1973

c 175 The Municipal Amendment Act, 1973 (No. 2)

Ontario
CHAPTER 175

An Act to amend The Municipal Act

Assented to December 17th, 1973
Session Prorogued March 5th, 1974

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

1. Paragraph 13a of section 1 of The Municipal Act, being chapter 284 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1972, chapter 124, section 1, is amended by adding at the end thereof “except that in sections 443 and 461 “Minister” means the Minister of Housing”.

2. (1) Clause d of subsection 1 of section 250 of the said Act is repealed and the following substituted therefor:

(d) “service” means employment of an employee by a municipality or local board.

(2) Subsection 4 of the said section 250 is repealed and the following substituted therefor:

(4) Notwithstanding any general or special Act, a municipality or local board shall not make a contribution for the provision of a pension with respect to an employee under an approved pension plan or under The Ontario Municipal Employees Retirement System Act that is in excess of an annual amount of 2 per cent of his average annual earnings during the sixty consecutive months during which his earnings as an employee were highest multiplied by the number of years of his service with the municipality or local board up to thirty-five years and reduced in any year in which he is entitled to a pension under the Canada Pension Plan by 0.7 per cent of the lesser of such average annual earnings or the year’s maximum pensionable earnings established at the time he ceased to be employed by the municipality or local board multiplied by the number of years of his service after the 1st day of January, 1966 up to thirty-five years, but this subsection does not apply so as to reduce any benefit provided under the terms and conditions of an approved pension plan in force on the 31st day of December, 1965, and does not apply where the employee retires having less than ten years of service.
3. Subsection 3 of section 285 of the said Act is amended by striking out "sections 178 to 180" in the second line and inserting in lieu thereof "section 101 of The Municipal Elections Act, 1972".

4. Section 303 of the said Act is amended by adding thereto the following subsection:

(2a) Where the regional registrar of the Assessment Review Court has not certified by the 31st day of December in any year in accordance with subsection 3 of section 88 of The Assessment Act the last revised assessment roll of any local municipality for taxation in the following year, the clerk of the municipality may, before the 1st day of February in such following year, certify that the assessment roll last returned to him as altered, amended and corrected by him pursuant to section 86 of The Assessment Act is the last revised assessment roll for the purpose of any levy made under this section in such year and when the clerk so certifies, the assessment roll last returned to him, as altered, amended and corrected by him, shall be deemed to be the last revised assessment roll for the purpose of any levy made under this section in such year.

5. Paragraph 24 of subsection 1 of section 354 of the said Act is repealed and the following substituted therefor:

24. For requiring owners of privately-owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools, for prescribing the height and description of, and the manner of erecting and maintaining, such fences and gates, for prohibiting persons from placing water in privately-owned outdoor swimming pools or allowing water to remain therein unless the prescribed fences and gates have been erected, for requiring the production of plans of all such fences and gates, for the issuing of a permit certifying approval of such plans without which permit no privately-owned outdoor swimming pool may be excavated for or erected and for authorizing the refusal of a permit for any such fences or gates that if erected would be contrary to the provisions of any by-law of the municipality.

6. Paragraph 3 of section 453 of the said Act is amended by inserting after "completed" in the twenty-first line "and for permitting the owners or lessees of land to install, maintain and use stationary or mobile cranes or elevator type hoists within the highways" and by striking out "or heating device" in the thirty-first line and inserting in lieu thereof "heating device or crane or hoist".
7. Section 460 of the said Act is amended by adding thereto the following paragraph:

9. For designating any lane on any road over which the municipality has jurisdiction as a lane solely or principally for use by public transit motor vehicles and for prohibiting and regulating the use thereof by vehicles other than public transit motor vehicles to such extent and for such period or periods as may be specified, and for the purpose of this paragraph "public transit motor vehicle" means a motor vehicle owned and operated by, for, or on behalf of, the municipality as part of a passenger transportation service.

8. Subsection 10 of section 502 of the said Act is amended by striking out "clause e" in the third line and inserting in lieu thereof "paragraph 1".

9.—(1) Section 636a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 124, section 25, is amended by adding thereto the following subsections:

(1a) The council may, by by-law passed on or before the 31st day of December in any year, provide that the Assessment Review Court shall exercise the functions of the council under subsections 6, 7 and 16 and any such by-law shall apply to applications made in and after the year in which such by-law is passed and shall continue so to apply until repealed.

(1b) The clerk of the municipality shall forthwith forward certified copies of any by-law passed under subsection 1a and of any by-law passed repealing any such by-law to the regional registrar of the Assessment Review Court and to the assessment commissioner.

(2) Subsection 2 of the said section 636a is repealed and the following substituted therefor:

(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 who shall, if the municipality has passed a by-law under subsection 1a, forthwith forward such notice to the regional registrar of the Assessment Review Court and the regional registrar shall in turn forthwith forward a copy of such notice to the assessment commissioner.
(3) Subsection 6 of the said section 636a is amended by inserting at the commencement thereof "Where the council has not passed a by-law under subsection 1a".

(4) Subsection 7 of the said section 636a is amended by inserting at the commencement thereof "Subject to subsection 7a".

(5) The said section 636a is further amended by adding thereto the following subsection:

(7a) Where the council has passed a by-law under subsection 1a, the Assessment Review Court 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.

(6) Subsection 11 of the said section 636a is amended by inserting after "to" in the second line "hearings or".

(7) Subsection 13 of the said section 636a is repealed and the following substituted therefor:

(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 application or appeal under this section and such appeal shall be a hearing *de novo* and the provisions of subsections 3, 4, 6, 7, 9 and 10 of section 55 of The Assessment Act apply *mutatis mutandis*, except that the time limit specified in subsection 7 of the said section 55 shall not apply.

(8) Subsection 16 of the said section 636a is amended by inserting after "council" in the fourth line "or the Assessment Review Court, as the case may be".

(9) The said section 636a is further amended by adding thereto the following subsection:

(19) A copy of each notice of decision referred to in subsections 7 and 12 shall be sent by mail to the assessment commissioner by the clerk of the municipality or the regional registrar of the Assessment Review Court, as the case may be, at the same time as the notice of decision is given under subsections 7 and 12, provided that failure to send such copy to the assessment commissioner shall not invalidate any proceedings taken under this section.
10.—(1) Section 636b of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 124, section 25, is amended by adding thereto the following subsections:

(1a) Where the council has passed a by-law under subsection 1a of section 636a, the council may by the same by-law or by a subsequent by-law provide that the Assessment Review Court shall exercise the functions of the council under subsection 3 and where a subsequent by-law is passed, the clerk of the municipality shall forthwith forward a certified copy thereof and of any by-law passed repealing any such by-law to the regional registrar of the Assessment Review Court and to the assessment commissioner.

(1b) Where the council has provided that the Assessment Review Court shall exercise the functions of the council as referred to in subsection 1a, the clerk of the municipality shall forthwith forward to the registrar of the Assessment Review Court, as they are received by him from time to time, all notices filed under subsection 1a and the regional registrar shall in turn forthwith forward a copy of such notices to the assessment commissioner and the provisions of subsections 2, 3, 4, 5 and 6 shall not apply to the recommendations to which such notices relate.

(7a) Where the council has provided that the Assessment Review Court shall exercise the functions of the council as referred to in subsection 1a, notice of the date upon which the recommendation is to be dealt with by the Assessment Review Court shall be given by the regional registrar of the Court to the clerk of the municipality 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 Court.

(2) Subsection 8 of the said section 636b is amended by inserting after "appeals" in the second line "and recommendations".

(3) Subsection 9 of the said section 636b is amended by inserting after "7" in the fourth line "or 7a, as the case may be".

(4) Subsection 10 of the said section 636b is amended by inserting after "Court" in the fourth line "or if the Assessment Review Court deals with the recommendation in the first instance".
(5) Subsection 11 of the said section 636b is amended by adding at the end thereof "and the provisions of subsections 3, 4, 6, 7, 9 and 10 of section 55 of The Assessment Act apply mutatis mutandis, except that the time limit specified in subsection 7 of the said section 55 shall not apply".

(6) Subsection 14 of the said section 636b is amended by striking out "The council shall not" in the first line and inserting in lieu thereof "Neither the council nor the Assessment Review Court shall".

(7) The said section 636b is further amended by adding thereto the following subsection:

(15) A copy of each notice of decision referred to in subsections 4 and 9 shall be sent by mail to the assessment commissioner by the clerk of the municipality or the regional registrar of the Assessment Review Court, as the case may be, at the same time as the notice of decision is given under subsections 4 and 9, provided that failure to send such copy to the assessment commissioner shall not invalidate any proceedings taken under this section.

Commencement

11. (1) This Act, except section 1, comes into force on the day it receives Royal Assent.

(2) Section 1 comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

12. This Act may be cited as The Municipal Amendment Act, 1973 (No. 2).