

Municipal Service Boards

- 194. (1) Definitions** – In this section and in sections 195 to 202, “municipal service” means, in relation to a municipality,
- (a) a municipal system the municipality is authorized to provide under the following spheres of jurisdiction:
 - 1. Public Utilities.
 - 2. Waste Management.
 - 3. Transportation systems, other than highways.
 - 4. Culture, parks, recreation and heritage.
 - 5. Parking, except on highways, and
 - (b) any other prescribed system of the municipality; “municipality” means, in relation to a municipal service board, the municipality of which the board is a local board; “public utility” includes, in relation to a municipality, any system of the municipality, the control and management of which has been given under any Act to public utilities commission continued by subsection 195 (1).
- (2) **Regulations** – The Minister may make regulations prescribing other systems as municipal services under clause (b) of the definition of “municipal service” in subsection (1).
- 195. (1) Municipal service boards** – A public utility commission established or deemed to have been established under the *Public Utilities Act*, a parking authority established under paragraph 57 of Section 207 of the old Act and a board of park management established under the *Public Parks Act*, which exist on December 31, 2002, shall be deemed to be municipal service boards established under this section and continue with the same name, composition and service area and have the same powers and the same control and management of the same services as they had on that day.
- (2) **Power to establish boards** – A municipality may,
- (a) establish a municipal service board;
 - (b) despite any Act, give control and management of all or part of one or more municipal services to a municipal service board by delegating to the board all or part of the municipality’s powers under any Act related to the municipal services subject to such limits and conditions as the municipality considers appropriate;
 - (c) provide for the initial name of a municipal service board; and
 - (d) subject to subsection (3), provide for the initial composition of a municipal service board.
- (3) **Composition** – The composition of a municipal service board is subject to the following rules:
- 1. There shall be a minimum of three members, one of whom shall be the chair.
 - 2. All members shall be appointed by the municipality and shall be qualified to be elected as a member of the council of the municipality.

3. The chair shall be the member designated by the municipality or selected by the member of the board.
 - (4) **Term** – The term of office of a member of a municipal service board shall be as set out by the municipality in the appointing by-law but shall not extend past the end of the term of office of the appointing council.
 - (5) **Same** – Despite subsection (4), the members continue to hold office until their successors are appointed.
 - (6) **Limitations** – Where a by-law under subsection (2) delegates a power to a municipal service board, the power is deemed to be delegated to the board subject to any limits on the power and to any procedural requirements, including conditions, approvals and appeal, which apply to the power.
 - (7) **Application** – Except as otherwise provided, the following provisions apply with necessary modifications to a municipal service board and its members as if they were the council of a municipality and its members, respectively:
 1. Sections 242, 256, 258, subsection 259 (1), sections 260, 264 and 265.
 2. Part XIV, except section 433, 437, 438, 444 and 447.
 3. Parts XV and XVI.
 - (8) **Restrictions** – Despite this section, a municipality shall not dissolve a municipal service board, change the name or composition of a board or remove powers from a board except under section 189, 191 or 216.
 - (9) **Transition** – Despite subsection (3), if the composition of a public utility commission continued by subsection (1) as the composition of a municipal service board is not in conformity with subsection (3), that composition shall continue until the new council of the municipality following the 2003 regular election is organized and establishes a composition for the board that complies with subsection (3).
- 196. (1) Delegated powers** – When a municipality has delegated a power to a municipal service board under section 195,
- (a) the board may exercise the delegated power;
 - (b) the municipality no longer has the power to exercise the delegated power; and
 - (c) an existing by-law or resolution of the municipality that relates to the delegated power shall, to the extent it applies in any part of the municipality, be deemed to be a by-law or resolution of the board.
- (2) **Limitation** – Nothing in this section, section 195 or a by-law under section 195,
- (a) authorizes a municipal service board to provide for the financing of a municipal service other than by fees and charges under Part XII;

- (b) removes the power from the municipality to provide the money required for financing a municipal service as if it had control and management of the municipal service; or
- (c) authorizes a municipal service board, without the consent of the municipality,
 - (i) to exercise any of its powers in any other municipality or in unorganized territory,
 - (ii) to supply a municipal service to any other municipality or to a person in any other municipality or in unorganized territory,
 - (iii) to extend, enlarge, improve or alter a municipal service, or
 - (iv) to sell, lease or otherwise dispose of the whole of a municipal service or all or part of the real or personal property related to the municipal service.

197. (1) Status – A municipal service board is a body corporate.

(2) **Agency** – A municipality service board is an agent of the municipality.

- (3) **Assets** – If assets related to a municipal service are under the control and management of a municipal service board,
- (a) subject to clause (b), the board shall hold the assets in trust for the municipality until the board is dissolved or the control and management of the municipal service is removed from the board; and
 - (b) if the board is of the opinion it no longer requires an asset for the purposes of the municipal service, the board may, and on request shall, release to the municipality all its interest in the asset.

198. (1) Vacancies – If the office of a member of municipal service board becomes vacant, the board shall,

- (a) declare the office to be vacant at its next meeting or, if the vacancy occurs as a result of the death of a member, at either of its next two meetings; and
- (b) immediately forward a copy of its declaration to the municipality.

(2) **Filling vacancy** – The municipality shall fill a vacancy by appointing a person who has consented to accept the office if appointed within 60 days after the day the board declares the office to be vacant or, if a court declares the office be vacant, within 60 days after the day the court makes its declaration.

199. Quorum – A majority of the members of a municipal service board constitutes a quorum.

200. (1) Use of revenues – Despite any Act, a municipal service board shall use the revenues generated by a municipal service for the operation and maintenance of the municipal service and for the establishment of reserve funds authorized by the municipality for the purposes of the municipal service.

- (2) **Transfer of surplus** – After providing for the expenditures under subsection (1), a board shall, when required by the municipality, pay all or part of the surplus revenues to the municipality and the amount paid forms part of the general funds of the municipality.

201. (1) **Information to be provided** – A board shall, at the times and in the form requested, provide the municipality with information requested by the municipality relating to a municipal service.

- (2) **Public inspection** – A municipality shall establish and maintain a list for public inspection of the requirements it has imposed on a municipal service board under subsection (1).

202. (1) **Joint municipal service boards** – Two or more municipalities may enter into agreements to establish a joint municipal service board and to provide for those matters which, in the opinion of the participating municipalities, are necessary or desirable to facilitate the establishment and operation of the joint municipal service board.

- (2) **Same** – Different participating municipalities may give control and management of different municipal services to the same joint municipal service board and may give control and management of different aspects of the same municipal service to the same joint municipal service board.

- (3) **Powers, etc.** – Subject to subsections (4) and (5), the provisions of this Act that apply to municipal service boards also apply with necessary modifications to joint municipal service boards.

- (4) **Consent required** – Except where otherwise specifically provided in any Act, an action of a municipality related to an existing or proposed joint municipal service board is of no effect unless the municipality obtains the consent of all the other participating municipalities of which the board is a local board or will be a local board as a result of the action.

- (5) **Exception** – Despite subsection (4), an agreement under subsection (1) may provide for circumstances where the consent of the other participating municipalities is not required under subsection (4) or where only the consent of the municipalities specified in the agreement is required under subsection (4).