CHAPTER 142

An Act respecting Conflict of Interest of Members of Municipal Councils and Local Boards

Assented to December 15th, 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.—(1) In this Act,

(a) "council" means the council of a municipality;

(b) "local board" means a local board as defined in The Municipal Affairs Act;

(c) "municipality" means the corporation of a county, city, town, village, township or Improvement District or of a district, metropolitan or regional municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory;

(d) "ratepayer" means,

(i) in respect of a municipality or a local board thereof, other than a school board, a person entitled to vote at a municipal election in the municipality, and

(ii) in respect of a public, separate or secondary school board, a person entitled to vote at the election of members of such board;

(e) "senior officer" means the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any such office.
(2) For the purposes of clause a of subsection 3, a member of a council or of a local board shall be deemed to have a controlling interest in a corporation if he beneficially owns, directly or indirectly, or exercises control or direction over, equity shares of the corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding.

(3) For the purposes of this Act, a member of a council or of a local board has an indirect pecuniary interest in a contract or proposed contract with the municipality or local board or in any contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board or in any other matter in which the council or local board is concerned, as the case may be,

(a) if he or his nominee is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public or has a controlling interest in, or is a director or senior officer of, a corporation that offers its securities to the public or is a member of a body,

(i) with which the contract is made or is proposed to be made, or

(ii) that has an interest in a contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board, or

(iii) that has an interest in any other matter in which the council or local board is concerned; or

(b) if he is a partner of a person, or is in the employment of a person or a body,

(i) with whom the contract is made or is proposed to be made, or

(ii) that has an interest in a contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board, or

(iii) that has an interest in any other matter in which the council or local board is concerned.

(4) A member of a council or of a local board does not have an indirect pecuniary interest by reason only of his being a director or senior officer of a corporation incorporated
for the purpose of carrying on business for and on behalf
of the municipality or local board or by reason of his being
a member of a board, commission or other body as an
appointee of the council or local board.

(5) Where the number of members of a council or of a local
board who have an indirect pecuniary interest by reason of
the application of clause b of subsection 3 is such that at
any meeting the remaining members are not of sufficient
number to constitute a quorum, then, notwithstanding any
other general or special Act, the remaining number of members
shall be deemed to constitute a quorum, provided such number
is not less than two.

2.—(1) Where a member of a council or of a local board, either on his own behalf or while acting for, by, with or
through another, has any pecuniary interest, direct or indirect,

(a) in any contract or proposed contract with the
municipality or local board, as the case may be;

(b) in any contract or proposed contract that is
reasonably likely to be affected by a decision of
the council or local board; or

(c) in any other matter in which the council or local
board is concerned,

and is present at a meeting, including a committee or other
meeting, of the council or local board at which the contract,
proposed contract or other matter is the subject of considera-
tion, he shall, as soon as practicable after the commencement
of the meeting, disclose his interest and shall not take part
in the consideration or discussion of, or vote on any question
with respect to, the contract, proposed contract or other
matter, or attempt in any way to influence the voting on any
such question.

(2) Where the interest of a member of a council or of a local board has not been disclosed as required by subsection 1 by
reason of his absence from the meeting referred to therein or
by reason of such interest having been acquired after such
meeting, he shall disclose his interest and otherwise comply with
subsection 1 at the first meeting of the council or local board,
as the case may be, attended by him after the meeting
referred to in subsection 1 or after acquiring such interest.

(3) The interest of any spouse, son, daughter or any
other relative of a member of a council or local board who
has the same home as such member, shall if known to the
member, be deemed for the purposes of this section to be
also an interest of the member.
(4) Subsections 1 and 2 do not apply to an interest in a contract, proposed contract or other matter that a member may have,

(a) as a ratepayer, or as a user of any public utility service supplied to him by the municipality or local board in like manner and subject to the like conditions as are applicable in the case of persons who are not members of the council or local board;

(b) by reason of his being entitled to receive on terms common to other persons any service or commodity or any subsidy, loan or other such benefit offered by the municipality or local board;

(c) by reason of his purchasing or owning a debenture of the municipality or local board; or

(d) by reason of his having made a deposit with the municipality or local board, the whole or part of which is or may be returnable to him in like manner as such a deposit is or may be returnable to all other ratepayers.

(5) Every disclosure of interest under subsection 1 or 2 shall be recorded in the minutes of the meeting by the clerk of the municipality or secretary of the local board, as the case may be.

(6) The failure of any person to comply with subsection 1 or 2 does not of itself invalidate any contract, or the proceedings in respect of any proposed contract or other matter mentioned in subsection 1 or 2, but the contract or the proceedings in respect of any proposed contract or other matter are voidable at the instance of the municipality or of the local board, as the case may be, before the expiration of two years from the date of the passing of the by-law or resolution authorizing the contract or proposed contract or other matter.

3.—(1) In this section and in sections 4 and 5, "judge" means a judge of the county or district court of the county or district in which the municipality is situate or in which the local board has jurisdiction.

(2) The question of whether or not a member of council or of a local board has contravened subsection 1 or 2 of section 2 may be tried and determined by a judge.

4.—(1) Subject to subsection 3, a ratepayer may, within six weeks after the fact comes to his knowledge that a member of a council or of a local board may have contravened subsection 1 or 2 of section 2, apply to the judge by way of
originating notice in the manner prescribed by the rules of court for a determination of the question of whether or not a member of a council or of a local board has contravened subsection 1 or 2 of section 2.

(2) The ratepayer in his notice of motion shall state the grounds for finding a contravention by the member of council or of a local board of subsection 1 or 2 of section 2.

(3) No application shall be brought under subsection 1 after the expiration of the term of office of the member of council or local board during which the contravention is alleged to have occurred.

5. —(1) Where the judge determines that a member of council or of a local board has contravened subsection 1 or 2 of section 2, he shall, subject to subsection 2 of this section, declare the seat of the member vacant and may disqualify him from being a member of any council and of any local board during a period thereafter of not more than seven years.

(2) Where the judge determines that a member of council or of a local board has contravened subsection 1 or 2 of section 2, if the judge finds that the contravention was committed through inadvertence or by reason of a bona fide error in judgment, the member is not subject to having his seat declared vacant or to being disqualified as a member, as provided by subsection 1.

6. —(1) An appeal lies from any order made under section 5 to the Divisional Court in accordance with the rules of court.

(2) The Divisional Court may give any judgment that ought to have been pronounced and its decision is final.

7. —(1) Section 2 does not apply to the election or appointment of a member of a council or local board to fill a vacancy, office or position in the council or local board when the council or local board is empowered or required by any general or special Act to fill such vacancy, office or position.

(2) Nothing in this Act prevents a member of the council or of a local board from taking part in the consideration or discussion of, or from voting on any question in respect of an allowance for attendance at meetings, or any other allowance, honorarium, remuneration, salary or benefit to which he may be entitled by reason of being a member of the council or local board or otherwise by law, as the case may be.
8. In the event of conflict between any provision of this Act and any provision of any general or special Act, the provision of this Act prevails.

9. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

10. This Act may be cited as *The Municipal Conflict of Interest Act, 1972*. 