

1980

c 347 Ontario Municipal Board Act

Ontario

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CHAPTER 347

Ontario Municipal Board Act

PART I

INTERPRETATION

1.—(1) In this Act,

Interpre-
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "local board" means a school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or parts thereof;
- (c) "municipality" means the corporation of a county, city, town, village, township or improvement district and includes a local board thereof and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory;
- (d) "public utility" means a waterworks, gasworks, including works for the production, transmission, distribution and supply of natural gas, electric heat, light and power works, and telegraph lines, or any works supplying the general public with necessities or conveniences.

(2) The interpretation sections of *The Railways Act* apply to this Act. R.S.O. 1970, c. 323, s. 1.

Interpre-
tation under
R.S.O. 1950,
c. 331

2. The provisions of this Act relating to railways apply to all railways, whether operated by steam, electricity or other motive power, including street railways. R.S.O. 1970, c. 323, s. 2.

Application
of Act to all
railways

References
to former
board

3. Where in any general or special Act reference is made to the Ontario Railway and Municipal Board or to that board under any other name, it shall be deemed that such reference is made to the Board as named in this Act. R.S.O. 1970, c. 323, s. 3.

PART II

CONSTITUTION OF BOARD

Municipal
Board
continued

4. The Ontario Municipal Board is continued under the provisions of this Act. R.S.O. 1970, c. 323, s. 4.

Com-
position
of Board

5.—(1) The Board shall be composed of as many members as the Lieutenant Governor in Council may from time to time determine.

Appoint-
ments

(2) The Lieutenant Governor in Council shall appoint the members of the Board and shall appoint one member as chairman and may appoint one vice-chairman or more.

Salary

(3) A member of the Board shall be paid such salary as may be fixed by the Lieutenant Governor in Council.

How
payable

(4) The salaries and travelling expenses of members of the Board are payable out of the moneys appropriated therefor by the Legislature.

Application of
R.S.O. 1980,
c. 418

(5) The *Public Service Act*, except sections 4 and 6, applies to members of the Board.

Application of
R.S.O. 1980,
c. 419

(6) The *Public Service Superannuation Act* applies and shall be deemed always to have applied to members of the Board. R.S.O. 1970, c. 323, s. 5.

Vacancies

6. Vacancies in membership of the Board caused by death, resignation or otherwise may be filled by the Lieutenant Governor in Council. R.S.O. 1970, c. 323, s. 6.

Tenure of
office

7. Members of the Board shall hold office during pleasure. R.S.O. 1970, c. 323, s. 7.

Absence,
etc., of
chairman

8. Where,

(a) the chairman is absent or unable to act, a vice-chairman designated by the chairman; or

(b) the office of chairman is vacant, a vice-chairman designated by the Attorney General,

has and shall exercise the jurisdiction and powers of the chairman, including the power to complete any unfinished matter. R.S.O. 1970, c. 323, s. 8; 1972, c. 1, s. 11 (1).

9. Whenever it appears that a vice-chairman has acted for and instead of the chairman, it shall conclusively be presumed that he has so acted in the absence or disability of or vacancy in the office of the chairman. R.S.O. 1970, c. 323, s. 9. Presumption of having duly acted

10. A vacancy in membership of the Board or the absence or inability of a member to act does not impair the powers of the Board or of the remaining members who shall exercise all the jurisdiction and powers of the Board. R.S.O. 1970, c. 323, s. 10. Powers of Board on vacancy

11.—(1) Where a member of the Board resigns his office, retires or is appointed to another position in the service of the Crown, he shall, during such period of time as the Lieutenant Governor in Council designates, in respect of any application, proceeding, matter or thing heard before him or commenced by him as a member of the Board, have and exercise the jurisdiction and powers of a member of the Board including the power to complete any unfinished matter and give a decision therein as if he had not so resigned, retired or been appointed. Completion of matters by members who retire, resign, etc.

(2) An order in council under subsection (1) may be made before or after such resignation, retirement or appointment and may be retroactive in effect. R.S.O. 1970, c. 323, s. 11. Order in council

12.—(1) Except as provided in section 15, two members of the Board form a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board and not fewer than two members shall attend at the hearing of every application. Quorum

(2) Where the number of members of the Board attending at the hearing of an application is more than two, the number shall be uneven, and the decision of the majority of such members constitutes the decision of the Board. Where more than two members attend hearing

(3) All orders, rules, regulations, certificates and other documents made or issued by the Board may be signed by any member of the Board or the secretary of the Board or any officer of the Board designated by the Lieutenant Governor in Council as a signing officer. R.S.O. 1970, c. 323, s. 12. Signature of orders, etc.

13. The chairman shall from time to time assign the members of the Board to its various sittings and may change Assignment of members and staff for sittings

any such assignments at any time and the chairman may from time to time direct any officer or other member of the staff of the Board to attend any of the sittings of the Board and may prescribe his duties. R.S.O. 1970, c. 323, s. 13.

Questions
of law

14. The chairman, when present, shall preside at all sittings of the Board, and his opinion upon any question of law shall prevail. R.S.O. 1970, c. 323, s. 14.

One member
may hear and
determine
application

15. The chairman may in writing authorize one member of the Board to hear and determine any application to the Board and for such purpose such member may exercise all the jurisdiction and powers of the Board and his decision on the application shall be a decision of the Board. 1972, c. 110, s. 1.

Attendance
to duties

16. Unless otherwise authorized by statute or the rules of the Assembly or the Lieutenant Governor in Council, the members shall devote the whole of their time to the performance of their duties as members of the Board, and shall not accept or hold any office or employment inconsistent with such duties. R.S.O. 1970, c. 323, s. 16.

Prohibition
against,

17. No member or officer of the Board shall, directly or indirectly,

holding
municipal
securities,
railway
stock, etc.

(a) hold, purchase, take, deal in or become interested in any stock, bond, debenture, share or other security of any municipality in Ontario or of any railway or public utility company or any company that in any way controls a railway or public utility;

having
interest in
contract

(b) become concerned or interested in any contract, undertaking or work with or for any municipality, railway or public utility company;

having
interest in
appliances

(c) have any interest in any device, appliance, machine, patented process or article or in any part thereof that may be required or used for the purpose of the business of any municipality, railway or public utility company. R.S.O. 1970, c. 323, s. 17.

Duty to
dispose of
interest

18. If a member or officer of the Board, by will, succession, or otherwise for his own benefit, directly or indirectly, becomes the owner, holder or otherwise vested with or interested in any stock, bond, debenture, share, security, contract, undertaking, work, device, appliance, machine, patented process or article mentioned in section 17, he shall within one year thereafter absolutely sell and dispose of the same or his interest therein. R.S.O. 1970, c. 323, s. 18.

19. No member or officer of the Board shall act as director or officer of any railway or public utility company or of any company that has power to invest any portion of its funds in the securities of a municipality, railway or public utility company. R.S.O. 1970, c. 323, s. 19.

Members of Board not to be officers or directors of certain companies

20. For the purpose of any inquiry or examination conducted by it or in the performance of any of the other duties assigned to it by this or any other Act or by the Lieutenant Governor in Council, the Board may, with the consent of the Minister in charge of any ministry of the Government, avail itself of the services of any officer or employee of such ministry, and for any such purpose it may, with the approval of the Lieutenant Governor in Council, avail itself of the services of any member, officer or employee of any board or commission established by Act of the Legislature. R.S.O. 1970, c. 323, s. 20; 1972, c. 1, s. 2.

Securing assistance for purpose of inquiry

21. The Lieutenant Governor in Council shall provide within the City of Toronto a suitable place in which the sittings of the Board may be held and also suitable offices for the members, secretary, staff and other employees and all necessary furnishings, stationery and equipment for the establishment, conduct and maintenance of the same and for the performance of the duties of the Board. R.S.O. 1970, c. 323, s. 21.

Offices at Toronto

22. The Board shall sit at such times and places within Ontario as the chairman may from time to time designate and shall conduct its proceedings in such manner as it may consider most convenient for the speedy and effectual dispatch of its duties. R.S.O. 1970, c. 323, s. 22.

Sittings of Board

23. The sittings of the Board may be either private or open to the public, but any complaint made to the Board shall, on the application of any party thereto, be publicly heard. R.S.O. 1970, c. 323, s. 23.

Private or public

24. Where sittings of the Board or any member thereof are appointed to be held in any municipality in which a court house is situate, the Board or members have in all respects the same authority and right as a judge of the Supreme Court with respect to the use of the court house and any part thereof, and of other buildings and apartments set aside in the municipality for the administration of justice. R.S.O. 1970, c. 323, s. 24.

Use of court house

25. Where sittings of the Board or any member thereof are appointed to be held in any municipality in which there is a hall belonging to the corporation thereof, but no court

Use of town hall

house, the corporation shall, upon request, allow such sittings to be held in such hall and shall make all arrangements necessary and suitable for such purpose. R.S.O. 1970, c. 323, s. 25.

Experts

26.—(1) The Lieutenant Governor in Council may from time to time, upon the recommendation of the Board, appoint one or more experts or persons having technical or special knowledge of matters or subjects within the jurisdiction of the Board or in question in respect of any particular matter or subject before the Board to assist the Board in an advisory or other capacity.

Acting member

(2) The Lieutenant Governor in Council, on the recommendation of the chairman of the Board, may from time to time appoint as an acting member of the Board a person who, in the opinion of the chairman, is specially qualified to assist the Board with respect to any particular application to be assigned by the chairman to act with any two members of the Board for the purpose of hearing and determining such application and the person so appointed has all the powers of a member of the Board for such purpose and is entitled to such remuneration as the Lieutenant Governor in Council may authorize. R.S.O. 1970, c. 323, s. 26.

Secretary

27.—(1) There shall be a secretary of the Board who shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure.

Acting secretary

(2) Where the office of the secretary is vacant or in his absence or inability to act, the Board may appoint a secretary *pro tempore*, who shall act in the place of the secretary, or a member of the Board may act as secretary. R.S.O. 1970, c. 323, s. 27.

Duties of secretary:

28. It is the duty of the secretary,

keep minutes

(a) to keep a record of all applications to and proceedings before the Board or any member;

custody of records

(b) to have the custody and care of all records and documents of or pertaining to the business of or proceedings before the Board or any member, or filed in his office;

authentication of regulations, orders, etc.

(c) to have every order, rule, regulation and certificate drawn pursuant to the directions of the Board and according to the provisions of any statute affecting the same properly authenticated and issued, filed and otherwise dealt with as may be requisite;

- (d) to keep proper books of record in which he shall cause ^{record books} to be entered a true copy of every order, rule and regulation made by the Board and of every other document that the Board may require to be entered therein; and such entry constitutes and is the original record of every such order, rule, regulation and document;
- (e) to carry out such other functions and duties as may by ^{other matters} statute, the Lieutenant Governor in Council or the Board be assigned to him or his office;
- (f) to obey all rules, regulations and directions made or ^{obey directions} given by the Board touching his duties or his office. R.S.O. 1970, c. 323, s. 28.

29. Upon application of any person and on payment of such fees as the Board may prescribe, the secretary shall deliver to such person a certified copy of any order, rule, regulation, certificate or other document made, given or issued by the Board. R.S.O. 1970, c. 323, s. 29. ^{Certified copies of regulations or orders}

30. Whenever the Board by virtue of any power vested in it appoints or directs any person other than a member of the staff of the Board to perform any service required by this or any other Act, such person shall be paid such sum for services and expenses as, upon the recommendation of the Board, the Lieutenant Governor in Council may approve. R.S.O. 1970, c. 323, s. 30. ^{Remuneration of appointee}

31. No member of the Board or its secretary or any of its staff is required to give testimony in any civil suit with regard to information obtained by him in the discharge of his official duty. R.S.O. 1970, c. 323, s. 31. ^{Protection from being called as witnesses}

32. No member of the Board or its secretary or any of its staff is personally liable for anything done by it or by him under the authority of this or any other Act. R.S.O. 1970, c. 323, s. 32. ^{Protection from personal liability}

PART III

GENERAL JURISDICTION AND POWERS

33. The Board for all purposes of this Act has all the powers of a court of record and shall have an official seal which shall be judicially noticed. R.S.O. 1970, c. 323, s. 33. ^{Board to have powers of court of record and a seal}

34. The Board, as to all matters within its jurisdiction under this Act, has authority to hear and determine all questions of law or of fact. R.S.O. 1970, c. 323, s. 34. ^{Power to determine law and fact}

**Jurisdiction
exclusive**

35. The Board has exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it by this Act or by any other general or special Act. R.S.O. 1970, c. 323, s. 35.

**General
jurisdiction
and powers**

36. The Board has jurisdiction and power,

- (a) to hear and determine all applications made, proceedings instituted and matters brought before it under this Act or any other general or special Act and for such purpose to make such orders, rules and regulations, give such directions, issue such certificates and otherwise do and perform all such acts, matters, deeds and things, as may be necessary or incidental to the exercise of the powers conferred upon the Board under such Act;
- (b) to perform such other functions and duties as are now or hereafter conferred upon or assigned to the Board by statute or under statutory authority;
- (c) to order and require or forbid, forthwith or within any specified time and in any manner prescribed by the Board, the doing of any act, matter or thing or the omission or abstention from doing or continuance of any act, matter or thing, which any person, firm, company, corporation or municipality is or may be required to do or omit to be done or to abstain from doing or continuing under this or any other general or special Act, or under any order of the Board or any regulation, rule, by-law or direction made or given under any such Act or order or under any agreement entered into by such person, firm, company, corporation or municipality;
- (d) to make, give or issue or refuse to make, give or issue any order, directions, regulation, rule, permission, approval, certificate or direction, which it has power to make, give or issue. R.S.O. 1970, c. 323, s. 36.

**Powers of
Supreme
Court
exercisable
by Board**

37. The Board, for the due exercise of its jurisdiction and powers and otherwise for carrying into effect the provisions of this or any other general or special Act, has all such powers, rights and privileges as are vested in the Supreme Court with respect to the amendment of proceedings, addition or substitution of parties, attendance and examination of witnesses, production and inspection of documents, entry on and inspection of property, enforcement of its orders and all other matters necessary or proper therefor. R.S.O. 1970, c. 323, s. 37.

38. Where, by the provisions of any letters patent or supplementary letters patent of any corporation, heretofore or hereafter issued under the *Corporations Act* or any other general or special Act, any jurisdiction is conferred upon the Board or it is provided that any matter in any way may be referred to the Board with respect thereto, it has power to inquire into, hear and determine all matters and things necessary or incidental to the due exercise of such jurisdiction and reference and to make and give orders, directions, regulations, rules, permissions, approvals, sanctions and certificates as to the Board may seem proper. R.S.O. 1970, c. 323, s. 38.

Jurisdiction
under
letters
patent
R.S.O. 1980,
c. 95

39. Where by this or any other general or special Act the permission, approval or sanction of the Board is necessary to the exercise of any power or the doing, or the abstention from doing or continuing to do any act, matter, deed or thing, such power shall not be exercised or act, matter, deed or thing be done or abstained from being done or be continued until such permission, approval or sanction has been obtained. R.S.O. 1970, c. 323, s. 39.

Where
Board's
approval
not given

40.—(1) The Board may, of its own motion, and shall, upon the request of the Lieutenant Governor in Council, inquire into, hear and determine any matter or thing that it may inquire into, hear and determine upon application or complaint, and with respect thereto has and may exercise the same powers as, upon any application or complaint, are vested in it.

When
Board
may act

(2) Any power or authority vested in the Board under this or any other general or special Act may, though not so expressed, be exercised from time to time, or at any time, as the occasion may require. R.S.O. 1970, c. 323, s. 40.

Power to
act from
time to
time

41.—(1) The Lieutenant Governor in Council may from time to time, upon the request of the Board, or of his own motion, appoint counsel to appear before the Board and conduct an inquiry or hearing or to represent the Board upon the argument of any appeal to the Divisional Court or to any other court in an appeal from the Divisional Court in cases where any such appeal may lie.

Appoint-
ment of
counsel

(2) The Board may direct that the costs of such counsel shall be paid by any party to the application, proceeding or matter, or by the Treasurer of Ontario. R.S.O. 1970, c. 323, s. 41.

Costs

42. The Board may rehear any application before deciding it or may review, rescind, change, alter or vary any decision, approval or order made by it. R.S.O. 1970, c. 323, s. 42.

Power
to rehear,
review, etc.

Board to inquire and report on certain matters at request

43. The Board shall, when required so to do by the Lieutenant Governor in Council, the Assembly or any committee thereof, make or cause to be made under its supervision an inquiry into any facts that the Lieutenant Governor in Council, the Assembly or any such committee may desire to ascertain before passing upon the propriety of any proposed change in the general law, or upon any proposed Bill relating to a municipality or to a railway or to any corporation or person operating or proposing to operate a public utility, and upon the conclusion of such inquiry the Board shall report its opinion thereon. R.S.O. 1970, c. 323, s. 43.

Reference by Lieutenant Governor in Council for report

44. The Lieutenant Governor in Council may at any time refer to the Board, for a report or other action, any question, matter or thing arising, or required to be done in respect of a municipality, railway or public utility subject to the jurisdiction of the Board, under any general or special Act, and the Board shall without unnecessary delay comply with the order in council. R.S.O. 1970, c. 323, s. 44.

Inquiry on municipal organization

45. The Board shall upon the request of the Lieutenant Governor in Council inquire into and report on the establishment, organization, reorganization and methods of operation of any two or more municipalities in any designated area and any question, matter or thing relating thereto. R.S.O. 1970, c. 323, s. 45.

Board may order inquiries

46.—(1) The Board may appoint or direct any person to make an inquiry and report upon any application, complaint or dispute before the Board, or upon any matter or thing over which the Board has jurisdiction.

Costs

(2) The Board may order by whom and in what proportion the costs and expenses incurred in making such inquiry and report shall be paid, and may fix the amount of such costs and expenses. R.S.O. 1970, c. 323, s. 46.

General powers

47. The Board may order and require any person or company, corporation or municipality to do forthwith or within or at any specified time, and in any manner prescribed by the Board, so far as is not inconsistent with this Act, any act, matter or thing that such person, company, corporation or municipality is or may be required to do under this Act, or under any other general or special Act, or under any regulation, order, direction, agreement or by-law, and may forbid the doing or continuing of any act, matter or thing that is in contravention of any such Act or of any such regulation, order, direction, agreement or by-law. R.S.O. 1970, c. 323, s. 47.

48. The Board may require any person, company, corporation or municipality, subject to its jurisdiction, to adopt such means and appliances and to take and use such precautions as the Board considers necessary or expedient for the safety of life and property. R.S.O. 1970, c. 323, s. 48.

Adoption of
appliances
for pro-
tection of
life, etc.

49.—(1) When the Board, in the exercise of any power vested in it, by any order directs and any structure, appliances, equipment, works, renewals or repairs to be provided, constructed, reconstructed, altered, installed, operated, used or maintained, it may order by what person, company, corporation or municipality interested or affected by such order, as the case may be, and when or within what time, and upon what terms and conditions as to the payment of compensation or otherwise, and under what supervision the same shall be provided, constructed, reconstructed, altered, installed, operated, used or maintained.

Duty, to
execute
works
ordered by
Board

(2) The Board may order by whom, in what proportion and when, the costs and expenses of providing, constructing, reconstructing, altering, installing and executing such structures, equipment, works, renewals or repairs, or of the supervision, if any, or of the continued operation, use or maintenance of the same, or of otherwise complying with such order, shall be paid. R.S.O. 1970, c. 323, s. 49.

to pay
expenses of
them

50. If default is made by a person, company, corporation or municipality in the doing of any act, matter or thing, that the Board has authority under this or any other general or special Act, to direct and has directed to be done, the Board may authorize such person as it may see fit to do the act, matter or thing, and in every such case the person so authorized may do such act, matter or thing, and the expense incurred in the doing of the same may be recovered from the person, company, corporation or municipality in default as money paid for and at his or its request, and the certificate of the Board of the amount so expended is conclusive evidence thereof. R.S.O. 1970, c. 323, s. 50.

Board's
powers
upon
default in
obeying
order

51. The Board also has power to enforce its orders and directions respecting any public utility in the manner and by the means provided in section 261 of *The Railways Act*. R.S.O. 1970, c. 323, s. 51.

Enforcing
orders of
Board
R.S.O. 1950,
c. 331

52. The Board, inspecting engineer, or person appointed under this Act to make any inquiry or report may,

Powers
respecting
inquiries:

- (a) enter upon and inspect any place, building or works, being the property or under the control of any entry

company, the entry or inspection of which appears to it or him requisite;

inspection (b) inspect any works, structure, rolling stock or property of the company;

attendance of witnesses (c) require the attendance of all such persons as it or he thinks fit to summon, and examine and require answers or returns to such inquiries as it or he thinks fit to make;

production of documents, etc. (d) require the production of all books, papers, plans, specifications, drawings and documents, relating to any matter before it or him;

oaths (e) administer oaths,

summoning witnesses and enforcing attendance and has the like power to summon witnesses and enforce their attendance, and compel them to give evidence and to produce books, papers or things that they are required to produce, as is vested in any court in civil cases. R.S.O. 1970, c. 323, s. 52.

PART IV

GENERAL MUNICIPAL JURISDICTION

General municipal jurisdiction of the Board: **53.**—(1) The Board has jurisdiction and power in relation to municipal affairs,

approving borrowings (a) to approve the exercise in whole or in part of any of the powers by a municipality under any general or special Act that may or will involve or require the borrowing of money by the issue of debentures, or the incurring of any debt or the issuing of any debentures, which approval the municipality voluntarily applies for or is required by law to obtain;

approving by-laws (b) to approve any by-law or proposed by-law of a municipality, which approval the municipality voluntarily applies for or is required by law to obtain;

floating debt (c) to authorize the issue by a municipality, without the assent of the electors, of debentures to pay any floating indebtedness that it may have incurred, upon such terms, in such manner and at such times as the Board may approve, or to direct that such floating indebtedness be paid in such other manner and within such time as the Board may require;

- (d) to authorize the issue by a municipality, without the assent of the electors, of debentures to retire debentures that are redeemable before maturity, and the raising of the sum required for payment of such new debentures in the same manner as the sum required for payment of the retired debentures; callable debentures
- (e) to certify to the validity of debentures issued under the authority of any by-law of a municipality that the Board has approved; certifying validity of debentures
- (f) to direct that before any approval is given by the Board to the exercise of any powers by a municipality or to any by-law passed by it, or before any authorization is given by the Board to the issue by a municipality of debentures to pay any floating indebtedness, the assent of the electors thereof or of those thereof who are qualified to vote on money by-laws first be obtained, notwithstanding such assent is not otherwise requisite; assent of electors to by-laws
- (g) to supervise, where considered necessary, the expenditure of any moneys borrowed by a municipality with the approval of the Board; supervising certain expenditures
- (h) to require and obtain from any municipality at any time and for any definite period statements in detail of any of its affairs, financial and otherwise; detailed statement of affairs
- (i) to inquire at any time into any or all of the affairs, financial and otherwise, of a municipality and hold such hearings and make such investigations in respect thereof as may appear necessary or expedient to be made in the interest of the municipality, its rate-payers, inhabitants and creditors and particularly to make and hold such inquiries, hearings and investigations for the purpose of avoiding any default or recurrence of a default by any municipality in meeting its obligations; power of investigation
- (j) when authorized by an agreement heretofore or hereafter entered into by two or more municipalities in which the municipalities agree to be bound by the decision of the Board, to hear and determine disputes in relation to such agreement; settlement of disputes between municipalities
- (k) where water or sewage service is supplied or to be supplied by one municipality to another municipality, to hear and determine the application of either municipality to confirm, vary or fix rates water or sewage service

charged or to be charged in connection with such water or sewage service;

general

R.S.O. 1980,
c. 302

(l) generally, to exercise such jurisdiction and powers as by or under the authority of this Act or the *Municipal Act* or any other general or special Act are conferred upon the Board.

Conflict

(2) Clauses (1) (c) and (d) have effect notwithstanding any general or special Act. R.S.O. 1970, c. 323, s. 53.

Voluntary application to Board for approval of by-laws

54. A municipality may apply to the Board for its approval of any by-law, the passing of which has been authorized by an order of the Board made pursuant to section 64. R.S.O. 1970, c. 323, s. 54.

Application to Board for approval of by-law authorizing borrowing

55. Any person the holder of or otherwise entitled to receive any debenture of a municipality or the proceeds of sale thereof or to whom a debt has been incurred or from whom money has been borrowed under the authority of any by-law of a municipality may apply to the Board for approval of the by-law, and the Board may approve the same. R.S.O. 1970, c. 323, s. 55.

Approval to be withheld where litigation pending

56. The Board shall not grant or issue any approval or certificate under this or any other general or special Act in respect of any municipal affair or matter, while the same or the validity thereof is called in question in any pending action or proceeding or by which it is sought to quash any by-law of a municipality relating thereto. R.S.O. 1970, c. 323, s. 56.

Time for certifying validity of debentures

57.—(1) The Board shall not certify the validity of any debenture issued under any by-law of a municipality until thirty days after the final passing of the by-law, unless such notice, if any, as the Board may direct has been published or given of the application for such certification.

Exception

(2) This section does not apply to any debenture authorized under clause 53 (1) (d) or to a consolidating by-law if every by-law consolidated was finally passed at least thirty days before certification. R.S.O. 1970, c. 323, s. 57.

Validation of by-laws and debentures

58.—(1) In any case where either prior or subsequent to the issue and sale of any debentures issued or to be issued by a municipality, application is made to the Board for its approval of any by-law authorizing the issue of such debentures, and of the debentures, the Board may approve the by-law and certify the validity of the debentures,

notwithstanding any omission, illegality, invalidity or irregularity in the by-law or debentures or in any of the proceedings relating or incidental thereto occurring, had or taken prior or subsequent to the final passing of the by-law or issue of the debentures.

(2) The Board shall not approve any by-law of a municipality or certify the validity of any debentures issued thereunder if the validity thereof is being questioned in any pending litigation or such by-law has been set aside, quashed or declared to be invalid by any court. R.S.O. 1970, c. 323, s. 58.

No approval if by-law quashed, etc.

59.—(1) Every debenture the validity of which is certified by the Board shall bear the seal and certificate of the Board establishing that the by-law under the authority of which the debenture is issued has been approved by the Board and that the debenture is issued in conformity therewith.

Debentures to be certified

(2) Notwithstanding subsection 12 (3), the certificate may be signed by any member of the Board or by a person specially authorized by the chairman and the signature may be written, printed or otherwise mechanically reproduced. R.S.O. 1970, c. 323, s. 59.

Signature on certificate

60. The certificate of the Board to the validity of any debenture of a municipality shall be in the following form:

Form of certificate

THE ONTARIO MUNICIPAL BOARD

In pursuance of the *Ontario Municipal Board Act*, the Board certifies that By-law No. of the corporation of the of passed on the day of 19...., has been approved by the Board, and that the within debenture, issued under the authority of such by-law and in conformity therewith, is valid and binding upon the said corporation and its validity may not be contested or questioned for any cause whatsoever.

Dated this day of 19....

(SEAL)

.....
for the Board.

R.S.O. 1970, c. 323, s. 60.

61. Notwithstanding the provisions of any Act, every by-law of a municipality approved by the Board and every debenture issued thereunder bearing the seal and certificate of the Board is for all purposes valid and binding upon the corporation of the municipality and the ratepayers thereof and upon the property liable for any rate imposed under the by-law, and the validity of the by-law and every such debenture shall not be contested or questioned in any manner. R.S.O. 1970, c. 323, s. 61.

Validity of certified debentures

Scope of
Board
inquiry

62. The Board, upon any application of a municipality for approval of the exercise by a municipality of any of its powers, or of the incurring of any debt, or of the issue of any debentures, or of any by-law, shall, before approving the same, make such inquiry into the nature of the power sought to be exercised or undertaking that is proposed to be or has been proceeded with, the necessity or expediency of the same, the financial position and obligations of the municipality, the burden of taxation upon the ratepayers and into all other relative matters, as in the opinion of the Board may appear to be necessary or expedient. R.S.O. 1970, c. 323, s. 62.

When
electors'
assent may
be dispensed
with

63.—(1) Where under any general or special Act it is requisite that the assent of the electors of a municipality or of those qualified to vote on money by-laws first be obtained to the exercise by a municipality of any of its powers or the incurring of any debt, issue of any debentures or passing of any by-law the Board shall not approve the exercise of such power, incurring of debt, issue of debentures or the by-law until such assent has been obtained, unless the Board after due inquiry is satisfied that such assent may under all the circumstances properly be dispensed with, and the Board may, in any such case by its order, declare and direct that the assent of the electors or the qualified electors shall not be requisite to be obtained notwithstanding the provisions of such general or special Act.

Public
hearing

(2) Except as provided in subsections (3), (4) and (5), the Board before making any order under subsection (1) shall hold a public hearing, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the matter and of hearing any objections that any person may desire to bring to the attention of the Board.

Notice to
provide for
filing of
objections

(3) The Board may direct that the notice to be given shall state that anyone objecting to dispensing with the assent of the electors may, within such time from the giving of the notice as may be prescribed by the Board, file with the clerk of the municipality or, in the case of a local board, with the secretary of the local board his objection to dispensing with the assent of the electors.

Where no
objections

(4) Where notice has been given under subsection (3), the Board may, when no notice of objection has been filed within the time specified in the notice, dispense with the assent of the electors without holding a public hearing.

Where
objections
filed

(5) If one or more objections have been filed within the time specified in the notice, the Board shall hold a public

hearing unless, under all the circumstances affecting the matter, the Board considers the objection or, if more than one, all the objections to be insufficient to require a public hearing.

(6) Notwithstanding subsection (2), where the Board has approved an expenditure for any purpose, it may, without holding a public hearing, dispense with the assent of the electors of a municipality or of those qualified to vote on money by-laws and approve additional expenditures for the same purpose not in excess of 25 per cent of the original expenditure approved.

Public hearing not required where additional expenditure approved

(7) The Board in making any order under subsection (1) dispensing with the necessity for obtaining the assent of the electors or qualified electors may impose such terms, conditions and restrictions not only in respect of the matter in which such order is made, but as to any further or subsequent exercise of any of the powers of the municipality or incurring of any other debt or issue of any other debentures or passing of any other by-law by such municipality as to the Board may appear requisite or expedient. R.S.O. 1970, c. 323, s. 63.

Conditions in dispensing with vote

64.—(1) Notwithstanding the provisions of any general or special Act, a municipality shall not,

Where approval of Board required for undertaking, etc.

(a) authorize; or

(b) exercise any of its powers to proceed with; or

(c) provide any moneys for,

any undertaking, work, project, scheme, act, matter or thing, the cost or any portion of the cost of which is to be,

(d) raised in a subsequent year or years; or

(e) provided by the issue of debentures,

until the approval of the Board has first been obtained.

(2) The approval of the Board mentioned in subsection (1) means and, notwithstanding the decision of any court, shall be deemed always to have meant the approval of the undertaking, work, project, scheme, act, matter or thing mentioned in subsection (1).

Approval of Board

Application
of section

(3) Subsection (1) does not apply,

(a) to incurring a debt payable within the term for which the council was elected or to the exercise of powers to proceed with any of the undertakings, works, projects, schemes, acts, matters or things referred to in subsection 149 (2) of the *Municipal Act*, except where the whole or any part of the cost thereof is to be provided for by the issue of debentures by any municipality; or

R.S.O. 1980,
c. 302

(b) to the appointment of an engineer, land surveyor or commissioner under the *Drainage Act*.

R.S.O. 1980,
c. 126

By-law
passed not
to be in
contraven-
tion of
subs. (1)
or s. 65

(4) The passing of a by-law by a council to authorize or to exercise any of its powers to proceed with, or to provide any money for, any undertaking, work, project, scheme, act, matter or thing referred to in subsection (1) shall not be deemed to be in contravention of subsection (1) or of section 65 if such by-law contains a provision to the effect that the by-law shall not take effect until the approval of the Board under subsection (1) has been obtained.

Application
of section to
municipal
guarantees

(5) This section applies to the guarantee by a municipality of the debentures, bonds or other securities of any other municipality or of any other person or corporation whatsoever, or of payment of the whole or any part of the sinking fund, or principal of or interest on any such debentures, bonds or other securities, and no guarantee thereof shall be made or entered into, or by-law in that behalf be passed, by any municipality under the provisions of any general or special Act, or of any agreement entered into pursuant thereto, or by-law passed thereunder, until the approval of the Board has first been obtained.

Interpre-
tation

(6) Notwithstanding section 1, "municipality" in this section and in section 65 includes a public school board, secondary school board and a board of education and includes only such other local boards that may apply to the council in order that moneys necessary for any purpose mentioned in this section be provided by the issue of debentures of the corporation of the municipality.

Interpre-
tation

(7) In subsection (8), "work" includes any undertaking, work, project, scheme, act, matter or thing proposed to be done or undertaken by a municipality.

Application
for approval
of class
of work

(8) An application may be made by a municipality for approval by the Board of expenditures and the borrowing of money and the issuing of debentures and, where necessary,

for an order dispensing with a vote of the electors under section 63 for a class or classes of work without specifying any particular work, and the Board may dismiss the application or may approve part of all thereof, provided that the municipality shall not make any commitment for or do any act to commence any work to be financed under an order of the Board made on such application until the municipal treasurer has certified that funds can be provided under such order in payment thereof.

(9) The approval of the Board provided for in subsection (8) shall be deemed to be the approval of the Board required under subsection (1). R.S.O. 1970, c. 323, s. 64. Approval

65. No by-law shall be passed by a municipality for any of the purposes mentioned in section 64 until the approval of the Board has first been obtained. R.S.O. 1970, c. 323, s. 65. Approval of
by-laws

66. Upon an application being made to the Board for the approval required by section 64, the Board shall proceed to deal with the application in the manner provided by and shall have regard to the matters mentioned in section 62, and may hold such public hearings as to the Board may appear necessary. R.S.O. 1970, c. 323, s. 66. Inquiry by
the Board

67. The Board as a condition of giving its approval as required by section 64 may by its order impose such restrictions, limitations and conditions upon the municipality with respect to the matter before the Board or with respect to the current annual or future annual expenditures of the municipality for any purpose or with respect to further issues of debentures by the municipality, and otherwise with respect to the conduct and administration of the affairs of the municipality, as to the Board may appear necessary or expedient. R.S.O. 1970, c. 323, s. 67. Board may
impose
conditions
on giving
approval

68. The Board is not required to give its approval on any application made to it under section 64, and shall not give such approval unless satisfied that the same is justified under all circumstances. R.S.O. 1970, c. 323, s. 68. Board not
required to
approve

69. When the Board has given its approval as required by section 64, the municipality may thereafter proceed in the manner and to the extent provided for by or consequent upon such approval, and for such purposes may exercise all its powers and do all things necessary or incidental thereto, and may pass all requisite by-laws, including debenture by-laws. R.S.O. 1970, c. 323, s. 69. Municipality may
proceed
upon
approval

PART V

RAILWAY AND UTILITIES JURISDICTION

Jurisdiction
of Board:

70. The Board has jurisdiction and power,

railway
and utility
matters

- (a) to inquire into, hear and determine any applications made, proceedings instituted and matters brought before it under the provisions of any general or special Act relating to railways or public utilities or any of them where by such Act any jurisdiction or power is for such purpose conferred on the Board;

complaints
of breach of
railway or
utility
statutes,
orders,
agreements,
etc.

- (b) to hear and determine any application with respect to any railway or public utility, its construction, maintenance or operation by reason of the contravening or failure to comply on the part of any person, firm, company, corporation or municipality of or with the requirements of this or any other general or special Act, or of any regulation, rule, by-law or order made thereunder, or of any agreement entered into in relation to such railway or public utility, its construction, maintenance or operation;

railway
and public
utility rates
and tolls

- (c) to hear and determine any application with respect to any tolls charged by any person, firm, company, corporation or municipality operating a railway or public utility in excess of those approved or prescribed by lawful authority, or which are otherwise unlawful, unfair or unjust. R.S.O. 1970, c. 323, s. 70.

Jurisdiction
over
receivers,
liquidators,
etc., of
railway or
public
utility

71. The fact that a manager or other official or the liquidator or receiver of a railway or public utility is managing or operating or liquidating it under the authority of any court is not a bar to the exercise by the Board of any jurisdiction or power conferred by this or any other general or special Act, and every such manager, official, liquidator or receiver is bound to manage, operate or liquidate such railway or public utility in accordance with this Act and under the orders and directions of the Board, whether general or referring particularly to such railway or public utility, and he and every person acting under him shall obey all orders and directions of the Board with respect to such railway or public utility and be subject to have them enforced against him by the Board, notwithstanding his authority or any order of the court under which he is appointed or acts. R.S.O. 1970, c. 323, s. 71.

72.—(1) Wherever,

Powers, etc.,
transferred
to Board

(a) any power or authority is given to or duty imposed upon the Railway Committee of the Executive Council of Ontario by any Act or document;

(b) by any Act of the Legislature the location of any line of railway or the route and course thereof, or the maps, plans and specifications, or any part of the equipment are subject to the approval of the Lieutenant Governor in Council or of any of his Ministers,

such power or authority may be exercised and such duty shall be performed and such approval may be given by the Board.

(2) Whenever in any Act it is provided that any railway company shall, during construction of any line of railway, furnish such information as to the location and plans of passenger or freight stations as may from time to time be required by the Lieutenant Governor or any of his Ministers, or that such company shall comply with any directions that may be given for the erection of stations, or the number of them, such information shall be furnished to the Board and its directions shall be complied with by the company. R.S.O. 1970, c. 323, s. 72.

Furnishing
information

73. The decision of the Board as to whether any person, firm, company, corporation or municipality is or is not a party interested within the meaning of any of the provisions of this Part is binding and conclusive upon such persons, firms, companies, corporations or municipalities. R.S.O. 1970, c. 323, s. 73.

Who is
a "party
interested"

74.—(1) The Board shall superintend the system of book-keeping and keeping accounts of the assets, liabilities, revenue and expenditure of all railways and public utilities that are operated by or under the control of a municipality or a local board, and may require from it such returns and statements as to the Board may seem proper, and may extract from such returns and statements such information as, in the opinion of the Board, may be useful for publication, and may embody such portions of such returns and statements in the annual report of the Board as to it may seem proper.

Super-
intending
accounts of
railways
and public
utilities
operated
by municip-
alities

(2) The Board may from time to time require and report as to whether such railway or public utility is operated in such a way that the rates charged in respect thereof are

Inquiry
and report
as to rates
charged by
public
utilities

sufficient to pay the debenture debt and interest created in respect thereof, and the cost of operation and maintenance, or whether greater rates are charged than are sufficient for such purposes.

Exception

(3) This section does not apply to a public utility for the development or distribution of electrical power or energy obtained directly or indirectly from Ontario Hydro. R.S.O. 1970, c. 323, s. 74; 1973, c. 57, s. 19.

PART VI**PRACTICE AND PROCEDURE****NOTICES AND EVIDENCE****Notice,
requisites**

75. Any notice required or authorized to be given in writing,

- (a) by the Board, may be signed by the chairman, a vice-chairman, or the secretary;
- (b) by the inspecting engineer, or other officer or person appointed by the Board, may be signed by such inspecting engineer, officer or other person, as the case may be;
- (c) by any company or corporation, may be signed by the president or secretary, or by its duly authorized agent or solicitor; and
- (d) by any person, may be signed by such person or his duly authorized agent or solicitor. R.S.O. 1970, c. 323, s. 75.

**Notices,
how served**

76.—(1) Any notice required to be given to a company, municipality, corporation, co-partnership, firm or individual, shall be deemed to be sufficiently given by delivering the notice, or a copy thereof, within the time, if any, limited therefor,

**railway
company**

- (a) in the case of a railway company, to the president, vice-president, managing director, secretary or superintendent of the company, or to some adult person in the employ of the company at the head or any principal office of the company;

**muni-
cipality**

- (b) in the case of a municipality, to the head of the municipality, or to the clerk;

(c) in the case of any other company or corporation, to the president, vice-president, manager or secretary, or to some adult person in its employ at its head office; other companies

(d) in the case of a firm or co-partnership, to any member thereof, or, at the last known place of abode of any such member, to any adult member of his household, or at the office or place of business of the firm to a clerk employed therein; and co-partnership or firm

(e) in the case of an individual, to him, or, at his last known place of abode, to any adult member of his household, or at his office or place of business, to a clerk in his employ. individuals

(2) If, in any case within the jurisdiction of the Board, it is made to appear to the satisfaction of the Board that service of any such notice cannot conveniently be made in the manner provided in subsection (1), the Board may order and allow such service to be made in such manner as the Board directs, and such publication in each case shall be deemed to be equivalent to service in the manner provided in subsection (1). Service by publication

(3) Any regulation, order, direction, decision, report or other document may, unless in any case otherwise provided, be served in like manner as notice may be given under this section. R.S.O. 1970, c. 323, s. 76. Service of other documents

77. Every company, municipality or corporation shall, as soon as possible after the receipt by it, or service upon it, of any regulation, order, direction, decision, notice, report or other document of the Board, or of the inspecting engineer, give cognizance thereof to each of its officers and servants performing duties that are or may be affected thereby, by delivering a copy to him or by posting up a copy thereof in some place where his work or his duties, or some of them, are to be performed. R.S.O. 1970, c. 323, s. 77. Duty of company on receipt of notice or order

78. Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the Board in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificate of the secretary, be paid by the county interested the like fees as for similar services at the sitting of the Supreme Court for the trial of actions, and such fees shall be charged as expenses of the administration of justice. R.S.O. 1970, c. 323, s. 78. Duty of sheriffs, etc.

79. Every written or printed document purporting to have been issued or authorized by a company or any officer, agent or employee of a company, or any other person or company Effect of documents issued by company

for or on its behalf, shall, as against the company, be received as *prima facie* evidence of the issue of the document by the company, and of the contents thereof, without any further proof than the mere production of the document. R.S.O. 1970, c. 323, s. 79.

Evidence of documents

80.—(1) Every document purporting to be signed by a member of the Board or the secretary or a signing officer of the Board, or by an inspecting engineer, is, without proof of the signature, *prima facie* evidence that the document was duly signed, and is sufficient notice to the company and all parties interested, if served in the manner provided by section 76 for service of notice, that the document was duly signed and issued by the Board, or inspecting engineer, as the case may be.

Evidence of regulations, etc.

(2) If the document purports to be a copy of any regulation, order, direction, decision or report, made or given by the Board, or inspecting engineer, it is *prima facie* evidence of the regulation, order, direction, decision or report, and, when served in the manner provided by section 76, is sufficient notice of the regulation, order, direction, decision or report from the time of such service. R.S.O. 1970, c. 323, s. 80.

Certified plan, etc., *prima facie* evidence

81.—(1) Any document purporting to be certified by the secretary as being a copy of any plan, profile, book of reference or other document deposited with the Board, or of any portion thereof, is, without proof of signature of the secretary, *prima facie* evidence of the original document, and that the same is so deposited, and is signed, certified, attested or executed by the persons by whom and in the manner in which the same purports to be signed, certified, attested or executed, as shown or appearing from the certified copy, and also, if the certificate states the time when the original was so deposited, that the same was deposited at the time so stated.

Certified copies of documents of Board

(2) A copy of any regulation, order or other document in the custody of the secretary, or of record with the Board, purporting to be certified by the secretary to be a true copy and purporting to be sealed with the seal of the Board, is *prima facie* evidence of the regulation, order or document, without proof of the signature of the secretary. R.S.O. 1970, c. 323, s. 81.

Publication of regulations, orders, etc.

82. Any rule, regulation, order or decision of the Board, when published by the Board, or by leave of the Board, for three weeks in *The Ontario Gazette*, and while the same remains in force, has the like effect as if enacted in this Act, and all courts shall take judicial notice thereof. R.S.O. 1970, c. 323, s. 82.

83. Unless otherwise provided, ten days notice of any application to the Board, or of any hearing by the Board, is sufficient, but the Board may in any case direct longer or permit shorter notice of the application. R.S.O. 1970, c. 323, s. 83. Notice of application

84.—(1) When the Board is authorized to hear an application, complaint or dispute, or make any order, upon notice to the parties interested, it may, upon the ground of urgency, or for other reason appearing to the Board to be sufficient, notwithstanding any want of or insufficiency in such notice, make the like order or decision in the matter as if due notice had been given to all parties, and such order or decision is as valid and shall take effect in all respects as if made on due notice. Procedure in urgent cases when no notice given

(2) Any person entitled to notice and not sufficiently notified may, at any time within ten days after becoming aware of the order or decision, or within such further time as the Board may allow, apply to the Board to vary, amend or rescind the order or decision, and the Board shall thereupon, on such notice to other parties interested as it may in its discretion think desirable, hear such application, and either amend, alter or rescind the order or decision, or dismiss the application, as may seem to it just. R.S.O. 1970, c. 323, s. 84. When rehearing in such cases may be had

ORDERS OF COURT

85.—(1) A certified copy of any order or decision made by the Board under this Act or any general or special Act may be filed in the office of the Registrar of the Supreme Court, and thereupon becomes and is enforceable as a judgment or order of the Supreme Court to the same effect, but the order or decision may nevertheless be rescinded or varied by the Board. Enforcement of orders

(2) It is optional with the Board to adopt the method provided by this section for enforcing its orders or decisions or to enforce them by its own action. R.S.O. 1970, c. 323, s. 85. Board may select method of enforcing order

TERMS OF ORDERS

86.—(1) The Board may direct in any order that the order, or any portion or provision thereof, shall come into force at a future fixed time, or upon the happening of any contingency, event or condition specified in the order, or upon the performance, to the satisfaction of the Board or person named by it, of any terms which the Board may impose Contingent orders

upon any party interested, and the Board may direct that the whole, or any portion of the order, shall have force for a limited time, or until the happening of any specified event.

Interim
orders

(2) The Board may, instead of making an order final in the first instance, make an interim order and reserve further directions, either for an adjourned hearing of the matter or for further application. R.S.O. 1970, c. 323, s. 86.

May grant
partial or
other relief
than that
applied for

87. Upon any application to the Board, the Board may make an order granting the whole, or part only, of the application, or may grant such further or other relief in addition to, or in substitution for, that applied for as to the Board may appear just and proper as fully in all respects as if the application had been for such partial, other, or further relief. R.S.O. 1970, c. 323, s. 87.

Interim
ex parte
orders

88. The Board may, if the special circumstances of any case, in its opinion, so require, make an interim *ex parte* order authorizing, requiring or forbidding anything to be done that the Board would be empowered on application, notice and hearing to authorize, require or forbid, but no such order shall be made for any longer time than the Board may consider necessary to enable the matter to be heard and determined. R.S.O. 1970, c. 323, s. 88.

Extension
of time
specified in
order

89. When any work, act, matter or thing is, by any regulation, order or decision of the Board, required to be done, performed or completed within a specified time the Board may, if the circumstances of the case in its opinion so require, upon notice and hearing, or in its discretion upon *ex parte* application, extend the time so specified. R.S.O. 1970, c. 323, s. 89.

GENERAL RULES

Power to
make rules

90. The Board may make general rules regulating its practice and procedure. R.S.O. 1970, c. 323, s. 90.

OTHER PROVISIONS

Presump-
tion of juris-
diction to
make order

91. An order of the Board need not show upon its face that any proceeding or notice was had or given, or any circumstance existed, necessary to give it jurisdiction to make the order. R.S.O. 1970, c. 323, s. 91.

Effect of
finding of
fact in
another
court

92.—(1) In determining any question of fact, the Board is not concluded by the finding or judgment of any other court in any action, prosecution or proceeding involving the

determination of such fact, but such finding or judgment is, in proceedings before the board, *prima facie* evidence only.

(2) Except as otherwise provided in this Act, the pendency of any action, prosecution or proceeding in any other court involving questions of fact does not deprive the Board of jurisdiction to hear and determine the same questions of fact. Jurisdiction not affected

(3) The finding or determination of the Board upon any question of fact within its jurisdiction is binding and conclusive. Effect of finding of fact R.S.O. 1970, c. 323, s. 92.

93.—(1) The Board may, at the request of the Lieutenant Governor in Council, or of its own motion, or upon the application of any party, and upon such security being given as it directs, state a case in writing for the opinion of the Divisional Court upon any question that, in the opinion of the Board, is a question of law. Stating case for opinion of Divisional Court

(2) The Divisional Court shall hear and determine the stated case and remit it to the Board with the opinion of the court thereon. Action thereon R.S.O. 1970, c. 323, s. 93.

94.—(1) Upon the petition of any party or person interested, filed with the Clerk of the Executive Council within twenty-eight days after the date of any order or decision of the Board, the Lieutenant Governor in Council may, L. G. in C. may confirm, vary or rescind orders

(a) confirm, vary or rescind the whole or any part of such order or decision; or

(b) require the Board to hold a new public hearing of the whole or any part of the application to the Board upon which such order or decision of the Board was made,

and the decision of the Board after the public hearing ordered under clause (b) is not subject to petition under this section.

(2) Any party or person who has filed a petition under subsection (1) may at any time withdraw the petition by filing a notice of withdrawal with the Clerk of the Executive Council. Withdrawal of petition R.S.O. 1970, c. 323, s. 94.

95.—(1) Subject to the provisions of Part IV, an appeal lies from the Board to the Divisional Court upon a question of jurisdiction or upon any question of law, but such appeal does not lie unless leave to appeal is obtained from the court within one Appeal on questions of jurisdiction

month after the making of the order or decision sought to be appealed from or within such further time as the court, under the special circumstances of the case, shall allow after notice to the opposite party stating the grounds of appeal.

Notice
of appeal

(2) Upon such leave being obtained, the Registrar shall set the appeal down for hearing at the next sittings, and the party appealing shall, within ten days, give to the parties affected by the appeal, or the solicitors by whom such parties were represented before the Board, and to the secretary, notice in writing that the case has been so set down, and the appeal shall be heard by such court as speedily as practicable.

Opinion
of court

(3) On the hearing of any appeal, the court may draw all such inferences as are not inconsistent with the facts expressly found by the Board and are necessary for determining the question of jurisdiction or law, as the case may be, and shall certify its opinion to the Board and the Board shall make an order in accordance with such opinion.

Board may
be heard by
counsel

(4) The Board is entitled to be heard, by counsel or otherwise, upon the argument of any such appeal.

Members of
Board not
liable for
costs

(5) Neither the Board nor any member of the Board is in any case liable to any costs by reason or in respect of any appeal or application under this section.

Decisions of
Board to be
final

(6) Save as provided in this section and in sections 42 and 94,

(a) every decision or order of the Board is final; and

(b) no order, decision or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari* or any other process or proceeding in any court. R.S.O. 1970, c. 323, s. 95.

Costs

96.—(1) The costs of and incidental to any proceeding before the Board, except as herein otherwise provided, shall be in the discretion of the Board, and may be fixed in any case at a sum certain or may be taxed.

Taxation

(2) The Board may order by whom and to whom any costs are to be paid, and by whom the same are to be taxed and allowed.

(3) The Board may prescribe a scale under which such ^{Scale} costs shall be taxed. R.S.O. 1970, c. 323, s. 96.

97. Every person summoned to attend before the Board ^{Witness} or before any inspecting engineer, or person appointed to make inquiry and report, shall, in the discretion of the Board, receive the like fees and allowances for so doing as if summoned to attend before the Supreme Court. R.S.O. 1970, c. 323, s. 97.

98.—(1) The Board may charge and collect such fees ^{Fees for copies, certificates, etc.} as to it may seem proper for all copies of documents, maps or plans, and all certificates as to the same.

(2) All fees charged and collected by the Board shall be ^{Payment over to Province} paid over quarterly, accompanied by a detailed statement thereof, to the Treasurer of Ontario. R.S.O. 1970, c. 323, s. 98.

99.—(1) The Board may, with the approval of the ^{Fees} Lieutenant Governor in Council, make regulations requiring fees to be paid to the Board in connection with its proceedings and prescribing the amounts thereof.

(2) The Board may from time to time waive or remit in ^{Where fees may be waived or remitted} appropriate circumstances all or any portion of such fees. 1972, c. 110, s. 2.

PART VII

MISCELLANEOUS

ANNUAL REPORT OF BOARD

100. The Board shall, after the close of each calendar ^{Annual report} year, make an annual report upon the affairs of the Board to the Attorney General who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1972, c. 1, s. 11 (2).

101. If any officer or servant of the Board, or any person ^{Publishing information without leave} having access to or knowledge of any return made to the Board or of any evidence taken by the Board in connection therewith, without the authority of the Board first obtained, publishes or makes known any information, having obtained

the same or knowing the same to have been derived from such return or evidence, he is guilty of an offence and on conviction is liable to a fine of not more than \$500 and is also liable to imprisonment for a term of not more than six months. R.S.O. 1970, c. 323, s. 101.

Powers of
Ontario
Hydro
R.S.O. 1980,
c. 384

102. Nothing in this Act confers upon the Board any jurisdiction as to matters that, under the *Power Corporation Act*, are within the exclusive jurisdiction of Ontario Hydro. R.S.O. 1970, c. 323, s. 102; 1973, c. 57, s. 19.