

2012

CHAPTER 11

An Act to make consequential amendments resulting from the enactment of *The Education Amendment Act, 2011*

(Assented to May 16, 2012)

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

Short title

1 This Act may be cited as *The Education Consequential Amendments Act, 2012*.

S.S. 1988-89, c.M-23.2 amended

2(1) *The Municipal Board Act* is amended in the manner set forth in this section.

(2) Subsection 2(1) is amended:

(a) by adding the following clause after clause (a):

“(a.1) ‘**board of education**’ means board of education as defined in *The Education Act, 1995*”;

(b) by repealing clause (d) and substituting the following:

“(d) ‘**local authority**’ means a municipality or a conservation and development area”; **and**

(c) in clause (l) by striking out “*The Education Act*” and substituting “*The Education Act, 1995*”.

(3) Section 19 is repealed and the following substituted:

“Financial supervision

19(1) The board has jurisdiction to:

(a) inquire into the merits of any application of a local authority for permission to raise money by way of debentures or on the security of stock, and to grant or refuse that permission;

(b) notwithstanding anything in *The Cities Act*, *The Municipalities Act* or *The Northern Municipalities Act, 2010*, manage the sinking fund of any local authority that desires to entrust that fund to the board for management;

(c) supervise the expenditure of moneys borrowed by a local authority under an approval given pursuant to this Act;

(d) obtain from any local authority or board of education at any time a statement in detail of its assets and liabilities and of its revenue and expenditures for any definite period, or any other

statement of its affairs that the board may deem expedient;

(e) grant permission for extension of the time for repaying indebtedness incurred by municipalities for the cost of municipal public works, as provided by *The Municipal Debentures Repayment Act*;

(f) deal with the financial affairs of local authorities and boards of education as provided in this or any other Act; and

(g) perform any other duties that are now assigned or that will, from time to time, be assigned to the board by statute or under statutory authority.

(2) The board shall conduct an inquiry into the affairs, financial or otherwise, of any local authority, except a conservation and development area, or of any board of education if:

(a) requested to do so by the minister responsible for that local authority or board of education and for the administration of the legislation pertaining to it;

(b) the local authority or board of education has, by resolution of the council, board of trustees, board of directors or other governing body of the local authority or board of education, made a request for an inquiry;

(c) the creditors interested in at least 25% of the indebtedness of the local authority or board of education request an inquiry by a petition in writing filed with the secretary of the board; or

(d) the board considers an inquiry to be advisable”.

(4) Subsection 20(13) is amended by adding “or board of education” after “local authority” wherever it appears.

(5) Subsection 24(1) is amended by adding “or board of education” after “local authority”.

(6) Subsection 24(2) is repealed and the following substituted:

“(2) Before undertaking an inquiry into the affairs of a local authority or board of education pursuant to subsection 19(2), the board shall:

(a) prepare a written notice stating:

(i) the local authority or board of education respecting which the inquiry is to be undertaken;

(ii) the purpose of the inquiry; and

(iii) the time when and place where the board will commence the inquiry; and

(b) mail the notice mentioned in clause (a):

- (i) to the local authority or board of education;
- (ii) to the minister responsible for the local authority or board of education; and
- (iii) in the case of a petition pursuant to clause 19(2)(c), to the petitioners and any other creditors of the local authority or board of education that the board considers advisable”.

(7) Subsection 25(1) is amended by adding “or board of education” after “local authority” wherever it appears.

(8) Subsection 25(2) is amended by adding “or board of education” after “local authority” wherever it appears.

(9) Section 26 is amended by adding “or board of education” after “local authority” wherever it appears.

(10) Sections 27 to 29 are repealed and the following substituted:

“Orders re finances

27 If the board has made a decision respecting a local authority or board of education pursuant to subsection 26(2), the board may make an order:

- (a) providing for the supervision of the financial affairs of the local authority or board of education by the board or a person appointed by it;
- (b) directing how the whole or any part of the revenues of the local authority or board of education shall be applied or disposed of;
- (c) directing how the whole or any part of the surplus capital moneys of the local authority or board of education shall be applied or disposed of;
- (d) requiring the creation and setting aside of special reserves out of any portion of the revenues or surplus capital moneys of the local authority or board of education;
- (e) giving directions as to the custody, management, investment and application of any of the reserves and surpluses of the local authority or board of education;
- (f) prescribing and regulating the rates, rents, charges and fees to be charged, levied and collected for the services of municipal public works;
- (g) prescribing the fees to be charged for licences, permits, approvals or other authorizations;
- (h) directing that the local authority or board of education shall offset any indebtedness to it by any person or by another local authority or board of education, by retention of the whole or part of the moneys payable by it to the person or to the other local authority or board of education, as the case may, in the opinion of the board, require;
- (i) directing that a local authority may use any portion of its available funds as the board may specify for the purchase of debentures or debenture coupons, or both, heretofore or hereafter issued by another local authority, at the price or within the price limits and on any conditions that the board directs;

- (j) requiring the municipality to follow the ordinary procedure prescribed by the relevant municipal Act for the assessment of property and collection of taxes or to adopt the special provisions of that Act that may exist with regard to those matters;
- (k) varying, amending or rescinding any order made pursuant to this section or section 28 or the terms of any agreement, arrangement or compromise ratified and confirmed by the board pursuant to statutory authority;
- (l) giving directions as to and fixing the expenses of the inquiry and of any refunding or adjustment ordered by the board and of supervision of the financial affairs of the local authority or board of education; and
- (m) that the board deems necessary to carry into effect an order made pursuant to this Act or that, not being inconsistent with this Act, the board deems necessary or expedient for the purpose of giving effect to the general intent of this Act.

“Orders re debt

28(1) If the board has made a decision respecting a local authority or board of education pursuant to subsection 26(2), the board may make an order:

- (a) authorizing the local authority to use any of its available funds for the purchase or the payment of its own debentures, notes or other outstanding securities and, in the case of registered debentures, payment shall be paid to the registered debenture holders as at the date of payment and in all other cases to the actual holders of the debentures;
- (b) making a finding of fact as to the capacity of the local authority or board of education to discharge its indebtedness;
- (c) ratifying and confirming any agreement, arrangement or compromise entered into or made by the local authority or board of education with its creditors or any of them respecting its debenture debt or other indebtedness or any portion of it and interest on it, and the ratification and confirmation by the board shall make the agreement, arrangement or compromise legal, valid and binding on all persons who are parties to it or affected by it;
- (d) with respect to the local authority, directing or permitting the cancellation, increase or decrease of or any other variation in the levy and collection of a levy, rate, tax, rent or charge imposed to meet, pay and discharge a debenture debt or other indebtedness, together with interest, and varying the basis, terms and times of payment of the levy, rate, tax, rent or charge;
- (e) notwithstanding any Act, bylaw or agreement, requiring that the local authority be relieved from or defer levying the whole or any portion of any rate that the board may direct:
 - (i) for any year or for a term of years; and
 - (ii) on any conditions that the board may direct;

- (f) directing that no levy of rates or sums imposed or required to be levied by the bylaws or other authorization under the authority of which outstanding debentures or any of them were issued shall be made, but the board may direct a continuation of the levies of rates or sums imposed on properties specially taxed under the authority of local improvement bylaws;
- (g) directing the consolidation of the whole or any portion of the existing debt of the local authority or board of education;
- (h) directing the consolidation as debt of the municipality of the whole or any portion of the existing debt of the municipality and of any local authority on whose behalf the municipality levies taxes;
- (i) authorizing or requiring the municipality to pay at any times and on any terms that the board may direct the whole or any portion of the debt consolidated pursuant to clause (h);
- (j) directing, without the passing of a bylaw or resolution as appropriate if the board so directs, the issue of debentures, notes or other forms of security by the local authority to secure payment of the whole or any portion of:
- (i) the existing debt of the local authority: or
 - (ii) the amount of debt of the local authority consolidated pursuant to clause (h);
- (k) in the event of consolidation being directed pursuant to clause (h), giving directions for any reimbursement of or payment to the municipality by the local authority as the board may order, and authorizing or imposing tax levies for the raising of revenues with which to make the reimbursement or payment;
- (l) directing the issue of new debentures, notes or other forms of security in substitution and exchange for any outstanding debentures, accounts and any other indebtedness;
- (m) authorizing the local authority, after giving notice in the manner and form required by the board, to redeem at the time the board may direct, before maturity, all or any, as the board may direct, of the debentures previously issued by it and any attached coupons, and after the date fixed for redemption, interest on a debenture or coupon called for redemption shall cease unless the local authority defaults in making redemption;
- (n) requiring acceptance by holders of or creditors interested in outstanding debentures, accounts or other indebtedness of new debentures, notes or other forms of security in substitution and exchange for them;

(o) effecting or directing the retirement of the whole or any portion of outstanding debentures concurrent with the issue of new debentures, notes or other forms of security in substitution;

(p) directing the postponement of or variation in the terms, times, places of payment of and in rates of interest on the whole or any portion of the debenture debt, outstanding debentures and other indebtedness;

(q) reducing the whole or any portion of the principal amount of the existing debt of the local authority or board of education, and of the interest due or accruing due on that debt;

(r) fixing the terms, conditions, times and places for exchange of cash or new debentures, notes or other securities, or any combination of them for outstanding debentures, notes or other securities or receipts for accounts;

(s) appointing a time and place at which outstanding debentures and debenture coupons or other securities or receipts for accounts may be presented for endorsement on them of any variations in or additions to their contents;

(t) directing the rebating or funding of arrears of interest payable on any debt of the local authority or board of education;

(u) fixing the terms and conditions including the time or times and place or places of payment and rate or rates of interest, if any, with respect to new debentures or notes to be issued by the local authority and prescribing the form of the new debentures or notes; or

(v) requiring or imposing the levy of any rates or sums as may be required to meet the accruing payments under new debentures or notes or other securities directed to be issued by or under any order of the board.

(2) The board shall not exercise any powers conferred by clause (1)(l), (n), (o), (p), (q), (r), (t) or (u) with respect to a local authority if the exercise would affect debenture indebtedness under debentures issued after January 1, 1948 or authorized to be issued by the board, until:

(a) the local authority, by resolution, requests the board to do so; and

(b) the creditors interested in at least 51% of the debenture indebtedness have filed with the secretary of the board a petition in writing that the board exercise those powers or any of them, giving in the petition the name and post office address of each petitioner.

(3) On receipt of a request and the filing of a petition mentioned in subsection (2), the board may exercise the powers or any of them mentioned in that subsection.

“Orders re annual estimates

29(1) If the board has made a decision respecting a local authority or board of education pursuant to subsection 26(2), the board may, by order, require the local authority or board of education to submit annually or otherwise to the board for review and approval a statement of the annual estimates of expenditures of the local authority or board of education and also the rate or rates proposed to be struck for the then current year, and the board may alter or vary, increase or decrease the estimates or rates.

(2) The estimates and rates of the local authority or board of education shall not become effective nor shall any bylaw be passed by the local authority or board of education with respect to them until they have been reviewed and approved by the board, but when so approved they shall be final and binding on the local authority or board of education, as the case may be.

(3) If the local authority or board of education applies the funds at its disposal otherwise than as authorized by the board, the members or directors of the local authority or board of education who vote for the application shall be jointly and severally liable for the amount diverted and that amount may be recovered by the local authority or board of education by action in any court of competent jurisdiction.

(4) If the local authority or board of education, on the request in writing of a ratepayer or of the holder of any of the debentures of the local authority or board of education, refuses or neglects for 30 days from the date of receipt of the request to bring an action, the action may be brought either by a taxpayer on behalf of himself and other ratepayers or by a debenture holder.

(5) The members or directors of the local authority or board of education who vote for an application mentioned in subsection (3) shall be disqualified from holding office for two years.

(6) If the board has made an order pursuant to subsection (1), the order remains in effect until the board makes an order pursuant to subsection 65(1).”

(11) Subsection 31(1) is amended:

(a) by striking out “of a school division”; and

(b) by adding “or board of education” after “local authority”.

(12) Subsection 31(2) is amended by striking out “of a school division”.

(13) Subsection 31(4) is amended by adding “or board of education, as the case may be,” after “local authority”.

(14) Subsection 31(5) is amended by adding “or board of education, as the case may be” after “local authority”.

(15) Subsection 32(1) is repealed and the following substituted:

“(1) The board may, by order, subject to any terms and conditions it considers appropriate, provide for an adjustment of the liabilities of a local authority or board of education with respect to which the board has made a decision pursuant to subsection 26(2) to another local authority or board of education, or of any person to any local authority or board of education, and that adjustment shall be final and binding on the local authorities or boards of education affected and the person”.

(16) Subsection 32(2) is amended by adding “or board of education” after “local authority”.

(17) Subsection 32(3) is amended by adding “or board of education” after “local authority”.

(18) Section 38 is amended:

(a) in the portion preceding clause (a) by adding “, board of education” after “local authority”; and

(b) by adding the following clause after clause (a):

“(a.1) in the case of a board of education, to the office of the board of education”.

(19) Subsection 39(1) is amended by striking out “local authority” and substituting “area under the administration of the local authority or board of education, as the case may be”.

(20) Section 41 is amended by striking out “or local authority” wherever it appears and in each case substituting “, local authority or board of education”.

(21) Section 49 is amended by adding “or board of education” after “local authority”.

(22) Section 54 is amended by striking out “or local authority” wherever it appears and in each case substituting “, local authority or board of education”.

(23) Section 60 is amended by adding “or board of education” after “local authority” wherever it appears.

(24) Subsection 65(1) is amended by adding “or board of education” after “local authority”.

(25) Subsection 65(2) is amended by adding “or board of education” after “local authority” wherever it appears.

(26) Section 66 is amended by adding “or board of education” after “local authority” wherever it appears.

(27) Subsection 68(1) is amended by adding “or board of education” after “local authority”.

(28) Subsection 68(2) is amended by adding “or board of education” after “local authority” wherever it appears.

(29) Subsection 68(5) is amended by adding “or board of education” after “local authority”.

(30) Subsection 68(7) is amended by adding “or board of education” after “local authority”.

(31) Subsection 69(1) is amended by adding “or board of education” after “local authority”.

R.S.S. 1978, c.U-5 amended

3(1) *The University of Regina Act* is amended in the manner set forth in this section.

(2) Clause 2(d) is repealed.

(3) Clause 27(1)(a) is amended by striking out “the chair of the educational council.”

S.S. 1995, c.U-6.1, section 24 amended

4 Subclause 24(1)(a)(v) of *The University of Saskatchewan Act, 1995* is repealed.

Coming into force

5 This Act comes into force on the day on which section 1 of *The Education Amendment Act, 2012* comes into force.

