1989

c 43 Municipal Amendment Act, 1989

Ontario
CHAPTER 43

An Act to amend the Municipal Act

Assented to July 13th, 1989

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The Municipal Act, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

209a.—(1) In this section,

“municipality” means a municipality as defined in the Municipal Affairs Act, and a metropolitan, regional or district municipality and the County of Oxford or a local board of a metropolitan, regional or district municipality or of the County of Oxford;

“participating local municipality” means a local municipality to which a by-law passed under subsection (2) applies;

“waste” means ashes, garbage, refuse, domestic waste, industrial solid waste or municipal refuse and such other wastes as may be designated by by-law passed by the council of a county;

“waste management plan” means a document adopted by the council of a county containing objectives and policies related to waste management powers and which may contain a description of the measures and procedures proposed to attain the objectives of the plan;

“waste management power” means any power conferred by any general or special Act on local municipalities or local boards thereof related to the collection, removal, disposal, treatment, storage, processing, transfer, reduction, reuse, recovery or recycling of waste.

(2) The council of a county may pass a by-law to empower it to adopt a waste management plan or to assume any or all of the waste management powers, or both, for all the local
municipalities forming part of the county for municipal purposes.

(3) The council of a county may, with the consent of the council of the local municipality, by by-law exempt that local municipality from a by-law under subsection (2) but the consent is not required in respect of a repeal of the by-law.

(4) No by-law under subsection (2) or (3) may be passed or repealed unless,

(a) at least two-thirds of all the votes on county council are cast in its favour; and

(b) at least one vote is cast in its favour by the majority of the local municipalities forming part of the county for municipal purposes.

(5) The council of a county may provide for the preparation and adoption of a waste management plan for which it has passed a by-law under subsection (2) but no plan shall be adopted until notice of the proposed plan containing such information as may be prescribed is given in the manner and to the persons and agencies prescribed.

(6) If a waste management plan is in effect, the county or local board thereof or the participating local municipalities or local boards thereof shall not undertake any waste management service or facility or pass a by-law for any purpose under a waste management power that does not generally conform to the plan.

(7) Notwithstanding subsection (6), the county or local board thereof or the participating local municipalities or local boards thereof may consider the undertaking of a waste management service or facility that does not conform with the waste management plan and for that purpose may apply for any approval that may be required, carry out investigations, obtain any reports or take other preliminary steps incidental to and reasonably necessary for the undertaking of the work.

(8) Nothing in subsection (7) authorizes the actual undertaking of any waste management service or facility that does not conform with a waste management plan.

(9) When a by-law passed under subsection (2) comes into effect,
(a) the county is responsible for the waste management powers assumed by the county in all participating local municipalities;

(b) the county has all the powers conferred by any general or special Act upon the participating local municipalities or local boards thereof related to the waste management powers assumed by the county.

(10) If a county has assumed the power for providing services or facilities for the collection, removal, disposal, treatment, storage, processing, transfer, reduction, reuse, recovery or recycling of waste, no municipality under a similar or equivalent power, and no person, shall provide such services or facilities within the participating local municipalities without the consent of the council of the county, which consent may be given upon such terms and conditions, including the payment of compensation, as may be agreed upon.

(11) Subsection (10) does not apply to prevent any person or municipality which does not form part of the county for municipal purposes or which is not a participating municipality from providing a waste management service or facility if that waste management service or facility was being lawfully provided on the effective date of the by-law, so long as that waste management service or facility continues without interruption.

(12) If consent is refused under subsection (10) or the applicant and the council of the county fail to agree on the terms and conditions related to the consent, the applicant may appeal to the Municipal Board which shall hear and determine the matter.

(13) The Municipal Board may impose such terms and conditions as it considers appropriate and the decision of the Municipal Board is final.

(14) Section 94 of the *Ontario Municipal Board Act* does not apply to a decision made under subsection (13).

(15) All rights and obligations and all assets and liabilities of a participating local municipality or local board thereof pertaining to or primarily used in connection with the waste management powers assumed by the county are vested in the county and financial adjustments, calculated in accordance with such criteria as may be prescribed, shall be made between the county and the participating local municipality or local board thereof.
(16) The county shall pay to the participating local municipality or local board thereof on or before the due date all amounts of principal and interest becoming due upon any outstanding debt of such participating local municipality or local board thereof in respect of the waste management powers assumed by the county.

(17) If the county fails to make any payment required under subsection (16) on or before the due date, the participating local municipality or local board may charge the county interest at the rate of 15 per cent per annum, or such lower rate as the local municipality or local board determines, from such date until payment is made.

(18) If a participating local municipality or local board thereof had entered into an agreement with another person or municipality in respect of the waste management power assumed by the county, the county shall be bound by the agreement and the participating local municipality or local board thereof is relieved of all liability under the agreement.

(19) The council of the county may enter into agreements with any person or municipality for establishing, constructing, operating or managing, at their joint expense and for their joint benefit, any waste management service or facility that is within the jurisdiction of the council as a result of the passage of the by-law under subsection (2).

(20) Where the county has passed a by-law under subsection (2) to empower it to adopt a waste management plan, the council of the county may enter into agreements with any municipality for developing, at their joint expense and for their joint benefit, joint objectives and policies for the provision of waste management services or facilities.

(21) Notwithstanding section 368e, the council of a county may by by-law provide for imposing on and collecting from participating local municipalities in which it is providing waste management services or facilities, a waste management rate sufficient to pay the whole or such portion as the by-law may specify of the capital costs including debenture charges and expenditures for the maintenance and operation of the waste management services or facilities in the participating local municipalities and such rate may vary based on the volume, weight or class of waste or on any other basis the council of the county considers appropriate and specifies in the by-law.

(22) All rates under subsection (21) constitute a debt of the participating local municipality to the county and shall be pay-
able at such times and in such amounts as may be specified by by-law of the council of the county.

(23) Notwithstanding sections 368 and 368e, the participating local municipality may,

(a) pay the whole or part of the amount chargeable to it under this section out of its general funds;

(b) pass by-laws for imposing a rate sufficient to recover the whole or part of the amount chargeable to it under this section in the same manner as by-laws under paragraphs 85 and 86 of section 210 may be passed; and

(c) include the whole or any part of an amount chargeable to it under this section as part of the cost of an urban service within an urban service area established in the participating local municipality under any general or special Act.

(24) If under a by-law passed under subsection (2) a county assumed the responsibility for providing services or facilities for the disposal, treatment, storage, processing, transfer, reduction, reuse, recovery or recycling of waste, the council of the county may, for each participating local municipality, designate one or more services or facilities for the disposal, treatment, storage, processing, transfer, reduction, reuse, recovery or recycling of waste or any class or classes thereof and, where such a designation has been made, a participating local municipality shall not utilize any services or facilities except the services or facilities that have been so designated for that local municipality.

(25) If a dispute arises in respect of the financial adjustments or the vesting of assets, including a reserve fund, under subsection (15), or the transfer of agreements under subsection (18), the county, participating local municipality or local board affected may apply to the Municipal Board for a resolution of the dispute and the Municipal Board has power to hear and determine the matter and its decision is final

(26) Section 94 of the Ontario Municipal Board Act does not apply to a decision made under subsection (25).

(27) The Lieutenant Governor in Council may make regulations,

(a) prescribing, for the purposes of subsection (5), the persons and agencies that are to be given notice, the
manner in which notice is to be given and the information that must be contained therein;

(b) providing for the security of employment and the protection of benefits of employees affected by by-laws passed or repealed under this section;

(c) prescribing the criteria for determining the amount of the financial adjustments payable under subsection (15) and for providing which body shall pay and which body shall receive the financial adjustments under that subsection;

(d) establishing a dispute settlement mechanism that may be used to attempt to resolve a dispute described in subsection (25) before an application is made to the Municipal Board.

2. Subsection 368 (1) of the said Act is amended by adding at the commencement thereof “Subject to section 209a but”.

3. This Act comes into force on the day it receives Royal Assent.

4. The short title of this Act is the Municipal Amendment Act, 1989.