c 124 The Municipal Amendment Act, 1972 (No. 2)

Ontario
CHAPTER 124

An Act to amend The Municipal Act

Assented to June 30th, 1972
Session Prorogued December 15th, 1972

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

1. Section 1 of The Municipal Act, being chapter 284 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following paragraph:

13a. “Minister” means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs.

2. Subsection 1 of section 227 of the said Act is amended by adding at the end thereof “or under Part VIII of The Municipality of Metropolitan Toronto Act”.

3. Section 239 of the said Act is amended by adding thereto the following subsection:

(2a) A council may grant an annual retirement allowance payable weekly, monthly or otherwise to the surviving spouse of an employee who dies while in the employ of the municipality and who would have been eligible for a retirement allowance under this section had he retired on the day of his death, provided that the amount of such allowance shall not exceed one-half of the amount of the annual allowance that would otherwise have been payable to the employee and subsection 3 applies mutatis mutandis.

4. The said Act is amended by adding thereto the following section:

291a.—(1) Notwithstanding any other provisions of this Act, subject to the approval of the Ministry, a local municipality having a population of not less than 20,000 as determined under The Municipal Unconditional Grants Act may provide in any money by-law for the issuing of debentures that a portion of the
Amounts to be raised annually

(2) In respect of the term debentures, the by-law shall provide for raising, by a special rate on all the rateable property in the municipality,

(a) in each year of the currency of the term debentures a sum sufficient to pay the interest on the term debentures; and

(b) in each year of the currency of the term debentures in which no other debentures issued under the same by-law become due and payable, a specific amount to form a retirement fund for the term debentures which, with interest at a rate not to exceed 5 per cent per annum compounded yearly, will be sufficient to pay the principal of the term debentures at maturity,

to the extent that such sums have not been provided for by any special rate or rates imposed on persons or property made especially liable therefor by the by-law or by any other by-law or by-laws passed by the municipality or any other municipality in accordance with any general or special Act.

Retirement fund

(3) The retirement fund for the term debentures shall be administered in all respects in the same manner as a sinking fund established under section 291, and the provisions of subsections 3 to 9 of section 291 with respect to a sinking fund shall apply mutatis mutandis to such retirement fund.

s. 293 (3) (b), amended

5. Clause b of subsection 3 of section 293 of the said Act is amended by striking out "72 or 74" in the second line and inserting in lieu thereof "72, 74 or 75".

s. 304a, enacted

6. The said Act is further amended by adding thereto the following section:

304a.—(1) Every telegraph and telephone company doing business in Ontario shall, on or before the 1st day of March in each year, transmit to the clerk of each local municipality in which the company does business, a statement in writing of the amount of the gross receipts of the company in such munici-
pality for the next preceding year ending on the 31st day of December.

(2) The council of every local municipality shall levy on each company from which a statement is received under subsection 1 an annual tax of an amount equal to 5 per cent of the total of the gross receipts of such company for the preceding year as returned under subsection 1.

(3) Any tax levied under this section is collectable in the same manner as municipal taxes are collectable and is a special lien under section 511 on all of the lands of the company in the municipality.

(4) The assessment of a municipality that levies a tax under this section shall be deemed for apportionment purposes, to be increased by an amount that would have produced the amount of the tax levied under this section by the taxation of real property, if such property were assessed for public school purposes, at the rate applicable to commercial and industrial property in the preceding year for all purposes.

7. (1) Subsection 1 of section 306 of the said Act is amended by striking out "township" in the first line and in the fourth line and inserting in lieu thereof "local municipality", and by striking out "as farmers" in the fourth line and inserting in lieu thereof "in respect of land assessed as farm land".

(2) Subsection 2 of the said section 306 is amended by striking out "township" in the first line and inserting in lieu thereof "local municipality".

(3) Subsection 6 of the said section 306 is amended by striking out "township treasurer" in the first line and inserting in lieu thereof "treasurer of the local municipality" and by striking out "township" in the fourth line and inserting in lieu thereof "local municipality".

(4) Subsection 7 of the said section 306 is amended by striking out "township treasurer" in the first line and inserting in lieu thereof "treasurer of the local municipality" and by striking out "township" in the fourth line and in the seventh line and inserting in lieu thereof in each instance "local municipality".

(5) Subsection 8 of the said section 306 is amended by striking out "township treasurer" in the first line and inserting
in lieu thereof "treasurer of the local municipality" and by
striking out "township" in the fourth line and in the fifth line
and inserting in lieu thereof in each instance "local munici-
pality".

8. Section 312 of the said Act is repealed and the following
substituted therefor:

312.—(1) For the purposes of this section, "municipality"
includes a metropolitan, regional or district munici-

(2) Where a municipality has moneys not required
immediately by the municipality, such moneys may
be invested in bonds, debentures, or other evidences
of indebtedness of or guaranteed by the Government
of Canada or the Province of Ontario, in term
deposits with any chartered bank or in term deposits
with or guaranteed investment certificates or deben-
tures of any trust company or loan corporation
that is registered under The Loan and Trust
Corporations Act, or in loans to a divisional board of
education or to any other municipality made by way
of promissory notes, provided that the bonds,
debentures or other evidences of indebtedness, term-
deposits, guaranteed investment certificates or pro-
missory notes become due and payable before the
moneys invested therein are required by the munici-
pality, and all interest thereon shall be credited to
the fund from which the moneys are invested.

9.—(1) Section 352 of the said Act is amended by
adding thereto the following paragraph:

33a. For making grants,

(a) to the Ontario Federation of Agriculture if a
by-law under section 306 is not in force in
the municipality; and

(b) to farm organizations or agricultural com-
modity groups.

(2) The said section 352 is further amended by adding
thereto the following paragraph:

62a. For placing or permitting any person, under such
conditions as may be agreed upon, to place and
maintain bicycle stands upon a sidewalk or the untravelled portion of a highway under their jurisdiction.

(3) Paragraph 64 of the said section 352 is amended by inserting after "children" in the fourth line "and for increasing the amount of pensions for or in respect of retired employees or any class thereof and their widows and children".

(4) Clause a of paragraph 64 of the said section 352, as s. 352, par. 64, c. 1, a, amended by the Statutes of Ontario, 1971, chapter 81, amended section 2, is further amended by adding thereto the following subclause:

(iii) "retired employee" means a person who was formerly an employee of a municipality or of a local board and to whom or in respect of whom a pension is being paid under an approved pension plan as defined in section 250 or under the Ontario Municipal Employees Retirement System.

10.—(1) Paragraph 58 of subsection 1 of section 354 of the said Act is amended by inserting after "building" in the first line and in the fourth line "fence or other structure".

(2) Paragraphs 114 and 115 of subsection 1 of section 354 are repealed and the following substituted therefor:

114. For regulating manufactures and trades that in the opinion of the council may prove to be or may cause nuisances of any kind, and, without restricting the generality of the foregoing, for prohibiting or regulating the erection or continuance of gas works, tanneries or distilleries or other manufactories or trades that, in the opinion of the council, may prove to be or may cause nuisances.

(3) Paragraph 126 of subsection 1 of the said section 354 is amended by striking out "three" in the eleventh line and inserting in lieu thereof "five".

(4) Paragraph 132 of subsection 1 of the said section 354 is amended by striking out "since the 25th day of June, 1928", in the second and third lines and by striking out "was on the said date or at any time thereafter" in the sixth and seventh lines and inserting in lieu thereof "is".

11. Subsection 6 of section 361 of the said Act is amended by adding at the end thereof "or nominees of corporations so assessed".


12.—(1) Paragraph 1 of section 376 of the said Act is repealed and the following substituted therefor:

Fire areas in townships

1. For exercising the powers conferred by paragraph 25 of subsection 1 of section 354 in respect of any defined area in the township, and for levying a special rate on all the rateable property in the defined area according to the last revised assessment roll sufficient to pay the cost incurred or to meet the annual payments of principal and interest upon any debentures issued in respect of such cost.

Appointing, insuring and paying of fire lighters

(2) Paragraph 2 of the said section 376 is repealed and the following substituted therefor:

2. For appointing, insuring and paying fire fighters and others employed in connection with the fire hall and for levying a special annual rate on all the rateable property in such area according to the last revised assessment roll to meet the cost thereof and the cost of the maintenance and repair of the fire hall, fire engines, apparatus and appliances.

(3) Paragraph 5 of the said section 376 is repealed.

18. Paragraph 6 of subsection 1 of section 381 of the said Act is amended by striking out "$1" in the fourth line and inserting in lieu thereof "$10".

14. Subclause iii of clause b of paragraph 15 of section 383 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 81, section 4, is further amended by striking out "the licence fee shall be not more than $5 per month" in the amendment of 1971 and inserting in lieu thereof "no licence fee shall be charged".

15. Section 426 of the said Act is repealed.

16. Section 453 of the said Act is amended by adding thereto the following paragraph:

3a. For authorizing agreements between the corporation of the municipality and the owners or lessees of land abutting on a highway for the construction, maintenance and use of walks for pedestrians over, across or under the highway upon such terms and conditions as may be agreed and for contributing to the whole or any part of the costs thereof and for leasing or licensing the use of untravelled portions of such walks and adjoining lands to persons for such
consideration and upon such terms and conditions as may be agreed and where the corporation of the municipality is the owner of the lands abutting on both sides of a highway, for authorizing the construction and maintenance by the municipality of walks for the use of pedestrians over, across or under the highway and for the leasing or licensing of untravelled portions of such walks and adjoining lands to persons for such consideration and upon such terms and conditions as may be agreed.

17. Subsection 1 of section 466 of the said Act is amended s. 466 (1), amended by striking out "$300" in the third line and inserting in lieu thereof "$1,000".

18. The said Act is further amended by adding thereto the following section:

503a. Subsection 1 of section 64 of The Ontario Municipal Board Act does not apply to the incurring of a debt by an improvement district that is payable within a period that does not extend beyond the end of the year next following the year in which the debt is incurred.

19. Subsection 2 of section 512 of the said Act is amended s. 512 (2), amended by striking out "and subject to section 70 of The Assessment Act" in the first and second lines and inserting in lieu thereof "but subject to section 636a".

20. Section 516 of the said Act is amended by adding thereto the following subsections:

(2a) Subject to subsection 2m, in ascertaining the names and school support of all persons assessed for the purpose of preparation of the collector's roll, the clerk, in addition to the index book provided for by section 60 of The Separate Schools Act, shall be guided by the list supplied to him under section 23 of The Assessment Act, as revised and certified.

(2b) The Minister may make regulations prescribing the forms and procedures to be used by the clerk for revision and certification of the list supplied to him under section 23 of The Assessment Act.

(2c) A person whose name has not been included in the list or whose name has been included in the list but the information relating to him set out therein is incorrect may apply either personally or by his agent.
Every person applying under this section for an alteration of his school support as shown on the list shall sign an application in the prescribed form in which all the information shall be sufficiently filled in, either by the applicant personally or by the clerk at the applicant's request and, before correcting the list, the clerk shall satisfy himself that the applicant understands the effect of the statements in the application and that he is entitled to have the list corrected pursuant to his request.

When the language of an applicant under this section is not understood by the clerk, an interpreter provided by the applicant may be sworn and may act, but in the event of inability to secure an interpreter, the application may be refused.

If it appears to the clerk that an applicant under this section understands the effect of the statements in the application and that the amendment that he requests should be made, he shall certify accordingly by signing the application.

If, in the opinion of the clerk, the statements made by an applicant in his application under this section do not show that the applicant is entitled to have the list amended as requested, he shall inform the applicant that his application is refused, stating the reasons for such refusal, which reasons he shall endorse on the application form.

In the years in which municipal elections are held, determination of complaints for revision of the list shall be completed at the same date as completion of determination of complaints for revision of the preliminary list of electors under The Municipal Elections Act, 1972, but in the years in which municipal elections are not held, the clerk shall determine all such complaints not later than the 10th day of November in the year in which the complaints are made.
electors and the clerk shall also ensure that the list reflects, where applicable, changes made in the preliminary list of electors.

(2j) Upon determination of all complaints for revision of the list for a municipality filed on or before the last day for filing complaints for revision thereof, the clerk shall compile a statement of changes to the list and shall send a copy of such statement to the assessment commissioner and to the secretary of each school board in the municipality.

(2k) After compilation of the statement of changes, the clerk shall amend the list in accordance with the statement and shall certify the list as so revised, notwithstanding any appeals that have been or may be made to the Assessment Review Court.

(2l) The applicant personally or by his agent authorized in writing, may appeal to the Assessment Review Court from the refusal of the clerk to amend the list by sending notice of appeal to the regional registrar of the Assessment Review Court within fourteen days of the date of refusal of the application by the clerk and the Assessment Review Court shall hear and decide all appeals under this subsection not later than the 31st day of December in the year in which the appeal is made.

(2m) In the year 1972, for the purposes of this section in the City of Timmins-Porcupine or in the local municipalities situated within the boundaries of The Regional Municipality of Sudbury or The Regional Municipality of Waterloo, the assessment commissioner shall supply the municipal clerks with lists for school support purposes and such lists shall be deemed to be the list required by section 23 of The Assessment Act and the provisions of subsections 2a to 2l of this section apply mutatis mutandis.

21. Subsection 1 of section 544 of the said Act is repealed and the following substituted therefor:

(1) The clerk of the municipality shall keep the list so furnished by the treasurer on file in his office, subject to the inspection of any person requiring to see it, and he shall also deliver a copy of such list in each year to the Assessment Commissioner and it is the duty of the Assessment Commissioner to ascertain if any of the lots or parcels of land contained in such lists...
are incorrectly described, and all such lists shall be signed by the Assessment Commissioner, verified as provided in subsection 3, and returned to the clerk together with a memorandum of any error discovered therein, and the clerk shall notify in writing the occupants and owners (if known) of the lots or parcels of land contained in such lists, whether resident within the municipality or not, that the land is liable to be sold for arrears of taxes, and the clerk shall transmit such lists and any such memorandum forthwith to the treasurer of the municipality if the municipality is one whose officers have power to sell lands for arrears of taxes, or in other cases to the county treasurer, and the treasurer in either case shall attach the seal of the corporation to such lists and file them in his office for public use, and every such list or copy thereof shall be received in any court as evidence, in any case arising concerning the assessment of such lands.

22. Subsection 1 of section 549 of the said Act is amended by striking out "$1" in the third line and inserting in lieu thereof "$2".

23. Section 606 of the said Act is amended by striking out "or by the limitation of taxation of a telephone company under section 11 of The Assessment Act" in the sixth, seventh and eighth lines and by striking out "76 of The Assessment Act" in the twelfth line and inserting in lieu thereof "636a".

24. Section 636 of the said Act is repealed and the following substituted therefor:

636.—(1) Where the treasurer ascertains that certain taxes are uncollectable, he shall recommend to the council that such outstanding taxes be struck off the roll, and the council may direct the treasurer to strike such taxes off the roll.

(2) Notwithstanding subsection 1, the treasurer may strike from the roll taxes that by reason of a decision under section 636a, or of a decision of a judge of any court are uncollectable.

25. The said Act is amended by adding thereto the following sections:

636a.—(1) An application to the council for the cancellation, reduction or refund of taxes levied in the year in respect of which the application is made may be made by any person,
(a) in respect of real property liable to taxation at the rate levied under subsection 2 of section 302 that has ceased to be real property that would be liable to be taxed at such rate; or

(b) in respect of real property that has become exempt from taxation during the year or during the preceding year after the return of the assessment roll; or

(c) in respect of a building that was razed by fire, demolition or otherwise during the year or during the preceding year after the return of the assessment roll; or

(d) who is unable to pay taxes because of sickness or extreme poverty; or

(e) who is overcharged by reason of any gross or manifest error that is a clerical error, the transposition of figures, a typographical error or similar type of error, but not an error in judgment in making the assessment upon which the taxes have been levied; or

(f) liable for business tax who has not carried on business for the whole year, except where the business was intended to be or was capable of being carried on during a part of the year only, or was not carried on for a period of less than three months during the year by reason of repairs to or renovations of the premises in which the business was carried on; or

(g) whose taxes are unduly burdensome by reason of an increase resulting from a different assessment generally of lands within the municipality made in the year 1968 or thereafter.

(2) The application may be made at any time during the year in respect of which the application is made and until the 28th day of February in the following year and notice in writing of the application shall be given to the clerk of the municipality.

(3) Taxes levied by a municipality shall not be cancelled reduced or refunded on an application under clause g of subsection 1 unless the application and a maximum amount of taxes that may be cancelled, reduced or refunded has been authorized by a by-law which may be passed by the council of the municipality.
(4) Notice of any hearing by the council under this section shall be given by mail by the clerk of the municipality to the applicant not less than fourteen days before the date upon which the application is to be dealt with by the council.

(5) Where any person who is entitled to apply for the cancellation, reduction or refund of taxes under clause e or f of subsection 1 fails to apply, the clerk of the municipality may apply in his stead and the provisions of this section apply mutatis mutandis to such application.

(6) The council, subject to such restrictions and limitations as are contained in this section, may reject the application or,

(a) where the taxes have not been paid, cancel the whole of the taxes or reduce the taxes; or

(b) where the taxes have been paid in full, order a refund of the whole of the taxes or any part thereof; or

(c) where the taxes have been paid in part, order a refund of the whole of the taxes paid or any part thereof and reduce or cancel the portion of the taxes unpaid.

(7) The council shall hear and dispose of every application not later than the 31st day of March in the year following the year in respect of which the application is made and the clerk of the municipality shall thereupon cause notice of the decision in such application to be given by mail to the persons to whom notice of the hearing of such application was given and such notice shall state thereon that such decision may be appealed to the Assessment Review Court within fourteen days of the mailing of such notice.

(8) An appeal may be had to the Assessment Review Court by the applicant from the decision of the council or where the council has omitted, neglected or refused to hear or dispose of an application under this section, and such appeal shall be a hearing de novo.

(9) The person appealing shall personally or by his agent send a written notice of appeal to the regional registrar of the Assessment Review Court, within fourteen days after notice of the decision of the
council has been given by the clerk of the municipality under subsection 7, or, within fourteen days after the 31st day of March, where the council has omitted, neglected or refused to deal with an application under this section.

(10) Notice of any hearing by the Assessment Review Court under this section shall be given by mail by the regional registrar of the Assessment Review Court to the clerk of the municipality and to the applicant not less than fourteen days before the date upon which the application is to be dealt with by the court.

(11) The Assessment Review Court shall have, with respect to appeals under this section, the same powers as the council has under subsection 6.

(12) Notice of the decision of the Assessment Review Court shall be given by the regional registrar of the Assessment Review Court by mail to the persons to whom notice of the hearing of such application was given, and such notice shall state therein that such decision may be appealed to the county judge within fourteen days of the mailing of such notice.

(13) An appeal may be had to the county judge by the applicant or the municipality from the decision of the Assessment Review Court or where the Assessment Review Court has omitted, neglected or refused to hear or dispose of an appeal under this section and such appeal shall be a hearing de novo.

(14) The person appealing shall personally or by his agent send a written notice of appeal to the regional registrar of the Assessment Review Court and a copy thereof to the municipal clerk, within fourteen days after notice of the decision of the Assessment Review Court has been given by the regional registrar of the Assessment Review Court under subsection 12, provided that where the municipality appeals it shall send a copy of the notice of appeal to all persons interested in accordance with this subsection.

(15) An appeal may be had to the Municipal Board from a decision of the county judge under subsection 13 and the provisions of section 63 of The Assessment Act apply mutatis mutandis.
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(16) Where a person makes application for the cancellation, reduction or refund of taxes in respect of business assessment or assessment under subsection 3 of section 7 of The Assessment Act, the council, on notice to any person who occupied the premises and carried on business for the whole or any part of the period in respect of which the application is made, may direct that a proper proportion of the taxes be levied against such person for the time during which such person was in occupation although the name of such person does not appear on the assessment roll in respect of such premises, and in determining the amount payable regard shall be had to the nature of the business carried on.

(17) A cancellation, reduction or refund under clause b of subsection 1 shall be for a proportionate part of the taxes based on the number of months in the year during which the exemption existed.

(18) A cancellation, reduction or refund under clause c of subsection 1 shall be for a proportionate part of the taxes based on the number of months in the year or years after the building was razed in respect of which taxes were levied.

636b.—(1) The treasurer may by filing a notice of the recommendation with the clerk of the municipality recommend to the council that the taxes levied against any person be increased in the year in which the recommendation is made, where he ascertains that such person has been undercharged by reason of any gross or manifest error that is a clerical error, the transposition of figures, a typographical error or similar type of error, but not an error in judgment in making the assessment upon which the taxes have been levied.

(2) Notice of the recommendation and of the date upon which it is to be dealt with by the council shall be given by mail by the clerk of the municipality to the treasurer and to the person in respect of whom the recommendation is made not less than fourteen days before the date upon which the recommendation is to be dealt with by the council.

(3) The council may reject the recommendation or may increase the taxes to the correct amount, and the amount of the increase, subject to subsection 8, is collectable as if it had been originally levied and demanded.
(4) Forthwith after the council makes its decision, the clerk of the municipality shall cause notice thereof to be given by mail to the person in respect of whom the recommendation was made and such notice shall state therein that the decision may be appealed to the Assessment Review Court within fourteen days of the mailing of such notice.

(5) An appeal may be had to the Assessment Review Court by the person in respect of whom the recommendation was made from the decision of the council and such appeal shall be a hearing de novo.

(6) The person appealing shall personally or by his agent send a written notice of appeal to the regional registrar of the Assessment Review Court, within fourteen days after notice of the decision of the council has been given under subsection 4.

(7) Notice of the appeal and of the date fixed for hearing shall be given by the regional registrar of the Assessment Review Court to the clerk of the municipality and to the person appealing not less than fourteen days before the appeal is to be dealt with by the Assessment Review Court.

(8) The Assessment Review Court in dealing with appeals under this section shall have the same powers as the council has under subsection 3.

(9) Forthwith after the Assessment Review Court makes its decision, the regional registrar shall cause notice thereof to be given by mail to the persons to whom notice was given under subsection 7 and such notice shall state thereon that the decision may be appealed to the county judge within ten days of the mailing of such notice.

(10) The amount of any increase in taxes is not payable until fourteen days after the mailing of the notice under subsection 4 or, if an appeal is made to the Assessment Review Court, until ten days after the decision of the Assessment Review Court or, if an appeal is made to the county judge, until ten days after the decision of the county judge, and is not subject to any penalties applicable to taxes that are overdue and unpaid until such amount is payable.
(11) An appeal may be had to the county judge by or on behalf of the municipality or by the person in respect of whom the recommendation was made from the decision of the Assessment Review Court or where the Assessment Review Court has omitted, neglected or refused to hear or dispose of an application under this section, and such appeal shall be a hearing de novo.

(12) The person appealing shall personally or by his agent send a written notice of appeal to the regional registrar of the Assessment Review Court and a copy thereof to the municipal clerk, within ten days of the mailing of the notice under subsection 9.

(13) An appeal may be had to the Municipal Board from a decision of the county judge under subsection 11 and the provisions of section 63 of The Assessment Act apply mutatis mutandis.

(14) The council shall not deal with a recommendation under this section if a certificate with respect to current taxes has been issued by the tax collector under this Act before the mailing of the notice of recommendation under subsection 2.

26.—(1) This Act, except section 6, subsections 1 and 2 of section 12 and sections 19, 23, 24 and 25, comes into force on the day it receives Royal Assent.

(2) Section 6, subsections 1 and 2 of section 12 and sections 19, 23, 24 and 25 come into force on the 1st day of January, 1973.

27. This Act may be cited as The Municipal Amendment Act, 1972 (No. 2).