26.1M), however, the Municipal Property Assessment Corporation (MPAC) would ultimately need to determine which property class each of these properties would fall into.

The City of Hamilton has made several requests to the Province over the last several years in an effort to correct this inequity and increase the prescribed $75 per head/bed. The Association of Municipalities of Ontario (AMO), in its 2008 pre-budget submission to the Standing Committee on Finance & Economic Affairs also raised this issue. Municipal representatives on the Fiscal Architecture & Economic Development Table of the Provincial-Municipal Fiscal and Service Delivery Review (PMFSDR) raised this issue several times as well. The Provincial’s response was that it was not part of the scope of the PMFSDR process and would not discuss the issue further.
Staff are recommending that the City of Hamilton continue to pursue this issue with the Province, requesting that the prescribed per head/bed amount be increased to $125 (indexed for inflation). A phase-in plan could be developed to gradually arrive at this figure over a number of years. It is imperative, however, that moving forward, this amount be automatically adjusted annually to reflect inflation.

Alternatives for Consideration – See Page 6

### FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

**Financial:** If the current prescribed $75 per head/bed were increased to $125 per head/bed, this would result in an additional $1.7 million in payment-in-lieu of tax revenues for the City of Hamilton (based on 2009 figures).

**Staffing:** N/A

**Legal:** N/A

### HISTORICAL BACKGROUND (Chronology of events)

The Assessment Act states that “all real property in Ontario is liable to assessment and taxation [subject to exemptions]”. Land owned by the federal or provincial governments, public education institution and public hospitals are some of these properties identified as “exempt” under the Assessment Act. Having said that however, section 323 of the Municipal Act, 2001 gives municipalities the authority to “levy an amount payable not exceeding the prescribed amount” for each full-time student enrolled (universities/colleges), resident (correctional facilities) and provincially rated bed (hospitals). This type of tax is referred to as a Payment-in-lieu of taxes. The “prescribed” amount identified in Ontario Regulation 384/98 is $75. This amount has not been amended since 1987.

For years municipalities have lobbied the Provincial government for changes to the legislation, however, to date the Province has maintained its position. Unfortunately, although the $75 per head/bed has remained unchanged for the past 22 years, the cost of providing municipal services have increased significantly over this same time period.

The latest City of Hamilton motion passed by Council on January 30, 2008 stated the following:
Whereas, in legislation, Provincial institutions in Ontario such as hospitals, universities, colleges and correctional facilities, are not liable to assessment and taxation in its real property, rather make payment on a prescribed per-capacity rate, referred as the “heads and beds”;

Whereas, the Province last adjusted the “heads and beds” rate 20 years ago (1987), and through this period the increases in inflation has not been reflected in the “heads and beds” rate;

Whereas, based on the increase in inflation, the cost to the City of Hamilton to provide services to area institutions has risen by over 50% since that time, and;

Whereas, the City of Hamilton continues to have budget challenges, with revenue sources not keeping up with costs.

Therefore,

That the Minister of Finance for the Province of Ontario be request to:

a. Amend the current prescribed “heads and beds” rate used to calculate payment-in-lieu of taxes on public hospitals, universities, colleges and correctional facilities to an equivalent rate that would be raised were these public institutions using current value assessment (CVA) times tax rate methodology;

b. And ensure that the “heads and beds” rate thereafter is adjusted regularly to reflect changes in current value assessment on public institutions and municipal tax rate; or,

c. Alternatively, introduce legislative amendments to the Assessment Act and the Municipal Act 2001, that would require payment-in-lieu amounts to be calculated on equivalent taxation using full Current Value Assessment (CVA) time appropriate municipal tax rates;

d. That a copy of this motion be forwarded to A.M.O. for their consideration.

In June, 2009 Council directed staff to report back with options and strategies respecting this continued inequity.

POLICY IMPLICATIONS

The information in this report does not impact the City’s policies.
RELEVANT CONSULTATION

Staff reviewed reports and Council resolutions/motions from other Ontario municipalities with respect to their position on the current “heads and beds” PIL tax.

ANALYSIS / RATIONALE FOR RECOMMENDATION

Similar to previous analysis done by staff from both the City of Hamilton and other Ontario municipalities, there are two options for correcting the current inequity of the payment-in-lieu “heads and beds” taxes.

1) Taxation of these institutions similar to other provincially owned properties (a payment-in-lieu of taxes based on “assessment x tax rate”). The total assessment (CVA) of the properties eligible for “head and beds” is $981.5 million (2009). Had these properties paid a payment-in-lieu of taxes based on their assessment and corresponding municipal tax rate, this would have equated to $13.1 million (based on the 2009 Residential tax rate). If these properties were billed based on the business tax rate, their combined municipal property taxes would have been between $26.1 million (2009 commercial tax rate) and $43.7 million (2009 industrial tax rate).

2) Taxation of these institutions based on an updated (indexed for inflation) per “head/bed” amount. In 2009, the City of Hamilton received $2.6 million in heads and beds PIL taxes, however, had the 2009 amount been $125 per head/bed (to take into account inflation), this amount would have been $4.3 million. This represents an additional $1.7 million in 2009. Moving forward, the amount prescribed by the Province should be adjusted annually to reflect inflation.

Given the Province’s projected $24 billion deficit, option one above may be optimistic. As a result, staff are therefore recommending that option two be pursued, whereby the prescribed amount per head/bed is indexed to $125 and then indexed annually moving forward. Staff also recognize that the increase in the prescribed amount may need to be phased-in.
ALTERNATIVES FOR CONSIDERATION:
(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Some alternative options/strategies Council may consider include:

- continue to make similar separate requests to the Province on an on-going basis
- work together with other municipalities to make a unified, coordinated formal request
- endeavour to work with the Province in order to arrive at a compromise in which the inequity may be partially rectified
  - requesting that these institutions pay taxes based on an “assessment x tax rate” methodology would equate to $13.1 million (based on the 2009 Residential tax rate) – a discount could be agreed upon, whereby these institutions are only liable for a certain percentage of this amount (i.e. only liable for 50% of the full municipal taxes)
- pursue more aggressive lobbying efforts
  - establish a subcommittee comprised of City Councillors and local MPPs
- cease to request for changes to the current head/beds legislation in recognition of the value (other than strictly from a taxation perspective) these institutions bring to our community (employment, improved quality of life, growth, etc.)

CORPORATE STRATEGIC PLAN  (Linkage to Desired End Results)


Skilled, Innovative & Respectful Organization
- Council and SMT are recognized for their leadership and integrity

Intergovernmental Relationships
- Influence federal and provincial policy development to benefit Hamilton

APPENDICES / SCHEDULES
N/A