

**ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT**

BETWEEN:

THE TORONTO DISTRICT SCHOOL BOARD

Applicant

-and-

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO

Respondent

FACTUM OF THE RESPONDENT

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PART I – OVERVIEW

1. The *Education Act* authorizes school boards to impose education development charges (“EDCs”), which are fees on new land development to partially offset the cost of building new schools.¹ The *Act* restricts this power through regulation. While numerous restrictions have been prescribed, the Applicant takes issue with just one, at section 10, paragraph 2 of O. Reg. 20/98: school boards cannot impose EDCs while simultaneously maintaining excess school capacity (the “Impugned Regulation”).
2. This challenge to the *vires* of the Impugned Regulation is based on an oversimplified reading of the Supreme Court of Canada’s 1996 decision in *Ontario Home Builders*.² This case does not state that EDCs must be applied where there is *any* urban growth, but rather, that EDCs are constitutional because revenues are only raised from new growth (e.g. new homes) and used only to offset costs of that growth (e.g. schools for children in those new homes). The Impugned Regulation does not alter this basic function: EDCs are only levied on growth and revenues offset costs of that growth.
3. While the Impugned Regulation does not alter the function of EDCs, it does restrict their availability. This restriction, which has been in place for 21 years, limits EDCs to boards that experience *net* growth rather than *any* growth. School boards like the Toronto District School Board (“TDSB”) that have growth in some areas but overall excess capacity can still purchase land for new schools; however, they must do so by requesting funds directly from the province.

¹ *Education Act*, RSO 1990, c E 2, s 257.54(1) [*Education Act*].

² *Ontario Home Builders’ Assn v York Region Board of Education*, [1996] 2 SCR 929 [*Ontario Home Builders*].

4. This system is designed to ensure that education funds are well spent, and in doing so, it mirrors two legislative trends: increased provincial oversight of board finances and a movement from a local system of funding education to one where it is largely funded by the province. With respect to the former, boards with excess capacity must justify funding from the province for new schools, a requirement that is consistent with numerous financial oversight provisions in the *Education Act*. Additionally, EDCs are a source of local (rather than provincial) funding, and most local sources (such as school taxes) have been incrementally curtailed in favour of provincial funding since 1945.

5. A regulation is only *ultra vires* if it is “irrelevant,” “extraneous” or “completely unrelated” to its parent statute.³ That is not the case here. The *Education Act* specifically authorizes “prescribed conditions” on EDCs and the condition at issue promotes efficient use of education funds. As of January 2018, there is excess space for 300,000 students in Ontario and 65,000 students in the TDSB alone.⁴ Public funds maintain this excess space.

PART II – FACTS

6. The facts in this case stem from three sources: (a) two affidavits of Cynthia Clarke on behalf of the TDSB; (b) one affidavit of Christopher Bloye on behalf of Ontario; and (c) prior decisions of the Supreme Court of Canada outlining the legislative history of EDCs and education funding.⁵

³ *Katz Group Canada Inc. v Ontario*, 2013 SCC 64, paras 24, 28 [*Katz Group*].

⁴ Affidavit of Christopher Paul Bloye, affirmed July 27, 2018, Respondents’ Application Record [RAR], Tab A, paras. 28, 58 [Bloye Affidavit].

⁵ Affidavit of Cynthia Clarke, sworn February 14, 2018, Appellants’ Application Record [AAR], Tab 2 [Clark Affidavit]; Reply Affidavit of Cynthia Clark, sworn September 21, 2018 [Reply Clark Affidavit]; Bloye Affidavit, *supra* note 4; *Ontario Home Builders*, *supra* note 2 at paras 27-28, 47, 83; *Ontario English Catholic Teachers’ Assn. v Ontario (Attorney General)*, 2001 SCC 15 [*Ontario Catholic Teachers*].

7. In its factum, the TDSB narrowed the scope of this Application and consequently rendered much of the Clarke affidavits immaterial. The TDSB initially brought a sweeping challenge, alleging that the Impugned Regulation is *ultra vires*, “constitutionally inoperative,” and “discriminatory.”⁶ Ms. Clarke’s affidavits, which contain her opinion and the opinion of others, are not relevant to the remaining issue: the *vires* of the Impugned Regulation.⁷ Ontario submits that the only admissible evidence relates to the purpose of the EDC regime and its statutory context.⁸

A. EDC Overview

8. In *Ontario Home Builders*, Iacobucci J. characterized EDCs as “novel and unlike any known form of taxation.”⁹ They are “one component of a comprehensive regulatory framework governing land development in Ontario, comprised of *at least* nine different statutes,” including:¹⁰

- EDCs are “integrated with the funding model established by the *Education Act*”;¹¹
- EDCs reflect the *Planning Act*, in that “the provision of adequate school facilities in a given residential development is an integral element of urban planning”;¹² and
- EDCs support minority rights as the scheme “pursues the constitutionally required objective of providing separate schools with funding that is on par with the funding received by public schools.”¹³

⁶ Notice of Application [NOA], AAR, Tab 1, para 3.

⁷ Reply Clark Affidavit, *supra* note 5 at para 24.

⁸ *Endicott v Ontario*, 2014 ONCA 363, paras 43, 45.

⁹ *Ontario Home Builders*, *supra* note 2 at paras 27-28, 47, 82.

¹⁰ *Ibid.*, para 65 [*emphasis added*].

¹¹ *Ibid.*, para 74.

¹² *Ibid.*, paras 27-28.

¹³ *Ibid.*, para 77.

9. The EDC regime was established in 1989 by the now-repealed *Development Charges Act* as a tightly restricted means by which boards may raise funds for new schools. In 1996, Iacobucci J. outlined some of the restrictions on eligibility, collection and use of EDCs:

- “[T]he maximum amount of an EDC is limited by the level of provincial grant”;¹⁴
- “[C]apital costs associated with existing schools, or the building of schools for existing pupils currently accommodated in portables or sent by bus to distant schools cannot be defrayed through revenues raised by EDCs”;¹⁵ and
- Ministerial approval is required for new school facilities, construction costs, and to withdraw any funds.¹⁶

10. As is the case with the Impugned Regulation, many of the restrictions imposed on EDCs historically were done by way of regulation (rather than in statute). The now-repealed regulations under the *Development Charges Act* limited EDCs in the following ways:

- O. Reg 722/89 governed how EDCs were applied, required plans to be approved by the Minister, and exempted certain dwelling units;¹⁷
- O. Reg 229/92 and O. Reg 813/94 expanded the types of dwellings exempted from EDCs;¹⁸ and
- O. Reg 475/97 expanded the number of items that required Ministerial approval, including projected enrollments, proposals to accommodate new pupils, and efforts to secure long-term lease arrangements with other boards, municipalities and the private sector.¹⁹

B. Changes in Education Funding & Oversight

11. The cost of education, including building new schools, has shifted from being paid for

¹⁴ *Ibid.*, para 7.

¹⁵ *Ibid.*, para 43.

¹⁶ *Ibid.*, para 7.

¹⁷ O. Reg 722/89, ss 2, 9(1).

¹⁸ O. Reg 229/92, s 9.1.(1); O. Reg 813/94, ss 16(1)-(2).

¹⁹ O. Reg 475/97, s 2(1).

locally to being paid for provincially, a legislative trend that has been accompanied by increasing financial oversight by the province. EDCs are a source of local funding and have followed the same trajectory.

(1) Changes to Education Funding & Oversight Generally

12. Education was funded by both provincial grants and taxes set by local school boards.²⁰ As Iacobucci J. observed, this model “resulted in unequal funding as between urban and rural boards, owing to the differences in local assessment wealth.”²¹

13. With respect to capital costs (e.g. building new schools), Iacobucci J. noted that by the time of his decision in 1996, Ontario “moved toward a new funding scheme that emphasized equality,” whereby “those school boards with a richer assessment base, whether public or separate, receive a smaller provincial grant.”²² He cited the following statistics:²³

[B]efore 1945 the cost of building schools was borne almost entirely through local rates. In 1945, the province began to pay 50 percent grants toward capital costs.

By 1958, these grants were being made on an "equalized" basis, taking into account the assessment wealth of each board. The percentage of provincial grant increased to 75 percent, on average, although some boards received up to 90 percent and some boards received nothing.

In 1989, while the average percentage of provincial grants for capital projects had dropped to 60 percent, the total amount of provincial grants needed to cover capital education costs in Ontario had grown because of an increasing school population.

14. In 1989, the *Development Charges Act* came into force and enabled school boards to raise additional funds by levying EDCs within their geographic boundaries. In 1996, the

²⁰ Bloye Affidavit, *supra* note 4 at para 13.

²¹ *Ontario Home Builders*, *supra* note 2 at para 25.

²² *Ibid.*, para 24.

²³ *Ibid.*, para 26.

Supreme Court of Canada upheld this legislation. While EDCs are an indirect tax, they are focused on recouping actual costs, and thus constitutionally valid.²⁴

15. The legislative framework governing education finance changed shortly after *Ontario Home Builders* was decided. In 1997, Ontario passed Bill 160, the *Education Quality Improvement Act, 1997* (“EQIA”), which amended the *Education Act* “to create a new governance and funding model for all school boards in Ontario, including both public and separate (denominational) boards.”²⁵

16. The EQIA further pushed education funding from a local model to a provincial one by increasing financial oversight and restricting the power of school boards to tax and spend.²⁶

The changes, which took effect in 1998, were described by Iacobucci J. in *Ontario Catholic Teachers*:²⁷

- “To address a disparity of revenues between school boards, both between urban and rural boards and between separate and public boards, the EQIA allocates funds on a per-pupil basis”;
- The EQIA “removes the ability of school boards to set property tax rates for education purposes, and centralizes this taxation power in the hands of the Minister of Finance”;
- The “EQIA limits the power of school boards to control their budgets and expenditures”; and
- The EQIA allows the Minister “to take control of a school board temporarily if financial problems arise.”

²⁴ *Ibid.*, paras 65, 83 [*emphasis added*].

²⁵ *Ontario Catholic Teachers*, *supra* note 5 at para 6.

²⁶ Note: school taxes remain, however, the rate is set by the Minister under s.257.12 of the *Education Act* and a grant is provided that is equal to the difference between the funding entitlement calculated under the legislative grant regulation and the tax revenue of the board (see e.g. O Reg 277/19, s 15).

²⁷ *Ibid.*

17. This “new education funding formula replaced a complex system of financing education that involved a combination of government grants and revenue raised by school boards from their local property taxes.”²⁸ The old “system was considered inequitable, since boards with large property tax bases were able to raise more money than boards with access to small tax bases.”²⁹

(2) Changes to EDCs Specifically

18. When the EQIA took effect in 1998, it eliminated the most significant way that school boards could raise their own revenue (i.e. taxes).³⁰ EDCs remained, but these were curtailed by the legislative changes that took effect alongside the EQIA. In 1998, the *Development Charges Act* was repealed and its provisions governing EDCs were transferred to Part IX of the *Education Act*.³¹ A new regulation was created, O. Reg 20/98, and EDCs were further restricted in two notable ways:

- EDCs could not fund construction costs, only land and site preparation.³² From 1998, nearly all construction was funded by the province.³³ Prior to 1998, EDCs could be used to fund the cost of construction; and
- EDCs could not be imposed by school boards that maintain excess capacity. This is the Impugned Regulation.³⁴

²⁸ Bloye Affidavit, *supra* note 4 at para 13.

²⁹ *Ibid.*

³⁰ See e.g. *Education Act*, *supra* note 1 at s 257.106.

³¹ Bloye Affidavit, *supra* note 4 at para 14.

³² Clarke Affidavit, *supra* note 5 at para 18; Bloye Affidavit, *supra* note 4 at para 18; O Reg 20/98, ss 16, 16.1 [Impugned Regulation]. See also *Education Act*, *supra* note 1 at ss 257.53(2) and (3) for definition of “education land cost.”

³³ Clarke Affidavit, *supra* note 5 at para 18.

³⁴ Impugned Regulation, *supra* note 32 at s 10(2).

C. Current Legislative Framework

19. As noted, the EDC provisions were transferred in 1998 to the *Education Act*. This Act is comprehensive legislation that covers nearly every aspect of publicly-funded schools, such as discipline,³⁵ nutritional standards,³⁶ and teacher evaluations.³⁷ The provisions governing EDCs are located at Part IX of the *Education Act*, which is entitled “Finance.”³⁸

20. The Finance section governs the manner in which public education is funded. The power to impose EDCs is as follows:³⁹

257.54 (1) If there is residential development in the area of jurisdiction of a board that would increase education land costs, the board may pass by-laws for the imposition of education development charges against land in its area of jurisdiction undergoing residential or non-residential development.

21. The *Education Act* imposes many restrictions on this power. For instance, EDCs may not be imposed on development that enlarges existing dwellings or on certain industrial lands.⁴⁰ The board must hold a public meeting, conduct a review of EDC policies, and complete an EDC background study that includes estimates of projected students and costs.⁴¹ The OMB may order the repeal or amendment of an EDC by-law.⁴²

22. This *Education Act* also intends that this power will be further limited by regulation:

Conditions

257.54(6) The imposition of an education development charge by a board is subject to the prescribed conditions.

³⁵ See *Education Act*, *supra* note 1, Part XIII.

³⁶ See e.g. *Ibid.*, s 318.

³⁷ See *Ibid.*, Part X.3.

³⁸ *Ibid.*, Part IX.

³⁹ *Ibid.*, s 257.54(1).

⁴⁰ *Ibid.*, ss 257.54(2), 257.55.

⁴¹ *Ibid.*, ss 257.60(1)-(2), 257.61(1)-(2).

⁴² *Ibid.*, s 257.66(3).

23. The relevant regulation is at O. Reg. 20/98, and states: ⁴³

10. The following conditions are prescribed, for the purposes of subsection 257.54 (6) of the Act, as conditions that must be satisfied in order for a board to pass an education development charge by-law...

2. At least one of the following conditions:

i. The estimated average number of elementary school pupils...exceeds the total capacity of the board to accommodate elementary school pupils throughout its jurisdiction ...

ii. The estimated average number of secondary school pupils ... exceeds the total capacity of the board to accommodate secondary school pupils throughout its jurisdiction ...

24. These are not the only restrictions on EDCs imposed by O. Reg 20/98. The regulation excludes construction costs from the permissible uses of EDC revenue,⁴⁴ requires Ministerial approval for new student projections,⁴⁵ identifies the manner in which the EDC rate is calculated,⁴⁶ and defines classes of exempt properties.⁴⁷

D. Purpose of the Regulation and Problem of Empty Schools

25. The Impugned Regulation is designed to “encourage boards to ensure [that] their assets are managed as efficiently as possible.”⁴⁸ They are part of a regime designed to balance two goals: allow school boards experiencing accommodation pressures to acquire new sites, and, provide incentive for school boards to address underutilized schools.⁴⁹

⁴³ Impugned Regulation, *supra* note 32 at s 10 (*emphasis added*).

⁴⁴ *Ibid.*, s 16.

⁴⁵ *Ibid.*, s 10(1).

⁴⁶ *Ibid.*, s 7.

⁴⁷ *Ibid.*, ss 3-6.

⁴⁸ Bloye Affidavit, *supra* note 4 at para 27.

⁴⁹ *Ibid.*

26. The TDSB has over 65,000 excess spaces.⁵⁰ In 2018, it had 49 schools at under 50% capacity and another 41 schools at under 60% capacity.⁵¹ There were two high schools at 30% capacity.⁵² In 2015, the TDSB maintained schools with a population of 36, 66 and 82 students in each school.⁵³ According to the Bloye Affidavit, Clarke Affidavit, and the Notice of Application, the TDSB does not expect a surge of enrollment to alleviate this excess capacity.⁵⁴

27. There are several reasons why the TDSB has excess capacity. A Ministry consultant stated that “most of the secondary [school] stock was built on the assumption that the vast majority of secondary students would attend public high schools. That changed with the introduction of full funding to the Catholic system. Then, Grade 13 disappeared.”⁵⁵

28. A 2015 review of the TDSB articulated the problems associated with excess capacity:⁵⁶

- *Learning* - “program delivery in the secondary [school] panel can become problematic when enrollment drops below 700 students”;
- *Safety* - “empty spaces in buildings also create safety concerns”; and
- *Finances* - “each of the schools has a principal, teaching, staff and support staff, and all the buildings have to be equipped, heated, lit and maintained. They create a drain on the rest of the system.”

⁵⁰ *Ibid.*, para 58.

⁵¹ *Ibid.*, para 59.

⁵² *Ibid.*

⁵³ Margaret Wilson, “Review of the Toronto District School Board”, January 15, 2015, Exhibit 15 to the Bloye Affidavit, p 29 [Review of the TDSB].

⁵⁴ *Ibid.*; NOA, *supra* note 6 at para 33; Clarke Affidavit, *supra* note 5 at para 66.

⁵⁵ Review of the TDSB, *supra* note 53 at p 30.

⁵⁶ *Ibid.*, pp 29-30.

E. Regulation Does Not Prevent Buying Land For New Schools

29. The Impugned Regulation does not prevent boards with excess capacity from buying land for new schools – it only prevents them from levying a charge on new development to do so. Boards with excess capacity must apply to provincial programs to accommodate new students and justify the expense.

30. During the period that the Impugned Regulation has been in effect, the TDSB justified the purchase of land/schools to accommodate new students on a number of occasions, for example:

- In 2018, the Land Priorities Program funded the purchase of 1.8 acres in North York;⁵⁷
- Since 2003, the Capital Priorities Program funded 7 new schools, 9 additions, 9 retrofits and 4 demolitions;⁵⁸ and
- The TDSB has received capital funding for full-day kindergarten, school renovations, and child-care.⁵⁹

PART III – ISSUES AND THE LAW

31. The following are at issue on this Application:

- A. What is the scope and method of review? A challenge to the *vires* of a regulation is narrow, and involves assessing whether the regulation is completely unrelated to the enabling statute; and
- B. Is the Impugned Regulation Consistent? The Impugned Regulation is consistent with (1) the statutory grant of authority; (2) the Finance provisions of the *Education Act* and legislative trends in education funding; and (3) Iacobucci J.'s decision in *Ontario Home Builders*.

⁵⁷ Bloye Affidavit, *supra* note 4 at para 67.

⁵⁸ *Ibid.*, para 62.

⁵⁹ *Ibid.*, paras 54-56, 68-69, 71.

A. Scope of Review

32. The scope of review on this Application is narrow.⁶⁰ This *vires* inquiry does not involve assessing the policy merits of the regulation, for example, whether it is necessary or effective.⁶¹ It does not involve assessing political, economic, social or partisan considerations of the regulation.⁶² Motives underlying the enactment are immaterial.⁶³

33. Instead, the scope of review focuses on whether the regulations are “irrelevant,” “extraneous” or “completely unrelated” to the enabling statute.⁶⁴ Regulations benefit from “presumption of validity,” which “places the burden on challengers to demonstrate the invalidity of regulations” and “favours an interpretative approach that reconciles the regulation with its enabling statute so that, where possible, the regulation is construed in a manner which renders it *intra vires*.”⁶⁵

34. For a unanimous Supreme Court, Abella J. summarized the heavy burden on the Applicant:⁶⁶

In effect, although it is possible to strike down regulations as *ultra vires* on this basis [inconsistency], as Dickson J. observed, “it would take an egregious case to warrant such action.”

⁶⁰ *Wildlands League v Ontario (Lieutenant Governor in Council)*, 2015 ONSC 2942, para 27 (Div Ct), aff’d 2016 ONCA 741 (*Wildlands CA*). Note: *Katz Group* does not use the phrase “standard of review,” “correctness” or “reasonableness.” But see also Cote J.’s criticism of this approach in *West Fraser Mills Ltd. v. British Columbia*, [2018] 1 SCR 635 (dissent).

⁶¹ *Katz Group*, *supra* note 3 at para 27.

⁶² *Thorne’s Hardware Ltd. v R.*, [1983] 1 SCR 106, para 14; cited in *Katz Group*, *supra* note 3 at para 28.

⁶³ *Ontario Federation of Anglers & Hunters v Ontario (Ministry of Natural Resources)*, [2002] O.J. No. 1445, para 53 (CA); See also Sara Blake, *Administrative Law in Canada*, 6th ed (Markham: LexisNexis Canada, 2017) at para 5.14.

⁶⁴ *Katz Group*, *supra* note 3 at para 28; *Wildlands CA*, *supra* note 60 at paras 46, 88, 98.

⁶⁵ *Katz Group*, *supra* note 3 at para 25.

⁶⁶ *Ibid.*, para 28 (*emphasis added*).

B. Consistency with the Statutory Scheme

35. The Ontario Court of Appeal articulated the method of review in *Wildlands*:⁶⁷

The foundational question is whether the regulation is *ultra vires* such that it is inconsistent with the purpose of the Act.

This inquiry necessitates an understanding of the express regulation-making authority in the context of the enabling statute as a whole and the statutory scheme the legislature adopted to achieve that purpose.

As *Katz Group* instructs, the court is to look at the terminology of the enabling provision, qualified by the overriding requirement that the regulation accord with the purposes and objects of the parent enactment read as a whole.

36. In this case, the above analysis applies as follows with respect to the Impugned Regulation:

1. It is consistent with the statutory grant of authority;
2. It is consistent with the purpose of the enabling statute and legislative trends in education financing; and
3. It is consistent with *Ontario Home Builders*.

(1) Consistent with Grant of Authority

37. As noted, the statutory grant of authority is at s. 257.54(1) and (6) of the *Education Act*:⁶⁸

257.54 (1) If there is residential development in the area of jurisdiction of a board that would increase education land costs, the board may pass by-laws for the imposition of education development charges against land in its area of jurisdiction undergoing residential or non-residential development.

(6) The imposition of an education development charge by a board is subject to the prescribed conditions.

38. The Impugned Regulation constitutes a “condition” on the imposition of EDCs. The Applicant does not contest this.

⁶⁷ *Wildlands CA*, *supra* note 60 at para 88; see also *Katz Group*, *supra* note 3 at paras 30, 39.

⁶⁸ *Education Act*, *supra* note 1 at s 257.54 [*emphasis added*]; See also s 257.101(1).

(2) Consistent with Statutory Purpose & Legislative History

39. The Impugned Regulation encourages the efficient use of education funds, and in this regard, is consistent with the finance provisions of the *Education Act*. It mirrors the legislative history of publicly-funded education, whereby the province has assumed a greater portion of the cost and imposed greater oversight on school boards' finances.

40. In *Wildlands*, the Court of Appeal stated that legislative purpose is determined by looking at the whole statute:⁶⁹

"Purpose" here means the "perspective within which a statute is intended to operate" and "the policy and objects of the Act...determined by construing the Act as a whole"...

41. "Statutory purpose" also includes the means by which a legislative goal is achieved.⁷⁰

The "statutory purpose" branch of the *vires* analysis, however, does not focus only on the legislative aim, goal or objective of the statute, but requires an examination of the scheme the legislature adopted to achieve that goal...

Determining the purposes and objects of an Act in the context of a *vires* review therefore entails an examination of the scheme or approach that is adopted in order to achieve the legislative goal.

42. The goal of the *Education Act* is to deliver high-quality public education, and when reviewing the Act as a whole, efficient education funding is the means by which that purpose is attained. The provisions governing EDCs are located at Part IX of the *Education Act*, entitled "Finance." This section addresses education funding (e.g. per pupil grants,

⁶⁹ *Wildlands CA*, *supra* note 60 at para 90.

⁷⁰ *Ibid.*

EDCs, etc.).⁷¹ One hallmark of the “Finance” section and the regulations created thereunder are the restrictions and oversight mechanisms on the use of education funds.

43. For instance, the *Education Act* requires school boards to produce budget estimates,⁷² appoint an auditor and audit committee,⁷³ and provide financial statements to the Minister.⁷⁴ Boards cannot run a deficit unless authorized by the Minister or regulation.⁷⁵ The Minister can impose a Financial Recovery Plan on boards that run unauthorized deficits,⁷⁶ and when doing so, investigate their financial affairs and “give any directions to the board that he or she considers advisable to address the financial affairs.”⁷⁷

44. Similarly, the *Education Act* authorizes regulations that create restrictions and oversight on the use of funds. For example, regulations may be made prescribing accounting standards,⁷⁸ limiting debt,⁷⁹ “governing the borrowing of money,”⁸⁰ imposing conditions on investments,⁸¹ creating financial recovery plans,⁸² and restricting the use of revenue.⁸³

45. Examples of regulations that govern education financing are as follows:

- O. Reg. 361/10 requires that boards establish audit committees whose functions include financial oversight;⁸⁴

⁷¹ *Education Act*, *supra* note 1 at Part IX.

⁷² *Ibid.*, s 232(1).

⁷³ *Ibid.*, ss 253(1), 253.1(1).

⁷⁴ *Ibid.*, s 252(1).

⁷⁵ *Ibid.*, s 231(1).

⁷⁶ *Ibid.*, s 257.29.1.

⁷⁷ *Ibid.*, ss 257.30, 257.31.

⁷⁸ *Ibid.*, s 230.21(1).

⁷⁹ *Ibid.*, ss 242(1), 247(3).

⁸⁰ *Ibid.*, s. 247(3).

⁸¹ *Ibid.*, ss 241(1), 242.

⁸² *Ibid.*, s 257.29.1(5).

⁸³ *Ibid.*, s 233(3).

⁸⁴ O Reg 361/10, s 9(1).

- O. Reg. 41/10 imposes conditions on boards entering into price hedging agreements, investments and borrowing for permanent improvements;⁸⁵
- O. Reg. 444/98 imposes restrictions on boards proposing to sell, lease or grant easements on real property;⁸⁶ and
- O. Reg. 193/10 imposes restrictions on the use of certain types of funding, such as school renewal funding, temporary accommodation funding, and how money from the sale of property can be used.⁸⁷

46. The Impugned Regulation is no different than other provisions in the *Education Act* and its regulations that impose control and oversight over board finances. One purpose of the “Finance” section of the statutory scheme is to ensure that education funds are well spent. The Impugned Regulation has the same function. It restricts the ability of boards to buy land for new schools if they simultaneously have empty schools elsewhere in their jurisdiction. It compels these boards to make their case directly to the province if they seek funding for new schools, which the TDSB has been granted in some cases.

47. This system mirrors the increased levels of financial oversight brought in by the EQIA and the slow movement from a system where a significant portion of education was funded locally (e.g. taxes set by school boards) but is now largely funded by the province.

(3) Consistent with Ontario Home Builders

48. Contrary to the Applicant’s position, the Impugned Regulation is consistent with *Ontario Home Builders*. This case does not establish a right that “growth pays for growth”

⁸⁵ O Reg 41/10, ss 4 – 6, 9, 11-12.

⁸⁶ O Reg 444/98.

⁸⁷ O Reg 193/10, ss 4, 4.1.1, 6.2.

unconditionally, or that the EDC regime was intended to apply irrespective of whether the board maintains empty schools. Rather, *Ontario Home Builders* is a tax case. It states that EDCs are a constitutional indirect tax because they maintain a “meticulous” focus on recouping costs: EDCs only tax growth (new building permits) and are only used to pay for growth (new schools required by that new growth).⁸⁸ The Supreme Court explained in *Westbank*:⁸⁹

In *Ontario Home Builders*', *supra*, at p. 982, the charge levied was "meticulous in its detail" and "clearly operate[d] so as to limit recoupment to the actual costs"...

[T]here was a fairly close "nexus" between the estimated costs and the revenues raised through the regulatory scheme.

49. The “meticulous” focus of EDCs was achieved by the conditions on their use, collection and eligibility (cited in Section II(A) above). These conditions, as Iacobucci J. emphasized, rendered EDCs constitutional by focusing revenues on new rather than existing students:⁹⁰

Significantly, capital costs associated with existing schools, or the building of schools for existing pupils... cannot be defrayed through revenues raised by EDCs.

EDCs can only be directed toward education capital costs made necessary by new residential development. EDC revenue cannot be used to defray capital costs associated with existing schools; this is another indication that the scheme is properly limited.

50. The Impugned Regulation maintains the “meticulous” focus described by Iacobucci J. It limits the use of EDCs to *new* students. Significantly, it ensures that the scheme can not be

⁸⁸ *Ontario Home Builders*, *supra* note 2 at para 55.

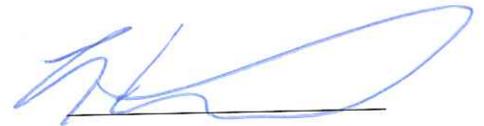
⁸⁹ *Westbank First Nation v British Columbia Hydro & Power Authority*, [1999] 3 SCR 134, para 27; see also *Reference re Greenhouse Gas Pollution Pricing Act*, 2019 SKCA 40, para 75.

⁹⁰ *Ontario Home Builders*, *supra* note 2 at paras 43, 55.

used to subsidize existing students, which is the basis of the EDC regime's constitutionality.

PART IV – ORDER REQUESTED

51. The Impugned Regulation is *intra vires* the *Education Act*. This Application should therefore be dismissed with costs.

A handwritten signature in blue ink, consisting of a stylized 'E' followed by a long horizontal stroke that loops back to the left.

Emtiaz Bala

TAB A

SCHEDULE “A” – LIST OF AUTHORITIES

1. *Ontario Home Builders' Assn v York Region Board of Education*, [1996] 2 SCR 929
2. *Katz Group Canada Inc. v Ontario (Minister of Health and Long-Term Care)*, 2013 SCC 64
3. *Ontario English Catholic Teachers' Assn. v Ontario (Attorney General)*, 2001 SCC 15
4. *Endicott v Ontario*, 2014 ONCA 363
5. *Wildlands League v Ontario (Lieutenant Governor in Council)*, 2015 ONSC 2942 (Div Ct);
6. *Wildlands League v Ontario (Lieutenant Governor in Council)*, 2016 ONCA 741
7. *West Fraser Mills Ltd. v. British Columbia (Workers' Compensation Appeal Tribunal)*, [2018] 1 SCR 635
8. *Thorne's Hardware Ltd. v R.*, [1983] 1 SCR 106
9. *Ontario Federation of Anglers & Hunters v Ontario (Ministry of Natural Resources)*, [2002] O.J. No. 1445 (CA)
10. *Westbank First Nation v British Columbia Hydro & Power Authority*, [1999] 3 SCR 134
11. *Reference re Greenhouse Gas Pollution Pricing Act*, 2019 SKCA 40

TAB B (1)

SCHEDULE "B"

Education Act, RSO 1990, c E 2

- Purpose [0.1]
- Interpretation and Other General Matters [1]
- PART I – MINISTRY OF EDUCATION AND TRAINING [2-17.1]
- PART II – SCHOOL ATTENDANCE [18-49.2]
- PART II.1 – MISCELLANEOUS [50-58]
- PART II.2 – DISTRICT SCHOOL BOARDS [58.1-58.9]
- PART III – SCHOOL AUTHORITIES – PUBLIC [59-76]
- PART IV – SCHOOL AUTHORITIES – ROMAN CATHOLIC [77-95]
- PART IV.1 – EXTENSION OF ROMAN CATHOLIC ELEMENTARY SCHOOLS [96-157]
- PART V – SCHOOL AUTHORITIES – PROTESTANT [158-169]
- PART VI – BOARDS [169.1-218.4]
- PART VII – BOARD MEMBERS – QUALIFICATIONS, RESIGNATIONS AND VACANCIES [219-229]
- PART IX – FINANCE [230.20-257.107]
 - DIVISION A – GENERAL [230.20-257.4]
 - DIVISION B – EDUCATION TAXES [257.5-257.14]
 - DIVISION C – TAXES SET BY BOARDS [257.15-257.29]
 - DIVISION C.1 – FINANCIAL RECOVERY PLANS [257.29.1]
 - DIVISION D – SUPERVISION OF BOARDS' FINANCIAL AFFAIRS [257.53-257.52]
 - DIVISION E – EDUCATION DEVELOPMENT CHARGES [257.53-257.52]**
 - DIVISION F – REVIEW OF EDUCATION FUNDING [257.106-257.107]
- PART IX.1 – EXTENDED DAY PROGRAMS AND THIRD PARTY PROGRAMS [258.260.9]
- PART X – TEACHERS, DESIGNATED EARLY CHILDHOOD EDUCATORS, PUPIL RECORDS AND EDUCATION NUMBERS [261-266.5]
- PART X.0.1 – NEW TEACHER INDUCTION [267-277.13.2]
- PART X.2 – TEACHER PERFORMANCE APPRAISAL [277.14-277.45]
- PART X.3 – DESIGNATED EARLY CHILDHOOD EDUCATORS – INDUCTION, PERFORMANCE, APPRAISAL AND REPORTING OBLIGATIONS [277.46-277.50]
- PART XI – SUPERVISORY OFFICERS [278-287.1]
- PART XI.1 – PERFORMANCE APPRAISAL OF PRINCIPALS, VICE-PRINCIPALS AND SUPERVISORY OFFICERS [287.2-287.7]
- PART XII – LANGUAGE OF INSTRUCTION [288.299]
- PART XIII – BEHAVIOUR, DISCIPLINE AND SAFETY [300-316]
- PART XIII.1 – PUPIL HEALTH [317-326]
- PART XIV – MATTERS RELATED TO 1997-1998 SCHOOL SYSTEM REFORMS [327-351.1]

Purpose

Strong public education system

0.1 (1) A strong public education system is the foundation of a prosperous, caring and civil society.

Purpose of education

(2) The purpose of education is to provide students with the opportunity to realize their potential and develop into highly skilled, knowledgeable, caring citizens who contribute to their society.

Partners in education sector

(3) All partners in the education sector, including the Minister, the Ministry and the boards, have a role to play in enhancing student achievement and well-being, closing gaps in student achievement and maintaining confidence in the province's publicly funded education systems.

Interpretation and Other General Matters

Interpretation, other general matters

1 (1) In this Act and the regulations, except where otherwise provided in the Act or regulations,

“business property” means business property as defined in section 257.5;

“current expenditure” means an expenditure, for operating purposes or for a permanent improvement, from funds other than funds,

- (a) advanced under a mortgage, or
- (b) arising from the sale of a debenture or an instrument prescribed under clause 247 (3)
- (f), from a capital loan or from a loan pending the sale of a debenture or such an instrument;

“current revenue” means all amounts earned by a board, together with the amounts to which it becomes entitled, other than by borrowing, that may be used to meet its expenditures;

“debt charge” means the amount of money necessary annually,

- (a) to pay the principal due on long-term debt not payable from a sinking fund, a retirement fund or a fund prescribed under clause 247 (3) (e),
- (b) to provide a fund for the redemption of debentures or instruments prescribed under clause 247 (3) (f) payable from a sinking fund, a retirement fund or a fund prescribed under clause 247 (3) (e), and
- (c) to pay the interest due on all debt referred to in clauses (a) and (b);

“permanent improvement” includes,

- (a) a school site and an addition or improvement to a school site,
- (b) a building used for instructional purposes and any addition, alteration or improvement to a building used for instructional purposes,
- (c) any addition, alteration or improvement to an administration building,
- (d) a teacher’s residence or caretaker’s residence, a storage building for equipment and supplies, and any addition, alteration or improvement to such a residence or storage building,
- (e) furniture, furnishings, library books, instructional equipment and apparatus, and equipment required for maintenance of the property described in clauses (a) to (d) or in clause (f),
- (f) a bus or other vehicle, including watercraft, for the transportation of pupils,
- (g) the obtaining of a water supply or an electrical power supply on the school property or the conveying of a water supply or an electrical power supply to the school from outside the school property,
- (h) initial payments or contributions for past service pensions to a pension plan for officers and other employees of the board,
- (i) any property, work, undertaking or matter prescribed under subsection (6);

“reserve fund” means a reserve fund established under section 417 of the *Municipal Act, 2001* or section 7 or 8 of the *City of Toronto Act, 2006*, as the case may be;

**PART IX
FINANCE
DIVISION A
GENERAL**

INTERPRETATION

Definitions

230.20 (1) In this Part,

“accumulated deficit” means the amount, if any, by which the total of a board’s current and prior in-year deficits exceeds the total of its current and prior in-year surpluses;

“accumulated surplus” means the amount, if any, by which the total of a board’s current and prior in-year surpluses exceeds the total of its current and prior in-year deficits;

“deferred revenue” means, in respect of a board, the total of,

- (a) all amounts that the board is required to restrict under subsection 233 (3), and
- (b) all amounts that are subject to restrictions on the school purposes for which they may be used by the board, where the restrictions may be legally enforced against the board by another body or entity;

“in-year deficit” means the amount, if any, by which a board’s expenses in a fiscal year exceed its revenues in that fiscal year;

“in-year surplus” means the amount, if any, by which a board’s revenues in a fiscal year exceed its expenses in that fiscal year;

“operating revenue” has the meaning prescribed by the regulations.

Regulations

(2) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the meaning of “operating revenue”;
- (b) prescribing revenues, expenses or other matters to be included or excluded in the determination of a board’s accumulated deficit, accumulated surplus, in-year deficit or in-year surplus, and providing that the regulation applies only in respect of specified provisions of this Act. 2009, c. 34, Sched. I, s. 4.

Fiscal year

(3) The fiscal year of a board is the year from September 1 to August 31.

IN-YEAR DEFICITS

Regulations re accounting standards

- 230.21 (1)** The Lieutenant Governor in Council may make regulations,
- (a) prescribing accounting standards with which boards must comply in preparing their financial statements;
 - (b) phasing in or authorizing boards to phase in any changes to accounting standards to their budgets over a period of years, and governing the phase-in.

Same

- (2) A regulation made under subsection (1) may,
- (a) incorporate a document or publication as it may be amended from time to time; and
 - (b) apply in respect of the fiscal year in which the regulation is made, even if the regulation is made after the start of the fiscal year.

No in-year deficit

- 231 (1)** A board shall not have an in-year deficit for a fiscal year unless,
- (a) a regulation made under subsection (2) authorizes the board to have an in-year deficit; or
 - (b) the Minister approves the deficit in accordance with any regulations made under subsection (3).

Regulations, subs. (1) (a)

- (2) The Lieutenant Governor in Council may make regulations for the purposes of clause (1) (a) authorizing a board to have an in-year deficit and prescribing,
- (a) the circumstances in which a board may have an in-year deficit;
 - (b) the maximum amount of in-year deficit a board may have; and
 - (c) the method of determining the maximum amount of in-year deficit a board may have.

Regulations, subs. (1) (b)

- (3) The Lieutenant Governor in Council may make regulations for the purposes of clause (1) (b) requiring the Minister to consider factors when approving an in-year deficit and prescribing those factors.

Exception

- (4) Despite subsection (1), a board may have an in-year deficit if the deficit is permitted as part of a financial recovery plan under Division C.1 or if the board is subject to an order under subsection 230.3 (2) or 257.31 (2) or (3), and, if applicable, the amount of such an in-year deficit may be greater than the amount determined pursuant to a regulation made under subsection (2) of this section or the amount approved by the Minister, as the case may be.

ESTIMATES

Board shall adopt estimates

232 (1) Every board, before the beginning of each fiscal year and in time to comply with the date set under clause (6) (c), shall prepare and adopt estimates of its revenues and expenses for the fiscal year.

Same

(2) Where final financial statements are not available, the calculation of any amount for the purposes of this Act or the regulations shall be based on the most recent data available.

Balanced budget

(3) A board shall not adopt estimates that indicate the board would have an in-year deficit for the fiscal year.

Exception

(4) Despite subsection (3), a board may adopt estimates for a fiscal year that indicate the board would have an in-year deficit for the fiscal year if,

(a) a regulation is made under subsection 231 (2) and the estimated in-year deficit would be equal to or less than the maximum amount determined in accordance with that regulation;

(b) the Minister has approved a deficit under clause 231 (1) (b) and the estimated in-year deficit would be equal to or less than the amount approved by the Minister;

(c) an in-year deficit is permitted as part of a financial recovery plan under Division C.1; or

(d) the board is subject to an order under subsection 230.3 (2) or 257.31 (2) or (3).

Minister's approval

(5) In deciding whether to grant his or her approval for a fiscal year for the purpose of clause (4) (b), the Minister shall consider the factors set out in subsection 231 (3).

Minister's powers

(6) The Minister may,

(a) issue guidelines respecting the form and content of estimates required under this section;

(b) require boards to comply with the guidelines; and

(c) require boards to submit a copy of the estimates to the Ministry, by a date specified for the purpose by the Minister.

Same

(7) Part III (Regulations) of the *Legislation Act, 2006* does not apply to anything done by the Minister under subsection (6).

Restrictions

233 (1) A board may by resolution restrict the use of all or part of its accumulated surplus for any purpose for which it has authority to incur expenses

Same

(2) Amounts restricted for a purpose under subsection (1) shall not be expended, pledged or applied to any other purpose unless the board by resolution provides for the expenditure, pledge or application.

Regulations re restrictions

(3) The Minister may make regulations requiring a board to restrict, in the manner and to the extent specified in the regulations, the use of any revenue for the purposes specified in the regulations.

Exemption

(4) Amounts restricted for a purpose under a provision of a regulation made under subsection (3) shall not be expended, pledged or applied to any other purpose unless the Minister, in writing and subject to such conditions as may be specified, exempts the board from the provision and provides that the board may use the revenue for a specified purpose.

Money to be paid into bank account

(5) A board may consolidate deferred revenue and any accumulated surplus restricted under subsection (1) or (3) if the consolidated account is kept in such a way that the purposes for which the amounts are restricted remain distinct and the true state of the amount attributable to each purpose can be determined.

Interest

(6) Interest or other earnings on a portion of deferred revenue restricted for a purpose shall be credited only to that portion.

Restrictions following strike, lock-out

233.1 The Minister, subject to the approval of the Lieutenant Governor in Council, may make regulations providing for the calculation of expenses of a board that are not incurred in a fiscal year by reason of a strike or lock-out affecting the operations of the board.

Transition

233.2 (1) All amounts held or required to be held in reserve funds by section 232 or 233 of this Act, as it read immediately before the day section 4 of Schedule I to the *Ontario Tax Plan for More Jobs and Growth Act, 2009* came into force, are deemed to be amounts restricted under subsection 233 (3) for the same purposes for which the amounts were held in reserve funds.

Same

(2) All amounts held in education development charge reserve funds authorized or continued under this Act, as it read immediately before the day section 4 of Schedule I to the *Ontario Tax Plan for More Jobs and Growth Act, 2009* came into force, are deemed to be amounts restricted under subsection 233 (3) for the same purposes for which the amounts were held in reserve funds.

Same

(3) All amounts held in reserve funds of boards authorized or continued under this Act, as it read immediately before the day section 4 of Schedule I to the *Ontario Tax Plan for More Jobs and Growth Act, 2009* came into force, other than amounts held in a reserve fund described in

subsection (1) or (2), are deemed to be amounts restricted under subsection 233 (1) for the same purposes for which the amounts were held in reserve funds.

Restrictions

(4) Any restrictions that, immediately before the day section 4 of Schedule I to the *Ontario Tax Plan for More Jobs and Growth Act, 2009* came into force, applied to amounts held in reserve funds described in subsection (1), (2) or (3) continue to apply to the amounts on and after that day.

LEGISLATIVE AND MUNICIPAL GRANTS

Legislative grants

234 (1) Subject to subsections (2) and (3), the Lieutenant Governor in Council may make regulations governing the making of grants, from money appropriated by the Legislature,

- (a) for educational purposes;
- (b) for the construction of child care facilities;
- (c) for the construction of facilities for the co-ordination and provision of services and programs that,
 - (i) promote healthy emotional, social and physical development in children,
 - (ii) help children succeed in school, or
 - (iii) provide other assistance, advice, education or training relating to the care and development of children;
- (d) to promote the use of school buildings and premises by community groups and to allow community groups to use such buildings and premises.

Same

(1.1) A regulation made under subsection (1) may set out rules respecting the number of instalments in which payments of legislative grants shall be paid to boards, the dates on which the payments shall be made and the amounts of the payments as a percentage of the total amount payable to the boards.

Same

(2) Regulations made under subsection (1) shall ensure that the legislation and regulations governing education funding operate in a fair and non-discriminatory manner,

- (a) as between English-language public boards and English-language Roman Catholic boards; and
- (b) as between French-language public district school boards and French-language separate district school boards.

Same

(3) Regulations made under subsection (1) shall ensure that the legislation and regulations governing education funding operate so as to respect the rights given by section 23 of the *Canadian Charter of Rights and Freedoms*.

Same

(4) Without limiting the generality of subsection (1), a regulation made under subsection (1) may,

- (a) provide for the method of calculating or determining any thing for the purposes of calculating or paying all or part of a legislative grant;

- (b) prescribe the conditions governing the calculation or payment of all or part of a legislative grant;
- (c) authorize the Minister to,
 - (i) withhold all or part of a legislative grant or delay payment of an instalment of a legislative grant if a condition of the legislative grant is not satisfied, or
 - (ii) require that all or part of a legislative grant be repaid if a condition of the grant is not satisfied.

Same

(5) Without limiting the generality of clause (4) (b), the approval or confirmation of the Minister of any thing may be prescribed in a regulation made under subsection (1) as a condition governing the calculation or payment of all or part of a legislative grant.

Additional powers of Minister

(6) The Minister may, for the purposes of the calculation and payment of legislative grants, prescribe the standards that shall be attained by a community group in respect of the provision of adult basic education under subsection 189 (3) and the criteria that shall be used to determine whether the standards are attainable.

Same

- (7) A regulation made under subsection (1),
- (a) may be general or particular in its application; and
 - (b) may be made to apply with respect to any period specified in the regulation including a period before the regulation is made.

Payment schedule

(8) The Minister may, in accordance with any rules referred to in subsection (1.1), prescribe the number of instalments in which payments of legislative grants shall be paid to boards, the dates on which the payments shall be made and the amounts of the payments as a percentage of the total amount estimated by the Minister to be payable to the boards

Legislation Act, 2006, Part III

(9) An act of the Minister under this section is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*.

Definition

- (14) In subsections (2) and (3) and in Division F,
- “education funding” means revenue available to a board,
- (a) from grants made under subsection (1),
 - (b) from taxes under Division B of this Act or Part IX of the *Municipal Act, 2001* or Part XI of the *City of Toronto Act, 2006*, as the case may be, other than taxes for the purposes of,
 - (i) paying a board’s share of the amount of any cancellation, reduction, refund or rebate of taxes under section 361, 364, 365 or 365.2 of the *Municipal Act, 2001* or

- under section 329, 331, 332 or 334 of the *City of Toronto Act, 2006*, as the case may be,
- (ii) paying a board's share of the amount of the tax assistance provided under section 365.1 of the *Municipal Act, 2001* or under section 333 of the *City of Toronto Act, 2006*, as the case may be,
 - (iii) paying rebates or reducing taxes under section 257.2.1 or 257.12.3 of this Act, or
 - (iv) paying the board's share of any amount that was deferred, cancelled or refunded under section 8 of the *Provincial Land Tax Act, 2006* by reason of clause 8 (1) (a), (b), (c), (d), (f) or (h) of that Act or under a regulation made under clause 25 (1) (f), (h) or (i) of that Act; and
- (c) from education development charges under Division E.

Note: The amendments made by the Statutes of Ontario, 1998, chapter 33 apply, except where the context otherwise requires, with respect to the entire 1998 taxation year not just that portion of it that follows December 18, 1998. See: 1998, c. 33, s. 47 (1).

Boards to share in municipal grants

Definition

235 (1) In this section,
“municipality” includes an upper-tier municipality.

Same

(2) All grants, investments and allotments made by a municipality or by a local board of a municipality for education purposes, including but not limited to grants referred to in section 107 of the *Municipal Act, 2001* or section 83 of the *City of Toronto Act, 2006*, as the case may be, shall be shared in accordance with subsection (3) among the boards whose area of jurisdiction is all or partly the same as the area of jurisdiction of the municipality or the local board.

Same

(3) The share of a board shall be determined by comparing the average number of pupils enrolled at the schools of the board in the area of jurisdiction of the municipality or the local board of the municipality making the grant, investment or allotment during the preceding 12 months, or during the number of months that have elapsed since the establishment of the board if it is a new board, as compared with the whole average number of pupils enrolled at the schools of all boards in the area of jurisdiction of the municipality or the local board.

BOARD SUPPORT

Notice re status as supporter

English-language public board

236 (1) An individual who is an owner or tenant of residential property in the area of jurisdiction of any board or outside the area of jurisdiction of all boards but within a municipality, is entitled, on application under section 16 of the *Assessment Act* to the assessment commissioner for the area

in which the property is located, to have his or her name included or altered in the assessment roll as an English-language public board supporter.

English-language Roman Catholic board

(2) An individual who is a Roman Catholic and an owner or tenant of residential property in the area of jurisdiction of an English-language Roman Catholic board is entitled, on application under section 16 of the *Assessment Act* to the assessment commissioner for the area in which the property is located, to have his or her name included or altered in the assessment roll as an English-language Roman Catholic board supporter.

French-language public district school board

(3) An individual who is a French-language rights holder and an owner or tenant of residential property in the area of jurisdiction of a French-language public district school board is entitled, on application under section 16 of the *Assessment Act* to the assessment commissioner for the area in which the property is located, to have his or her name included or altered in the assessment roll as a French-language public district school board supporter.

French-language separate district school board

(4) An individual who is a Roman Catholic, a French-language rights-holder and an owner or tenant of residential property in the area of jurisdiction of a French-language separate district school board is entitled, on application under section 16 of the *Assessment Act* to the assessment commissioner for the area in which the property is located, to have his or her name included or altered in the assessment roll as a French-language separate district school board supporter.

Protestant separate school board

(5) An individual who is a Protestant and who occupies residential property as owner or tenant in a municipality in which a Protestant separate school board is established, is entitled, on application under section 16 of the *Assessment Act* to the assessment commissioner for the area in which the property is located, to have his or her name included or altered in the assessment roll as a Protestant separate school board supporter.

School support, partnership or corporation other than designated ratepayer

237 (1) In this section,

“**partnership**” means partnership within the meaning of the *Partnerships Act*.

Non-application to designated ratepayer

(2) This section does not apply to a corporation that is a designated ratepayer as defined in subsection 238 (1).

Right of corporation or partnership

(3) Subject to subsections (9) and (11), a corporation or partnership by notice to the assessment commissioner in a form approved by the Minister of Finance under the *Assessment Act* may,

- (a) require the whole or any part of its assessment for residential property that it owns and that is within the jurisdiction of an English-language Roman Catholic board to be entered and assessed for English-language Roman Catholic board purposes;
- (b) require the whole or any part of its assessment for residential property that it owns and that is within the jurisdiction of a French-language separate district school board to be entered and assessed for French-language separate district school board purposes; or
- (c) require the whole or any part of its assessment for residential property that it owns and that is within the jurisdiction of a French-language public district school board to be entered and assessed for French-language public district school board purposes.

Duty of assessment commissioner

(4) On receiving a notice under subsection (3) from the corporation or partnership, the assessment commissioner shall enter separately on the assessment roll to be next returned the corporation's or partnership's school support for each type of board specified in the notice.

Same

(5) The assessment commissioner shall separately enter and assess for English-language public board purposes any assessment of the corporation or partnership not specified in the notice.

Notice to clerk

(6) The assessment commissioner, on receipt of the notice from the corporation or partnership, shall forward a copy of the notice to the clerk of the municipality in which the residential property referred to in the notice is located.

Duty of clerk

(7) On receiving the notice from the assessment commissioner, the clerk shall enter the corporation or partnership in the tax roll and enter separately the corporation's or partnership's school support for each type of board specified in the notice.

Same

(8) The clerk shall separately enter and show as assessed for English-language public board purposes any assessment of the corporation or partnership not specified in the notice

Re corporation

(9) The portions of an assessment of a corporation that are assessed other than for English-language public board purposes shall not bear a greater proportion to the whole assessment of the corporation than,

- (a) in the case of assessment assessed for English-language Roman Catholic board purposes, the number of shares held in the corporation by supporters of an English-language Roman Catholic board bears to the total number of shares of the corporation issued and outstanding;
- (b) in the case of assessment assessed for French-language separate district school board purposes, the number of shares held in the corporation by supporters of a French-language separate district school board bears to the total number of shares of the corporation issued and outstanding; and

(c) in the case of assessment assessed for French-language public district school board purposes, the number of shares held in the corporation by supporters of a French-language public district school board bears to the total number of shares of the corporation issued and outstanding.

Same

(10) Subsection (9) does not apply to a corporation without share capital or a corporation sole.

Re partnership

(11) The portions of an assessment of a partnership that are assessed other than for English-language public board purposes shall not bear a greater proportion to the whole assessment of the partnership than,

(a) in the case of assessment assessed for English-language Roman Catholic board purposes, the interest of partners who are supporters of an English-language Roman Catholic board in the assets giving rise to the assessment bears to the whole interest of the partnership in the assets giving rise to the assessment;

(b) in the case of assessment assessed for French-language separate district school board purposes, the interest of partners who are supporters of a French-language separate district school board in the assets giving rise to the assessment bears to the whole interest of the partnership in the assets giving rise to the assessment; and

(c) in the case of assessment assessed for French-language public district school board purposes, the interest of partners who are supporters of a French-language public district school board in the assets giving rise to the assessment bears to the whole interest of the partnership in the assets giving rise to the assessment.

School support if corporation, partnership is tenant

(12) A corporation or partnership that is a tenant of residential property may, subject to subsection (13), by notice to the assessment commissioner in a form approved by the Minister of Finance under the *Assessment Act* indicate the board or boards to which it wishes the amounts levied under section 257.7 in respect of such property to be distributed and the proportions of the amounts to be distributed to each board, and the amounts shall be distributed to the board or boards in the proportions indicated in the notice, and any portion of the amounts not indicated in the notice to be distributed to a specific board shall be distributed to the English-language public board that has jurisdiction in the area in which the property is located.

Application of subss. (9), (10), (11), (14), (15) and (16)

(13) Subsections (9), (10), (11), (14), (15) and (16) apply with necessary modifications to a notice given under subsection (12).

Effect of notice

(14) A notice given by a corporation under this section pursuant to a resolution of the directors or other persons having control or management over the affairs of the corporation is sufficient and shall continue in force and be acted on until it is withdrawn, varied or cancelled by a notice subsequently given by the corporation pursuant to a resolution of the directors or those other persons.

Same

(15) A notice given by a partnership under this section is sufficient if signed by a partner and shall continue in force and be acted on until it is withdrawn, varied or cancelled by a notice subsequently given by a partner.

Inspection of notices

(16) Every notice given under this section shall be kept by the assessment commissioner in his or her office, and shall at all convenient hours be open to inspection and examination.

Type of board

(17) For the purposes of subsections (4) and (7), the following are types of boards:

1. English-language Roman Catholic boards.
2. French-language public district school boards.
3. French-language separate district school boards

School support, designated ratepayers

238 (1) In this section,

“**common jurisdictional area**”, in respect of two or more boards, means the area that is within the area of jurisdiction of both or all of those boards;

“**designated ratepayer**” means,

- (a) the Crown in right of Canada or a province,
- (b) a corporation without share capital or corporation sole that is an agency, board or commission of the Crown in right of Canada or a province,
- (c) a municipal corporation,
- (d) a corporation without share capital that is a local board as defined in the *Municipal Affairs Act*,
- (e) a conservation authority established by or under the *Conservation Authorities Act* or a predecessor of that Act, or
- (f) a public corporation;

“**public corporation**” means,

- (a) a body corporate that is, by reason of its shares, a reporting issuer within the meaning of the *Securities Act* or that has, by reason of its shares, a status comparable to a reporting issuer under the law of any other jurisdiction,
- (b) a body corporate that issues shares that are traded on any market if the prices at which they are traded on that market are regularly published in a newspaper or business or financial publication of general and regular paid circulation, or
- (c) a body corporate that is, within the meaning of subsections 1 (1) and (2), clause 1 (3) (a) and subsections 1 (4), (5) and (6) of the *Securities Act*, controlled by or is a subsidiary of a body corporate or two or more bodies corporate described in clause (a) or (b) and, for the purposes of this clause, the expression “more than 50 per cent of the votes” in the second and third lines of clause 1 (3) (a) of the *Securities Act* shall be deemed to read “50 per cent or more of the votes.

Distribution of taxes

(2) The rates levied under Division B on the property of a designated ratepayer shall be distributed and paid in accordance with sections 257.8 and 257.9.

Tenant support re distribution of amounts levied

239 (1) Where residential property is occupied by a tenant, the amounts levied under section 257.7 in respect of that property shall be distributed to the board of which the tenant is a supporter.

If tenant is corporation or partnership

(2) If a tenant referred to in subsection (1) is a corporation or partnership referred to in section 237, for the purposes of subsection (1), the tenant shall be deemed to be a supporter of each board indicated in the notice given by the tenant under subsection 237 (12) or to be a supporter of the English-language public board as provided for by that subsection, and the amounts levied under section 257.7 in respect of the property occupied by the tenant shall be distributed to the boards of which the tenant is deemed to be a supporter in accordance with the notice and with subsection 237 (12).

If tenant is designated ratepayer

(3) If a tenant referred to in subsection (1) is a designated ratepayer as defined in subsection 238 (1), for the purposes of subsection (1), the tenant shall be deemed to be a supporter of each board in whose jurisdiction the property occupied by the tenant is located and the amounts levied under section 257.7 in respect of that property shall be distributed to each of those boards in the same manner as the amounts levied on the business property of a designated ratepayer are distributed under section 257.8.

Amount to be levied if multiple tenants

(4) If a parcel of residential property is occupied by more than one tenant, the amounts levied in respect of the property occupied by each tenant shall be determined as though the assessed value of the property occupied by each tenant were the assessment attributable to that tenant under subsection 14 (3) of the *Assessment Act*.

Agreement between owner and tenant

(5) Where the person who occupies residential property is a tenant, no agreement between the owner and the tenant as to the application of taxes for school purposes as between themselves alters or affects subsections (1), (2), (3) or (4).

Conflict

(6) Subsections (1), (2), (3) and (4) prevail in the event of a conflict between those subsections and section 237, subsection 238 (2) or section 257.9.

SCHOOL RATE: CERTAIN CIRCUMSTANCES

School rate: certain circumstances

240 (1) Where, in a municipality,

(a) a person is entered on the tax roll as an English-language public board supporter and there is no English-language public board to which school rates if levied in any year on the taxable property of the person in the municipality, may be paid; or

(b) a designated ratepayer as defined in subsection 238 (1) is entered on the tax roll and there is no board to which school rates if levied in any year on the taxable property of the designated person in the municipality, may be paid,

there shall be levied and collected annually on the taxable property of the person referred to in clause (a) or of the designated ratepayer referred to in clause (b), as the case may be, in the municipality the same rates as are prescribed under section 257.12.

Interpretation, taxable property

(1.1) For the purposes of subsection (1), taxable property is property that is rateable property for the purposes of the *Municipal Act, 2001*.

Reserve account

(2) The money raised under subsection (1) shall be deposited in a reserve account for English-language public board purposes and may be invested in the securities prescribed under clause 241 (6) (b), **subject to the rules prescribed by the regulations** for the purposes of subsection 241 (1), and for the purpose “invest” and “securities” have the same meaning as in section 241. 1997, c. 31, s. 113 (1);

Same

(3) The earnings from the investments under subsection (2) shall form part of the reserve account.

Use of money in account

(4) Subject to subsection (5), where, in a municipality referred to in subsection (1), a district school area board is organized and makes provision for the education of its resident pupils, the municipal council shall pay over to the board the money that is held by the municipality under this section, and the money,

(a) shall be used for expenditures for permanent improvements for the purposes of the board that the board considers expedient; and

(b) shall be used for any other purpose approved by the Minister, in the amounts and over the periods that are approved by the Minister. 1997, c. 31, s. 113 (1).

Application in area of jurisdiction of a public district school board

(5) Where a municipality referred to in subsection (1) becomes part of the area of jurisdiction of an English-language public district school board, the municipal council shall pay over to the English-language public district school board the money that is held by the municipality and the money shall be used as set out in clause (4) (b). 1997, c. 31, s. 113 (1).

Subclass reductions

(6) Section 313 of the *Municipal Act, 2001* or section 278 of the *City of Toronto Act, 2006*, as the case may be, applies with necessary modifications with respect to the rates levied under this section.

BORROWING AND INVESTMENT BY BOARDS

Investment powers

241 (1) A board may, subject to any rules prescribed under subsection (6), invest in securities prescribed under subsection (6) any money of the board that is not immediately required by the board.

Regulations

(6) The Lieutenant Governor in Council may make regulations,

- (a) prescribing rules for the purposes of subsection (1);
- (b) prescribing securities or classes of securities for the purposes of subsection (1);
- (c) providing that a board does not have the power under this section to invest in the securities or classes of securities specified in the regulation.

General or particular

(7) A regulation under subsection (6) may be general or particular in its application and may be made to apply to any class of board and for the purpose a class may be defined with respect to any attribute and may be defined to consist of or to exclude any specified member of the class, whether or not with the same attributes.

Definitions

(10) In this section,

“invest” includes purchase, acquire, hold and enter into;

“securities” includes financial agreements, investments and evidences of indebtedness.

Debt, financial obligation and liability limits

242 (1) The Lieutenant Governor in Council may make regulations providing for debt, financial obligation and liability limits for boards or classes of boards including,

- (a) defining the types of debt, financial obligation or liability to which the limits applies and prescribing the matters to be taken into account in calculating the limits;
- (b) prescribing the amounts to which the debts, financial obligations and liabilities under clause (a) shall be limited;
- (c) requiring a board to apply for the approval of the Minister for each specific work or class of works, the amount of debt for which, when added to the total amount of any outstanding debt, financial obligation or liability under clause (a), causes a limit under clause (b) to be exceeded;
- (d) prescribing rules, procedures and fees for the determination of the debt, financial obligation and liability limits of a board;
- (e) establishing conditions that must be met by a board before undertaking any, or any class of, debt, financial obligation or liability.

Approval to exceed limit

(2) A board shall not incur a debt, financial obligation or liability that would cause it to exceed a limit prescribed under clause (1) (b) unless it first obtains the approval of the Minister.

Risk management activities

(3) The Lieutenant Governor in Council may make regulations allowing a board to engage in risk management activities as defined in the regulation in the circumstances specified in the regulation in order to hedge the risks specified in the regulation under or in connection with any debt instrument, financial obligation or liability of a board.

General or particular

(4) A regulation made under this section can be general or particular. 1997, c. 31, s. 113 (1).
Classes

(5) A class may be defined with respect to any attribute and may be defined to consist of or to exclude any specified member of the class, whether or not with the same attributes.

Debentures issued by boards

242.1 (1) This Act, as it read immediately before the day the *Student Achievement and School Board Governance Act, 2009* received Royal Assent, continues to apply with respect to debentures issued by boards before that day.

Transition

(2) Subsection (1) does not prevent regulations made under subsection 241 (6) or clause 247 (3) (b) after the day the *Student Achievement and School Board Governance Act, 2009* receives Royal Assent from applying to investments held by sinking funds or retirement funds immediately before that day.

Current borrowing

243 (1) Despite the provisions of any Act, a board may by resolution authorize the treasurer and the chair or vice-chair to borrow from time to time the sums that the board considers necessary to meet the current expenditures of the board until the current revenue has been received.

Debt charges

(2) A board may borrow the sums that the board considers necessary to meet debt charges payable in any fiscal year until cash has been received.

Limit

(3) The amounts that a board may borrow at any one time for the purposes mentioned in subsections (1) and (2), together with the total of any similar borrowings that have not been repaid and any accrued interest on those borrowings, shall not exceed the unreceived balance of the estimated current revenues of the board.

Exception re certain boards

(5) A board may borrow more than the amount authorized to be borrowed under the other provisions of this section if, at the time of the borrowing,

(a) the board is subject to a financial recovery plan approved by the Minister under subsection 257.29.1 (2), and the plan permits the borrowing; or

(b) the administration of the affairs of the board has been vested in the Ministry by an order under subsection 230.3 (2) or 257.31 (2) or (3), and the Minister approves the borrowing.

Approval of Minister

(7) The Minister may make his or her approval under subsection (6) subject to any terms that he or she considers appropriate.

Definition

(9) In this section, “current revenue”, “estimated revenues” and “revenues” do not include revenue from education development charges.

Provincial guarantee, certain instruments

244 (1) The Lieutenant Governor in Council may by order authorize the Minister of Finance to guarantee payment by the Province of the principal, interest and premium of debt instruments or other instruments prescribed under clause 247 (3) (f) issued by a board or other debt instruments issued by a corporation established under subsection 248 (1) and any such authorization may relate to a single instrument or to a class of instruments as such class is defined in the authorizing order in council.

Form of guarantee

(2) The form of the guarantee and the manner of its execution shall be determined by order of the Lieutenant Governor in Council, and every guarantee executed in accordance with the order is conclusive evidence of the guarantee.

Validity of guaranteed instruments

(3) Any debt instrument prescribed under clause 247 (3) (f) or other debt instrument, payment of which is guaranteed by the Province under this section, is valid and binding on the board or corporation by which it is issued according to its terms.

Payments re certain debentures

245 (1) In this section, section 246 and subsection 247 (5),

“**debenture**”, in the case of a Roman Catholic board or of an old board that operated Roman Catholic schools, includes a mortgage;

“**general revenue**” means, in respect of a board,

- (a) the amounts levied for school purposes that a board receives under Division B, and
 - (b) the legislative grants received by the board that are made under subsection 234 (1);
- “**municipality**” includes an upper-tier municipality and Metro within the meaning of the *City of Toronto Act, 1997 (No. 2)* as it read the day before its repeal by the *Stronger City of Toronto for a Stronger Ontario Act, 2006*.

Payments re debentures issued by school authorities, old boards

(2) During the currency of a debenture issued by a school authority or an old board before this section comes into force, the school authority that issued the debenture or a board that assumed the obligation for a debenture issued by an old board shall,

- (a) provide in its estimates for each fiscal year for setting aside out of its general revenue in the fiscal year the amount necessary to pay the principal and interest coming due on the

debenture in the fiscal year and to pay the amount required to be paid into a sinking fund or retirement fund in respect of the debenture in the fiscal year;

(b) on or before each due date in each year, pay out of its general revenue the principal and interest coming due on the debenture in the year; and

(c) where a sinking fund or retirement fund has been established in respect of a debenture, on or before the anniversary in each year of the issue date of the debenture, pay out of its general revenue the amount required to be paid into the sinking fund or retirement fund in respect of the debenture in the year.

Payments re debentures issued by municipality for school authority, old board

(3) During the currency of a debenture issued by a municipality before this section comes into force to raise money for a school authority or an old board, the school authority for which the debenture was issued or the board that assumed the obligation to the municipality for the debenture shall,

(a) provide in its estimates for each fiscal year for setting aside out of its general revenue in the fiscal year the amount necessary to pay to the municipality the amount of the principal and interest coming due on the debenture in the fiscal year and to pay the amount required to be paid by the municipality into a sinking fund or retirement fund in respect of the debenture in the fiscal year;

(b) on or before each due date in each year, pay out of its general revenue to the municipality the principal and interest coming due on the debenture in the year; and

(c) where a sinking fund or retirement fund has been established by the municipality in respect of a debenture, on or before each due date in each year, pay out of its general revenue to the municipality the amount required to be paid into the sinking fund or retirement fund by the municipality in respect of the debenture in the year. 1997, c. 31, s. 113 (1).

Same

(4) For the purposes of subsection (3), the due dates are those specified in the applicable notice given by the treasurer of the municipality to the treasurer of the board. 1997, c. 31, s. 113 (1).

Exception

(5) Despite clauses (2) (a) and (b) and (3) (a) and (b), the principal and interest that must be paid in a year under those clauses does not include any outstanding amount of principal specified as payable on the maturity date of a debenture to the extent that one or more refinancing debentures are issued by the school authority, board or municipality referred to in subsection (2) or (3) to repay the outstanding principal.

Rules re certain debentures

246 (1) Subsections (2) to (5) apply despite,

(a) the provisions of any other Act;

(b) any debenture;

(c) any municipal or board by-law, resolution or agreement under which a debenture is issued; or

(d) any document relating to a debenture. 1997, c. 31, s. 113 (1).

No obligation to raise money through rates to pay debentures

(2) A board is not obliged to raise money by way of rates,

- (a) to pay the principal and interest on a debenture to which section 245 applies;
- (b) to pay amounts for deposit into a sinking fund or retirement fund in respect of a debenture to which section 245 applies;
- (c) to pay amounts to a municipality in respect of a debenture to which section 245 applies;
- or
- (d) for any other purpose.

Deemed amendment

(3) A by-law, resolution, agreement or other document relating to a debenture to which section 245 applies and the debenture shall be deemed to have been amended to accord with subsections (1), (2), (4) and (5).

Rights of debenture holder

(4) No holder of a debenture to which section 245 applies shall have any right to require payment, except in accordance with the payment schedule for the debenture, by reason only that the board that has assumed the obligation for the debenture may not be identical to the old board that issued the debenture or that the board that is obliged to make payments to a municipality in respect of the debenture may not be identical to the old board that was obliged to make payments to the municipality in respect of the debenture.

Same

(5) None of the following shall constitute default by a district school board, a school authority, an old board or a municipality in the fulfilment of the obligations related to the debenture or a breach by a district school board, a school authority, an old board or a municipality of the terms or conditions of the debenture or of a by-law authorizing the issue of the debenture:

1. The amalgamation or merger of the old board that issued the debenture with a district school board.
2. The inability of a district school board or school authority to impose rates.
3. The elimination of a charge on the property and rates of the board that issued the debenture.
4. Anything done by a district school board or school authority in compliance with this Act or any regulation, order or directive made under this Act.

Terms and conditions continued

(6) Subject to subsections (1) to (5), a debenture to which section 245 applies that is issued before this section comes into force continues to be payable on the same terms and conditions as are required by the debenture.

Borrowing for permanent improvements

247 (1) Subject to any other provision of this Act and the regulations made under subsection 242 (1) and subsection (3) of this section, a district school board may by by-law borrow money or incur debt for permanent improvements and may issue or execute any instrument prescribed under clause (3) (f) in respect of the money borrowed or the debt incurred.

Same, school authorities

(2) Subject to any other provision of this Act and the regulations made under subsection 242 (1) and subsection (3) of this section, and subject to the prior approval of the Minister, a school authority may by by-law borrow money or incur debt for permanent improvements and may issue or execute any instrument prescribed under clause (3) (f) in respect of the money borrowed or the debt incurred.

Regulations

(3) The Lieutenant Governor in Council may make regulations,

- (a) governing the borrowing of money and the incurring of debt by a board for permanent improvements;
- (b) governing the issuance by a board of instruments prescribed under clause (f) in respect of money borrowed or debt incurred for permanent improvements;
- (c) governing any dealings by a board with instruments described in clause (b), including but not limited to regulations governing the redemption, surrender, exchange, substitution or offering as security of the instruments;
- (d) governing the establishment and operation of sinking funds, retirement funds and any other type of funds that may be prescribed by the regulations and providing for the investment or other application of money held in those funds;
- (e) prescribing types of funds for the purpose of clause (d);
- (f) prescribing instruments that may be issued or executed by a board in respect of money borrowed or debt incurred for permanent improvements;
- (g) prescribing the duties of treasurers or other officers of boards in connection with the matters addressed in this section;
- (h) providing that any provision of, or made under, the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be, relating to borrowing or debentures applies, with any modifications specified in the regulations, in relation to borrowing by a board under this section.

Same

(3.1) Without limiting the generality of clause (3) (a), in making regulations under that clause, the Lieutenant Governor in Council may delegate specified responsibilities related to the borrowing of money and the incurring of debt by the Board for permanent improvements to the Minister or any other body the Lieutenant Governor in Council considers appropriate for those purposes.

General or particular

(4) A regulation under subsection (3) may be general or particular and may be made to apply to any class of board and for the purpose a class may be defined with respect to any attribute and may be defined to consist of or to exclude any specified member of the class, whether or not with the same attributes

Payments re debt instruments

(5) Subject to the regulations, if under subsection (1) or (2) a board issues a debt instrument prescribed under clause (3) (f), the board shall,

- (a) on or before each due date in each year, pay the principal and interest coming due on the debt instrument in the year; and

(b) where a sinking fund, retirement fund or other fund prescribed under clause (3) (e) has been established in respect of the debt instrument, on or before the anniversary in each year of the issue date of the debt instrument, pay the amount required to be paid into the sinking fund, retirement fund or such prescribed fund in respect of the debt instrument in the year.

Exception

(6) Despite clauses (5) (a) and (b), the principal and interest that must be paid in a year under those clauses does not include any outstanding amount of principal specified as payable on the maturity date of a debt instrument to the extent that one or more refinancing debt instruments are issued by the board to repay the outstanding principal.

All debt instruments rank equally

(7) Despite any other provision of this or any other Act or any differences in date of issue or maturity, every debt instrument prescribed under clause (3) (f) issued by a board shall rank concurrently and equally in respect of payment of principal and interest with all other debt instruments issued by the board, except as to the availability of any sinking fund, retirement fund or other fund prescribed under clause (3) (e) applicable to any issue of debt instruments.

Registration

(8) Subsections 415 (1), (2), (3), (4), (5) and (7) of the *Municipal Act, 2001* or any equivalent provisions of, or made under, the *City of Toronto Act, 2006*, as the case may be, apply with necessary modifications to a by-law of a board authorizing the issue of debt instruments prescribed under clause (3) (f) that is passed under subsection (1) or (2) of this section, but nothing in this subsection makes valid a by-law if it appears on the face of the by-law that it does not substantially comply with a provision of a regulation under subsection (3) that specifies the maximum term within which a debt instrument prescribed under clause (3) (f) may be made payable.

Certain rights and duties continued

(9) Subject to subsection (10), the rights and duties of,
(a) a treasurer or a clerk-treasurer of a county or municipality;
(b) a treasurer of an old board;
(c) the council of a municipality;
(d) a school authority; or
(e) an old board,

under subsections 234 (3) to (6) of this Act, as those provisions read immediately before subsection 113 (1) of the *Education Quality Improvement Act, 1997* came into force, continue with respect to debentures to which those subsections applied.

Same

(10) The rights and duties described in subsection (9) of an old board or the treasurer of an old board are, respectively, the rights and duties of the district school board or treasurer of the district school board that is obliged to make payments in respect of the debenture as a result of a regulation made under clause 58.1 (2) (p) as it read immediately before it was repealed by subsection 8 (4) of the *Student Achievement and School Board Governance Act, 2009* or as a result of an order made under such a regulation.

Transition

(11) Despite subsection (3) and subsection 242.1 (1), subsections (1) and (2) do not authorize the issuance of debentures for the purpose of repaying, refunding or refinancing any debentures that were issued before the day the *Student Achievement and School Board Governance Act, 2009* received Royal Assent.

Corporation to assist with board financing

248 (1) The Lieutenant Governor in Council may, by regulation, establish a corporation under the name specified in the regulation,

- (a) to provide financial services to boards in accordance with the regulations;
- (b) to borrow money as principal or agent on behalf of boards in accordance with the regulations; and
- (c) to lend money to boards on the terms and conditions that the corporation may impose.

Regulations

- (2) The Lieutenant Governor in Council may make regulations,
- (a) providing for the composition, management, administration and control of the corporation and prescribing the powers and duties of the corporation;
 - (b) authorizing the corporation to provide financial services as specified in the regulations to boards in connection with their borrowing, investing, risk management and cash management activities;
 - (c) authorizing the corporation to borrow money in the capital markets in its own name or in the name of one or more boards on behalf of which the corporation is authorized to act;
 - (d) **establishing terms, conditions** and restrictions attaching to securities or other financial instruments issued by the corporation in connection with borrowing described in clause (c) including,
 - (i) the maximum aggregate principal amount of the securities or other financial instruments authorized for issue at any one time or from time to time,
 - (ii) any restrictions on the rate or rates of interest payable, the term to maturity, redemption rights, a bonus or discount payable, the currency of issue and selling restrictions,
 - (iii) any collateral that may be pledged or charged as security, and
 - (iv) the terms of any guarantee by the Province of repayment by the corporation;
 - (e) respecting lending by the corporation to boards;
 - (f) governing the application or non-application to the corporation of any provision of the *Business Corporations Act*, the *Corporations Act* and the *Corporations Information Act*;

Note: On the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force, clause 248 (2) (f) of the Act is amended by striking out “the *Corporations Act*” and substituting “the *Not-for-Profit Corporations Act, 2010*”. (See: 2017, c. 20, Sched. 8, s. 79)

- (g) authorizing the corporation to provide financial services to municipalities, to borrow money as principal or agent on behalf of municipalities and to lend money to municipalities;
- (h) governing matters necessary or advisable to enable the corporation to carry out its duties.

Deemed reference to municipality

(3) If a regulation is made under clause (2) (g) respecting a matter referred to in this section or in section 249, a reference to a board in this section or in section 249 in respect of that matter shall be deemed to include a municipality.

Interpretation

(4) In this section, “municipality” includes an upper-tier municipality.

General or particular

(6) A regulation made under this section may be general or particular.

Consent of board, municipality

(7) The corporation shall not provide financial services to a board or a municipality except at the request of the board or municipality and shall not borrow money in the name of a board or a municipality except with the prior approval of the board or municipality.

Agreements

249 A board may enter into an agreement with the corporation established under subsection 248 (1),

- (a) for the provision to the board of financial services that the corporation is authorized to provide to a board section 248;
- (b) for the borrowing of money as principal or agent on behalf of the board as authorized under section 248; and
- (c) for the lending of money to the board as authorized under section 248.

MISCELLANEOUS BOARD REVENUES

Fees or charges for trailers in municipality

250 (1) In this section and in section 251,

“trailer” means any vehicle, whether self-propelled or so constructed that it is suitable for being attached to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, that is capable of being used for the living, sleeping or eating accommodation of persons, although the vehicle is jacked-up or its running gear is removed;

“trailer camp” or “trailer park” means land in or on which any trailer is located but not including any such vehicle unless it is used for the living, sleeping or eating accommodation of persons.

Share to be paid to boards

(2) Where a trailer is located in a trailer camp or elsewhere in a municipality and fees or charges are collected by the municipality for the trailer or for the land occupied by the trailer in a trailer camp in any year, the council of the municipality shall pay to the English-language public district

school board, the district school area board or the secondary school board established under section 67 having jurisdiction in the area in which the trailer is located, 25 per cent of the fees or charges.

Same

(3) Despite subsection (2), where the occupant of a trailer located in a municipality is a Roman Catholic and has given to the clerk of the municipality a notice in writing stating that the occupant is a Roman Catholic and wishes to be a supporter of the English-language Roman Catholic board that has jurisdiction in the area in which the trailer is located, the council of the municipality shall pay 25 per cent of the fees or charges to the English-language Roman Catholic board.

Share to be paid to two boards

(4) Despite subsections (2) and (3), if a trailer is located in the area of jurisdiction of the two boards mentioned in paragraphs 1, 2 or 3, the municipality shall pay 12.5 per cent of the fees or charges to each of the boards:

1. A district school area board and a secondary school board established under section 67.
2. A Roman Catholic school authority and a secondary school board established under section 67.
3. A Roman Catholic school authority and an English-language public district school board.

Same

(5) Despite subsection (2), where the occupant of a trailer located in a municipality is a Roman Catholic and a French-language rights holder and has given to the clerk of the municipality a notice in writing stating that the occupant is a Roman Catholic and wishes to be a supporter of the French-language separate district school board that has jurisdiction in the area in which the trailer is located, the council of the municipality shall pay 25 per cent of the fees or charges to the French-language separate district school board.

Same

(6) Despite subsection (2), where the occupant of a trailer located in a municipality is a French-language rights holder and has given to the clerk of the municipality a notice in writing stating that the occupant wishes to be a supporter of the French-language public district school board that has jurisdiction in the area in which the trailer is located, the council of the municipality shall pay 25 per cent of the fees or charges to the French-language public district school board.

Fees or charges not part of annual rates

(7) The share of the fees or charges payable to a board by the council of a municipality under this section shall be in addition to any other amount that is payable to the board by the municipality, and shall be paid to the board on or before December 15 in the year for which the fees or charges are collected.

Application to municipality operated trailer camps

(8) This section does not apply to trailer camps and trailer parks operated by a municipality.

Exception

(9) No fees shall be charged under this section in respect of a trailer assessed under the *Assessment Act*.

Fee for trailers in territory without municipal organization

251 (1) Except as provided in subsections (2) to (5), the owner, lessee or person having possession of a trailer that is located in territory without municipal organization in the area of jurisdiction of a district school area board, a secondary school board established under section 67 or an English-language public district school board, shall pay to the board, on or before the first day of each month, a fee of \$5.00 in respect of the trailer for each month or part of a month, except July and August, that the trailer is so located.

Same

(2) Where the occupant of a trailer that is located in territory without municipal organization within the area of jurisdiction of an English-language Roman Catholic board is a Roman Catholic and signifies in writing to the board that he or she is Roman Catholic and wishes to be a supporter of the English-language Roman Catholic board, the owner or lessee of the trailer shall pay to the board, on or before the first day of each month a fee of \$5.00 in respect of the trailer for each month or part of a month, except July and August, that the trailer is so located.

Same

(3) If a trailer is located in the area of jurisdiction of the two boards mentioned in paragraphs 1, 2 or 3, the owner, lessee or person having possession of the trailer shall pay \$2.50 to each of the boards:

1. A district school area board and a secondary school board established under section 67.
2. A Roman Catholic school authority and a secondary school board established under section 67.
3. A Roman Catholic school authority and an English-language public district school board.

Same

(4) Where the occupant of a trailer that is located in territory without municipal organization within the area of jurisdiction of a French-language separate district school board is a Roman Catholic and a French-language rights holder and signifies in writing to the board that he or she is a Roman Catholic and wishes to be a supporter of the French-language separate district school board, the owner or lessee of the trailer shall pay to the board, on or before the first day of each month, a fee of \$5.00 in respect of the trailer for each month or part of a month, except July and August, that the trailer is so located.

Same

(5) Where the occupant of a trailer that is located in territory without municipal organization within the area of jurisdiction of a French-language public district school board is a French-language rights holder and signifies in writing to the board that he or she wishes to be a supporter of the board, the owner or lessee of the trailer shall pay to the board, on or before the first day of each month, a fee of \$5.00 in respect of the trailer for each month or part of a month, except July and August, that the trailer is so located.

Notice

(6) No person is required to pay a fee under this section until the person has been notified in writing by the secretary of the board concerned or the tax collector that the person is liable to pay the fee, and on receipt of the notice the person shall promptly pay all fees for which the person has been made liable under this section before receipt of the notice and shall, after that, pay fees in accordance with subsections (1) to (5).

Content of notice

(7) Every notice under this section shall make reference to this section and shall specify,

- (a) the amount of fees for which the person is liable on receipt of the notice;
- (b) the amount of the monthly fee to be paid after receipt of the notice;
- (c) the date by which payment is required to be made;
- (d) the place at which payment may be made; and
- (e) the fine provided under this section.

Notice to other boards

(8) A board that receives a notice under this section from an owner, occupant, lessee or person having possession of a trailer shall transmit a copy of the notice to every other board the jurisdiction of which includes the trailer camp or trailer park in which the trailer is located.

Exception

(9) No fees shall be charged under this section in respect of a trailer assessed under the *Assessment Act*.

Offence

(10) Every owner or lessee or person having possession of a trailer who permits the trailer to be located in any part of territory without municipal organization in which the owner, lessee or person is liable for any fee under this section without paying the fee as required under this section is guilty of an offence and on conviction is liable to a fine of not less than \$20 and not more than \$100 and each day that this subsection is contravened shall be deemed to constitute a separate offence.

FINANCIAL ADMINISTRATION OF BOARDS

Financial statements

252 (1) Every year, the treasurer of every board shall prepare the financial statements for the board by the date prescribed under subsection (3) and, on receiving the auditor's report on the financial statements, shall promptly give the Ministry two copies of the financial statements and the auditor's report.

Publication and notice

(2) Within one month after receiving the auditor's report on the board's financial statements, the treasurer shall do one of the following:

1. Publish the financial statements and the auditor's report on the board's website or, if the board does not have a website, make the financial statements and the auditor's report

available to those affected by them in another manner that the treasurer considers appropriate.

2. Mail or deliver a copy of the financial statements and auditor's report to each of the board's supporters.

Regulations re publication and notice

(2.1) The Minister may make regulations respecting the form in which the financial statements and auditor's report shall be published, mailed, delivered or otherwise made available under subsection (2), and respecting any related timelines, and the treasurer shall comply with any such regulations.

Minister's powers

(3) The Minister may prescribe the date in each year by which the treasurer of a board shall prepare the financial statements of the board and forward them to the auditor.

Same

(4) Part III (Regulations) of the *Legislation Act, 2006* does not apply to anything done by the Minister under subsection (3).

Appointment of auditor

253 (1) Every board shall appoint one or more auditors for a term not exceeding five years who shall be a person licensed under the *Public Accounting Act, 2004*.

Ineligibility for appointment

(3) No person shall be appointed as an auditor of a board who is or during the preceding year was a member of the board or who has or during the preceding year had any direct or indirect interest in any contract or any employment with the board other than for services within the person's professional capacity, and every auditor, on appointment, shall make and subscribe a declaration to that effect.

Duties of auditor

(4) An auditor of a board shall perform the duties that are prescribed by the Minister under paragraph 30 of subsection 8 (1) and the duties that may be required by the board that do not conflict with the duties prescribed by the Minister.

Rights of auditor

(5) An auditor of a board has the right of access at all reasonable hours to all records of the board and is entitled to require from the members and officers of the board any information and explanation that in the auditor's opinion may be necessary to enable the auditor to carry out his or her duties.

Obstruction

(6) Every member and every officer of a board who,
(a) refuses or neglects to provide the access to the records of the board to which the auditor is entitled under subsection (5); or
(b) refuses or neglects to provide information or an explanation required by the auditor under subsection (5),

is guilty of an offence and on conviction is liable to a fine of not more than \$200, but no person is liable if the person proves that he or she has made reasonable efforts to provide the access or the information or explanation.

Power to take evidence

(7) An auditor of a board may require any person to give evidence on oath or affirmation for the purposes of the audit and section 33 of the *Public Inquiries Act, 2009* applies for the purposes of obtaining that evidence.

Attendance at meetings of board

(8) An auditor of a board is entitled to attend any meeting of the board or of a committee of the board and to receive all notices relating to that meeting that a member is entitled to receive and to be heard at the meeting that the auditor attends on any part of the business of the meeting that concerns him or her as auditor.

Audit committee

253.1 (1) Every district school board shall establish an audit committee.

Regulations

(2) The Minister may make regulations governing the composition, functions, powers and duties of audit committees established under subsection (1).

Same

(3) A regulation made under subsection (2) may provide for a district school board's audit committee to include individuals who are not members of the board.

Same

(4) A regulation made under subsection (2) may provide that a district school board's audit committee has all the powers of an auditor under section 253.

Same

(5) A regulation under this section may be general or particular.

Custody of books, etc.

254 (1) A person who has in his or her possession a book, paper, chattel or money of a board shall not wrongfully,

- (a) withhold it from a person specified by the board or the Minister;
- (b) neglect or refuse to give it to the specified person in the manner specified by the board or the Minister;
- (c) neglect or refuse to account for it to the specified person in the manner specified by the board or the Minister.

Summons for appearance

(2) On application to a judge by the board or the Minister, supported by affidavit, showing that a person failed to comply with subsection (1), the judge may summon the person to appear before the judge at a time and place appointed by the judge.

Order to account

(3) The judge shall, in a summary manner, and whether the person complained against does or does not appear, hear the application and may order the person complained against to deliver up, account for and pay over the book, paper, chattel or money by a day to be named by the judge in the order, together with any reasonable costs incurred in making the application that the judge may allow.

Other remedy not affected

(4) A proceeding before a judge under this section does not impair or affect any other remedy that the board or the Minister may have against the person complained against or against any other person.

MISCELLANEOUS

Recreation committees

255 (1) If a recreation committee or a joint recreation committee is appointed under a regulation made under the *Ministry of Tourism and Recreation Act* for territory without municipal organization within the jurisdiction of a board, the board,

(a) may exercise the powers and shall perform the duties of a municipal council with respect to preparing estimates of the sums required during the year for the purposes of the committee or joint committee, and levying rates for those purposes on all rateable property in that territory; and

(b) if there is a joint recreation committee, shall apportion the costs of the joint committee by agreement with the other board or boards concerned.

Collection of taxes

(2) The rates levied under subsection (1) may be collected under the *Provincial Land Tax Act, 2006* as if they were taxes imposed under that Act.

Rates for certain public libraries

256 (1) Where a public library has been established for a school section in territory without municipal organization that is deemed to be a district municipality within the area of jurisdiction of an English-language public district school board under subsection 58.1 (2), the English-language public district school board shall be deemed to be an appointing council for the district municipality under section 24 of the *Public Libraries Act* and the amount of the estimates of the board of the public library appropriated for the board of the public library by the English-language public district school board shall be raised by a levy imposed by the English-language public district school board on all the rateable property in the district municipality and the estimated expenses to be incurred by the English-language public board in connection with raising the levy shall be recoverable by the board and shall be included in the levy imposed under this section.

Definition

(2) In this section,

“**rateable property**” means real property, other than property that is exempt from taxation under the *Assessment Act*.

Transition: notice of support by certain partnerships, corporations

257.2 (1) A notice that was given under a provision included in the list set out in subsection (2) and that was not withdrawn or cancelled continues in effect or, if varied under one of those provisions, continues in effect as varied, until a new notice is given under section 237, except that,

(a) a notice requiring assessment to be entered, rated and assessed for separate school purposes shall be deemed to be a notice requiring assessment to be entered and assessed for English-language Roman Catholic board purposes;

(b) a notice requiring assessment to be entered, rated and assessed for the purposes of The Prescott and Russell County Roman Catholic English-Language Separate School Board shall be deemed to be a notice requiring assessment to be entered and assessed for English-language Roman Catholic board purposes;

(c) a notice requiring assessment to be entered, rated and assessed for the purposes of the Roman Catholic sector of The Ottawa-Carleton French-language School Board or of the Conseil des écoles catholiques de langue française de la région d'Ottawa-Carleton or of the Conseil des écoles séparées catholiques de langue française de Prescott-Russell shall be deemed to be a notice requiring assessment to be entered and assessed for French-language separate district school board purposes; and

(d) a notice requiring assessment to be entered, rated and assessed for the purposes of the public sector of The Ottawa-Carleton French-language School Board or of the Conseil des écoles publiques d'Ottawa-Carleton shall be deemed to be a notice requiring assessment to be entered and assessed for French-language public district school board purposes.

Same

(2) The following is the list of provisions referred to in subsection (1):

1. Subsection 112 (3) of this Act, as that subsection read immediately before the coming into force of this section.
2. Subsection 17 (4) of the *Ottawa-Carleton French-language School Board Act*, as that subsection read immediately before the coming into force of this section.
3. A predecessor of the subsection referred to in paragraph 1 or 2.
4. Section 48 of Ontario Regulation 425/94, as amended by Ontario Regulations 453/94 and 689/94.
5. Section 16.4 of Ontario Regulation 479/91, as amended by Ontario Regulations 144/94 and 93/95.

Same

(3) A notice mentioned in clause (1) (a), (b), (c) or (d) that was given by a partnership or corporation in respect of property of which the partnership or corporation is a tenant shall be deemed to be a notice given under subsection 237 (12).

Tax relief, etc., in unorganized territory

257.2.1 (1) The Minister of Finance may make regulations to limit the changes in taxes for school purposes from the taxes for school purposes in 1997 or to give relief from taxes for school purposes in territory without municipal organization.

Limiting changes in taxes

(1.1) The Minister of Finance may make regulations to limit the changes in taxes for school purposes from the taxes for school purposes in 2000 or in any subsequent year or to give relief from taxes for school purposes in territory without municipal organization.

Exception

(2) This section does not apply with respect to territory without municipal organization that is deemed to be attached to a municipality for the purposes of taxation.

What regulations can provide for, etc.

(3) The following apply with respect to regulations under subsections (1) and (1.1):

1. Without limiting what a regulation may provide for, the regulations may provide for any matter provided under sections 318, 319, 361, 362 and 367 and Part IX of the *Municipal Act, 2001*.
2. A regulation may require rebates to be paid by boards.
3. A regulation made in 2001 or a later year may relate to the entire year in which it is made.
4. A regulation may delegate anything to boards or other persons or bodies and may attach conditions to such delegations.
5. A regulation may be general or specific in its application.

Note: The amendments made by the Statutes of Ontario, 1998, chapter 33 apply, except where the context otherwise requires, with respect to the entire 1998 taxation year not just that portion of it that follows December 18, 1998. See: 1998, c. 33, s. 47 (1).

Conflicts

(4) In the case of a conflict between a regulation and this Act or the *Provincial Land Tax Act, 2006* or the predecessor Act, the regulation prevails.

Regulations re transitional matters

257.3 (1) The Lieutenant Governor in Council may make regulations providing for such transitional matters as the Lieutenant Governor in Council considers necessary or advisable in connection with the education funding reforms of 1997 and 1998.

General or particular

(2) A regulation made under subsection (1) may be general or particular.

Type of board for *Assessment Act* purposes

257.4 For the purposes of the *Assessment Act*, the following are the types of board that a person may support:

1. English-language public board.
2. English-language Roman Catholic board.
3. French-language public district school board.
4. French-language separate district school board.
5. Protestant separate school board.

DIVISION B EDUCATION TAXES

Definitions

257.5 In sections 257.6 to 257.14,

“**business property**” means,

- (a) property in the commercial property class, the industrial property class or the pipe line property class, all as prescribed under the *Assessment Act*,
- (b) property in a class of real property prescribed by the regulations, or
- (c) property described in paragraphs 1 and 2 of subsection 315 (1) of the *Municipal Act, 2001* or paragraphs 1 and 2 of section 280 of the *City of Toronto Act, 2006*, as the case may be;

“**residential property**” means,

- (a) property in the residential property class, the farm property class, the managed forests property class or the multi-residential property class, all as prescribed under the *Assessment Act*, or
- (b) property in a class of real property prescribed by the regulations.

Property taxable for school purposes

257.6 (1) The following is taxable for school purposes:

1. Except as otherwise provided under this or any other Act, real property that is liable to assessment and taxation under the *Assessment Act*.
2. Real property that would have been liable to assessment and taxation under the *Assessment Act* if it had not vested in the Crown in right of Ontario because of an escheat or forfeiture as a result of the dissolution of a corporation, for the period that begins on the day on which the real property is escheated or forfeited and that ends on the day a notice is registered on title to the real property under section 24 of the *Forfeited Corporate Property Act, 2015*, indicating that the Crown intends to use the property for Crown purposes.
3. Real property that would have been liable to assessment and taxation under the *Assessment Act* if it did not belong to the Crown in right of Ontario as a result of the death of an individual who did not have any lawful heirs, for the period that begins on the day on which the real property becomes the property of the Crown and that ends on the day a notice is registered on title to the real property indicating that the Crown intends to use the property for Crown purposes.

Transition

(1.1) If real property described in paragraph 2 of subsection (1) is vested in the Crown in right of Ontario before subsection 3 (4) of Schedule 4 to the *Modernizing Ontario's Municipal Legislation Act, 2017* comes into force, subsection (1), as re-enacted by subsection 3 (4) of Schedule 4 to the *Modernizing Ontario's Municipal Legislation Act, 2017*, applies in respect of that real property as if it had been in force on the day the real property became vested in the Crown.

Same

(1.2) If real property described in paragraph 3 of subsection (1) became the property of the Crown in right of Ontario before subsection 3 (4) of Schedule 4 to the *Modernizing Ontario's Municipal*

Legislation Act, 2017 comes into force, subsection (1), as re-enacted by subsection 3 (4) of Schedule 4 to the *Modernizing Ontario's Municipal Legislation Act, 2017*, applies in respect of that real property as if it had been in force on the day the real property became the property of the Crown.

Exemptions

(2) Subject to subsection (3), an exemption under this or any other Act that applied in relation to taxes for school purposes immediately before this Division came into force applies in relation to taxes for school purposes under this Division.

Same

(3) Where a private Act gives a board or an old board a power of decision or approval in relation to an exemption from taxes for school purposes, the power shall be exercised by the Minister of Finance instead of the board.

Same

(4) An eligible theatre in the City of Toronto is exempt from taxes for school purposes.

Regulations

(5) The Minister of Finance may make regulations defining eligible theatre for the purposes of subsection (4).

Exemption, eligible convention centres

(6) An eligible convention centre is exempt from taxes for school purposes.

Regulations

(7) The Minister of Finance may make regulations prescribing eligible convention centres for the purposes of subsection (6).

Exemption, non-profit hospital service corporations

(8) Real property in territory without municipal organization occupied by a non-profit hospital service corporation that is used chiefly by the corporation for providing laundry or food services or both is exempt from taxes for school purposes.

Same

(9) In subsection (8),

“**non-profit hospital service corporation**” means a corporation without share capital that provides laundry or food services to one or more public hospitals, as defined in the *Public Hospitals Act*.

Levy of taxes for school purposes

257.7 (1) Subject to the regulations, the following shall, in each year, levy tax at the rates prescribed under section 257.12:

1. Every municipality, on residential property and business property in the municipality, including territory without municipal organization that is deemed under section 56 or

subsection 58.1 (2) to be attached to the municipality, taxable for school purposes, according to the last returned assessment roll.

2. Every English-language public district school board the area of jurisdiction of which includes territory without municipal organization that is not deemed under section 56 or subsection 58.1 (2) to be attached to a municipality, on the residential property and business property in that territory taxable for school purposes, according to the last returned assessment roll.

3. Every district school area board the area of jurisdiction of which includes territory without municipal organization that is not deemed under section 56 or subsection 58.1 (2) to be attached to a municipality, on the residential property and business property in that territory taxable for school purposes, according to the last returned assessment roll.

Collection

(1.1) The taxes levied in a year under subsection (1) shall be collected as follows:

1. The municipality that levies taxes under paragraph 1 of subsection (1) shall collect the taxes.

2. The taxes levied under paragraphs 2 and 3 of subsection (1) shall be collected under the *Provincial Land Tax Act, 2006* as if they were taxes imposed under that Act.

Exception

(2) This section does not apply in respect of property taxed under section 240.

Subclass reductions

(3) Subject to subsection (4), the tax rates for school purposes for a subclass described in sections 313 and 313.1 of the *Municipal Act, 2001* and sections 278 and 278.1 of the *City of Toronto Act, 2006*, other than a subclass of the classes described in subsection 257.12 (4), shall be reduced in the same manner as the tax rates for municipal purposes are reduced under those sections.

Exception

(4) The Minister of Finance may, by regulation, provide that subsection (3) does not apply to a specified tax rate and may prescribe a different reduction or manner of determining a different reduction.

Business property, distribution of amounts levied

257.8 (1) In this section,

“**common jurisdictional area**”, in respect of two or more boards, means the area that is within the area of jurisdiction of both or all of those boards.

Same

(2) Amounts levied for school purposes on business property under this Division by a municipality or board shall be distributed by the municipality or the Minister of Finance, as the case may be, in accordance with the following requirements:

1. Where the property is located in the area of jurisdiction of only one board, the amount levied on the property shall be distributed to that board.

2. Where the property is located in the area of jurisdiction of more than one board, the amount shall be distributed among the boards in proportion to enrolment as determined and

calculated by the Minister under subsection (3) in the common jurisdictional area of the boards.

Calculation by Minister

(3) The Minister shall determine enrolment and shall calculate the proportions for each year for each common jurisdictional area and shall publish the proportions in *The Ontario Gazette*, for each municipality and for territory without municipal organization in each common jurisdictional area.

Residential property, distribution of amounts levied

257.9 (1) Amounts levied for school purposes on residential property under this Division by a municipality or board shall be distributed by the municipality or the Minister of Finance, as the case may be, in accordance with the following requirements:

1. An amount levied on property taxable for English-language public board purposes shall be distributed to the English-language public district school board or public school authority in the area of jurisdiction of which the property is located.
2. An amount levied on property taxable for English-language Roman Catholic board purposes shall be distributed to the English-language separate district school board or Roman Catholic school authority in the area of jurisdiction of which the property is located.
3. An amount levied on property taxable for French-language public district school board purposes shall be distributed to the French-language public district school board in the area of jurisdiction of which the property is located.
4. An amount levied on property taxable for French-language separate district school board purposes shall be distributed to the French-language separate district school board in the area of jurisdiction of which the property is located.
5. An amount levied on property taxable for Protestant separate school board purposes shall be distributed to the Protestant separate school board in the area of jurisdiction of which the property is located.
6. An amount levied on property of a partnership within the meaning of section 237 or of a corporation to which section 237 applies, that is taxable for the purposes of one or more boards shall be distributed in accordance with the proportions of its assessment that result from the application of that section.
7. An amount levied on property of a designated ratepayer within the meaning of section 238 shall be distributed in the same manner as is provided in section 257.8 for rates levied on business property of the designated ratepayer.

Interpretation

(2) Property is taxable for a board's purposes if it is assessed to the support of a board.

Powers of municipality, levying rates

257.10 (1) A municipality that is required to levy rates for school purposes under this Division has, for purposes of the collection, chargeback, cancellation, refund or rebate of the rates, the same powers and duties as a municipality has in respect of the collection, chargeback, cancellation, refund or rebate of rates levied for municipal purposes, including powers and duties relating to the sale of land for tax arrears.

Powers of officers

(2) The officers of a municipality required to levy a rate for school purposes under this Division have the same powers and duties in respect of the collection, chargeback, cancellation, refund or rebate of rates levied under this Division, including powers and duties relating to the sale of land for tax arrears, as officers of a municipality have in respect of rates levied for municipal purposes.

Application of other Acts

(3) Section 349 of the *Municipal Act, 2001* or section 314 of the *City of Toronto Act, 2006*, as the case may be, applies to taxes levied under this Division.

Regulations

(4) The Minister of Finance may make regulations, which may be general or particular in their application, varying, limiting or excluding the powers and duties under this section of municipalities and their officers.

Where board levies taxes

(5) Where a board levies taxes for school purposes under this Division, the Minister of Finance has under this Act the powers and duties of the Minister of Finance under the *Provincial Land Tax Act, 2006* to collect the taxes, to cancel them in whole or in part and to charge amounts back to the board.

Transition

(6) The Minister of Finance may exercise the powers and shall perform the duties of a board relating to the collection of arrears of taxes levied before January 1, 2009 under this Division and the board ceases to have those powers and duties on that date.

Same

(7) Arrears of taxes levied before January 1, 2009 under this Division may be collected under the *Provincial Land Tax Act, 2006* as if the arrears were taxes imposed under that Act.

Same

(8) Every board shall give the Minister of Finance such information as he or she may request with respect to arrears of taxes levied before January 1, 2009 under this Division.

When amounts paid to boards

257.11 (1) In each calendar year, a municipality shall pay amounts levied for school purposes in the following instalments:

1. Twenty-five per cent of the amount levied for the previous calendar year, on or before March 31.
2. Fifty per cent of the amount levied for the current calendar year less the amount of the instalment under paragraph 1, on or before June 30.
3. Twenty-five per cent of the amount levied for the current calendar year, on or before September 30.
4. The balance of the amount levied for the current calendar year, on or before December 15.

When amounts paid to boards by the Minister of Finance

(1.1) In each calendar year, the Minister of Finance shall pay to the boards amounts collected for school purposes within three months after collecting the amounts.

Non-payment on due date

(2) Where an instalment or a part of an instalment is not paid on the due date, the municipality in default shall pay interest to the recipient board from the date of default to the date that the payment is made, at the rate specified in subsection (4).

Payment ahead of due date

(3) Where, with the consent of the recipient board, an instalment or a part of an instalment is paid in advance of the due date, the recipient board shall allow the municipality a discount from the date of payment to the date on which the payment is due, at the rate specified in subsection (4).

Rate of interest

(4) For the purposes of subsections (2) and (3), the rate of interest payable or the rate of discount allowable, as the case may be, is the lowest prime rate reported to the Bank of Canada by any of the banks listed in Schedule I to the *Bank Act* (Canada) at the date of default, in the case of subsection (2), or at the date of payment, in the case of subsection (3).

Agreement

(5) Despite subsection (1), a board may, by agreement with a majority of the municipalities in its area of jurisdiction where the municipalities represent at least two-thirds of the assessment taxable for the purposes of the board, according to the last returned assessment roll, vary the number of instalments and their amounts and due dates.

Same

(6) Where an agreement is entered into under subsection (5), it applies to all municipalities in the area of jurisdiction of the board.

Limitation

(7) Subsection (5) applies only if the agreement requires at least one instalment to be paid in each quarter of the year.

Termination of agreement

(8) Where an agreement under subsection (5) does not provide for its termination, it shall continue in force from year to year until it is terminated on December 31 in any year by notice given before October 31 in the year,

- (a) by the secretary of the board as authorized by a resolution of the board; or
 - (b) by the clerks of a majority of the municipalities in the board's area of jurisdiction where the municipalities represent at least two-thirds of the assessment taxable for the purposes of the board, according to the last returned assessment roll,
- and where no agreement is in effect under subsection (5), the payments shall be made as provided in subsection

Extension of instalment due dates

- (12) The Minister may make regulations relating to instalments under subsection (1),
- (a) extending the time for paying the instalments even if the time for paying the instalments has passed,
 - (b) in conjunction with the provision of interim financing to boards under subsection (14), directing the instalments to be paid to the Province.

Note: The amendments made by the Statutes of Ontario, 1998, chapter 33 apply, except where the context otherwise requires, with respect to the entire 1998 taxation year not just that portion of it that follows December 18, 1998. See: 1998, c. 33, s. 47 (1).

Same

- (13) A regulation under subsection (12) may be general or particular.

Interim financing

(14) The Minister may provide interim financing to boards in respect of instalments to be paid to the Province as directed under a regulation under clause (12) (b) and the following apply with respect to such financing:

1. The Minister may pay amounts, on behalf of the municipality or board required to pay an instalment, to the boards to which the instalment would have been distributed in the absence of the direction to pay the instalment to the Province.
2. The amount of the instalment to be paid to the Province by the municipality or the board shall be equal to the total of the amounts paid by the Minister, on behalf of the municipality or board, under paragraph 1.
3. Subsections (2), (3) and (4) apply with respect to the Minister as though the Minister were the recipient board.

Interim financing, agreements

(15) The Minister may provide interim financing to a board that is a party to an agreement under subsection (5) and the following apply with respect to such financing:

1. The Minister may pay to the board, on behalf of a municipality to which the agreement applies, an amount the municipality is required to pay under the agreement and the amount shall be deemed to be an amount paid by the municipality under the agreement.
2. A municipality on whose behalf the Minister pays an amount under paragraph 1 shall repay the Province for that amount. The municipality shall repay the amount on the dates and in the amounts specified by the Minister and the municipality shall pay interest, at the rate specified in subsection (4), on any of those amounts that are paid late.

Note: The amendments made by the Statutes of Ontario, 1998, chapter 33 apply, except where the context otherwise requires, with respect to the entire 1998 taxation year not just that portion of it that follows December 18, 1998. See: 1998, c. 33, s. 47 (1).

Payments from Consolidated Revenue Fund

(16) Amounts paid by the Minister under subsection (14) or (15) shall be paid out of the Consolidated Revenue Fund.

Amounts deemed to be education funding

- (17) Amounts paid by the Minister under subsection (14) or (15) shall be deemed to be education funding within the meaning of subsection 234 (14), other than amounts paid for the purposes of,
- (a) paying a board's share of the amount of any cancellation, reduction, refund or rebate of taxes under section 361, 364, 365 or 365.2 of the *Municipal Act, 2001* or section 329, 331, 332 or 334 of the *City of Toronto Act, 2006*, as the case may be;
 - (b) paying a board's share of the amount of the tax assistance provided under section 365.1 of the *Municipal Act, 2001* or under section 333 of the *City of Toronto Act, 2006*, as the case may be; or
 - (c) paying rebates or reducing taxes under section 257.2.1 or 257.12.3 of this Act.

Information relating to agreements

- (18) For the purposes of interim financing under subsection (15), the Minister may require a municipality or board to provide,
- (a) a copy of any agreement under subsection (5);
 - (b) information about amounts paid under the agreement; and
 - (c) information about amounts levied under section 317 of the *Municipal Act, 2001*, under section 281 of the *City of Toronto Act, 2006* or under section 370 of the *Municipal Act*, being chapter M.45 of the Revised Statutes of Ontario, 1990, as that section read immediately before its repeal.

Enforcement of requirement

- (19) The Minister may apply to the Superior Court of Justice for an order requiring a municipality or board to comply with a requirement of the Minister under subsection (18).

Additional power

- (20) Subsection (19) is additional to and not intended to replace any other available means of enforcement.

Note: Section 257.11, as amended by the Statutes of Ontario, 1999, chapter 9, subsection 98 (1), applies with respect to the 1999 and subsequent taxation years. See: 1999, c. 9, s. 98 (2).

Difference in amounts levied and collected

257.11.1 (1) In addition to the amounts payable under subsection 257.11 (1.1), if the amount levied for school purposes under subsection 257.7 (1) is greater than the amount collected by the Minister of Finance, the Minister of Finance shall pay the difference out of the Consolidated Revenue Fund to the board on behalf of which the amount was levied.

Payment deemed to be tax levied

- (2) Any amount paid to a board on behalf of which an amount was levied under subsection (1) is deemed to be tax levied under section 2 of the *Provincial Land Tax Act, 2006*.

Regulations, Minister of Finance

257.12 (1) The Minister of Finance may make regulations,

- (a) prescribing classes of real property for the purposes of clause (b) of the definition of “business property” in section 257.5 or for the purposes of clause (b) of the definition of “residential property” in that section;
- (b) prescribing the tax rates for school purposes for the purposes of section 257.7;
- (c) prescribing rates for the purposes of calculating payments in lieu of taxes, within the meaning of section 306 of the *Municipal Act, 2001* or section 273 of the *City of Toronto Act, 2006*, as the case may be, for real property that is exempt from taxation for school purposes; and
- (d) REPEALED: 2002, c. 17, Sched. F, Table.
- (e) prescribing the form of the tax notices or information that must or may be included on tax notices sent to owners of property by a board that is required to levy rates for school purposes under this Division.

Note: The amendments made by the Statutes of Ontario, 1998, chapter 33 apply, except where the context otherwise requires, with respect to the entire 1998 taxation year not just that portion of it that follows December 18, 1998. See: 1998, c. 33, s. 47 (1).

Definition

(1.1) In clause (1) (b),

“tax rates for school purposes” includes tax rates for the purposes of,

- (a) paying a board’s share of the amount of any cancellation, reduction, refund or rebate of taxes under section 361, 364, 365 or 365.2 of the *Municipal Act, 2001* or under section 329, 331, 332 or 334 of the *City of Toronto Act, 2006*, as the case may be,
- (b) paying a board’s share of the amount of the tax assistance provided under section 365.1 of the *Municipal Act, 2001* or section 333 of the *City of Toronto Act, 2006*, as the case may be,
- (c) paying rebates or reducing taxes under section 257.2.1 or 257.12.3 of this Act, or
- (d) paying the board’s share of any amount that is deferred, cancelled, refunded or rebated under section 8 of the *Provincial Land Tax Act, 2006* by reason of clause 8 (1) (a), (b), (c), (d), (f) or (h) of that Act or under a regulation made under clause 25 (1) (f), (h) or (i) of that Act.

Application to whole year

(1.1.1) A regulation under clause (1) (b) is effective for the whole year to which it applies, unless otherwise specified in the regulation.

Retroactivity

(1.2) A regulation made under this section is, if it so provides, effective with reference to a period before it is filed.

Scope of regulations

(2) The use of “business” or “residential” in the defined terms “business property” or “residential property” does not limit the discretion of the Minister of Finance in making regulations under clause (1) (a). **Tax rates may vary**

(3) Subject to subsections (4) and (5), regulations under clause (1) (b) may prescribe different tax rates for,

- (a) different municipalities;
- (b) different parts of a municipality as specified in an Act, regulation or order implementing municipal restructuring within the meaning of section 172 of the *Municipal Act, 2001* or section 124 of the *City of Toronto Act, 2006*, as the case may be;
- (c) different parts of territory without municipal organization that are deemed under section 56 or subsection 58.1 (2) to be attached to a municipality for purposes related to taxation;
- (d) different classes of property prescribed by the regulations under this Act or the *Assessment Act* whether or not a municipality has opted to have the class apply within the municipality;
- (e) different subclasses of real property prescribed by the regulations made under the *Assessment Act* whether or not a municipality has opted to have the subclass apply within the municipality;
- (f) real property on any basis on which a municipality or Ontario is permitted to set different tax rates for real property for municipal purposes;
- (g) different portions of a property's assessment;
- (h) different geographic areas established for the purposes of paragraph 1 of subsection 315 (1) of the *Municipal Act, 2001* or paragraph 1 of subsection 280 (1) of the *City of Toronto Act, 2006*, as the case may be;
- (i) different geographic areas established for the purposes of paragraph 2 of subsection 315 (1) of the *Municipal Act, 2001* or paragraph 2 of subsection 280 (1) of the *City of Toronto Act, 2006*, as the case may be; and
- (j) different parts of a municipality based on whether or not the parts are in the area of jurisdiction of an English-language public board.

Uniform rate, residential, multi-residential

(4) Subject to subsections (6), (7) and (7.1), the regulations under clause (1) (b) shall prescribe a single tax rate for the residential property class and the multi-residential property class.

Tax rates for farms and managed forests

(5) The tax rate for the farm property class and the managed forests property class shall be 25 per cent of the tax rate prescribed for the residential property class.

Other rates may vary

(5.1) Subsection (3) applies, with necessary modifications, with respect to regulations under clause (1) (c).

Note: The amendments made by the Statutes of Ontario, 1998, chapter 33 apply, except where the context otherwise requires, with respect to the entire 1998 taxation year not just that portion of it that follows December 18, 1998. See: 1998, c. 33, s. 47 (1).

Property in subclasses

(6) Except where subsection (7) applies, for property in the residential property class or the multi-residential property class that is also in a subclass of real property prescribed by the regulations made under the *Assessment Act*, the tax rate set in accordance with subsection (4) shall be reduced by the rate of reduction in taxes for municipal purposes that results from the application of section

313 of the *Municipal Act, 2001* or section 278 of the *City of Toronto Act, 2006*, as the case may be, to property in that subclass.

Same

(7) For property described in subsection (6) that is not located in a municipality, the tax rate set in accordance with subsection (4) shall be reduced by the rate of reduction in taxes for municipal purposes that results from the application of *section 313 of the Municipal Act, 2001* to property in that subclass, as though that paragraph and those subsections did not provide for tax reductions by the council of a municipality.

Exception

(7.1) The Minister of Finance may, by regulation, provide that subsections (6) and (7) do not apply to a specified tax rate and may prescribe a different reduction or manner of determining a different reduction.

Definition

(8) In subsection (7),

“municipality” does not include any part of territory without municipal organization that is deemed to be a district municipality.

Class, etc., not to be defined in terms of board support

(9) Despite subsections 7 (2) and (3) of the *Assessment Act*, regulations made by the Minister of Finance under subsection 7 (1) of that Act shall not use the school support of persons assessed to define a class of real property.

Definition

(10) Except as provided in subsection (8), in this section, “municipality” includes an upper-tier municipality.

Requisitions for amounts on business property

257.12.1 (1) The Minister of Finance may requisition amounts for a year from an upper-tier municipality or a single-tier municipality to be raised by levying tax rates on business property, other than property taxed under section 315 of the *Municipal Act, 2001* or section 280 of the *City of Toronto Act, 2006*, as the case may be.

Contents of requisition

(2) The requisition shall specify an amount to be raised on each of the following:

1. The commercial classes.
2. The industrial classes.
3. The pipe line property class prescribed under the *Assessment Act*.

Setting of tax rates, upper-tiers

(3) The council of an upper-tier municipality that is requisitioned shall, for the purposes of raising the amounts requisitioned, pass a by-law directing the council of each lower-tier municipality to levy tax rates, as specified in the by-law, on the assessment in the lower-tier municipality rateable for school purposes.

When rates set

(4) A by-law required under subsection (3) shall be passed on or before the date by which the council of the upper-tier municipality must pass the upper-tier rating by-law for the year.

Setting of tax rates, single-tiers

(5) The council of a single-tier municipality that is requisitioned shall, for the purposes of raising the amounts requisitioned, pass a by-law levying tax rates, as specified in the by-law, on the assessment in the municipality rateable for school purposes.

When rates set

(6) A by-law required under subsection (5) shall be passed on or before the day the council passes the by-law for the year under subsection 312 (2) of the *Municipal Act, 2001* or subsection 277 (2) of the *City of Toronto Act, 2006*, as the case may be.

Note: The amendments made by the Statutes of Ontario, 1998, chapter 33 apply, except where the context otherwise requires, with respect to the entire 1998 taxation year not just that portion of it that follows December 18, 1998. See: 1998, c. 33, s. 47 (1).

Restrictions on tax rates

(7) The following apply with respect to the tax rates specified in a by-law under subsection (3) or (5):

1. The rates shall be set so that, when levied on the applicable assessment,
 - i. the amount that the requisition requires to be raised on the commercial classes is raised from the commercial classes,
 - ii. the amount that the requisition requires to be raised on the industrial classes is raised from the industrial classes, and
 - iii. the amount that the requisition requires to be raised on the pipe line property class is raised from the pipe line property class.
2. There shall be a single rate for each class of real property prescribed under the *Assessment Act*.
3. If there are two or more commercial classes, the rates for the commercial classes must be in the same proportion to each other as the tax ratios established under sections 308, 309 and 310 of the *Municipal Act, 2001* or section 275 of the *City of Toronto Act, 2006*, as the case may be, for the classes are to each other.
4. If there are two or more industrial classes, the rates for the industrial classes must be in the same proportion to each other as the tax ratios established under sections 308, 309 and 310 of the *Municipal Act, 2001* or section 275 of the *City of Toronto Act, 2006*, as the case may be, for the classes are to each other.

Tax rates deemed to be prescribed

(8) The tax rates specified in a by-law under subsection (3) or (5) shall be deemed to be tax rates prescribed by the Minister of Finance under clause 257.12 (1) (b).

Graduated tax rates

(9) Subsections 314 (4) and (6) of the *Municipal Act, 2001* and the regulations made under clauses 314 (5) (b) and (c) of that Act and subsections 279 (3) and (5) of the *City of Toronto Act, 2006* and

the regulations made under clauses 279 (4) (b) and (c) of that Act, as the case may be, apply with necessary modifications to the tax rates specified in a by-law under subsection (3) or (5).

Subclass tax reductions

(10) Section 313 of the *Municipal Act, 2001* or section 278 of the *City of Toronto Act, 2006*, as the case may be, applies, with necessary modifications, with respect to the tax rates specified in a by-law under subsection (3) or (5).

Definitions

(11) In this section,

“**commercial classes**” has the same meaning as in subsection 308 (1) of the *Municipal Act, 2001* or subsection 275 (1) of the *City of Toronto Act, 2006*, as the case may be;

“**industrial classes**” has the same meaning as in subsection 308 (1) of the *Municipal Act, 2001* or subsection 275 (1) of the *City of Toronto Act, 2006*, as the case may be.

School tax rates for commercial and industrial classes

257.12.2 (1) The authority of the Minister of Finance to prescribe tax rates for school purposes under section 257.12 shall be used so that the requirements in this section are satisfied.

Application with respect to requisitions

(2) The authority of the Minister of Finance to requisition amounts under section 257.12.1 shall be used so that the tax rates set by the council of the municipality pursuant to the requisition result in the requirements in this section being satisfied.

2005 and after

(3) The weighted average tax rate for school purposes for the commercial classes for a municipality for 2005 and later years must not exceed the provincial average tax rate as prescribed.

Before 2005, below provincial average tax rate

(4) For a year after 1998 but before 2005, if the weighted average tax rate for school purposes for the commercial classes for the municipality for the previous year was the provincial average tax rate as prescribed or less, the weighted average tax rate for school purposes for the commercial classes for the municipality for the current year must not exceed the provincial average tax rate as prescribed.

Before 2005, above provincial average tax rate

(5) For a year after 1998 but before 2005, if the weighted average tax rate for school purposes for the commercial classes for the municipality for the previous year was greater than the provincial average tax rate as prescribed, the weighted average tax rate for school purposes for the commercial classes for the municipality for the current year must not exceed a maximum determined in accordance with the following:

1. Determine the amount by which the weighted average tax rate for school purposes for the commercial classes for the municipality for the previous year exceeds the provincial average tax rate as prescribed.
2. Determine the number of years until 2005, including the current year and the year 2005.

3. Divide the amount determined under paragraph 1 by the number of years under paragraph 2.
4. The maximum is the weighted average tax rate for school purposes for the commercial classes for the municipality for the previous year minus the amount determined under paragraph 3.

Weighted average tax rate

(6) For the purposes of this section, the weighted average tax rate for school purposes for the commercial classes for a municipality is a percentage determined in accordance with the following:

1. The weighted average tax rate for school purposes for the commercial classes for a municipality for a year shall be determined by adding the taxes for school purposes for the year on all property in the commercial classes in the municipality for the year, dividing that sum by the total assessment of such property, as set out in the assessment roll returned for the year, and multiplying by 100.
2. The weighted average tax rate for school purposes for the commercial classes for a municipality for a previous year shall be determined by adding the taxes for school purposes for the previous year on all property that is in the municipality in the current year and was in the commercial classes for the previous year, dividing that sum by the total assessment of such property, as set out in the assessment roll returned for the previous year, and multiplying by 100.
3. For the purposes of paragraph 2, the taxes for school purposes for a property with respect to which Part XXII.1 or Division B of Part XXII.2 of the *Municipal Act*, as that Part and that Division read on December 31, 2002, applied shall be deemed to be equal to the taxes that would have been raised by the tax rate prescribed by the Minister of Finance under section 257.12 or, if the Minister of Finance requisitioned an amount under section 257.12.1, by the tax rate set by the council of a municipality pursuant to the requisition.

Regulations, accelerated rate reduction

(7.1) For greater clarity in interpreting this section, the Minister of Finance may make regulations to prescribe for a year before 2005 tax rates for school purposes in order to reduce the weighted average tax rate for school purposes for the commercial classes or the industrial classes below the maximum tax rate otherwise required under subsection (5).

General or specific

(7.2) A regulation under subsection (7.1) may be general or specific in its application and may treat different municipalities differently.

Industrial classes

(8) Subsections (3) to (7.2) also apply, with necessary modifications, with respect to the industrial classes. **Regulations**

(8.1) The Minister of Finance may make regulations prescribing the provincial average tax rate for the purposes of this section and the regulations may be general or specific and may be different for different classes of real property.

Definitions

(9) In this section,

“**commercial classes**” has the same meaning as in subsection 308 (1) of the *Municipal Act, 2001* or subsection 275 (1) of the *City of Toronto Act, 2006*, as the case may be;

“**industrial classes**” has the same meaning as in subsection 308 (1) of the *Municipal Act, 2001* or subsection 275 (1) of the *City of Toronto Act, 2006*, as the case may be;

“**municipality**” means a single-tier municipality or an upper-tier municipality.

Reduction below provincial average tax rate

(9.1) Nothing in this section affects the authority of the Minister of Finance to prescribe tax rates for school purposes under section 257.12 so that the weighted average tax rate for school purposes for the commercial classes or for the industrial classes for a municipality is less than the provincial average tax rate as prescribed.

Vacant unit rebate

257.12.3 (1) Subject to the regulations made under subsection (2), subsections 364 (1), (2), (3) and (5) to (24) of the *Municipal Act, 2001* and the regulations under subsection 364 (12) of that Act apply with necessary modifications in respect of any area in which a board is required to levy taxes for school purposes under this Division, and for that purpose, references to municipalities in those subsections shall be deemed to be references to the board that is required to levy taxes for school purposes under this Division.

Regulations, Minister of Finance

(2) The Minister of Finance may make regulations,
(a) prescribing the amount of the rebate as a percentage of the tax payable for school purposes that is applicable to an eligible property; and
(b) providing that subsection (1) does not apply to an area in which a board is required to levy taxes for school purposes under this Division.

Deferrals

257.13 (1) Where a by-law under subsection 319 (1) of the *Municipal Act, 2001* or section 283 of the *City of Toronto Act, 2006* is in effect in a municipality, the amount of payments that shall be made by the municipality to a board under section 257.11 shall be reduced by the total of all taxes levied by the municipality for the board under this Division that were deferred under the by-law. \

Same

(2) Deferred taxes described in subsection (1), and interest on those taxes as provided under the by-law, shall be paid by the municipality to the board when the amounts are paid to the municipality.

Reductions

257.13.1 A tax levied under this Division shall be deemed to be a municipal property tax for the purposes of section 131 of the *Residential Tenancies Act, 2006*.

Regulations, unpaid taxes in territory being organized

257.13.2 The Lieutenant Governor in Council may make regulations governing the collection of unpaid taxes for school purposes on property in unorganized territory that is annexed to a

municipality or that is incorporated as a municipality including, without limiting the generality of the foregoing,

- (a) requiring the municipality to make payments in respect of unpaid taxes to boards;
- (b) for the purposes prescribed in the regulations, deeming the taxes to be taxes for municipal purposes levied by the municipality.

Regulations, Minister of Education and Training

257.14 (1) The Minister of Education and Training may make regulations,

- (a) providing that a board specified in the regulation in the area of jurisdiction of an English-language public district school board or a district school area board mentioned in paragraph 2 or 3 of subsection 257.7 (1) perform the duties imposed by those paragraphs instead of the English-language public district school board or the district school area board in that board's area of jurisdiction;
- (b) providing that a board specified in the regulation that is not mentioned in paragraphs 2 or 3 of subsection 257.7 (1), the area of jurisdiction of which includes territory without municipal organization that is not deemed under section 56 or subsection 58.1 (2) to be attached to a municipality, perform the duties imposed by those paragraphs in its area of jurisdiction even if the area of jurisdiction of that board is in whole or in part the area of jurisdiction of a board mentioned in paragraphs 2 and 3 of subsection 257.7 (1);
- (c) providing that a board specified in the regulation perform the duties of a board mentioned in section 256 or subsection 255 (1) respecting the levying of rates in the area of jurisdiction of the board it is replacing;
- (c.1) providing for boards that are required to levy tax rates under section 257.7 of this Act to levy tax rates, in accordance with the regulations, for the purposes of raising interim levies including, without limiting the generality of the foregoing, providing for anything provided for under section 317 of the *Municipal Act, 2001*;
- (d) providing for the apportionment and distribution of amounts levied under subsection 257.7 (1) on residential property taxable for English-language public board purposes between a district school area board and a board established under section 67, where the property is in the area of jurisdiction of both boards;
- (e) respecting the form and contents of the tax roll in connection with taxes for school purposes;
- (f) providing, despite any provision of this Act or the *Provincial Land Tax Act, 2006*, that parts of territory described in subsection (2) shall, for the purposes of this Division, be deemed to be attached to a municipality under section 56 or clause 58.1 (2) (m) until the territory becomes, or is included in, a municipality;
- (g) providing for such transitional matters as the Minister considers necessary or advisable in connection with a change as to which board or municipality is required to do a thing under this Division in relation to territory without municipal organization;
- (h) governing the levying of rates under subsection 255 (1) or 256 (1);
- (i) providing, despite any provision of this Act or the *Municipal Act, 2001*, that boards and municipalities may levy rates for a previous year in respect of property in territory without municipal organization, subject to conditions set out in the regulation.

Note: The amendments made by the Statutes of Ontario, 1998, chapter 33 apply, except where the context otherwise requires, with respect to the entire 1998 taxation year not just that portion of it that follows December 18, 1998. See: 1998, c. 33, s. 47 (1).

Clause (1) (f)

(2) The territory referred to in clause (1) (f) is territory without municipal organization that, on December 31, 1997, was attached to a municipality for school purposes and that, on January 1, 1998, was not so attached.

General or particular

(3) A regulation under subsection (1) may be general or particular.

Note: The amendments made by the Statutes of Ontario, 1998, chapter 33 apply, except where the context otherwise requires, with respect to the entire 1998 taxation year not just that portion of it that follows December 18, 1998. See: 1998, c. 33, s. 47 (1).

Retroactive

(4) A regulation under clause (1) (i) may provide for the levying of rates for any year that is after 1997.

**DIVISION C
TAXES SET BY BOARDS**

Interpretation

257.15 (1) In this Division,

“**common jurisdictional area**”, in respect of two or more boards, means the area that is within the area of jurisdiction of both or all of those boards;

“**municipality**” includes an upper-tier municipality.

Types of boards

(2) For the purposes of this Division, the following are types of boards:

1. English-language public board.
2. English-language Roman Catholic board.
3. French-language public district school board.
4. French-language separate district school board.
5. Protestant separate school board.

Rates set by boards

257.16 (1) For the purpose of raising money for its purposes, a board may determine, levy and collect rates on assessment for real property that is rateable for the board’s purposes as provided in section 257.17.

Subscriptions

(2) For the purpose of raising money for its purposes, a Roman Catholic board may collect subscriptions on and from persons sending children to or subscribing towards the support of the board.

Assessment rateable under s. 257.16

257.17 (1) For the purposes of section 257.16, the following assessment for real property is rateable for a board's purposes:

1. The assessment of residential property that is entered against an individual who is in respect of that property a supporter of that type of board.
2. The assessment of residential property that is entered against a partnership or corporation to which section 237 applies, to the extent that the assessment is entered and assessed for the purposes of that type of board.
3. The assessment of business property that is entered against an individual who is in respect of that property a supporter of that type of board.
4. The assessment of business property that is entered against a corporation sole and assessed for the purposes of that type of board.
5. The assessment of real property that would have been rateable under paragraph 2 or 4 if it had not vested in the Crown in right of Ontario because of an escheat or forfeiture as a result of the dissolution of a corporation, for the period that begins on the day on which the real property is escheated or forfeited and that ends on the day a notice is registered on title to the real property under section 24 of the *Forfeited Corporate Property Act, 2015*, indicating that the Crown intends to use the property for Crown purposes.
6. The assessment of real property that would have been rateable under paragraph 1 or 3 if it did not belong to the Crown in right of Ontario as a result of the death of an individual who did not have any lawful heirs, for the period that begins on the day on which the real property becomes property of the Crown and that ends on the day a notice is registered on title to the real property indicating that the Crown intends to use the property for Crown purposes.

Transition

(2) If real property described in paragraph 5 of subsection (1) is vested in the Crown in right of Ontario before subsection 3 (5) of Schedule 4 to the *Modernizing Ontario's Municipal Legislation Act, 2017* comes into force, subsection (1) applies in respect of that real property as if paragraph 5 of that subsection had been in force on the day the real property became vested in the Crown.

Same

(3) If real property described in paragraph 6 of subsection (1) became the property of the Crown in right of Ontario before subsection 3 (5) of Schedule 4 to the *Modernizing Ontario's Municipal Legislation Act, 2017* comes into force, subsection (1) applies in respect of that real property as if paragraph 6 of that subsection had been in force on the day the real property became the property of the Crown.

Agreements with municipalities re collection

257.18 (1) Subject to the regulations, a board and a municipality may enter into an agreement providing for the municipality to levy and collect rates determined by a board under section 257.16.

Regulations

(2) The Lieutenant Governor in Council may make regulations, which may be general or particular, respecting the terms of agreements referred to in subsection (1).

Collection powers of boards

257.19 (1) A municipality or board that levies or collects rates for school purposes under this Division has, for purposes of the collection, chargeback, cancellation, refund or rebate of the rates, the same powers and duties as a municipality has in respect of the collection, chargeback, cancellation, refund or rebate of rates levied for municipal purposes, including powers and duties relating to the sale of land for tax arrears.

Powers of officers

(2) The officers of a municipality or of a board that levies or collects rates for school purposes under this Division have the same powers and duties in respect of the collection, chargeback, cancellation, refund or rebate of rates levied under this Division, including powers and duties relating to the sale of land for tax arrears, as officers of a municipality have in respect of rates levied for municipal purposes.

Application of other Acts

(3) Section 349 of the *Municipal Act, 2001* or section 314 of the *City of Toronto Act, 2006*, as the case may be, applies to rates levied under this Division.

Regulations

(4) The Minister of Finance may make regulations, which may be general or particular in their application,

(a) varying, limiting or excluding the powers and duties under this section of municipalities and boards and of the officers of municipalities and boards; and

(b) providing for anything that the Minister considers necessary or advisable to ensure that tax collection by municipalities and boards under the provisions of this Division is coordinated with tax collection under any other provisions of this Act or under the provisions of any other Act and, for the purpose, varying, limiting or excluding the application of any provision of this or any other Act.

Designation by individuals re business property

257.20 (1) For the purposes of rates levied under this Division, section 236 applies with necessary modifications to permit an individual to give notice in respect of assessment for business property and, for the purpose, a reference to “residential property” shall be deemed to be a reference to “business property”.

Exception

(2) Despite subsection (1), a person who is an owner or tenant of business property outside the area of jurisdiction of all boards is not entitled to apply under this section.

Limitation on s. 257.20 where residential property assessed

257.21 If an individual is an owner or tenant of residential property in the area of jurisdiction of a board and is also the owner or tenant of business property in the area of jurisdiction of that board,

- (a) the person shall be deemed to have applied in respect of the business property under section 16 of the *Assessment Act* to the assessment commissioner for the area in which the business property is located, to have his or her name included or altered in the assessment roll as a supporter of that board in respect of the business property; and
- (b) despite section 257.20, the person is not entitled to apply under section 16 of the *Assessment Act* to have his or her name included or altered in the assessment roll as a supporter of a different board in respect of business property within the area of jurisdiction of that board.

Designation by corporations sole re business assessment

257.22 For the purpose of rates levied under this Division, section 237 applies with necessary modifications to permit a corporation sole to give notice in respect of its assessment for business property and, for the purpose, a reference to “residential property” shall be deemed to be a reference to “business property”.

Assessment of certain tenants

257.23 (1) For the purposes of rates levied under this Division, subsections 237 (1) to (11) and (14) to (17) apply with necessary modifications to the assessment of residential property entered against a partnership or corporation, other than a designated ratepayer as defined in subsection 238 (1), that is a tenant of the property.

Same

(2) For the purposes of rates levied under this Division, a notice in respect of residential property given under subsection 237 (12) indicating the proportions of amounts to be distributed to each board shall be deemed to be a notice given under subsection 237 (3) requiring the same proportions of the assessment of the property to be entered and assessed for the purposes of the same boards.

Tenant priority

257.24 (1) The tenant of land shall be deemed to be the person primarily liable for the payment of school rates imposed under this Division and for determining the type of board to which those rates shall be applied.

Same

(2) No agreement between the owner and tenant as to the payment of rates as between themselves alters or affects the operation of this section.

Regulations re property classes and tax ratios

257.25 (1) The Lieutenant Governor in Council may make regulations for the purposes of this Division prescribing property classes and establishing school purpose tax ratios for municipalities and territory without municipal organization that are situated within the area of jurisdiction of a board.

Same

(2) A regulation made under subsection (1) may establish different school purpose tax ratios for the areas of jurisdiction of different boards.

Same

(3) A regulation made under subsection (1) prescribing property classes shall prescribe the residential property class as prescribed under the *Assessment Act*.

Definition

(4) In subsection (1),

“**school purpose tax ratio**” means the ratio that the rate levied for a board’s purposes for each property class prescribed under subsection (1) must be to the rate levied for the board’s purposes for the residential property class.

Determination of rates

257.26 (1) Where a board determines rates under this Division, the board shall determine the rates in such a way that the rates on the different classes of property are in the same proportion to each other as the tax ratios established under section 257.25 for the property classes are to each other.

Same

(2) A board may determine different rates under subsection (1) for a municipality, a part of a municipality, territory without municipal organization or part of territory without municipal organization.

Regulations

257.27 (1) The Minister may make regulations,

- (a) governing the form and content of tax notices and the giving of tax notices in connection with rates imposed under this Division;
- (b) requiring boards that determine rates under this Division to prepare documents respecting,
 - (i) the budgeting process and financial planning relied on in determining the rates, and
 - (ii) the revenues raised or expected to be raised by the rates;
- (c) respecting the form and contents of the documents referred to in clause (b);
- (d) requiring boards to report to the Minister and to the ratepayers of the board on any matter referred to in subclause (b) (i) or (ii), in the form and manner specified in the regulations.

General or particular

(2) A regulation made under this section may be general or particular.

Borrowing powers of Roman Catholic boards

257.28 (1) A Roman Catholic board may pass by-laws for borrowing money, by mortgages or other instruments, on the security of the schoolhouse property and premises and any other real or personal property vested in the board and on the security of the board’s rates imposed under this Division, for the purpose of paying the cost of school sites, school buildings or additions or repairs to them, or for any other board purposes.

Terms of payment

(2) The principal money may be made payable in annual or other instalments, with or without interest, and the board, in addition to all other rates or money that it may levy in any one year, may levy and collect in each year such further sum as may be required for paying all principal and interest falling due in that year, and the same shall be levied and collected in each year in the same manner and from the like persons and property by, from, on or out of which other separate school rates may be levied and collected.

Maturity

(5) The debt to be so incurred may be made payable in 30 years at the furthest, and in equal annual instalments of principal and interest, or in any other manner authorized by the regulations made under subsection 247 (3).

Sinking fund

(6) Where the debt is not payable by instalments, the board shall levy in each year during the currency of the debt in addition to the amount required to pay the interest falling due in that year a sum such that the aggregate amount so levied during the currency of the debt, with the estimated interest on the investments of the aggregate amount, will be sufficient to discharge the debt when it becomes payable.

Investment of fund

(7) The sum referred to in subsection (6) shall be deposited into a fund established under clause 247 (3) (d) and, subject to the other provisions of this section, a regulation made under clause 247 (3) (d), (g) or (h) applies with necessary modifications to the application of the money in the fund.

Publication of notice of by-law

(8) Before a by-law for borrowing money for a permanent improvement is acted on, notice of the passing of the by-law shall be given,

- (a) in a newspaper having general circulation within the separate school zone for three consecutive weeks; and
- (b) on the board's website for three consecutive weeks or, if the board does not have a website, in another manner that the board considers appropriate.

Contents of notice

(8.1) The notice of the passing of the by-law shall state,

- (a) the purpose for which the money is to be borrowed;
- (b) the amount to be borrowed and the security for the amount; and

(c) the terms of repayment including the rate of interest. **If no application to quash**

(8.2) If no application to quash the by-law is made for three months after publication of notice of the passing of the by-law, the by-law is valid despite any want of substance or form in the by-law or in the time or manner of passing the by-law.

Non-application of s. 242

(9) Section 242 does not apply in relation to borrowing under this section.

Notice to assessment commissioner

257.29 (1) A board shall give written notice to the assessment commissioner of its intention to levy rates under this Division at least 12 months before January 1 of the first year in respect of which a board levies rates under this Division.

Same

(2) A board is not entitled to determine, levy or collect rates under this Division unless it has given the notice referred to in subsection (1).

**DIVISION C.1
FINANCIAL RECOVERY PLANS**

Financial recovery plan

257.29.1 (1) The Minister may order a board to adopt by resolution a financial recovery plan and submit it to the Minister within the time the Minister specifies if,

(a) the board's financial statements for a fiscal year show that the board had an in-year deficit contrary to section 231 or a regulation made under section 231 or an accumulated deficit; or

(b) the Minister has reasonable grounds to believe that the board's financial statements for a fiscal year will show that the board had an in-year deficit contrary to section 231 or a regulation made under section 231 or an accumulated deficit.

Minister's approval

(2) The Minister may, with respect to a financial recovery plan submitted to him or her under subsection (1),

(a) approve the plan, subject to such amendments as the Minister determines are necessary;

(b) reject the plan and require the board to submit a new plan addressing such matters as the Minister specifies; or

(c) reject the plan and do anything else he or she is authorized to do under Division D or Part VIII.

Compliance with financial recovery plan

(3) The board shall comply with the provisions of a financial recovery plan approved under subsection (2) until the board's financial statements for a fiscal year show that in that year it had neither an accumulated deficit nor an in-year deficit.

New financial recovery plans

(4) Even after a financial recovery plan has been approved under subsection (2), the Minister may require the board to submit another such plan if,

(a) the Minister determines that the board has not complied with the provisions of the financial recovery plan that was approved or with a regulation respecting financial recovery plans; or

(b) the Minister is of the opinion that a new financial recovery plan is required due to circumstances arising since the financial recovery plan was approved.

Regulations

(5) The Minister may make regulations governing financial recovery plans, including regulations governing the duration of plans and setting out goals or targets that the board must meet while subject to a financial recovery plan.

DIVISION D SUPERVISION OF BOARDS' FINANCIAL AFFAIRS

Investigation of board's financial affairs

257.30 (1) The Minister may direct an investigation of the financial affairs of a board if,

- (a) the financial statements of the board for a fiscal year, or the auditor's report on the statements, required to be submitted to the Ministry under section 252, indicate that the board had an accumulated deficit for that year;
 - (a.1) the board was required under subsection 257.29.1 (1), (2) or (4) to submit a financial recovery plan to the Minister within the time specified by the Minister and the board failed to do so;
 - (a.2) the board was required under subsection 257.29.1 (3) to comply with a financial recovery plan and the board failed to do so;
 - (a.3) the board was required to comply with a regulation made under subsection 257.29.1 (5) and the board failed to do so;
- (b) the board has failed to pay any of its debentures or instruments prescribed under clause 247 (3) (f) or interest on them, after payment of the debenture, instrument or interest is due and has been demanded;
- (c) the board has failed to pay any of its other debts or liabilities when due and default in payment is occasioned from financial difficulties affecting the board; or
- (d) the Minister has concerns about the board's ability to meet its financial obligations.

Same

(1.1) The Minister may direct an investigation under subsection (1) whether or not he or she has ordered the board to submit a financial recovery plan under section 257.29.1 or considered any such plan that has been submitted.

Appointment of investigator

(2) The Minister may appoint as an investigator a person licensed under the *Public Accounting Act, 2004* or an employee in the Ministry.

Powers of investigator

(3) An investigator may,

- (a) require the production of any records that may in any way relate to the financial affairs of the board;
- (b) examine and copy any records required under clause (a); and
- (c) require any officer of the board or any other person to appear before him or her and give evidence, on oath or affirmation, relating to the financial affairs of the board.

Application of *Public Inquiries Act, 2009*

(4) Section 33 of the *Public Inquiries Act, 2009* applies to an investigation.

Report of investigator

(5) On completion of an investigation, an investigator shall report in writing to the Minister, who shall promptly transmit a copy of the report to the secretary of the board.

Same

(6) The investigator may not recommend that control and charge over the administration of the affairs of the board be vested in the Ministry unless the investigation discloses evidence of financial default or probable financial default, of an accumulated deficit or a probable accumulated deficit or of serious financial mismanagement.

Minister's powers on reviewing report: directions

257.31 (1) After reviewing the report made under subsection 257.30 (5), the Minister may give any directions to the board that he or she considers advisable to address the financial affairs of the board.

Vesting order

Report recommendation

(2) If the report recommends that control and charge over the administration of the affairs of the board should be vested in the Ministry, the Lieutenant Governor in Council may make any order that the Lieutenant Governor in Council considers necessary or advisable to vest in the Ministry control and charge over the administration of the affairs of the board.

Board failure to comply with direction

(3) If the Minister advises the Lieutenant Governor in Council that he or she is of the opinion that the board has failed to comply with a direction given under subsection (1), the Lieutenant Governor in Council may make any order that the Lieutenant Governor in Council considers necessary or advisable to vest in the Ministry control and charge over the administration of the affairs of the board.

Notice to board

(4) The order shall be promptly transmitted to the secretary of the board.

Vesting order

257.32 (1) Where a board is subject to an order under subsection 257.31 (2) or (3),
(a) the Minister shall publish notice of the order in *The Ontario Gazette*; and
(b) the persons directed by the Minister to do so shall give notice of the order to the persons specified by the Minister, in the form specified by the Minister.

No proceedings against board without leave of Minister

(2) After notice has been published in *The Ontario Gazette* under clause (1) (a),
(a) no proceeding against the board shall be commenced or continued in any court without leave of the Minister; and

(b) no order of any court shall be enforced against the board without leave of the Minister.

Suspension of limitation period

(3) Subject to subsection (4), where the commencement or continuance of any proceeding or the enforcement of a court order is prevented under this section,

(a) the running of any limitation period relating to the proceeding or enforcement is suspended until the Minister gives leave to commence or continue the proceeding or to enforce the court order, as the case may be; and

(b) the person having the right to commence or continue the proceeding or to enforce the court order shall, immediately after the leave is given, have the same length of time within which to commence or continue the proceeding or enforce the court order, as the case may be, as the person had when the notice was published in *The Ontario Gazette* under clause (1) (a).

Same

(4) Subsection (3) does not apply unless application is made to the Minister for leave to commence or continue the proceeding or to enforce the order within the relevant limitation period and the Minister refuses to give the leave.

Effect of order

(5) Subsection (2) does not apply in relation to a board that is subject to an order under subsection 257.31 (2) or (3) after the Minister makes an order under clause 257.34 (2) (b) or (i) with respect to the board.

Control exercisable by Minister

257.33 (1) Where the Lieutenant Governor in Council has made an order under subsection 257.31 (2) or (3) in respect of a board, the Minister has control and charge over the board generally with respect to any matter in any way affecting the board's affairs.

Same

(2) Without limiting the generality of subsection (1), where the Lieutenant Governor in Council has made an order under subsection 257.31 (2) or (3) in respect of a board, the Minister has control and charge over the exercise and performance by the board of its powers, duties and obligations with respect to all matters, including but not limited to matters respecting,

(a) the appointment and dismissal of the board's officers and employees and their powers, duties, salaries and remuneration;

(b) the board's revenues and expenditures;

(c) the board's sinking funds, retirement funds and the funds prescribed under clause 247 (3) (e) and the money belonging to those funds;

(d) the board's accounting and audit systems and dealings with the board's assets, liabilities, revenues and expenditures;

(e) the yearly or other estimates of the board, financial statements of the board and other reports of the board required by the Minister as well as the form, preparation and completion of them, and the times when they shall be made;

(f) the amounts to be provided for in the yearly or other estimates;

- (g) the borrowing of money for the current expenditures of the board until the current revenue has been received;
- (h) the imposition, charging and collection of all fees, charges and expenses;
- (i) the sale or other disposition of any of the board's assets.

Powers of Minister re debt

257.34 (1) In this section, "indebtedness" includes,

- (a) any instrument prescribed under clause 247 (3) (f), debentures issued under a repealed provision or other debt of the board,
- (b) any interest on any indebtedness of the board.

Same

(2) Where a board is subject to an order under subsection 257.31 (2) or (3), the Minister, with respect to the board's indebtedness, has the power by order to authorize or direct,

- (a) the consolidation of all or any part of the board's indebtedness;
- (b) the issue, on the terms and conditions, in the manner and at the times that the Minister may approve, of instruments prescribed under clause 247 (3) (f) or other evidences of indebtedness, in substitution and exchange for any debentures or such debt instruments that are outstanding or in payment and satisfaction of all or any part of any other indebtedness, and compulsory acceptance of those instruments or other evidences of indebtedness in payment and satisfaction of the instruments that are outstanding or other indebtedness;
- (c) the issue of new instruments prescribed under clause 247 (3) (f) to cover any consolidation under clause (a) or (b);
- (d) the retirement and cancellation of all or any part of the existing debenture debt and debt incurred by any instrument prescribed under clause 247 (3) (f) and debt instruments prescribed under clause 247 (3) (f) that are outstanding, on the issue of new debt instruments prescribed by clause 247 (3) (f) to cover them or in exchange for them;
- (e) the terms, conditions, places and times for exchange of new instruments prescribed under clause 247 (3) (f) for debt instruments that are outstanding;
- (f) the variation of the basis, terms, times and places of payment of all or any part of the board's indebtedness;
- (g) the creation and setting aside of sinking funds, retirement funds and funds prescribed under clause 247 (3) (e) and the restriction of money out of any portion of the revenues of the board for meeting obligations relating to all or any part of the board's indebtedness;
- (h) the custody, management, investment and application of sinking funds, retirement funds, funds prescribed under clause 247 (3) (e), deferred revenues and surpluses;
- (i) the ratification and confirmation of any agreement, arrangement or compromise entered into with any of the board's creditors respecting all or any part of the board's indebtedness;
- (j) any amendment or cancellation of any order made by the Minister under this section or of the terms of any agreement, arrangement or compromise ratified and confirmed by the Minister under clause (i);
- (k) the implementation of an interim plan, pending a final plan, or of a final plan, which may cancel all or any portion of interest in arrears and may alter, modify or compromise the rights of debenture holders, holders of instruments prescribed under clause 247 (3) (f) or other creditors during any period of time between the relevant date of default and the

end of the fifth year following the date on which the final plan was ordered implemented by the Minister. 1997, c. 31, s. 113 (4); 2009, c. 25, s. 36 (2);

Limitation

(3) The Minister shall not make any order under clause (2) (k) unless creditors, representing not less than two-thirds in amount of the aggregate of the indebtedness of the board, excluding indebtedness in respect of which the board is not directly but only contingently or collaterally liable, have filed in writing with the Minister their approval of the making of the order.

Publication of notice of intention to exercise powers

(4) Where the Minister intends to exercise a power under subsection (2), he or she shall first give notice of the intention in *The Ontario Gazette* and by any other publication and to the persons and in the manner that the Minister considers proper.

Same

(5) The notice shall state the date after which the matter is to be dealt with by the Minister.

Same

(6) The time stated under subsection (5) shall be at least two months after the notice is published in *The Ontario Gazette*.

Incidental matters

(7) Subsection (4) does not apply with respect to any matter that, in the opinion of the Minister, is merely incidental to the exercise of a power under subsection (2).

Objection to be filed with Minister

(8) The Minister shall not make any order under subsection (2) if an objection in writing to the making of the order is filed with the Minister by creditors representing not less than one-third in amount of the aggregate of the indebtedness of the board, excluding indebtedness in respect of which the board is not directly but only contingently or collaterally liable.

Approval by creditors

(9) If creditors, representing not less than two-thirds in amount of the aggregate of the indebtedness of the board, excluding indebtedness in respect of which the board is not directly but only contingently or collaterally liable, have filed in writing with the Minister their approval of the making of any order of the Minister under subsection (1), it is not necessary that two months referred to in subsection (6) elapse.

Notice when matter to be varied

(10) When a matter is being dealt with by the Minister under this section and the Minister intends to vary the terms of any indebtedness, he or she shall first give notice of the intention to the persons and in the manner that the Minister considers proper.

Same

(11) The notice shall state the date after which the variation is to be dealt with by the Minister.

Same

(12) The time stated under subsection (11) shall be at least two weeks after the notice.

Certain debenture and other debt not to form part of debt after order of Minister

257.35 After an order of the Minister has been made under section 257.34, no portion of the debenture debt of the board represented by debentures or debt incurred by any instrument prescribed under clause 247 (3) (f) ordered to be cancelled, retired or exchanged forms part of its debt within the meaning of a provision of this or any other Act limiting the board's borrowing powers.

Variation or cancellation of subsisting agreements

257.36 Where a board is subject to an order under subsection 257.31 (2) or (3), the board may, with the approval of the Minister, enter into an agreement with any person with whom the board has previously entered into an agreement or obligation that, or some term or obligation of which, remains in whole or in part or in any manner to be carried out by the board, for the amendment or cancellation of the subsisting agreement or obligation.

Minister to approve instrument issues

257.37 (1) Without the approval of the Minister first being obtained, a board that is subject to an order under subsection 257.31 (2) or (3) shall not, under this or any other Act, exercise or be required to exercise any of its powers if that exercise will or may require money to be provided by the issue of instruments prescribed under clause 247 (3) (f) of the board.

Approval of instrument by-laws

(2) Where a board is subject to an order under subsection 257.31 (2) or (3), the board may, with the approval of the Minister, pass by-laws providing for the issue of instruments prescribed under clause 247 (3) (f) or authorizing the sale of such instruments or the offering of such instruments as security, but no such by-law has any force and effect until approved by the Minister.

Minister to have control over money and its application

257.38 (1) Where a board is subject to an order under subsection 257.31 (2) or (3), the Minister has full charge and control over all money belonging to the board and received by any person for or on its behalf and the money shall be deposited in one of the following institutions, to be designated by the board or, in the absence of designation by the board, by the Minister:

1. A bank listed in Schedule I or II to the *Bank Act* (Canada).
2. REPEALED: 2002, c. 8, Sched. I, s. 8.
3. A loan or trust corporation registered under the *Loan and Trust Corporations Act*.
4. A credit union as defined in section 1 of the *Credit Unions and Caisses Populaires Act, 1994*.

Same

(2) When money is deposited as required by subsection (1), it shall only be applied for the purposes, in the manner and at the times that the Minister may approve.

Same

(3) All cheques drawn and issued by the board shall be signed and countersigned by the persons and in the manner that the Minister may authorize.

Same

(4) No money belonging to or revenues of the board may be applied by any person except with the approval of or otherwise than as directed by the Minister.

Exercise of board jurisdiction subject to order

257.39 The powers and duties under this or any other Act of a board that is subject to an order under subsection 257.31 (2) or (3) shall only be exercised or performed in accordance with and subject to this Division and any order made or agreement entered into under it.

Exclusive jurisdiction

257.40 (1) Subject to subsections (3) and (4), the Minister has exclusive jurisdiction as to all matters arising under this Division or out of the exercise by the board or any person of any of the powers conferred by this Division, and that jurisdiction is not open to question or review in any proceeding or by any court.

Review of orders, etc.

(2) The Minister may at any time review any order, direction or decision made by him or her under this Division and confirm, amend or revoke it.

Exclusive jurisdiction

(3) The Lieutenant Governor in Council has exclusive jurisdiction as to the making of an order under subsection 257.31 (2) or (3), and that jurisdiction is not open to question or review in any proceeding or by any court.

Review of orders, etc.

(4) The Lieutenant Governor in Council may at any time review any order made by the Lieutenant Governor in Council under subsection 257.31 (2) or (3) and confirm, amend or revoke it.

Limitation

(5) This section is subject to section 257.52.

Powers of Minister

257.41 The Minister may make any orders from time to time that he or she considers advisable to carry out the provisions of this Division or any agreement made under it and may make rules in respect of any thing done under this Division.

Forms of certificates, notices, etc.

257.42 Every certificate, notice or other form that is in substantial conformity with the form required for it under this Division is not open to objection on the ground that it is not in the form required by this Division.

Powers exercisable for and in name of board

257.43 Where a board has become subject to an order made under subsection 257.31 (2) or (3), all things done by or for the Minister under this Division in relation to the affairs of the board shall for all purposes be deemed to have been done by and for the board and in its name.

Minister to have access to all records

257.44 Where a board is subject to an order under subsection 257.31 (2) or (3), the Minister shall have access at all times to all records of the board, including but not limited to all by-laws, assessment rolls, collectors' rolls, minute books, books of account, vouchers and other records relating to the board's financial transactions, and may inspect and copy them.

Powers to enforce orders

257.45 (1) Where a board fails to comply with any order, direction or decision of the Minister under this Division, the Minister may, on the notice, if any, that he or she considers appropriate, do or order done all things necessary for compliance with the order, direction or decision, and may exercise all the powers of the board for the purpose, under its name.

Personal liability of members of the board

(3) If a board that is subject to an order made under subsection 257.31 (2) or (3) applies any of its funds otherwise than as the Minister orders or authorizes, the members of the board who voted for the application are jointly and severally liable for the amount so applied, which may be recovered in a court of competent jurisdiction.

Dismissal of officers or employees

(4) The Minister may dismiss from office any officer or employee of a board who fails to carry out any order, direction or decision of the Minister under this Division and may exercise all the powers of the board for the purpose, under its name.

No indemnification

(5) A board shall not indemnify any of its members, officers or employees with respect to any fine imposed on conviction for an offence under this Division or with respect to any liability under subsection (3).

Injunction against exercise of board powers

257.46 The Minister may by injunction proceedings prevent the exercise by or for a board of any of its powers that has not been approved by the Minister, if that approval is required under this Division. **Combining board offices**

257.47 Where a board is subject to an order under subsection 257.31 (2) or (3), the Minister may direct that two or more of the offices of the board shall be combined and held by the same officer, and may subsequently separate any of the offices so combined.

Expenses

257.48 (1) The Minister may direct payment of the fees or remuneration and expenses reasonably incurred by the Ministry under this Division that he or she may determine. 1997, c. 31, s. 113 (4).
Appointment of Minister

(2) The Minister may appoint a person, who may be an officer of the board, to exercise the powers and perform the duties that the Minister may provide, and the person so appointed shall be paid the salary and allowed the expenses that the Minister may determine. 1997, c. 31, s. 113 (4).

Board may be heard as to salaries

(3) The Minister, in determining the salaries to be paid to any person appointed under subsection (2), shall give consideration to any representations that the board may at any time make.

Payment of salaries and expenses

(4) All salaries, fees, remuneration and expenses payable under this section and all other expenses incurred by the Minister in carrying out the provisions of this Division or in the exercise of his or her powers under it shall be paid by the board to the extent directed by the Minister and be chargeable to such of its accounts as the Minister may direct.

Conflict

257.49 The powers contained in this Division shall be deemed to be in addition to and not in derogation of any power of the Minister under this or any other Act but, where the provisions of any Act or any other provision of this Act conflict with the provisions of this Division, the provisions of this Division prevail.

Revocation of order

257.50 (1) The Lieutenant Governor in Council shall revoke an order made under subsection 257.31 (2) or (3) if the Lieutenant Governor in Council is of the opinion that the affairs of a board no longer need to be administered under this Division.

Same

(2) The Lieutenant Governor in Council shall revoke an order made under subsection 257.31 (2) or (3) if the financial statements of a board for a fiscal year and the auditor's report on the statements submitted to the Ministry under section 252 indicate that the board did not have an accumulated deficit for the fiscal year.

Legislation Act, 2006, Part III

257.51 (1) Part III (Regulations) of the *Legislation Act, 2006* does not apply to anything done under any provision of this Division or Division C.1.

Non-application of Statutory Powers Procedure Act

(2) The *Statutory Powers Procedure Act* does not apply to anything done under this Division or Division C.1.

Municipal Affairs Act, Parts II and III

(3) Parts II and III of the *Municipal Affairs Act* do not apply in relation to boards.

Denominational, linguistic and cultural issues

257.52 (1) Nothing in this Division or Division C.1 authorizes the Minister to interfere with or control,

- (a) the denominational aspects of a Roman Catholic board;
- (b) the denominational aspects of a Protestant separate school board; or
- (c) the linguistic or cultural aspects of a French-language district school board.

Same

(2) The powers under this Division and Division C.1 shall be exercised in a manner that is consistent with,

- (a) the denominational aspects of a Roman Catholic board;
- (b) the denominational aspects of a Protestant separate school board; or
- (c) the linguistic or cultural aspects of a French-language district school board.

DIVISION E

EDUCATION DEVELOPMENT CHARGES

DEFINITIONS

Interpretation

257.53 (1) In this Division,

“**board**” means a board other than a board established under section 68;

“**building permit**” means a permit under the *Building Code Act, 1992* in relation to a building or structure;

“**development**” includes redevelopment;

“**education development charge**” means a development charge imposed under a by-law passed under subsection 257.54 (1) respecting growth-related net education land costs incurred or proposed to be incurred by a board;

“**education development charge account**” means an account established under subsection 257.82 (1);

“**education development charge by-law**” means a by-law passed under subsection 257.54 (1);

“**education land cost**” means education land cost within the meaning of subsections (2), (3) and (4);

“**growth-related net education land cost**” means the portion of the net education land cost reasonably attributable to the need for such net education land cost that is attributed to or will result from development in all or part of the area of jurisdiction of a board;

“**municipality**” includes an upper-tier municipality;

“**net education land cost**” means the education land cost reduced by any capital grants and subsidies paid or that may be paid to the board in respect of such education land cost;

“**non-residential development**” means development other than residential development;

“owner” means the owner of the land or a person who has made application for an approval for the development of the land on which an education development charge is imposed;

“pupil accommodation” means a building to accommodate pupils or an addition or alteration to a building that enables the building to accommodate an increased number of pupils. (“installations d’accueil pour les élèves”)

Note: On November 1, 2019, subsection 257.53 (1) of the Act is amended by adding the following definitions: (See: 2019, c. 9, Sched. 4, s. 2)

“alternative project” means a project, lease or other prescribed measure, approved by the Minister under section 257.53.1, that would address the needs of the board for pupil accommodation and would reduce the cost of acquiring land;

“localized education development agreement” means an agreement between a board and an owner described in subsection 257.53.2 (1);

Education land costs

(2) Subject to subsections (3) and (4), the following are education land costs for the purposes of this Division if they are incurred or proposed to be incurred by a board:

1. Costs to acquire land or an interest in land, including a leasehold interest, to be used by the board to provide pupil accommodation.
2. Costs to provide services to the land or otherwise prepare the site so that a building or buildings may be built on the land to provide pupil accommodation.
3. Costs to prepare and distribute education development charge background studies as required under this Division.
4. Interest on money borrowed to pay for costs described in paragraphs 1 and 2.
5. Costs to undertake studies in connection with an acquisition referred to in paragraph 1.

Exclusions from education land costs

(3) The following are not education land costs:

1. Costs of any building to be used to provide pupil accommodation.
2. Costs that are prescribed in the regulations as costs that are not education land costs.

Education land costs, leases, etc.

(4) Only the capital component of costs to lease land or to acquire a leasehold interest is an education land cost.

Note: On November 1, 2019, the Act is amended by adding the following sections: (See: 2019, c. 9, Sched. 4, s. 3)

ALTERNATIVE PROJECTS

Alternative project

257.53.1 (1) Before an education development charge by-law is passed under subsection 257.54 (1), a board may request and the Minister may approve, in accordance with subsection (2), an allocation of revenue raised by charges imposed by the by-law towards an alternative project.

Minister's approval

(2) A board may allocate revenue raised by charges imposed by an education development charge by-law towards an alternative project if,

- (a) the board provides the Minister with the plans related to the proposed allocation of revenue towards the alternative project and any other information requested by the Minister that relates to the project; and
- (b) the Minister, after considering any prescribed criteria, approves of the proposed allocation.

Changes to approved project

(3) Before a board makes any changes to an alternative project or to a proposed allocation of revenue approved under subsection (2), the board shall provide to the Minister, within the prescribed time period, notice of the proposed changes and any updated plans and information referred to in clause (2) (a).

Same

(4) If the Minister, after considering any prescribed criteria, notifies the board within the prescribed time period that the proposed changes referred to in subsection (3) shall not be made, the board shall not make the changes.

Same

(5) If the Minister does not notify the board under subsection (4) that the proposed changes referred to in subsection (3) shall not be made, the board may make the changes.

LOCALIZED EDUCATION DEVELOPMENT AGREEMENTS

Exemption for localized education development agreement

257.53.2 (1) Before an education development charge by-law is passed under subsection 257.54 (1), a board may, in accordance with subsection (2), enter into a localized education development agreement with an owner of land that would be subject to the imposition of education development charges under the by-law, in which,

- (a) the owner provides a lease, real property or other prescribed benefit to be used by the board to provide pupil accommodation; and
- (b) the board agrees not to impose education development charges against the land that would otherwise be subject to the charges.

Minister's approval

(2) A board may enter into a localized education development agreement if,

- (a) the board provides the Minister with the proposed agreement and any other information requested by the Minister that relates to the agreement; and
- (b) the Minister, after considering any prescribed criteria, approves of the board entering into the agreement. 2019, c. 9, Sched. 4, s. 3.

Effect of agreement

- (3) If the Minister approves of and the board enters into a localized education development agreement, the land that is the subject of the agreement that would otherwise be subject to the imposition of education development charges under a by-law passed under subsection 257.54 (1) is exempt from those charges.

Notification to Minister if no agreement

- (4) If the board receives the Minister's approval under clause (2) (b) but does not enter into the agreement, the board shall notify the Minister that it did not enter into the agreement.

EDUCATION DEVELOPMENT CHARGE BY-LAWS

Education development charge by-law

257.54 (1) If there is residential development in the area of jurisdiction of a board that would increase education land costs, the board may pass by-laws for the imposition of education development charges against land in its area of jurisdiction undergoing residential or non-residential development.

What development can be charged for

- (2) An education development charge may be imposed only for development that requires,
 - (a) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*;
 - (b) the approval of a minor variance under section 45 of the *Planning Act*;
 - (c) a conveyance of land to which a by-law passed under subsection 50 (7) of the *Planning Act* applies;
 - (d) the approval of a plan of subdivision under section 51 of the *Planning Act*;
 - (e) a consent under section 53 of the *Planning Act*;
 - (f) the approval of a description under section 9 of the *Condominium Act, 1998*; or
 - (g) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure.

Same

- (3) An action mentioned in clauses (2) (a) to (g) does not satisfy the requirements of subsection (2) if the only effect of the action is to,
 - (a) permit the enlargement of an existing dwelling unit; or
 - (b) permit the creation of one or two additional dwelling units as prescribed, **subject to the prescribed restrictions**, in prescribed classes of existing residential buildings.

Application of by-law

- (4) An education development charge by-law may apply to the entire area of jurisdiction of a board or only part of it.

Limited exemption

(5) No land, except land owned by and used for the purposes of a board or a municipality, is exempt from an education development charge under a by-law passed under subsection (1) by reason only that it is exempt from taxation under section 3 of the *Assessment Act*.

Conditions

(6) The imposition of an education development charge by a board is subject to the prescribed conditions.

Exemption for industrial development

257.55 (1) If a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the education development charge that is payable in respect of the enlargement is determined in accordance with this section.

Enlargement 50 per cent or less

(2) If the gross floor area is enlarged by 50 per cent or less, the amount of the education development charge in respect of the enlargement is zero.

Enlargement more than 50 per cent

(3) If the gross floor area is enlarged by more than 50 per cent the amount of the education development charge in respect of the enlargement is the amount of the education development charge that would otherwise be payable multiplied by the fraction determined as follows:

1. Determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the enlargement.
2. Divide the amount determined under paragraph 1 by the amount of the enlargement.

When by-law effective

257.56 An education development charge by-law comes into force on the fifth day after the day on which it is passed or the day specified in the by-law, whichever is later.

If jurisdiction divided into regions

257.57 If the regulations divide the area of the jurisdiction of a board into prescribed regions for the purposes of this section the following apply:

1. Despite subsection 257.54 (4), an education development charge by-law of the board shall not apply with respect to land in more than one region.
2. The education development charges collected under an education development charge by-law that applies to land in a region shall not, except with the prior written approval of the Minister, be used in relation to land that is outside that region.

Duration of education development charge by-law

257.58 (1) Unless it expires or is repealed earlier, an education development charge by-law expires five years after the day it comes into force.

Board can pass new by-law

(2) Subsection (1) does not prevent a board from passing a new education development charge by-law.

Contents of by-law

257.59 An education development charge by-law shall,

- (a) designate the categories of residential development and non-residential development on which an education development charge shall be imposed;
- (b) designate those uses of land, buildings or structures on which an education development charge shall be imposed;
- (c) designate the areas in which an education development charge shall be imposed; and
- (d) **subject to the regulations**, establish the education development charges to be imposed in respect of the designated categories of residential and non-residential development and the designated uses of land, buildings or structures.

PROCESS BEFORE PASSING OF BY-LAWS

Review of policies

257.60 (1) Before passing an education development charge by-law, the board shall conduct a review of the education development charge policies of the board.

Public meeting

(2) In conducting a review under subsection (1), the board shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given,

- (a) in at least one newspaper having general circulation in the area of jurisdiction of the board; and
- (b) on the board's website or, if the board does not have a website, in another manner that the board considers appropriate.

Non-application, first by-law under new scheme

(3) A board is not required to conduct a review under this section before passing the first education development charge by-law it passes after December 31, 1997.

Education development charge background study

257.61 (1) Before passing an education development charge by-law, the board shall complete an education development charge background study.

Same

(2) The education development charge background study shall include,

- (a) estimates of the anticipated amount, type and location of residential and non-residential development;
- (b) the number of projected new pupil places and the number of new schools required to provide those new pupil places;
- (c) estimates of the education land cost, the net education land cost and the growth-related net education land cost of the new schools required to provide the projected new pupil places; and
- (d) such other information as may be prescribed.

Note: On November 1, 2019, subsection 257.61 (2) is amended by striking out “and” at the end of clause (c) and by repealing clause (d) and substituting the following: (See: 2019, c. 9, Sched. 4, s. 4 (1))

- (d) a description of any alternative projects that the board intends to allocate education development charges revenue towards;
- (e) a description of any localized education development agreements that the board intends to enter into; and
- (f) such other information as may be prescribed.

Note: On November 1, 2019, section 257.61 is amended by adding the following subsections: (See: 2019, c. 9, Sched. 4, s. 4 (2))

Update of background study

- (3) If the board receives the Minister’s approval to allocate revenue raised by charges imposed by an education development charge by-law towards an alternative project under clause 257.53.1 (2) (b), but does not proceed with the allocation, the board shall update any information included in the background study accordingly.

Same

- (4) If the board receives the Minister’s approval to enter into a localized education development agreement under clause 257.53.2 (2) (b), but does not enter into the agreement, the board shall update any information included in the background study accordingly.

By-law within one year after study

257.62 An education development charge by-law may be passed only within a period of 365 days following the completion of the education development charge background study.

Public meeting before by-law passed

- 257.63 (1)** Before passing an education development charge by-law, the board shall,
- (a) hold at least one public meeting;
 - (b) give at least 20-days notice of the meeting or meetings in accordance with the regulations; and
 - (c) ensure that the proposed by-law and the education development charge background study are made available to the public at least two weeks prior to the meeting or, if there is more than one meeting, prior to the first meeting.

Note: On November 1, 2019, section 257.63 of the Act is amended by adding the following subsection: (See: 2019, c. 9, Sched. 4, s. 5)

Requirements of notice

- (1.1) The notice referred to in clause (1) (b) must meet the requirements prescribed in the regulations.

Making representations

(2) Any person who attends a meeting under this section may make representations relating to the proposed by-law.

Note: On November 1, 2019, section 257.63 of the Act is amended by adding the following subsection: (See: 2019, c. 9, Sched. 4, s. 5)

Consideration of representations

(2.1) Following the meeting, or if there is more than one meeting, following the final meeting held under this section with respect to the proposed by-law, the board, in determining whether to make any changes to the background study or to the proposed by-law, shall consider,

- (a) any representations relating to the proposed by-law made under subsection (2); and
- (b) any alternative projects or localized education development agreements that were proposed through any representations made under subsection (2).

Board determination is final

(3) If a proposed by-law is changed following a meeting under this section, the board shall determine whether a further meeting under this section is necessary and such a determination is final and not subject to review by a court or the Ontario Municipal Board.

APPEAL OF BY-LAWS

Notice of by-law and time for appeal

257.64 (1) The secretary of a board that has passed an education development charge by-law shall give written notice of the passing of the by-law, and of the last day for appealing the by-law, which shall be the day that is 40 days after the day the by-law is passed.

Requirements of notice

(2) Notices required under this section must meet the requirements prescribed in the regulations and shall be given in accordance with the regulations.

Same

(3) Every notice required under this section must be given not later than 20 days after the day the by-law is passed.

When notice given

(4) A notice required under this section shall be deemed to have been given,

- (a) if the notice is by publication, on the day that the publication occurs;
- (b) if the notice is given by mail, on the day that the notice is mailed.

Appeal of by-law after passed

257.65 Any person or organization may appeal an education development charge by-law to the Ontario Municipal Board by filing with the secretary of the board that passed the by-law, on or before the last day for appealing the by-law, a notice of appeal setting out the objection to the by-law and the reasons supporting the objection.

Secretary's duties on appeal

257.66 (1) If the secretary of the board receives a notice of appeal on or before the last day for appealing an education development charge by-law, the secretary shall compile a record that includes,

- (a) a copy of the by-law certified by the secretary;
- (b) a copy of the education development charge background study;
- (c) an affidavit or declaration certifying that notice of the passing of the by-law and of the last day for appealing it was given in accordance with this Division; and
- (d) the original or a true copy of all written submissions and material received in respect of the by-law before it was passed.

Same

(2) The secretary shall forward a copy of the notice of appeal and the record to the secretary of the Ontario Municipal Board within 30 days after the last day of appeal and shall provide such other information or material as the Ontario Municipal Board may require in respect of the appeal.

Affidavit, declaration conclusive evidence

(3) An affidavit or declaration of the secretary of a board that notice of the passing of the by-law and of the last day for appealing it was given in accordance with this Division is conclusive evidence of the facts stated in the affidavit or declaration.

OMB hearing of appeal

257.67 (1) The Ontario Municipal Board shall hold a hearing to deal with any notice of appeal of an education development charge by-law forwarded by the secretary of a board.

Who to get notice

(2) The Ontario Municipal Board shall determine who shall be given notice of the hearing and in what manner.

Powers of OMB

(3) After the hearing, the Ontario Municipal Board may,

- (a) dismiss the appeal in whole or in part;
- (b) order the board to repeal or amend the by-law in accordance with the Ontario Municipal Board's order;
- (c) repeal or amend the by-law in such manner as the Ontario Municipal Board may determine.

Limitation on powers

(4) The Ontario Municipal Board may not amend or order the amendment of a by-law so as to,

- (a) increase the amount of an education development charge that will be payable in any particular case;
- (b) remove, or reduce the scope of, an exemption;
- (c) change the date the by-law will expire.

Dismissal without hearing

(5) Despite subsection (1), the Ontario Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without

holding a full hearing after notifying the appellant and giving the appellant an opportunity to make representations as to the merits of the appeal.

When OMB ordered repeals, amendments effective

257.68 The repeal or amendment of an education development charge by-law by the Ontario Municipal Board, or by a board pursuant to an order of the Ontario Municipal Board, shall be deemed to have come into force on the day the by-law came into force.

Refunds, if OMB repeals by-law, etc.

257.69 (1) If the Ontario Municipal Board repeals or amends an education development charge by-law or orders a board to repeal or amend an education development charge by-law,

(a) in the case of a repeal, any education development charge paid under the by-law shall be refunded;

(b) in the case of an amendment, the difference between any education development charge paid under the by-law and the education development charge that would have been payable under the by-law as amended shall be refunded.

When refund due

(2) A refund required under subsection (1) shall be made,

(a) if the Ontario Municipal Board repeals or amends the by-law, within 30 days after the Board's order;

(b) if the Ontario Municipal Board orders the board to repeal or amend the by-law, within 30 days after the repeal or amendment by the board.

Interest

(3) Interest shall be paid on an amount refunded under subsection (1) at the prescribed interest rate from the time the amount was paid to the time it is refunded.

Source of refund, interest

(4) An amount refunded under subsection (1) and interest paid under subsection (3) shall be paid out of the appropriate education development charge account.

Who refund paid to

(5) An amount refunded under subsection (1) and any interest on it shall be paid to the person who paid the education development charge.

Information from municipality

(6) If a refund is required under subsection (1), the municipality to which the education development charge was paid shall provide the board with the information necessary to determine the amount to be refunded, the interest payable on that amount and the person to whom the refund and interest should be paid.

AMENDMENT OF BY-LAWS

Amendment of by-law

257.70 (1) Subject to subsection (2), a board may pass a by-law amending an education development charge by-law.

Limitation

(2) Each of the following amendments to an education development charge by-law may only be passed once in the one-year period immediately following the coming into force of the by-law and in each subsequent one-year period:

1. Increase the amount of an education development charge that will be payable in any particular case.
2. Remove, or reduce the scope of, an exemption.
3. Extend the term of the by-law.

When amendment effective

257.71 A by-law amending an education development charge by-law comes into force on the fifth day after it is passed.

Process before passing amendment

257.72 Before passing a by-law amending an education development charge by-law, the board shall,

- (a) give notice of the proposed amendment in accordance with the regulations; and
- (b) ensure that the following are made available to the public,
 - (i) the education development charge background study for the by-law being amended, and
 - (ii) sufficient information to allow the public to understand the proposed amendment.

Notice of amendment and time for appeal

257.73 (1) The secretary of a board that has passed a by-law amending an education development charge by-law shall give written notice of the passing of the amending by-law, and of the last day for appealing the amending by-law, which shall be the day that is 40 days after the day the amending by-law is passed.

Requirements of notice

(2) Notices required under this section must meet the requirements prescribed in the regulations and shall be given in accordance with the regulations.

Same

(3) Every notice required under this section must be given not later than 20 days after the day the amending by-law is passed.

When notice given

(4) A notice required under this section shall be deemed to have been given,

- (a) if the notice is by publication, on the day that the publication occurs;

(b) if the notice is given by mail, on the day that the notice is mailed.

Appeal of amending by-law after passed

257.74 (1) Any person or organization may appeal a by-law amending an education development charge by-law to the Ontario Municipal Board by filing with the secretary of the board that passed the amended by-law, on or before the last day for appealing the amending by-law, a notice of appeal setting out the objection to the amending by-law and the reasons supporting the objection.

Same

(2) An appeal under subsection (1) may not raise an issue that could have been raised in an appeal under section 257.65.

Secretary's duties on appeal

257.75 (1) If the secretary of the board receives a notice of appeal on or before the last day for appealing a by-law amending an education development charge by-law, the secretary shall compile a record that includes,

- (a) a copy of the education development charge by-law, as amended to the day the amending by-law was passed, certified by the secretary;
- (b) a copy of the amending by-law certified by the secretary;
- (c) a copy of the education development charge background study for the education development charge by-law;
- (d) a copy of the information made available to the public under subclause 257.72 (b) (ii) for the amending by-law and all previous amending by-laws amending the education development charge by-law; and
- (e) an affidavit or declaration certifying that notice of the passing of the amending by-law and of the last day for appealing it was given in accordance with this Division.

Same

(2) The secretary shall forward a copy of the notice of appeal and the record to the secretary of the Ontario Municipal Board within 30 days after the last day of appeal and shall provide such other information or material as the Ontario Municipal Board may require in respect of the appeal.

Affidavit, declaration conclusive evidence

(3) An affidavit or declaration of the secretary of a board that notice of the passing of the amending by-law and of the last day for appealing it was given in accordance with this Division is conclusive evidence of the facts stated in the affidavit or declaration.

OMB hearing of appeal

257.76 (1) The Ontario Municipal Board shall hold a hearing to deal with any notice of appeal of a by-law amending an education development charge by-law forwarded by the secretary of a board.

Who to get notice

(2) The Ontario Municipal Board shall determine who shall be given notice of the hearing and in what manner.

Powers of OMB

- (3) After the hearing, the Ontario Municipal Board may,
- (a) dismiss the appeal in whole or in part;
 - (b) order the board to repeal or amend the amending by-law in accordance with the Ontario Municipal Board's order;
 - (c) repeal or amend the amending by-law in such manner as the Ontario Municipal Board may determine.

Limitation on powers

- (4) The Ontario Municipal Board may not amend or order the amendment of an amending by-law so as to,
- (a) increase the amount of an education development charge that will be payable in any particular case under the education development charge by-law as amended by the amending by-law;
 - (b) remove, or reduce the scope of, an exemption under the education development charge by-law as amended by the amending by-law;
 - (c) change the date the education development charge by-law will expire as provided in that by-law as amended by the amending by-law.

Dismissal without hearing

- (5) Despite subsection (1), the Ontario Municipal Board may, where it is of the opinion that the objection to the amending by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing after notifying the appellant and giving the appellant an opportunity to make representations as to the merits of the appeal.

When OMB ordered repeals, amendments effective

257.77 The repeal or amendment of a by-law amending an education development charge by-law by the Ontario Municipal Board, or by a board pursuant to an order of the Ontario Municipal Board, shall be deemed to have come into force on the day the amending by-law came into force.

Refunds, if OMB repeals by-law, etc.

257.78 Section 257.69 applies, with necessary modifications, with respect to the repeal or amendment of a by-law amending an education development charge by-law by the Ontario Municipal Board or pursuant to an order of the Ontario Municipal Board.

Non-application of certain provisions to OMB amendments

257.79 Subsection 257.70 (2) and sections 257.71 to 257.77 do not apply with respect to the amendment, by the Ontario Municipal Board or pursuant to an order of the Ontario Municipal Board, of an education development charge by-law or a by-law amending an education development charge by-law.

COLLECTION OF EDUCATION DEVELOPMENT CHARGES

When charge payable

257.80 An education development charge is payable upon a building permit being issued. **Who charge payable to**

257.81 An education development charge is payable to the municipality issuing the building permit.

Education development charge accounts

257.82 (1) A board that has passed an education development charge by-law shall establish education development charge accounts in accordance with the regulations.

Deposit of charges into accounts

(2) A municipality that receives an education development charge shall deposit the charge in the appropriate education development charge account not later than the 25th day of the month after the month in which the charge was received.

Withholding of building permit until charge paid

257.83 Despite any other Act, a municipality shall not issue a building permit for development to which an education development charge applies unless the charge has been paid.

Land given for credit

257.84 (1) A board that has passed a by-law imposing education development charges on land of an owner may, with the consent of the Minister, accept land for pupil accommodation in place of the payment of all or a part of the education development charges.

Same

(2) A board that accepts land under subsection (1) shall, in accordance with the regulations made under section 257.101, give the owner credits toward the education development charges imposed on the owner by the board.

COMPLAINTS ABOUT EDUCATION DEVELOPMENT CHARGES

Complaint to council of municipality

257.85 (1) An owner, the owner's agent or a board, may complain to the council of the municipality to which an education development charge is payable that,

- (a) the amount of the education development charge was incorrectly determined;
- (b) a credit is or is not available to be used against the education development charge, or that the amount of a credit was incorrectly determined; or
- (c) there was an error in the application of the education development charge by-law.

Time limit

(2) A complaint may not be made under subsection (1) later than 90 days after the day the education development charge, or any part of it, is payable.

Form of complaint

(3) The complaint must be in writing, must state the complainant's name, the address where notice can be given to the complainant and the reasons for the complaint.

Parties

(4) The parties to the complaint are the complainant and,

- (a) the board if the complainant is the owner or the owner's agent; or
- (b) the owner if the complainant is the board.

Hearing

(5) The council shall hold a hearing into the complaint and shall give the parties an opportunity to make representations at the hearing.

Notice of hearing

(6) The clerk of the municipality shall mail a notice of the hearing to the parties at least 14 days before the hearing.

Council's powers

(7) After hearing the evidence and submissions of the parties, the council may dismiss the complaint or rectify any incorrect determination or error that was the subject of the complaint.

Notice of decision and time for appeal

257.86 (1) The clerk of the municipality shall mail to the parties a notice of the council's decision, and of the last day for appealing the decision, which shall be the day that is 40 days after the day the decision is made.

Requirements of notice

(2) The notice required under this section must be mailed not later than 20 days after the day the council's decision is made.

Appeal of council's decision

257.87 (1) A party may appeal the decision of the council of the municipality to the Ontario Municipal Board by filing with the clerk of the municipality, on or before the last day for appealing the decision, a notice of appeal setting out the reasons for the appeal.

Additional ground

(2) A party may also appeal to the Ontario Municipal Board if the council of the municipality does not deal with the complaint within 60 days after the complaint is made by filing with the clerk of the municipality a notice of appeal.

Clerk's duties on appeal

257.88 (1) If a notice of appeal under subsection 257.87 (1) is filed with the clerk of the municipality on or before the last day for appealing a decision, the clerk shall compile a record that includes,

- (a) a copy of the education development charge by-law certified by the clerk;
- (b) the original or a true copy of the complaint and all written submissions and material received from the parties;
- (c) a copy of the council's decision certified by the clerk; and
- (d) an affidavit or declaration certifying that notice of the council's decision and of the last day for appealing it was given in accordance with this Division.

Same

(2) If a notice of appeal under subsection 257.87 (2) is filed with the clerk of the municipality, the clerk shall compile a record that includes,

- (a) a copy of the education development charge by-law certified by the clerk; and
- (b) the original or a true copy of the complaint and all written submissions and material received from the parties.

Same

(3) The clerk shall forward a copy of the notice of appeal and the record to the secretary of the Ontario Municipal Board within 30 days after the notice is received and shall provide such other information and material that the Board may require in respect of the appeal.

OMB hearing of appeal

257.89 (1) The Ontario Municipal Board shall hold a hearing to deal with any notice of appeal relating to a complaint forwarded by the clerk of a municipality.

Notice to parties

(2) The Ontario Municipal Board shall give notice of the hearing to the parties.

Powers of OMB

(3) After the hearing, the Ontario Municipal Board may do anything that could have been done by the council of the municipality under subsection 257.85 (7).

Refund if education development charge reduced

257.90 (1) If an education development charge that has already been paid is reduced by the council of a municipality under section 257.85 or by the Ontario Municipal Board under section 257.89, the overpayment shall immediately be refunded.

Interest

(2) Interest shall be paid on an amount refunded under subsection (1) at the prescribed interest rate from the time the amount was paid to the time it is refunded.

Source of refund, interest

(3) An amount refunded under subsection (1) and interest paid under subsection (2) shall be paid out of the appropriate education development charge account.

Who refund paid to

(4) An amount refunded under subsection (1) and any interest on it shall be paid to the person who paid the education development charge.

Payment if education development charge increased

257.91 If an education development charge that has already been paid is increased by the council of a municipality under section 257.85 or by the Ontario Municipal Board under section 257.89, the increase shall immediately be paid by the person who paid the education development charge.

SPECIAL CASES

Territory without municipal organization

257.92 If there is an education development charge on land that is in territory without municipal organization, sections 257.81 to 257.91 apply with the following modifications:

1. Under section 257.81, the charge is payable to the board under whose by-law the charge is imposed and subsection 257.82 (2) applies to the board.
2. Section 257.83 applies to the official responsible for issuing building permits for the area the land is in.
3. Complaints under section 257.85 may be made to the board by the owner or the owner's agent. The complainant is the only party to the complaint. In sections 257.85 to 257.90, all references to the municipality or the council of the municipality shall be deemed to be references to the board and all references to the clerk of the municipality shall be deemed to be references to the secretary of the board.
4. If the decision of the board is appealed to the Ontario Municipal Board under section 257.87, the parties to the appeal are the complainant and the board.

Areas where province issues building permits

257.93 If the council of a municipality has entered into an agreement providing for the enforcement of the *Building Code Act, 1992* by Ontario, sections 257.81 to 257.91 apply with the modifications set out in the regulations.

MISCELLANEOUS

Different types of boards treated the same

257.94 In doing anything under this Division the Ontario Municipal Board shall treat English-language public boards, English-language Roman Catholic boards, French-language public district school boards and French-language separate district school boards in the same manner.

Registration of by-law

257.95 A board that has passed an education development charge by-law may register the by-law or a certified copy of it against the land to which it applies.

Recovery of unpaid amounts, lien on land

257.96 Section 349 of the *Municipal Act, 2001* or section 314 of the *City of Toronto Act, 2006*, as the case may be, applies with necessary modifications with respect to an education development charge or any part of it that remains unpaid after it is payable.

Reports by municipalities to boards

257.97 (1) Each month a municipality shall make a report to a board if, in the period that the report would cover, any education development charges payable under an education development charge by-law of the board would be payable to the municipality

When due

(2) The monthly reports shall be made on or before the 5th day of each month.

Contents

(3) The monthly reports shall contain the prescribed information. **Statement of treasurer**

257.98 (1) The treasurer of a board shall each year on or before such date as the board may direct, give the board a financial statement relating to education development charge by-laws and education development charge accounts.

Requirements

(2) A statement must include, for the preceding year, statements of the opening and closing balances of the education development charge accounts and of the transactions relating to the accounts and such other information as is prescribed in the regulations.

Copy to Minister

(3) The treasurer shall give a copy of a statement to the Minister within 60 days after giving the statement to the board.

Board may borrow from account

257.99 A board may borrow money from an education development charge account but if it does so, the board shall repay the amount used plus interest at a rate not less than the prescribed minimum interest rate.

Regulations

257.101 (1) The Lieutenant Governor in Council may make regulations that may have general or particular application in respect of a board,

- (a) prescribing any matter that is referred to as prescribed in this Division;

Note: On November 1, 2019, subsection 257.101 (1) of the Act is amended by adding the following clause: (See: 2019, c. 9, Sched. 4, s. 7 (1))

- (a.1) governing any terms, conditions and limitations that may be imposed on the allocation of revenue raised by charges imposed by an education development charge by-law towards an alternative project or that must be included in a localized education development agreement;
- (b) for the purposes of clause 257.54 (3) (b), prescribing classes of residential buildings, prescribing the maximum number of additional dwelling units, not exceeding two, for buildings in such classes, prescribing restrictions and governing what constitutes a separate building;
- (c) defining or clarifying “gross floor area” and “existing industrial building” for the purposes of this Division;
- (d) dividing the area of the jurisdiction of a board into two or more prescribed regions for the purposes of section 257.57;
- (e) governing the expiry of education development charge by-laws that are passed by different boards but that apply to the same area;

Note: On November 1, 2019, clause 257.101 (1) (e) is repealed and the following substituted: (See: 2019, c. 9, Sched. 4, s. 7 (2))

- (e) governing the expiry of education development charge by-laws;
- (f) for the purposes of clause 257.63 (1) (b), subsection 257.64 (2), clause 257.72 (a) and subsection 257.73 (2), governing notices referred to in those provisions;
- (g) prescribing modifications to the application of sections 257.81 to 257.91 in the circumstances set out in section 257.93;
- (h) prescribing information to be included in monthly reports under section 257.97 and prescribing the period that each report must cover;
- (i) prescribing the interest rate or a method for determining the interest rate that shall be paid under subsections 257.69 (3) and 257.90 (2);
- (j) prescribing the minimum interest rate or a method for determining the minimum interest rate that boards shall pay under section 257.99;
- (k) governing education development charge accounts, including,
 - (i) governing the establishment and administration of such accounts,
 - (ii) the use of money from such accounts,
 - (iii) requiring the approval of the Minister in respect of the manner in which or the rate at which the money is withdrawn from such accounts;
- (l) requiring the approval of the Minister to any factor, criterion, rate, amount, portion, estimate or project used in determining an education development charge;
- (m) prescribing the manner of calculating or determining education development charges and prescribing classes of persons that may make determinations necessary for the calculation of education development charges;
- (n) providing for the sharing of proceeds where more than one board establishes education development charges in respect of the same area;
- (o) prescribing information that boards must provide to other boards and to the Minister for the purposes of developing education development charges under this Division;
- (p) prescribing the terms of agreements for credit in lieu of payment of education development charges, determining the amount of the credit and governing the allocation of the credit between or among boards;
- (q) requiring a board to exempt an owner from an educational development charge if the owner meets the prescribed conditions;
- (r) requiring boards to give notice of the particulars of education development charge by-laws that are in force, in the manner, and to the persons, prescribed in the regulations;
- (s) requiring boards to prepare and distribute pamphlets to explain their education development charge by-laws and governing the preparation of such pamphlets and their distribution by boards and others.

Note: On November 1, 2019, subsection 257.101 (1) of the Act is amended by adding the following clause: (See: 2019, c. 9, Sched. 4, s. 7 (1))

- (t) providing for any transitional matters the Lieutenant Governor in Council considers necessary or advisable in connection with the implementation of the amendments to this Division made by Schedule 4 to the *More Homes, More Choice Act, 2019*.

Forms

(2) Regulations under subsection (1) may require the use of forms approved by the Minister.

**Note: On November 1, 2019, section 257.101 is amended by adding the following subsection:
(See: 2019, c. 9, Sched. 4, s. 7 (3))**

Regulations, transition

(3) A regulation made under clause (1) (t) may provide that it applies despite this Act.

TRANSITIONAL PROVISIONS

Interpretation

257.102 (1) In sections 257.103 and 257.105,

“**old Act**” means the former *Education Development Charges Act* as it read immediately before this section came into force;

“**successor board**” means a board that, for the purposes of this Division, is prescribed in the regulations as a successor board to an old board.

By-law under the old Act

257.103 (1) This section applies with respect to an education development charge by-law under the old Act.

Continued

(2) An education development charge by-law of an old board continues as an education development charge by-law of each successor board of the old board whose area of jurisdiction includes part of the area to which the by-law applies.

Application of old Act, new Act

(3) The old Act continues to apply to a by-law continued under subsection (2) except that sections 257.80 to 257.91 and 257.94 to 257.100 apply instead of the corresponding provisions of the old Act.

Duration of continued by-law

(4) Unless it expires or is repealed earlier, a by-law continued under subsection (2) expires at the end of August 31, 1999.

Note: The amendments made by the Statutes of Ontario, 1998, chapter 33 apply, except where the context otherwise requires, with respect to the entire 1998 taxation year not just that portion of it that follows December 18, 1998. See: 1998, c. 33, s. 47 (1).

Modifications of by-law

(5) The following apply to a by-law of a board continued under subsection (2):

1. The area to which the by-law applies is restricted to the area that the by-law applied to immediately before this section comes into force that is within the area of jurisdiction of the board.

2. If the education development charge by-law of the old board was continued as a by-law of more than one successor board and any of the areas to which the continued by-laws apply overlap, the education development charges payable in respect of land in the areas of overlap shall be determined, in accordance with the regulations, so that the education development charges payable under the continued by-laws do not exceed the amount that would have been payable had the by-law continued as the by-law of a single board.

Amendment, repeal of by-law

(6) A board may, under the old Act, amend or repeal an education development charge by-law continued under subsection (2) but the board may not pass a new education development charge by-law under that Act.

Restriction, while continued by-law in force

(7) A board shall not pass an education development charge by-law under this Division that applies to an area to which a by-law of the board continued under subsection (2) applies.

Certain by-laws passed under old Act

(8) Despite subsection (2), an education development charge by-law of an old board passed on or after September 22, 1997 but before the day this section comes into force expires upon the coming into force of this section.

Same, refund of charges paid

(9) An education development charge paid under a by-law of an old board described under subsection (8) shall be refunded to the person who paid it and the obligation to refund the charge shall be deemed to be a liability of the old board that shall be transferred to one or more boards.

Certain old requests, appeals

257.104 Despite the repeal of section 46 of the *Education Development Charges Act* (formerly the *Development Charges Act*), that section continues to apply with respect to the requests and appeals described in that section made before November 23, 1989.

Regulations, transition

257.105 (1) Without limiting the generality of section 257.3, the Lieutenant Governor in Council may make regulations,

- (a) prescribing boards as successor boards for the purposes of this Division;
- (b) governing the determination of education development charges in the circumstances referred to in paragraph 2 of subsection 257.103 (5);
- (c) varying, limiting or excluding the application of any provision of the old Act and the regulations under the old Act to by-laws continued under subsection 257.103 (2);
- (d) setting out transitional rules dealing with matters not specifically dealt with in sections 257.102 to 257.104;
- (e) clarifying the transitional rules set out in sections 257.102 to 257.104.

General or particular

(2) A regulation made under subsection (1) may be general or particular.

**DIVISION F
REVIEW OF EDUCATION FUNDING**

Operation of Division C

257.106 (1) Division C is inoperative with respect to English-language public boards.

Same

(2) Division C is inoperative with respect to French-language public district school boards.

Same

(3) Division C is inoperative with respect to English-language Roman Catholic boards.

Same

(4) Division C is inoperative with respect to French-language separate district school boards.

Same

(5) Division C is inoperative with respect to a board of a Protestant separate school.

Note: On August 31, 1998, every permanent teacher's contract, probationary teacher's contract and continuing education teacher's contract between a board and a teacher that is made in accordance with the regulations ceases to be in force. See: 1997, c. 31, ss. 114 (2).

TAB B (2)

Ontario Regulation 20/98: ECONOMIC DEVELOPMENT CHARGES - GENERAL
Enacted under *Education Act*, RSO 1990, c E 2

PART I
INTERPRETATION

DEFINITIONS

1. (1) For the purposes of Division E of Part IX of the Act and in this Regulation, “**existing industrial building**” means a building used for or in connection with,
- (a) manufacturing, producing, processing, storing or distributing something,
 - (b) research or development in connection with manufacturing, producing or processing something,
 - (c) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production or processing takes place,
 - (d) office or administrative purposes, if they are,
 - (i) carried out with respect to manufacturing, producing, processing, storage or distributing of something, and
 - (ii) in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution;

“**gross floor area**” means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls;

“**growth-related net education capital cost**” means the net education capital cost reasonably attributable to the need for such net education capital cost that is attributed to or will result from development in all or part of the area of jurisdiction of a board and, for the purpose of this definition, “**net education capital cost**” has the same meaning as in Part III of the *Development Charges Act* as that Act read on January 31, 1998.

- (2) References in this Regulation to the “**board-determined GFA**” are references to,
- (a) the gross floor area as determined under the applicable education development charge by-law, if the expression “**gross floor area**” is defined in the by-law; or
 - (b) the gross floor area as defined in subsection (1), if the applicable education development charge by-law does not contain a definition of “**gross floor area**”.

EXCLUSION FROM EDUCATION LAND COSTS – EXCESS LAND

2. (1) Costs that are attributable to excess land of a site are prescribed, for the purposes of paragraph 2 of subsection 257.53 (3) of the Act, as costs that are not education land costs.

(2) Subsection (1) does not apply to costs described in paragraph 5 of subsection 257.53 (2) of the Act.

(3) Land is not excess land if it is reasonably necessary,
 (a) to meet a legal requirement relating to the site; or
 (b) to allow the facilities for pupil accommodation that the board intends to provide on the site to be located there and to provide access to those facilities.

(4) This section does not apply to land,
 (a) that has already been acquired by the board before February 1, 1998; or
 (b) in respect of which there is an agreement, entered into before February 1, 1998, under which the board is required to, or has an option to, purchase the land. O. Reg. 20/98, s. 2 (4).

(5) In this section,
 “**excess land**” means the part of a school site that exceeds the maximum area determined, under Table 1 or Table 2 to this section, based on the number of pupils that can be accommodated in the school to be built on the site.

**TABLE 1
ELEMENTARY SCHOOLS**

Item	Column 1 Number of pupils	Column 2 Maximum area (acres)
1.	1 to 400	4
2.	401 to 500	5
3.	501 to 600	6
4.	601 to 700	7
5.	701 or more	8

**TABLE 2
SECONDARY SCHOOLS**

Item	Column 1 Number of pupils	Column 2 Maximum area (acres)
1.	1 to 1000	12
2.	1001 to 1100	13
3.	1101 to 1200	14
4.	1201 to 1300	15
5.	1301 to 1400	16
6.	1401 to 1500	17
7.	1501 or more	18

**PART II
EXEMPTIONS**

ADDITIONAL DWELLING UNIT EXEMPTION

3. For the purposes of clause 257.54 (3) (b) of the Act, the following table sets out the name and description of the classes of residential buildings that are prescribed, the maximum number of additional dwelling units that are prescribed for buildings in those classes and the restrictions for each class.

Name of class of residential building	Description of class of residential buildings	Maximum number of additional dwelling units	Restrictions
Single detached dwellings	Residential buildings, each of which contains a single dwelling unit, that are not attached to other buildings.	Two	The total gross floor area of the additional dwelling unit or units must be less than or equal to the gross floor area of the dwelling unit already in the building.
Semi-detached dwellings or row dwellings	Residential buildings, each of which contains a single dwelling unit, that have one or two vertical walls, but no other parts, attached to other buildings.	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the dwelling unit already in the building.
Other residential buildings	A residential building not in another class of residential building described in this table.	One	The gross floor area of the additional dwelling unit must be less than or equal to the gross floor area of the smallest dwelling unit already in the building.

REPLACEMENT OF DWELLING UNIT EXEMPTION

4. (1) Subject to subsection (2), a board shall exempt an owner with respect to the replacement, on the same site, of a dwelling unit that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it uninhabitable.

(2) A board is not required to exempt an owner if the building permit for the replacement dwelling unit is issued more than two years after,

- (a) the date the former dwelling unit was destroyed or became uninhabitable; or
- (b) if the former dwelling unit was demolished pursuant to a demolition permit issued before the former dwelling unit was destroyed or became uninhabitable, the date the demolition permit was issued.

REPLACEMENT OF NON-RESIDENTIAL BUILDING EXEMPTION

5. (1) Subject to subsections (2) and (3), a board shall exempt an owner with respect to the replacement, on the same site, of a non-residential building that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it unusable.

(2) If the board-determined GFA of the non-residential part of the replacement building exceeds the board-determined GFA of the non-residential part of the building being replaced, the board is only required to exempt the owner with respect to the portion of the education development charge calculated in accordance with the following formula:

$$\text{Exempted portion} = [\text{GFA}(\text{old}) , \text{GFA}(\text{new})] \times \text{EDC}$$

where,

“**Exempted portion**” means the portion of the education development charge that the board is required to exempt,

“**GFA (old)**” means the board-determined GFA of the non-residential part of the building being replaced,

“**GFA (new)**” means the board-determined GFA of the non-residential part of the replacement building,

“**EDC**” means the education development charge that would be payable in the absence of the exemption.

(3) A board is not required to exempt an owner if the building permit for the replacement building is issued more than five years after,

(a) the date the former building was destroyed or became unusable; or

(b) if the former building was demolished pursuant to a demolition permit issued before the former building was destroyed or became unusable, the date the demolition permit was issued.

(4) This section does not apply with respect to education development charges on residential development.

TORONTO RAILWAY LANDS EXEMPTION

6. (1) In this section,

“**agreement**” means the agreement entitled “Development Levy Agreement — Railway Lands Central and West” made as of October 21, 1994 among The Corporation of the City of Toronto, Canadian National Railway Company, CN Transactions Inc., The Board of Education for the City of Toronto, Metropolitan Separate School Board and The Metropolitan Toronto School Board, and registered in the Land Registry Office for the Land Titles Division of Metropolitan Toronto (No. 66) as Instrument No. C920254;

“**lands**” means the lands described in Schedules A and B to the agreement.

(2) A board shall exempt an owner from education development charges on the lands to the extent provided for in the agreement.

**PART III
DETERMINATION OF CHARGES AND PASSAGE OF BY-LAW**

DETERMINATION OF EDUCATION DEVELOPMENT CHARGES

7. Before an education development charge by-law is passed, the board shall do the following for the purposes of determining the education development charges:

1. The board shall estimate the number of new dwelling units in the area in which the charges are to be imposed for each of the years, for a period chosen by the board of up to 15 years, immediately following the day the board intends to have the by-law come into force. The board's estimate shall include only new dwelling units in respect of which education development charges may be imposed.
2. The board shall identify different types of new dwelling units and estimate, for each type, the average number of new school pupils generated by each new dwelling unit who will attend schools of the board.
3. For each of the years referred to in paragraph 1, the board shall estimate the total number of new school pupils using the estimated number of new dwelling units and the estimated average number of new school pupils generated by each new dwelling unit and, subtracting from that number, the number of existing school pupil places that, in the opinion of the board, could reasonably be used to accommodate those new school pupils.
4. The board shall estimate the net education land cost for the school sites required to provide pupil places for the number of new school pupils estimated under paragraph 3.
5. The board shall estimate the balance of the education development charge account, if any, relating to the area in which the charges are to be imposed. The estimate shall be an estimate of the balance immediately before the day the board intends to have the by-law come into force.
6. The board shall adjust the net education land cost with respect to any balance estimated under paragraph 5. If the balance is positive, the balance shall be subtracted from the cost. If the balance is negative, the balance shall be converted to a positive number and added to the cost.
7. The net education land cost as adjusted, if necessary, under paragraph 6, is the growth-related net education land cost.
8. The board shall choose the percentage of the growth-related net education land cost that is to be funded by charges on residential development and the percentage, if any, that is to be funded by charges on non-residential development. The percentage that is to be funded by charges on non-residential development shall not exceed 40 per cent.
9. The board shall determine the charges on residential development subject to the following:
 - i. The charges shall be expressed as a rate per new dwelling unit.
 - ii. The rate shall be the same throughout the area in which charges are to be imposed under the by-law.

iii. The rate shall be an amount that does not exceed the maximum rate, which is determined for each year of the proposed by-law by taking the lesser of,

A. the rate that, if applied over the period referred to in paragraph 1 to the estimated residential development in the area to which the by-law would apply and for which charges may be imposed, would not exceed the percentage of the forecasted growth-related net education land cost that is to be funded by charges on residential development, and

B. the rate determined under paragraph 9.1.

9.1 The rate referred to in sub-subparagraph 9 iii B shall be determined as follows:

i. In respect of the first year of the by-law, take the greater of,

A. the product of 1.05 and,

1. if a by-law is currently in force, the residential rate set out in that by-law that would apply, on the day immediately before the day the proposed by-law would come into force, to the area to which the proposed by-law would apply, or

2. if a by-law is not currently in force, the residential rate set out in the most recent by-law that would have applied, on the day that by-law expired, to the area to which the proposed by-law would apply, and

B. the sum of \$300 and,

1. if a by-law is currently in force, the residential rate set out in that by-law that would apply, on the day immediately before the day the proposed by-law would come into force, to the area to which the proposed by-law would apply, or

2. if a by-law is not currently in force, the residential rate set out in the most recent by-law that would have applied, on the day that by-law expired, to the area to which the proposed by-law would apply.

ii. In respect of the second year of the by-law and each subsequent year, if applicable, take the greater of,

A. the product of 1.05 and the residential rate determined under subparagraph 9 iii in respect of the previous year of the by-law, and

B. the sum of \$300 and the residential rate determined under subparagraph 9 iii in respect of the previous year of the by-law.

10. Despite paragraph 9, if the board intends to impose different charges on different types of residential development, the board shall determine,

i. the percentage of the growth-related net education land cost to be funded by charges on residential development that is to be funded by each type of residential development, and

ii. the charges on each type of residential development, subject to the rules in subparagraphs 9 i, ii and iii.

11. If charges are to be imposed on non-residential development, the board shall determine the charges, subject to the following:

i. The charges shall be expressed as one of the following types of rate, as selected by the board:

A. A rate to be applied to the board-determined GFA of the development.

B. A rate to be applied to the declared value of the development.

- ii. The board may choose to have one type of rate for some parts of the area in which charges are to be imposed and the other type of rate to apply to the other parts of the area in which charges are to be imposed.
- iii. The board may not choose to have both types of rate apply within a municipality.
- iv. If only one type of rate applies under the by-law, the rate shall be the same throughout the area in which charges are to be imposed under the by-law.
- v. If both types of rate are to apply under the by-law, each of those rates shall be the same throughout the area in which each type of rate applies.
- vi. The rate (or rates if both types of rate are to apply under the by-law) shall be a rate determined such that it does not exceed the maximum rate, which is determined for each year of the proposed by-law by taking the lesser of,
 - A. the rate (or rates if both types of rate are to apply under the by-law) that, if applied over the period referred to in paragraph 1 to the estimated non-residential development in the area to which the by-law would apply and for which charges may be imposed, would not exceed the percentage of the forecasted growth-related net education land cost that is to be funded by charges on non-residential development, and
 - B. the rate (or rates if both types of rate are to apply under the by-law) determined under paragraph 12.

12. A rate referred to in sub-subparagraph 11 vi B shall be determined as follows:

- i. In respect of the first year of the by-law, take the product of 1.05 and,
 - A. if a by-law is currently in force, the non-residential rate set out in that by-law that would apply, on the day immediately before the day the proposed by-law would come into force, to the area to which the proposed by-law would apply, or
 - B. if a by-law is not currently in force, the non-residential rate set out in the most recent by-law that would have applied, on the day that by-law expired, to the area to which the proposed by-law would apply.
- ii. In respect of the second year of the by-law and each subsequent year, if applicable, take the product of 1.05 and the non-residential rate determined under subparagraph 11 vi in respect of the previous year of the by-law.

APPLICATION OF CHARGE IF BASED ON DECLARED VALUE OF DEVELOPMENT

8. An education development charge expressed as a rate to be applied to the declared value of a development shall be applied to the declared value used to calculate the building permit fee, if that fee is calculated using the declared value of the development.

BACKGROUND STUDY CONTENTS

9. The following information is prescribed, for the purposes of clause 257.61 (2) (d) of the Act, as information that must be included in the education development charge background study relating to an education development charge by-law:

- 1. The following estimates that the board intends to use in determining the education development charges:

- i. The board's estimates under paragraph 1 of section 7, for each of the years for which estimates are made, of the number of new dwelling units in the area in which the charges are to be imposed.
 - ii. The board's estimates under paragraph 2 of section 7, for each type of new dwelling unit identified by the board, of the average number of new school pupils generated by each new dwelling unit who will attend schools of the board.
 - iii. The board's estimates under paragraph 3 of section 7, for each of the years for which estimates are made, of the total number of new school pupils, without the adjustments set out in that paragraph being made and with the adjustments set out in that paragraph being made.
2. For each school site, the net education land cost of which the board intends to include in its estimation under paragraph 4 of section 7,
- i. the location of the site,
 - ii. the area of the site,
 - iii. the estimated education land costs of the site, and
 - iv. the number of pupil places the board estimates will be provided by the school to be built on the site and the number of those pupil places that the board estimates will be used to accommodate the number of new school pupils estimated under paragraph 3 of section 7.

CONDITIONS OF PASSAGE OF BY-LAW

10. The following conditions are prescribed, for the purposes of subsection 257.54 (6) of the Act, as conditions that must be satisfied in order for a board to pass an education development charge by-law:

- 1.** The Minister has approved,
 - i. the board's estimates under paragraph 3 of section 7, for each of the years required under that paragraph, of the total number of new school pupils, without the adjustments set out in that paragraph being made, and
 - ii. the board's estimates of the number of school sites used by the board to determine the net education land cost under paragraph 4 of section 7.
- 2.** At least one of the following conditions:
 - i. The estimated average number of elementary school pupils of the board over the five years immediately following the day the board intends to have the by-law come into force exceeds the total capacity of the board to accommodate elementary school pupils throughout its jurisdiction on the day the by-law is passed.
 - ii. The estimated average number of secondary school pupils of the board over the five years immediately following the day the board intends to have the by-law come into force exceeds the total capacity of the board to accommodate secondary school pupils throughout its jurisdiction on the day the by-law is passed.
 - iii. At the time of expiry of the board's last education development charge by-law that applies to all or part of the area in which the charges would be imposed, the balance in the education development charge account is less than the amount required to pay outstanding commitments to meet growth-related net education land costs, as calculated for the purposes of determining the education development charges imposed under that by-law.

3. The board has given a copy of the education development charge background study relating to the by-law to the Minister and to each board having jurisdiction within the area to which the by-law would apply.
4. The area in which the board proposes to have charges imposed under its proposed by-law is the same area that was the subject of the education development charge by-law in force on August 31, 2018.
5. The board provides information related to the background study or the calculation of education development charges under section 7, if the Minister requests such information after reviewing the background study submitted under paragraph 3.

NOTICE OF PUBLIC MEETING

- 11. (1)** The notice of the public meeting the board is required to give under clause 257.63 (1) (b) of the Act shall be given in one of the following ways:
1. To every owner of land in the area to which the proposed by-law would apply, by personal service, fax or mail.
 2. By publication in a newspaper that is, in the secretary of the board's opinion, of sufficiently general circulation in the area to which the proposed by-law would apply to give the public reasonable notice of the meeting.
- (2)** For the purposes of paragraph 1 of subsection (1), the owners are the owners shown on the last revised assessment roll, subject to any written notice of a change of ownership of land the secretary of the board may have received. A notice given by mail to an owner shall be mailed to the address shown on the last revised assessment roll or, if applicable, to the address shown on the notice of a change of ownership of land received by the secretary of the board.

NOTICE OF BY-LAW

- 12. (1)** This section applies to the notices relating to the passage of an education development charge by-law that the secretary of a board is required to give under section 257.64 of the Act.
- (2)** Notice shall be given in one of the following ways:
1. By personal service, fax or mail to every owner of land in the area to which the by-law applies.
 2. By publication in a newspaper that is, in the secretary of the board's opinion, of sufficiently general circulation in the area to which the by-law applies to give the public reasonable notice of the by-law.
- (3)** Subsection 11 (2) applies, with necessary modifications, for the purposes of paragraph 1 of subsection (2).
- (4)** In addition to the notice under subsection (2), notice shall be given, by personal service, fax or mail, to the following:
1. Every person and organization that has given the secretary of the board a written request for notice of the passing of the by-law and has provided a return address.
 2. The Minister.

3. Unless notice is given under paragraph 2 of subsection (2),
 - i. the clerk of every municipality having jurisdiction within the area to which the by-law applies, and
 - ii. the secretary of every board having jurisdiction within the area to which the by-law applies.

(5) Each notice shall set out the following:

1. A statement that the board has passed an education development charge by-law.
2. A statement setting out when the by-law was passed and what its number is.
3. A statement that any person or organization may appeal the by-law to the Ontario Municipal Board under section 257.65 of the Act by filing with the secretary of the board a notice of appeal setting out the objection to the by-law and the reasons supporting the objection.
4. A statement setting out what the last day for appealing the by-law is.
5. An explanation of the education development charges imposed by the by-law on residential development and non-residential development.
6. A description of the lands to which the by-law applies.
7. A key map showing the lands to which the by-law applies or an explanation of why a key map is not provided.
8. An explanation of where and when persons may examine a copy of the by-law.
9. A statement that notice of a proposed by-law amending the education development charge by-law or the passage of such an amending by-law is not required to be given to any person or organization, other than to certain clerks of municipalities or secretaries of school boards, unless the person or organization gives the secretary of the board a written request for notice of any amendments to the education development charge by-law and has provided a return address.

PART IV AMENDMENT TO BY-LAW

RE-DETERMINATION OF EDUCATION DEVELOPMENT CHARGES

13. If a proposed amendment to an education development charge by-law would change a rate used to determine the amount of an education development charge, section 7 applies with necessary modifications before the by-law to make the amendment is passed.

NOTICE OF PROPOSED AMENDMENT TO BY-LAW

14. (1) This section applies to the notices relating to a proposed by-law amending an education development charge by-law that a board is required to give under section 257.72 of the Act.

(2) Notice shall be given to the following:

1. Every person and organization that has given the secretary of the board a written request for notice of any amendments to the education development charge by-law and has provided a return address.

2. The clerk of every municipality having jurisdiction within the area to which the education development charge by-law applies.
3. The secretary of every board having jurisdiction within the area to which the education development charge by-law, as amended, applies.
4. The Minister.

(3) Notice to a person or organization described in paragraph 1 of subsection (2) shall be given by personal service, fax or mail.

(4) Notice to a person described in paragraph 2 or 3 of subsection (2) shall be given by personal service, fax or mail or by publication in a newspaper that is, in the secretary of the board's opinion, of sufficiently general circulation in the area to which the education development charge by-law applies to give the public reasonable notice.

(5) Each notice shall set out the following:

1. A statement that the board proposes to amend the education development charge by-law.
2. An explanation of the education development charges imposed by the education development charge by-law on residential development and non-residential development.
3. An explanation of the proposed amending by-law.
4. A description of the lands to which the education development charge by-law applies.
5. A key map showing the lands to which the education development charge by-law applies or an explanation of why a key map is not provided.
6. If the lands to which the education development charge by-law would apply will be different if the proposed amending by-law is passed, a description of the lands to which the education development charge by-law, as amended, would apply and a key map showing those lands or an explanation of why a key map is not provided.
7. An explanation of where and when persons may examine a copy of the proposed amending by-law.

NOTICE OF THE PASSAGE OF THE AMENDING BY-LAW

15. (1) This section applies to the notices relating to the passage of a by-law amending an education development charge by-law that the secretary of a board is required to give under section 257.73 of the Act.

(2) Notice shall be given to the following:

1. Every person and organization that has given the secretary of the board a written request for notice of any amendments to the education development charge by-law and has provided a return address.
2. The Minister.
3. The clerk of every municipality having jurisdiction within the area to which the education development charge by-law, as amended, applies.
4. The secretary of every board having jurisdiction within the area to which the education development charge by-law, as amended, applies.

(3) Notice to a person or organization described in paragraph 1 or 2 of subsection (2) shall be given by personal service, fax or mail.

(4) Notice to a person described in paragraph 3 or 4 of subsection (2) shall be given by personal service, fax or mail or by publication in a newspaper that is, in the secretary of the board's opinion, of sufficiently general circulation in the area to which the education development charge by-law applies to give the public reasonable notice.

(5) Each notice shall set out the following:

1. A statement that the board has passed a by-law amending the education development charge by-law.

2. A statement setting out when the amending by-law was passed and what its number is.

3. A statement that any person or organization may appeal the amending by-law to the Ontario Municipal Board under section 257.74 of the Act by filing with the secretary of the board a notice of appeal setting out the objection to the amending by-law and the reasons supporting the objection.

4. A statement setting out what the last day for appealing the amending by-law is.

5. A statement that an appeal may not raise an issue that could have been raised in an appeal of the education development charge by-law under section 257.65 of the Act.

PART V MISCELLANEOUS

EDUCATION DEVELOPMENT CHARGE ACCOUNT

16. (1) A board shall, under section 257.82 of the Act, establish an education development charge account for the area to which an education development charge by-law applies. O. Reg. 20/98, s. 16 (1);

(2) Money from an education development charge account established under subsection (1) may be used only,

(a) for growth-related net education land costs attributed to or resulting from development in the area to which the education development charge by-law applies;

(b) as provided for under subsection 241 (1) or section 257.99 of the Act;

(c) to pay the reasonable costs of preparing, revising and distributing the pamphlet for the by-law as required under section 21;

(d) to pay the service charges of a financial institution relating to the account; or

(e) if an education development charge has been paid but the building permit for the development is revoked, to refund the education development charge plus interest at a rate not exceeding the rate prescribed under section 18.

16.1 (1) If paragraph 4 of section 6.1 of Ontario Regulation 193/10 (Restricted Purpose Revenues) made under the Act applies to the proceeds of a sale, lease or other disposition of real property by a board, the board shall establish an education development charge account.

(2) Money from an education development charge account established under subsection (1) may be used only to fund costs that meet all of the following criteria:

1. The costs are education land costs.
2. The costs are growth-related net education capital costs.
3. The costs are incurred for the purpose of acquiring land or an interest in land in the region prescribed under clause 257.101 (d) of the Act in which the real property referred to in subsection (1) is located.

EXPIRY OF BY-LAWS – SPECIAL RULE

17. (1) This section governs the expiry of an education development charge by-law of a board (the “new by-law”) if, when the new by-law is passed, an education development charge by-law of another board (an “existing overlapping by-law”) applies to any part of the area to which the new by-law applies.

(2) The new by-law expires on the earliest of the expiry dates of the existing overlapping by-laws, as they read on the day the new by-law is passed.

(3) For greater certainty, a by-law continued under section 257.103 of the Act is not an existing overlapping by-law.

INTEREST

18. (1) The interest rate that shall be paid under subsections 257.69 (3) and 257.90 (2) of the Act and the minimum interest rate that boards shall pay under section 257.99 of the Act is the lowest prime rate reported to the Bank of Canada by any of the banks listed in Schedule I to the *Bank Act* (Canada) at the beginning of the period for which interest is to be paid.

(2) Despite subsection (1),

(a) the prescribed interest rate for periods after this subsection comes into force for the purposes of subsections 257.69 (3) and 257.90 (2) of the Act, in respect of refunds in connection with an education development charge by-law, is the rate of interest determined under subsection (3); and

(b) the minimum interest rate that a board shall pay for the purposes of section 257.99 of the Act in respect of an amount borrowed from an education development charge account established in connection with an education development charge by-law that is made after the day this subsection comes into force is the rate of interest determined under subsection (3).

(3) For the purposes of subsection (2), the rate of interest in respect of amounts payable in connection with an education development charge by-law is,

(a) the Bank of Canada rate on the day the by-law comes into force; or

(b) the Bank of Canada rate on the day the by-law comes into force, as adjusted to the current Bank of Canada rate on the first day of every following January, April, July and October, if the by-law authorizes the adjustments.

REGIONS

19. (1) The area of the jurisdiction of a board is divided into regions for the purposes of section 257.57 of the Act in accordance with the following:

1. The part of the jurisdiction that is in the area described in an item of the Schedule to this Regulation is a region.
2. The part of the jurisdiction that is not in any area described in an item of the Schedule to this Regulation is a region.

(2) A reference in the Schedule to an upper-tier municipality or to a local municipality shall be read as a reference to the geographic area that is under the jurisdiction of the municipality on January 1, 2002, unless otherwise stated in the Schedule.

(3) In this section and the Schedule,

“local municipality” means a single-tier municipality or a lower-tier municipality;

“upper-tier municipality” means a municipality of which two or more lower-tier municipalities form part for municipal purposes.

(4) In subsection (3),

“lower-tier municipality” means a municipality that forms part of an upper-tier municipality for municipal purposes;

“municipality” means a geographic area whose inhabitants are incorporated;

“single-tier municipality” means a municipality, other than an upper-tier municipality, that does not form part of an upper-tier municipality for municipal purposes.

MONTHLY REPORTS

20. (1) The following information, as it relates to land in the municipality, is prescribed as information to be included in a monthly report under section 257.97 of the Act:

1. The total education development charges that are collected in respect of residential development.
2. The number of building permits, for each type of new dwelling unit the board identified under paragraph 2 of section 7, in respect of which education development charges were imposed.
3. The location of the lands to which the building permits described in paragraph 2 pertained.
4. The total education development charges collected in respect of non-residential development.
5. The number of building permits issued for non-residential development in respect of which an education development charge is imposed by the board.
6. The total board-determined GFA of the non-residential development in respect of which education development charges, determined using a rate applied to the board-determined GFA of the development, are imposed by the board. The total board-determined GFA shall not include the gross floor area of a development with respect to which subsection 257.55 (3) of the Act applies or the board-determined GFA to which subsection 5 (2) of this Regulation applies.

7. The total declared value of the non-residential development in respect of which education development charges, determined using a rate applied to the declared value of the development, are imposed by the board. The total declared value shall not include the declared value of a development with respect to which subsection 257.55 (3) of the Act or subsection 5 (2) of this Regulation applies.
8. For each development with respect to which subsection 257.55 (3) of the Act applies and in respect of which education development charges are imposed by the board,
- i. the gross floor area of the existing building,
 - ii. the gross floor area of the enlargement, and
 - iii. if the education development charges are determined using a rate applied to the declared value of the development, the declared value upon which the charges for the development are determined.
9. For each development with respect to which subsection 5 (2) of this Regulation applies and in respect of which education development charges are imposed by the board,
- i. the board-determined GFA of the non-residential part of the building being replaced,
 - ii. the board-determined GFA of the non-residential part of the replacement building, and
 - iii. if the education development charges are determined using a rate applied to the declared value of the development, the declared value upon which the charges for the development are determined.
10. The number of building permits issued for residential development in an area to which the education development charge by-law applies in respect of which no education development charge is imposed.
11. The number of building permits issued for non-residential development in an area to which the education development charge by-law applies in respect of which no education development charge is imposed.
- (2) The report shall cover the period,
- (a) beginning at the end of the period covered by the previous report by the municipality or, if there was no previous report, beginning on the first day that an education development charge by-law of the board applied to land in the municipality;
 - (b) ending at the end of the 25th day of the month before the month in which the report is due.

PAMPHLETS EXPLAINING BY-LAW

21. (1) A board shall prepare a pamphlet for each education development charge by-law in force setting out,
- (a) a description of the general purpose for which the education development charges under the by-law are being imposed; and
 - (b) the rules for determining if an education development charge is payable in a particular case and for determining the amount of the charge.
- (2) The board shall prepare the pamphlet,
- (a) if the by-law is not appealed to the Ontario Municipal Board, within 60 days after the by-law comes into force;

- (b) if the by-law is appealed to the Ontario Municipal Board, within 60 days after the Ontario Municipal Board's decision or, if the Ontario Municipal Board orders the board to amend the by-law, within 60 days after the board does so.
- (3) If an education development charge by-law is amended, the board shall revise the pamphlet for the by-law as necessary.
- (4) If the board is required to revise the pamphlet, it shall do so,
 (a) if the amending by-law is not appealed to the Ontario Municipal Board, within 60 days after the amending by-law comes into force;
 (b) if the amending by-law is appealed to the Ontario Municipal Board, within 60 days after the Ontario Municipal Board's decision or, if the Ontario Municipal Board orders the board to amend the amending by-law, within 60 days after the board does so.
- (5) Upon preparing or revising a pamphlet, the board shall give a copy of the pamphlet to the Minister.
- (6) The board shall give a copy of the most recent pamphlet, without charge, to any person who requests one.
- (7) The board may charge a fee for additional copies of a pamphlet given to a person but the fee must be no more than is needed to pay for the cost of the additional copies.
- (8) A person may reproduce and distribute the pamphlet in any form.

**PART VI
TRANSITION FROM OLD DEVELOPMENT CHARGES ACT**

SUCCESSOR BOARDS

22. (1) Each board set out in Column 2 of the following table is prescribed as a successor board of the corresponding old board set out in Column 1 for the purposes of Division E of Part IX of the Act.

Item	Column 1 Old Boards	Column 2 Successor Boards
1.	The York Region Board of Education	English-language Public District School Board No. 16 Conseil de district des écoles publiques de langue française n° 58
2.	The York Region Roman Catholic Separate School Board/Conseil des écoles séparées catholiques de la région de York	English-language Separate District School Board No. 42 Conseil de district des écoles séparées de langue française n° 64
3.	The Carleton Board of Education	English-language Public District School Board No. 25
4.	The Carleton Roman Catholic Separate School Board	English-language Separate District School Board No. 53

5.	The Durham Board of Education	English-language Public District School Board No. 13 Conseil de district des écoles publiques de langue française n° 58
6.	The Durham Region Roman Catholic Separate School Board/Conseil des écoles séparées catholiques de la région de Durham	English-language Separate District School Board No. 45 Conseil de district des écoles séparées de langue française n° 64
7.	The Halton Board of Education	English-language Public District School Board No. 20 Conseil de district des écoles publiques de langue française n° 58
8.	The Halton Roman Catholic Separate School Board/Conseil des écoles catholiques de Halton	English-language Separate District School Board No. 46 Conseil de district des écoles séparées de langue française n° 64
9.	The Peel Board of Education	English-language Public District School Board No. 19 Conseil de district des écoles publiques de langue française n° 58
10.	The Dufferin County Board of Education	English-language Public District School Board No. 18 Conseil de district des écoles publiques de langue française n° 58
11.	The Dufferin-Peel Roman Catholic Separate School Board/Conseil des écoles séparées catholiques de Dufferin & Peel	English-language Separate District School Board No. 43 Conseil de district des écoles séparées de langue française n° 64
12.	The Wentworth County Board of Education	English-language Public District School Board No. 21 Conseil de district des écoles publiques de langue française n° 58
13.	The Hamilton-Wentworth Roman Catholic Separate School Board/Le conseil des écoles séparées catholiques romaines de Hamilton-Wentworth	English-language Separate District School Board No. 47 Conseil de district des écoles séparées de langue française n° 64
14.	Le Conseil des écoles publiques d'Ottawa-Carleton	Conseil de district des écoles publiques de langue française n° 59
15.	Conseil des écoles catholiques de langue française de la région d'Ottawa-Carleton	Conseil de district des écoles séparées de langue française n° 66

(2) For the purposes of this Part, the predecessor of a board set out in Column 2 of the table referred to in subsection (1) is the corresponding old board set out in Column 1.

JOINT EDUCATION DEVELOPMENT CHARGE ACCOUNTS

23. (1) For each joint education development charge account held by old boards set out in column 1 of the table to section 22 on December 31, 1997, the successor boards to the old boards shall establish an education development charge account to be held jointly by the successor boards.

(2) If, under the old Act, the amounts collected under an education development charge by-law would have been deposited into a joint education development charge account, the amounts paid under the by-law, as continued under section 257.103 of the Act, shall be deposited into the corresponding education development charge account established under subsection (1).

(3) The *Development Charges Act* and Regulation 268 of the Revised Regulations of Ontario, 1990, as they read on January 31, 1998, continue to apply, with necessary modifications, to money collected by the treasurer of a municipality under an education development charges by-law continued under section 257.103 of the Act and to a joint education development charge account established under subsection (1), subject to the following rules:

1. In addition to the money that a successor board may withdraw under subsection 5 (7) of Regulation 268 of the Revised Regulations of Ontario, 1990 as it read on January 31, 1998 from the account established under subsection (1), the successor board may withdraw from the account an amount that will be applied to costs that meet all of the following criteria:

- i. The costs are education land costs.
- ii. The costs are growth-related net education capital costs.
- iii. The costs are incurred for the purpose of acquiring land or an interest in land in the area to which applied the successor board's predecessor by-law for the account established under subsection (1).

2. Subsection 5 (6) of Regulation 268 of the Revised Regulations of Ontario, 1990 as it read on January 31, 1998 does not apply to withdrawals under paragraph 1.

3. The total amount that may be withdrawn under paragraph 1 by a successor board shall not exceed the amount determined in accordance with the following formula:

$$A \times B \times (D + E + F + G + H + I - J - K - L - M - N - P - Q) / (B + C)$$

where,

A = the factor set out in Column 3 of the Table to this section opposite the name of the successor board set out in Column 1 and the name of the successor board's predecessor set out in Column 2,

B = the revenue raised by charges imposed by the successor board's predecessor by-law for the account established under subsection (1),

C = the revenue raised by charges imposed by the other education development charge by-law under which amounts were deposited into the predecessor account of the account established under subsection (1),

D = the income earned by the predecessor account of the account established under subsection (1),

E = the income that has been earned by the account established under subsection (1),

F = the future income that will be earned by the account established under subsection (1),
 G = the sum of all the amounts that were deposited into the predecessor account of the account established under subsection (1),
 H = the sum of all the amounts that have been deposited by the treasurer of a municipality into the account established under subsection (1),
 I = the sum of all future amounts that will be deposited by the treasurer of a municipality into the account established under subsection (1),
 J = the sum of all the amounts that were withdrawn from the predecessor account of the account established under subsection (1) under subsection 5 (7) of Regulation 268 of the Revised Regulations of Ontario, 1990 as it read on January 31, 1998,
 K = the sum of all the amounts that have been withdrawn from the account established under subsection (1) under subsection 5 (7) of Regulation 268 of the Revised Regulations of Ontario, 1990 as it read on January 31, 1998,
 L = the sum of all future amounts that will be withdrawn from the account established under subsection (1) under subsection 5 (7) of Regulation 268 of the Revised Regulations of Ontario, 1990 as it read on January 31, 1998,
 M = the sum of all future amounts that will be withdrawn under clause (6) (a) from accounts established under paragraph 1 of subsection (4) to which money will be distributed under subsection (5) from the account established under subsection (1),
 N = the sum of all the amounts that were refunded from the predecessor account of the account established under subsection (1), including interest,
 P = the sum of all the amounts that have been refunded from the account established under subsection (1), including interest,
 Q = the sum of all future amounts that will be refunded from the account established under subsection (1), including interest.

(4) The following rules apply if an education development charge by-law is repealed or expires and amounts paid under the by-law were required, before it was repealed or expired, to be deposited into an education development charge account established under subsection (1):

1. The successor board whose by-law was repealed or expired shall establish an education development charge account that is in addition to any other education development charge account that the board may have established.
2. If, after the repeal or expiry, no amounts under an education development charge by-law of any other board will be required to be deposited into the education development charge account, a surplus in the account shall be distributed in accordance with subsection (5) to the education development charge accounts that have been established in respect of the account under paragraph 1.

(5) If paragraph 2 of subsection (4) requires a surplus in an education development charge account established under subsection (1) to be distributed in accordance with this subsection, the surplus shall be distributed so that the education development charge account established by each successor board under paragraph 1 of subsection (4) in respect of the account receives from the account the amount determined in accordance with the following formula:

$$[A \times B \times (D + E + F + G - H - I - J - K - L) / (B + C)] - M$$

where,

A = the factor set out in Column 3 of the Table to this section opposite the name of the successor board set out in Column 1 and the name of the successor board's predecessor set out in Column 2,

B = the revenue raised by charges imposed by the successor board's predecessor by-law for the account established under subsection (1),

C = the revenue raised by charges imposed by the other education development charge by-law under which amounts were deposited into the predecessor account of the account established under subsection (1),

D = the income earned by the predecessor account of the account established under subsection (1),

E = the income that has been earned by the account established under subsection (1),

F = the sum of all the amounts that were deposited into the predecessor account of the account established under subsection (1),

G = the sum of all the amounts that have been deposited by the treasurer of a municipality into the account established under subsection (1),

H = the sum of all the amounts that were withdrawn from the predecessor account of the account established under subsection (1) under subsection 5 (7) of Regulation 268 of the Revised Regulations of Ontario, 1990 as it read on January 31, 1998,

I = the sum of all the amounts that have been withdrawn from the account established under subsection (1) under subsection 5 (7) of Regulation 268 of the Revised Regulations of Ontario, 1990 as it read on January 31, 1998,

J = the sum of all future amounts that will be withdrawn under clause (6) (a) from accounts established under paragraph 1 of subsection (4) to which money will be distributed under this subsection from the account established under subsection (1),

K = the sum of all the amounts that were refunded from the predecessor account of the account established under subsection (1), including interest,

L = the sum of all the amounts that have been refunded from the account established under subsection (1), including interest,

M = the total of all the amounts that have been withdrawn from the account established under subsection (1) by the successor board under paragraph 1 of subsection (3).

(6) Money from an education development charge account established under paragraph 1 of subsection (4) may be used only to,

(a) pay amounts that are required to be paid under agreements entered into on or before the date referred to in subsection 257.103 (4) of the Act and that could have been withdrawn under subsection 5 (7) of Regulation 268 as it read on January 31, 1998 from the account established under subsection (1) or from the predecessor account of the account established under subsection (1); or

(b) fund costs that meet all of the following criteria:

1. The costs are education land costs.
2. The costs are growth-related net education capital costs.
3. The costs are incurred for the purpose of acquiring land or an interest in land in the area to which applied the successor board's predecessor by-law for the account established under subsection (1).

(6.0.1) Despite subsection (6), a board that has not passed a new education development charge by-law may use money from an education development charge account established under paragraph 1 of subsection (4) for a purpose set out in section 1 of Ontario Regulation 446/98 if,

- (a) the money is used to fund costs related to school properties located in the area to which applied the successor board's predecessor by-law for the account established under subsection (1); and
- (b) the money is used to fund costs that are growth-related net education capital costs.

(6.1) For the purposes of paragraph 5 of section 7, if a board proposes to pass a new education development charge by-law for all or part of an area to which, when the new by-law comes into force, an education development charge by-law of the board that was continued under subsection 257.103 (2) of the Act will still apply, the board's estimate shall be an estimate of the amounts that will be distributed under subsection (5) to education development charge accounts established by the board on the expiry or repeal of the continued by-law, less any amount that the board has entered into an agreement to pay and that the board is authorized to withdraw but has not yet withdrawn from the education development charge accounts established under subsection (1) in respect of the continued by-law.

(6.2) For the purposes of paragraph 5 of section 7, if a board proposes to pass a new education development charge by-law for all or part of an area in respect of which, when the new by-law comes into force, money from education development charge accounts established under paragraph 1 of subsection (4) may be used, the board's estimate shall be an estimate of the amount that will be in the accounts immediately before the new by-law comes into force, less any amount that the board has entered into an agreement to pay and that the board is authorized to withdraw but has not yet withdrawn from the accounts.

(8) In this section,

“predecessor account” means, with respect to an account established under subsection (1), the joint account established under the *Development Charges Act*, as it read on January 31, 1998, into which amounts were deposited that, under subsection (2), are required to be deposited into the account established under subsection (1);

“predecessor by-law” means, with respect to a successor board and an account established under subsection (1), the education development charge by-law of the successor board's predecessor under which amounts were deposited into the predecessor account of the account established under subsection (1).

TABLE

Item	Column 1 Successor Board	Column 2 Predecessor	Column 3 Factor
1.	Conseil de district des écoles publiques de langue française no 59	Le Conseil des écoles publiques d'Ottawa-Carleton	1.00000
2.	Conseil scolaire de district catholique Centre-Sud	The Dufferin-Peel Roman Catholic Separate School Board	0.01685

3.	Conseil scolaire de district catholique Centre-Sud	The Durham Region Roman Catholic Separate School Board	0.03843
4.	Conseil scolaire de district catholique Centre-Sud	The Halton Roman Catholic Separate School Board	0.03633
5.	Conseil scolaire de district catholique Centre-Sud	The Hamilton-Wentworth Roman Catholic Separate School Board	0.02826
6.	Conseil scolaire de district catholique Centre-Sud	The York Region Roman Catholic Separate School Board	0.02061
7.	Conseil scolaire de district catholique du Centre-Est de l'Ontario	Conseil des écoles catholiques de langue française de la région d'Ottawa-Carleton	1.00000
8.	Conseil scolaire de district du Centre Sud-Ouest	The Dufferin County Board of Education	0.00410
9.	Conseil scolaire de district du Centre Sud-Ouest	The Durham Board of Education	0.00910
10.	Conseil scolaire de district du Centre Sud-Ouest	The Halton Board of Education	0.00860
11.	Conseil scolaire de district du Centre Sud-Ouest	The Peel Board of Education	0.01050
12.	Conseil scolaire de district du Centre Sud-Ouest	The Wentworth County Board of Education	0.00680
13.	Conseil scolaire de district du Centre Sud-Ouest	The York Region Board of Education	0.00840
14.	Dufferin-Peel Catholic District School Board	The Dufferin-Peel Roman Catholic Separate School Board	0.98315
15.	Durham Catholic District School Board	The Durham Region Roman Catholic Separate School Board	0.96157
16.	Durham District School Board	The Durham Board of Education	0.99090
17.	Halton Catholic District School Board	The Halton Roman Catholic Separate School Board	0.96367
18.	Halton District School Board	The Halton Board of Education	0.99140
19.	Hamilton-Wentworth Catholic District School Board	The Hamilton-Wentworth Roman Catholic Separate School Board	0.97174
20.	Hamilton-Wentworth District School Board	The Wentworth County Board of Education	0.99320
21.	Ottawa-Carleton Catholic District School Board	The Carleton Roman Catholic Separate School Board	1.00000

22.	Ottawa-Carleton District School Board	The Carleton Board of Education	1.00000
23.	Peel District School Board	The Peel Board of Education	0.98950
24.	Upper Grand District School Board	The Dufferin County Board of Education	0.99590
25.	York Catholic District School Board	The York Region Roman Catholic Separate School Board	0.97939
26.	York Region District School Board	The York Region Board of Education	0.99160

MONTHLY REPORTS FOR CONTINUES BY-LAWS

24. The following apply with respect to a report required under section 257.97 of the Act as that section applies under subsection 257.103 (3) of the Act:

1. The period that the report must cover is the period referred to in subsection 37 (5) of the old Act.
2. The information that the report shall contain is the information that was prescribed under section 14 of Regulation 268 of the Revised Regulations of Ontario, 1990, as it read on January 31, 1998.

TAB B (3)

Other Legislation

Ontario Regulation 277/19 – GRANTS FOR STUDENT NEEDS Enacted under *Education Act*, RSO 1990, c E 2

AMOUNT OF GRANT

15. (1) The grant payable to a district school board for the current fiscal year is the amount determined using the following formula: $(A + B) - (C + D + E)$

in which,

- “A” is the total amount of the board’s grant allocations for the current fiscal year,
- “B” is the amount of the board’s adjustment for declining enrolment for the current fiscal year,
- “C” is the amount of the board’s tax revenue for the current fiscal year, as determined in this Regulation,
- “D” is the amount of the board’s total fees revenue for the current fiscal year in respect of pupils described in section 4 of the current fiscal year’s fees regulation, as determined under that section, and
- “E” is the amount of the board’s expenses that are not incurred in the current fiscal year by reason of a strike or lock-out affecting the operations of the board, calculated in accordance with Ontario Regulation 486/98 (Board Expenses Not Incurred by Reason of Strike or Lock-Out) made under the Act.

(2) The grant allocations for the current fiscal year are the following allocations:

1. Pupil foundation allocation.
2. School foundation allocation.
3. Special education allocation.
4. Language allocation.
5. Indigenous education supplemental allocation.
6. Outlying schools allocation.
7. Remote and rural allocation.
8. Rural and northern allocation.
9. Learning opportunities allocation.
10. Safe and accepting schools allocation.
11. Continuing education and other programs allocation.
12. Cost adjustment and new teacher induction program allocation.
13. Transportation allocation.
14. Administration and governance allocation.
15. Debt charges allocation.
16. Interest on capital debt allocation.
17. School operations allocation.
18. School renewal allocation.
19. Pupil accommodation allocation.

Ontario Regulation 361/10: AUDIT COMMITTEES
Enacted under *Education Act*, RSO 1990, c E 2

Duties of an audit committee

9. (1) An audit committee of a board has the following duties related to the board's financial reporting process:

1. To review with the director of education, a senior business official and the external auditor the board's financial statements, with regard to the following:
 - i. Relevant accounting and reporting practices and issues.
 - ii. Complex or unusual financial and commercial transactions of the board.
 - iii. Material judgments and accounting estimates of the board.
 - iv. Any departures from the accounting principles published from time to time by the Canadian Institute of Chartered Accountants that are applicable to the board.
2. To review with the director of education, a senior business official and the external auditor, before the results of an annual external audit are submitted to the board,
 - i. the results of the annual external audit,
 - ii. any difficulties encountered in the course of the external auditor's work, including any restrictions or limitations on the scope of the external auditor's work or on the external auditor's access to required information,
 - iii. any significant changes the external auditor made to the audit plan in response to issues that were identified during the audit, and
 - iv. any significant disagreements between the external auditor and the director of education or a senior business official and how those disagreements were resolved.
3. To review the board's annual financial statements and consider whether they are complete, are consistent with any information known to the audit committee members and reflect accounting principles applicable to the board.
4. To recommend, if the audit committee considers it appropriate to do so, that the board approve the annual audited financial statements.
5. To review with the director of education, a senior business official and the external auditor all matters that the external auditor is required to communicate to the audit committee under generally accepted auditing standards.
6. To review with the external auditor material written communications between the external auditor and the director of education or a senior business official.
7. To ask the external auditor about whether the financial statements of the board's reporting entities, if any, have been consolidated with the board's financial statements.
8. To ask the external auditor about any other relevant issues.

**Ontario Regulation 41/10: BOARD BORROWING, INVESTING AND OTHER
FINANCIAL MATTERS
Enacted under *Education Act*, RSO 1990, c E 2**

**PART II
RISK MANAGEMENT BY BOARDS IN RESPECT OF ENERGY PRICES**

Commodity price hedging agreements

4. (1) A board may enter into commodity price hedging agreements under this Part in order to hedge the risks associated with the fluctuations in the prices of the natural gas, electricity and other energy commodities that are required by the board to operate its schools, other properties and vehicles.

(2) The agreement must fix, directly or indirectly, or enable the board to fix the price or range of prices to be paid by the board for the future delivery of some or all of a commodity described in subsection (1) or the future cost to the board of an equivalent quantity of the commodity.

(3) A board shall not sell or otherwise dispose of the commodity price hedging agreement or any interest of the board in the agreement.

Report on commodity price hedging agreements

5. (1) If a board has any subsisting commodity price hedging agreements in a fiscal year, the treasurer of the board shall prepare and present to the board as part of the annual financial report to the board for the fiscal year a detailed report on all of those agreements.

(2) The report must contain the following information and documents:

1. A statement about the status of the agreements during the period of the report, including a comparison of the expected and actual results of using the agreements.
2. Such other information as the board may require.
3. Such other information as the treasurer considers appropriate to include in the report.

**PART III
BORROWING FOR PERMANENT IMPROVEMENTS**

6. A board that, under subsection 247 (1) or (2) of the Act, borrows money or incurs debt for permanent improvements shall do so only in accordance with this Part.

**PART IV
ELIGIBLE INVESTMENTS**

Eligible investments

9. The following are prescribed, for the purposes of subsection 241 (1) of the Act, as securities that a board may invest in:

1. Bonds, debentures, promissory notes or other evidence of indebtedness issued or guaranteed by,
 - i. Canada or a province or territory of Canada,
 - ii. an agency of Canada or of a province or territory of Canada,
 - iii. a municipality in Canada, or
 - iv. the Municipal Finance Authority of British Columbia.
2. Bonds, debentures, promissory notes or other evidence of indebtedness of a corporation if,
 - i. the bond, debenture or other evidence of indebtedness is secured by the assignment to a trustee, as defined in the *Trustee Act*, of payments that Canada or a province or territory of Canada has agreed to make or is required to make under a federal, provincial or territorial statute, and
 - ii. the payments referred to in subparagraph i are sufficient to meet the amounts payable under the bond, debenture or other evidence of indebtedness, including the amounts payable at maturity.
3. Deposit receipts, deposit notes, certificates of deposit or investment, acceptances or similar instruments, the terms of which provide that the principal and interest shall be fully repaid no later than two years after the day the investment was made, that are issued, guaranteed or endorsed by,
 - i. a bank listed in Schedule I or II of the *Bank Act* (Canada),
 - ii. a loan corporation or trust corporation registered under the *Loan and Trust Corporations Act*, or
 - iii. a credit union or league to which the *Credit Unions and Caisses Populaires Act, 1994* applies.
4. Deposit receipts, deposit notes, certificates of deposit or investment, acceptances or similar instruments, the terms of which provide that the principal and interest shall be fully repaid more than two years after the day the investment was made, that are issued, guaranteed or endorsed by,
 - i. a bank listed in Schedule I or II of the *Bank Act* (Canada),
 - ii. a loan corporation or trust corporation registered under the *Loan and Trust Corporations Act*, or
 - iii. a credit union or league to which the *Credit Unions and Caisses Populaires Act, 1994* applies.
5. Bonds, debentures or evidences or long-term indebtedness issued by an institution listed in paragraph 4.

Restriction: securities expressed or payable in foreign currency

11. (1) A board shall not invest in a security that is expressed or payable in any currency other than Canadian dollars.

(2) Subsection (1) does not prevent a board from continuing an investment, made before this Regulation comes into force, that is expressed and payable in the currency of the United States of America or the United Kingdom.

Restriction: investment of money in securities

12. A board shall not invest money in a security unless,
- (a) the money is made repayable on or before the day on which the board requires the money; or
 - (b) any interest or other earnings from the investment are credited to the account from which the money was invested.

Ontario Regulation 444/98: DISPOSITION OF SURPLUS REAL PROPERTY
Enacted under *Education Act*, RSO 1990, c E 2

PART I
DISPOSITION FOR SPECIFIED PURPOSES AND GRANTS OF EASEMENTS

1.0.1 A board that has adopted a resolution under clause 194 (3) (a) of the Act that real property is not required for the purposes of the board may lease the property to a person if the purpose of that person in acquiring the property is to occupy and use the property for the purposes of,

- (a) a child care centre within the meaning of the *Child Care and Early Years Act, 2014*;
- (b) a family support program as defined in subsection 3 (2) of Ontario Regulation 137/15 (General) made under the *Child Care and Early Years Act, 2014*;
- (c) a third party program; or
- (d) the provision of a children’s recreation program described in paragraph 8 of subsection 6 (1) of Ontario Regulation 138/15 (Funding, Cost Sharing and Financial Assistance) made under the *Child Care and Early Years Act, 2014*.

- 1.1 (1) A board may grant an easement over any of its real property if,
- (a) it has adopted a resolution under clause 194 (3) (a) of the Act that it does not require for its purposes the interest that the easement would create;
 - (b) the grant of easement is for the consideration that the board considers reasonable; and
 - (c) the grant of easement does not have the effect of rendering any school site or part of a school site no longer suitable for providing pupil accommodation.

Ontario Regulation 193/10: RESTRICTED PURPOSE REVENUES
Enacted under *Education Act*, RSO 1990, c E 2

School renewal

4. (1) A board shall use the amount determined as follows, in respect of a fiscal year, only for the purpose of school renewal expenditures:

the school renewal allocation – the lesser of the shortfall amount and the amount, if any, the board has elected to use to address the shortfall amount

in which

“school renewal allocation” is the amount determined for the board’s school renewal allocation under the legislative grant regulation for the fiscal year,

“shortfall amount” is $B - C$
in which

“B” is the amount of the board’s depreciation for the fiscal year for tangible capital assets that are acquired as a result of expenditures made by the board that are school renewal expenditures, and

“C” is the amount of the board’s deferred capital contributions recognized in revenue in the fiscal year, in respect of the assets referred to in item B.

If $B - C$ is negative, it is deemed to be zero.

(2) A district school board shall use the amount held in its pupil accommodation allocation reserve fund on August 31, 2010 that is attributable to school renewal only for the purpose of school renewal expenditures.

(3) A board shall not use more than the amount calculated in accordance with the following formula, in respect of a fiscal year, for the purpose of school renewal expenditures that are not capital asset costs:

$$[(A + B + C) \times 1.05]/3 + D + E - F$$

in which

“A” means the amount used by the board in the 2012-2013 fiscal year for the purpose of school renewal expenditures that are not capital asset costs,

“B” means the amount used by the board in the 2011-2012 fiscal year for the purpose of school renewal expenditures that are not capital asset costs,

“C” means the amount used by the board in the 2010-2011 fiscal year for the purpose of school renewal expenditures that are not capital asset costs,

“D” means,

- (a) in respect of the fiscal years preceding the 2018-2019 fiscal year, the maintenance (operating) amount determined as part of the school renewal allocation for the board under the legislative grant regulation for the fiscal year, or
- (b) in respect of the 2018-2019 fiscal year, the amount specified for the board in the Table to this subsection,

“E” means the total of all maintenance (operating) amounts, if any, determined for the board under legislative grant regulations for previous fiscal years that were not used by the board in the previous fiscal years, and

“F” means the maintenance (operating) amount used by the board in the fiscal year for the purpose of school renewal expenditures that are capital asset costs.

Temporary accommodation for pupils

4.1.1 (1) A board shall use the amount determined for temporary accommodation for pupils (part of the board’s pupil accommodation allocation) under the legislative grant regulations only for the purpose of temporary pupil accommodation expenditures within the meaning of subsection (2).

(2) An expenditure by the board is a temporary pupil accommodation expenditure if it meets one of the following criteria:

1. It is a cost incurred by the board for operating leases for temporary pupil accommodations needed for the provision of elementary or secondary pupil places, but not

for temporary pupil accommodations needed for the provision of full day junior kindergarten and kindergarten.

2. It is a cost incurred by the board for the relocation and installation of temporary pupil accommodations needed for the provision of elementary or secondary pupil places, but not for temporary pupil accommodations needed for the provision of full day junior kindergarten and kindergarten.

3. It is a capital asset cost incurred by the board for temporary pupil accommodations needed for the provision of elementary or secondary pupil places, but not for temporary pupil accommodations needed for the provision of full day junior kindergarten and kindergarten.

Additions, retrofits and major renovations to school space for child care

4.2 (1) A board shall use the amount determined for additions, retrofits and major renovations to school space for child care (part of the board's pupil accommodation allocation) under the legislative grant regulations only for the purpose of expenditures described in subsection (2).

(2) An expenditure referred to in subsection (1) is an expenditure,

(a) that is in respect of costs incurred by the board for additions, retrofits and major renovations to space in buildings or on real property owned, leased or otherwise acquired by the board, for the purpose of providing child care for children who are younger than 44 months of age; and

(b) that meets the criteria for capitalizing a tangible capital asset set out in the most recent version of the document entitled "District School Board and School Authority Tangible Capital Assets: Provincial Accounting Policies and Implementation Guide", revised August 2012, which is available for public inspection at the offices of the Education Finance Branch of the Ministry of Education and on the Ministry's website.

Dispositions of real property

6.2 (1) Subject to subsection (5), a district school board shall use all proceeds of sales, capital leases and other dispositions of real property only for the following purposes:

1. Acquiring by purchase, capital lease or otherwise the things listed in subsection (2), if the costs to acquire those things meet all of the following criteria:

i. The cost is a capital asset cost.

ii. The cost is not incurred for increasing the gross floor area of a building.

iii. The cost is not incurred for retrofitting or repairing temporary pupil accommodations.

2. Subject to subsections (6) to (8), acquiring by purchase, capital lease or otherwise, real property to be used by the board for board administration purposes, and additions, alterations, renovations or major repairs to real property used by the board for those purposes.

(2) The following are the things referred to in paragraph 1 of subsection (1):

1. Improvements to school sites.

2. School buildings, fixtures of school buildings or fixtures of school properties, or alterations, renovations or major repairs to school buildings, fixtures of school buildings or fixtures of school properties.
3. Installations on school properties to supply school buildings on the properties with water, sewer, septic, electrical, heating, cooling, natural gas, telephone or cable services, and alterations, replacements or major repairs to those installations.
4. Additions to school buildings for the purpose of improving the accessibility of the building or in relation to installations described in paragraph 3.
5. Furniture and equipment for the initial equipping of school buildings.
6. Furniture and equipment that are fixtures of school buildings.
7. Library materials for the initial equipping of libraries in school buildings.
8. Changes to the level, drainage or surface of school properties.

(4) Subject to subsection (5), every district school board shall use all proceeds of insurance on property of a kind referred to in subsection (2) only for the purposes referred to in subsection (1).

(4.1) If a district school board uses the proceeds referred to in subsections (1) to (4) in a fiscal year, those proceeds shall be used in accordance with the following rules:

1. The board shall use at least 80 per cent of the proceeds used in that fiscal year to pay for costs that relate to any of the following major group elements:
 - i. Substructure.
 - ii. Shell.
 - iii. Services.
2. The board shall not use more than 20 per cent of the proceeds used in that fiscal year to pay for costs that relate to any of the following major group elements:
 - i. Interiors.
 - ii. Equipment and furnishing, excluding moveable furnishings.
 - iii. Special construction and demolition.
 - iv. Building sitework.

(4.2) For the purposes of subsection (4.1), major group elements shall be determined and classified in accordance with the American Society for Testing and Materials (ASTM) E1557 Standard Classification for Building Elements and Related Sitework - Uniformat II, as it read on September 1, 2015.

(5) Subsections (1) and (4) do not apply to,

- (a) proceeds that the board is required to use in accordance with the rules set out in subsection 6.1 (1);
- (b) proceeds that the board is required to pay another board under an agreement approved by the former Education Improvement Commission; or
- (c) proceeds that the board is required to pay to the Crown in right of Canada pursuant to an agreement under subsection 188 (3) of the Act.

(6) The amount that a district school board may use from the proceeds referred to in subsections (1) and (4) for the purpose described in paragraph 2 of subsection (1) shall not exceed the total of the board's net proceeds from sales, capital leases and other dispositions of real property that,

immediately before January 1, 1998, included buildings that were used by an old board for board administration purposes.

(7) Subject to subsection (8), for the purpose of subsection (6), the net proceeds from a sale, lease or other disposition is equal to the proceeds from the sale, lease or other disposition, less the expenses incurred for commissions, legal fees, appraisal fees, registration fees and adjustments to tax and utility accounts in respect of the sale, lease or other disposition.

(8) For the purpose of subsection (6), if more than two hectares of land are included in property that is sold, leased or otherwise disposed of, the net proceeds from the sale, lease or other disposition shall be determined in accordance with the following formula: $A \times (B \div C)$

where,

A = the net proceeds from the sale, lease or other disposition, determined in accordance with subsection (7),

B = the fair market value, at the time of the sale, lease or other disposition, of a part of the property, not exceeding two hectares in area, that includes,

(a) the land on which the buildings used by the old board for board administration purposes were situated, and

(b) any other part of the property that was required to permit those buildings to be used by the old board for board administration purposes,

C = the fair market value, at the time of the sale, lease or other disposition, of all the property.

(9) A district school board shall not use the proceeds referred to in subsection (1) for the purpose described in paragraph 2 of subsection (1) unless the following requirements have been met:

1. The board must publish the following on a publicly accessible website or in a newspaper that, in the opinion of the secretary of the board, is of general circulation in the board's area of jurisdiction:

i. Notice of the board's proposal to use proceeds for the purpose described in paragraph 2 of subsection (1).

ii. Sufficient information to permit the board's supporters to understand generally the board's reasons for the proposed use of proceeds, but excluding information that, in the opinion of the board, would prejudice the board's position in negotiations for the proposed acquisition.

iii. Sufficient information to permit the board's supporters to understand generally the board's plans respecting use of the proceeds, but excluding information that, in the opinion of the board, would prejudice the board's position in negotiations for the proposed acquisition.

iv. Notice of the time and place of a meeting of the board's supporters at which the board's proposal will be discussed.

v. Notice that the board's supporters will be given the opportunity to make representations at the meeting.

2. The board must hold the meeting referred to in subparagraph iv of paragraph 1 on a day that is at least 21 days after the requirements of paragraph 1 have been met and must provide the opportunity to make representations referred to in subparagraph v of paragraph 1.

3. Within the period that begins three months after the meeting referred to in subparagraph iv of paragraph 1 and ends one year after that meeting, the board must pass a resolution that,

- i. is consistent with the notices and information provided under paragraph 1, and
- ii. directs the application of the proceeds referred to in subsection (1) for the purpose described in paragraph 2 of subsection (1).

EDUCATION ACT

O. Reg. 721/89.
North of Superior District Roman Catholic
Separate School Board.
Made—December 21st, 1989.
Filed—December 22nd, 1989.

REGULATION TO REVOKE
REGULATION 267 OF
REVISED REGULATIONS
OF ONTARIO, 1980
MADE UNDER THE
EDUCATION ACT

1. Regulation 267 of Revised Regulations of Ontario, 1980 and Ontario Regulations 418/82, 277/85, 669/86 and 384/88 are revoked.
2. This Regulation comes into force on the 1st day of January, 1990.

1/90

DEVELOPMENT CHARGES ACT, 1989

O. Reg. 722/89.
Education Development Charges.
Made—December 21st, 1989.
Filed—December 22nd, 1989.

REGULATION MADE UNDER THE
DEVELOPMENT CHARGES ACT, 1989

EDUCATION DEVELOPMENT CHARGES

DEFINITIONS

I. In this Regulation,

"bank" means a bank listed in Schedule I to the *Bank Act (Canada)* or a trust corporation registered under the *Loan and Trust Corporations Act, 1987*;

"construction cost" means the construction cost of providing pupil accommodation, approved by the Minister of Education, for the purposes of payment of a legislative grant under subsection 10 (3) of the *Education Act*;

"cost of site purchase", in respect of a site acquired or proposed to be acquired by a board for the purpose of a project that provides pupil accommodation, means the cost approved by the Minister of Education, for the purposes of payment of a legislative grant under subsection 10 (3) of the *Education Act*;

"declared value" means the cost on which the building permit fee is calculated;

"elementary rate of grant" means the percentage of the construction cost of an elementary school project or of the cost of site purchase of an elementary school project that may be financed by a legislative grant under subsection 10 (3) of the *Education Act*;

"elementary yield factor" means a board's per unit estimate of the number of elementary school pupils generated from net new units;

"grade" means the average level of finished ground adjoining a dwelling unit at all exterior walls;

"gross floor area" means the total area of all floors above grade of a dwelling unit measured between the outside surfaces of exterior walls or between the outside surfaces of exterior walls and the centre line of party walls that divide the dwelling unit from another dwelling unit or other portion of a building;

"local share" means the portion of the cost of a project approved by the Minister of Education for the purposes of payment of a legislative grant under subsection 10 (3) of the *Education Act* that may be financed by moneys collected under an education development charge;

"net new units" means the total number of dwelling units on land subject to an education development charge for which building permits will be issued during the term of the education development charge by-law imposing the education development charge;

"project" means a plan for school facilities that represents an education capital cost and that is approved by the Minister of Education;

"secondary rate of grant" means the percentage of the construction cost of a secondary school project or of the cost of site purchase of a secondary school project that may be financed by a legislative grant under subsection 10 (3) of the *Education Act*;

"secondary yield factor" means a board's per unit estimate of the number of secondary school pupils generated from net new units;

"semi-detached or row dwelling" means a residential building that consists of one dwelling unit that has one or two vertical walls but no other parts attached to another structure;

"single detached dwelling" means a residential building consisting of one dwelling unit and not attached to another structure;

"treasurer" means the treasurer of a board or, in the case of the public sector or the Roman Catholic sector of The Ottawa-Carleton French-language School Board, the treasurer of The Ottawa-

Carleton French-language School Board. O. Reg. 722/89, s. 1.

PRELIMINARY APPROVAL

2. A board shall refer its plans for school facilities that represent an education capital cost to the Minister of Education for approval. O. Reg. 722/89, s. 2.

EDUCATION DEVELOPMENT CHARGE ON RESIDENTIAL DEVELOPMENT

3. A board shall calculate the amount of an education development charge on residential development according to the following procedures, that shall be applied in order beginning with paragraph 1:

1. For each year that the education development charge by-law imposing the education development charge is in force, estimate the number of new dwelling units on land subject to the education development charge.
2. Determine the elementary yield factor or secondary yield factor, or both, as the case requires, or determine the elementary yield factor or secondary yield factor, or both, for each type of dwelling unit distinguished by the board and represented in the net new units.
3. Multiply the net new units for each year by the elementary yield factor or, if the board has distinguished between types of dwelling units in arriving at its elementary yield factor, multiply the net new units of each type of dwelling unit represented in the net new units for each year by the appropriate elementary yield factor.
4. Multiply the net new units for each year by the secondary yield factor or, if the board has distinguished between types of dwelling units in arriving at its secondary yield factor, multiply the net new units of each type of dwelling unit represented in the net new units for each year by the appropriate secondary yield factor.
5. Add the products obtained under paragraph 3 to obtain the total number of estimated growth-related new elementary school pupils.
6. Add the products obtained under paragraph 4 to obtain the total number of estimated growth-related new secondary school pupils.
7. Determine the number of elementary school projects required to serve the estimated growth-related new elementary school pupils determined under paragraph 5.
8. Determine the number of secondary school projects required to serve the estimated growth-related new secondary school pupils determined under paragraph 6.
9. Determine the cost of site purchase and the construction cost for each project determined under paragraphs 7 and 8.
10. Add the cost of site purchases for the elementary school projects determined under paragraph 7 to the construction cost for the elementary school projects to obtain the growth-related capital cost elementary.
11. Add the cost of site purchases for the secondary school projects determined under paragraph 8 to the construction cost for the secondary school projects to obtain the growth-related capital cost secondary.
12. Multiply the growth-related education capital cost elementary by the elementary rate of grant.
13. Multiply the growth-related education capital cost secondary by the secondary rate of grant.
14. Add the products obtained under paragraphs 12 and 13.
15. Add the growth-related education capital cost elementary to the growth-related education capital cost secondary.
16. Subtract the sum obtained under paragraph 14 from the sum obtained under paragraph 15 to obtain the growth-related net education capital cost.
17. If less than 100 per cent of the growth-related net education capital cost is to be financed by education development charges, determine the portion thereof that will be so financed.
18. Subtract the commercial contribution determined under paragraph 2 of section 4 from the growth-related net education capital cost determined under paragraph 16, or the portion thereof determined under paragraph 17, as the case requires.
19. Subtract the amount of any local share that forms part of the adjusted growth-related net education capital cost determined under a prior education development charge by-law and remaining in an education development charges account referred to in subsection 5 (2) at the expiration of the term of the prior by-law from the balance in the account at the expiration of the term of the prior by-law.
20. Subtract the difference obtained under paragraph 19 from the difference obtained under

paragraph 18 to obtain the adjusted growth-related net education capital cost.

21. Divide the adjusted growth-related net education capital cost by the net new units to obtain the amount of the education development charge on residential development. O. Reg. 722/89, s. 3.

EDUCATION DEVELOPMENT CHARGE ON COMMERCIAL DEVELOPMENT

4. A board shall calculate the amount of an education development charge on commercial development, expressed as a percentage of the declared value, according to the following procedures, that shall be applied in order beginning with paragraph 1:

1. Establish a percentage that is greater than zero but does not exceed 40 per cent, that represents the portion of the growth-related net education capital cost determined under paragraph 16 of section 3, or the portion thereof determined under paragraph 17 of section 3, as the case requires, to be financed by the education development charge on commercial development.
2. Multiply the percentage determined under paragraph 1 by the growth-related net education capital cost determined under paragraph 16 of section 3, or the portion thereof determined under paragraph 17 of section 3, as the case requires, to determine the amount of commercial contribution.
3. Divide the amount of commercial contribution by the estimated declared value of all building permits to be issued during the term of the education development charge by-law imposing the charge in respect of commercial development on land subject to the education development charge imposed by the by-law.
4. Multiply the quotient obtained under paragraph 3 by 100 to obtain the amount of the education development charge on commercial development expressed as a percentage of the declared value. O. Reg. 722/89, s. 4.

EDUCATION DEVELOPMENT CHARGES ACCOUNTS

5.—(1) A board that passes an education development charge by-law shall establish two interest-bearing education development charges accounts.

(2) One interest-bearing education development charges account shall be for the deposit of money received under the education development charge imposed by the by-law on residential development.

(3) The other interest-bearing education development charges account shall be for the deposit of money

received under the education development charge imposed by the by-law on commercial development.

(4) If land is within an area in which a second or subsequent education development charge is imposed, each board that passed an education development charge by-law imposing education development charges on the land shall establish with the other board or boards two interest-bearing joint education development charges accounts in accordance with subsections (2) and (3).

(5) Except as provided in the Act and this Regulation, and except for bank service charges, money shall not be withdrawn from an education development charges account.

(6) Moneys may be withdrawn from an education development charges account established under subsection (4) only on the signatures of the treasurers of the boards on whose accounts the moneys are deposited.

(7) If a project is approved by the Minister of Education for the purposes of payment of a legislative grant under subsection 10 (3) of the *Education Act*, a board may withdraw from its education development charges accounts an amount up to or equal to the local share of the project for the purpose of applying the amount to the local share of the project. O. Reg. 722/89, s. 5.

6.—(1) Moneys may be withdrawn from an education development charges account for the purpose of permitting a board to invest in such investments as a board is authorized to make under subsection 150 (1) of the *Education Act*.

(2) Moneys held in a joint education development charges account may only be withdrawn under subsection (1) if the investments made are held jointly by the boards in whose names the account is held. O. Reg. 722/89, s. 6.

7. Each treasurer shall, on or before the 31st day of March in each year, provide to his or her board and to the Minister of Education a statement for each education development charges account referred to in section 5 that includes,

- (a) the balance in the account as of the 1st day of January of the preceding year;
- (b) a record that shows the date, amount and source of funds deposited in the account;
- (c) a record that shows the date, amount and purpose of funds withdrawn from the account;
- (d) bank charges with respect to the account;
- (e) interest accrued on the account; and
- (f) the balance in the account as of the 31st day

of December of the preceding year.
O. Reg. 722/89, s. 7.

8. The amount that may be withdrawn from its education development charges accounts for the deposit of moneys collected under an education development charge on commercial development shall not exceed the amount of commercial contribution determined under paragraph 2 of section 4. O. Reg. 722/89, s. 8.

HOUSING INTENSIFICATION EXEMPTION

9.—(1) Subject to subsections (2) and (3), an education development charge by-law shall not impose an education development charge with respect to the creation of,

- (a) one or two additional dwelling units in an existing single detached dwelling; or
- (b) one additional dwelling unit in any other existing residential building.

(2) An education development charge may be imposed under circumstances described in clause (1) (a) if the total gross floor area of the additional dwelling unit or two additional dwelling units exceeds the gross floor area of the existing single detached dwelling.

(3) An education development charge may be imposed under circumstances described in clause (1) (b) if the additional dwelling unit has a gross floor area greater than,

- (a) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; or
- (b) in the case of any other residential building, the gross floor area of the smallest dwelling unit contained in the residential building.
O. Reg. 722/89, s. 9.

INFLATION INDEX

10. For purposes of subsection 30 (4) of the Act, the following indices are prescribed:

1. The Composite Southam Construction Cost Index (Ontario Series).
2. The Engineering News Record Cost Indices in 22 cities as published in the Engineering News Record.
3. Statistics Canada quarterly, *Construction Price Statistics*, catalogue number 62-007.
O. Reg. 722/89, s. 10.

NOTICE

11. Notice of a public meeting under clause 31 (1) (b) of the Act shall be given by personal service

on, or by prepaid first class mail to, the clerk of each municipality in the area of jurisdiction of the board, and,

- (a) by personal service or prepaid first class mail to every owner of land on which the proposed education development charge by-law would impose an education development charge, at the address shown on the last returned assessment roll or, if the clerk of the municipality or of the board, as the case may be, has received written notice of a subsequent change of address, at such address; or
- (b) by publication in one or more newspapers that are of sufficient general circulation in the area of jurisdiction of the board to give the public reasonable notice of the meeting.
O. Reg. 722/89, s. 11.

12.—(1) A notice under subsection 31 (3) of the Act shall be in Form 1.

(2) A notice under subsection 31 (3) of the Act shall be given to the same persons and in the same manner as described in section 11, and by personal service on, or by prepaid first class mail to, every person who has given the secretary of the board a written request for notice of the passing of an education development charge by-law.

(3) Despite subsection (2), notice need not be given to a person who has requested notice of the passing of an education development charge by-law if the person has not given his or her address to the secretary of the board at the time that the request was made.
O. Reg. 722/89, s. 12.

INTEREST

13. For the purposes of section 42 of the Act, interest shall be paid from the date of payment of the moneys being refunded at the Bank of Canada rate on the date the education development charge by-law comes into force, as adjusted on the first business days of January, April, July and October in each year.
O. Reg. 722/89, s. 13.

MONTHLY STATEMENT FROM MUNICIPALITIES

14. The following information is prescribed for the purpose of subsection 37 (5) of the Act:

1. The number of building permits issued in respect of residential development on land subject to an education development charge of the board, or the number of building permits issued in respect of residential development on land subject to an education development charge of the board for each type of dwelling unit distinguished by the board.
2. The location of lands to which the building permits described in paragraph 1 pertained.

- 3. The amount of money collected in payment of education development charges of the board on residential development.
 - 4. The number of building permits issued to owners exempted from an education development charge of the board under section 9.
 - 5. The number of building permits issued in respect of commercial development on land subject to an education development charge of the board.
 - 6. The total declared value represented by the building permits described in paragraph 5.
 - 7. The amount of money collected in payment of education development charges of the board on commercial development.
- O. Reg. 722/89, s. 14.

EXEMPT OWNERS

15. A board shall exempt an owner from an education development charge on residential development if the land to which the charge would otherwise apply is subject to a written agreement that provides for the conveyance of the land that was signed on or before the 12th day of December, 1988, under which the land has not been conveyed. O. Reg. 722/89, s. 15.

Form 1

Development Charges Act, 1989

NOTICE OF THE PASSING OF AN EDUCATION DEVELOPMENT CHARGE BY-LAW BY THE

.....
(name of school board)

TAKE NOTICE that

the

.....
(name of school board)

passed by-law on the day of

19....

under section 30 of the *Development Charges Act, 1989*.

AND TAKE NOTICE that any person or organization may appeal to the Ontario Municipal Board in respect of the by-law by filing with the Secretary of the

.....
(name of school board)

not later than the day of, 19... a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

An explanation of the development charges imposed under the by-law, a description of the lands to which the by-law applies and a key map showing the location of the lands to which the by-law applies (or, alternatively, an explanation as to why a key map is not provided) are attached. The complete by-law is available for inspection in my office during regular office hours.

Dated at the of

this day of, 19....

.....

Secretary of the

.....

O. Reg. 722/89, Form 1.

1/90

OTTAWA-CARLETON FRENCH-LANGUAGE SCHOOL BOARD ACT, 1988

O. Reg. 723/89.
Proportions of Assessment—1990.
Made—December 21st, 1989.
Filed—December 22nd, 1989.

REGULATION MADE UNDER THE OTTAWA-CARLETON FRENCH-LANGUAGE SCHOOL BOARD ACT, 1988

PROPORTIONS OF ASSESSMENT—1990

1. For purposes of taxation in 1990, the proportions of assessment of public corporations rated and assessed in each area municipality set out in Column 1 of the Schedule shall be adjusted as follows:

- 1. For The Ottawa Board of Education or The Carleton Board of Education, to the percentage of the assessment set out opposite thereto in Column 2.
- 2. For The Ottawa Roman Catholic Separate School Board or The Carleton Roman Catholic Separate School Board, to the percentage of the assessment set out opposite thereto in Column 3.
- 3. For the public sector of The Ottawa-Carleton French-Language School Board, to the percentage of the assessment set out opposite thereto in Column 4.

ONTARIO REGULATION 228/92
made under the
PLANNING ACT

Made: April 14th, 1992
Filed: April 24th, 1992

Amending O. Reg. 688/84
(Zoning Areas—Territorial District of Thunder Bay,
Geographic Township of Pio)

1. Ontario Regulation 688/84 is amended by adding the following sections:

21.—(1) Despite section 15, a hydraulic generating system and hydro transmission lines may be erected and used on the lands described in subsection (3).

(2) Despite section 15, single dwellings, mobile homes and seasonal dwellings are prohibited on the lands described in subsection (3).

(3) Subsections (1) and (2) apply to those lands located in the geographic Township of Pio in the Territorial District of Thunder Bay, being parts of lots 7 and 8, Concession V and part of Lot 7, Concession VI more specifically described as Parts 1 to 36, inclusive, on Plan 55R-8978 deposited in the Land Registry Office for the Land Titles Division of Thunder Bay (No. 55), and part of Lot 8, Concession VI more specifically described as Parts 1, 2, 3, 4, 5 and 6 on Plan 55R-8946 deposited in the Land Registry Office for the Land Titles Division of Thunder Bay (No. 55). O. Reg. 228/92, s. 1, *part*.

22.—(1) Despite section 15, hydro transmission lines may be erected and used on the lands described in subsection (3).

(2) Despite section 15, single dwellings, mobile homes and seasonal dwellings are prohibited on the lands described in subsection (3).

(3) Subsections (1) and (2) apply to those lands located in the geographic Township of Pio in the Territorial District of Thunder Bay, being parts of lots 4, 5, 6 and 7, Concession VI and parts of lots 4 and 5, Concession VII more specifically described as Parts 1, 2, 3, 5, 8, 9, 10, 11, 14, 15, 16, 18, 20, 22, 23, 24 and 25 on Plan 55R-8979 deposited in the Land Registry Office for the Land Titles Division of Thunder Bay (No. 55). O. Reg. 228/92, s. 1, *part*.

JOSEPH P. NEWTON
Director
Plans Administration Branch
North and East
Ministry of Municipal Affairs

Dated at Toronto, this 14th day of April, 1992.

ONTARIO REGULATION 229/92
made under the
DEVELOPMENT CHARGES ACT

Made: April 23rd, 1992
Filed: April 24th, 1992

Amending Reg. 268 of R.R.O. 1990
(Education Development Charges)

1. Regulation 268 of Revised Regulations of Ontario, 1990 is amended by adding the following sections:

REPLACEMENT DWELLING EXEMPTION

9.1—(1) Subject to subsection (2), an education development charge by-law shall not impose an education development charge with respect to the replacement, on the same site, of a dwelling unit that was destroyed by fire, demolition or otherwise, or that was so damaged by fire, demolition or otherwise as to render it uninhabitable.

(2) An education development charge may be imposed under circumstances described in subsection (1) if,

(a) the building permit for the replacement dwelling unit is issued more than two years after the date the former dwelling unit was destroyed or became uninhabitable; or

(b) the former dwelling unit was located in territory without municipal organization and the replacement dwelling is not in a habitable state until more than two years after the date the former dwelling unit was destroyed or became uninhabitable. O. Reg. 229/92, s. 1.

ONTARIO REGULATION 230/92
made under the
INSURANCE ACT

Made: April 23rd, 1992
Filed: April 27th, 1992

Amending Reg. 675 of R.R.O. 1990
(Schedule of Fees)

1. Section 1 of Regulation 675 of Revised Regulations of Ontario, 1990 is revoked and the following substituted:

1. Fees are payable to the Commission in the amounts set out in the Schedule. O. Reg. 230/92, s. 1.

2. Items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 14, 15, 16 and 17 of the Schedule to the Regulation are revoked and the following substituted:

14. For a certified or duplicate copy of a licence ..	\$ 10.00
15. For a certificate under section 25 of the Act, other than a certificate referred to in subitem 11 of item 13	10.00
16. For an annual subscription for the decisions of arbitrators appointed under the Act and for the decisions of the Director on appeal from the decisions of arbitrators	100.00
17. For photocopies, per page50

ONTARIO REGULATION 231/92
made under the
INSURANCE ACT

Made: April 23rd, 1992
Filed: April 27th, 1992

Amending O. Reg. 220/91
(Assessment of Commission Expenses and Expenditures)

1. Section 2 of Ontario Regulation 220/91 is revoked and the following substituted:

2. If an insurer is a mutual benefit society, the insurer's share of an assessment under section 14 of the Act is \$30. O. Reg. 231/92, s. 1.

ONTARIO REGULATION 232/92
made under the
ENVIRONMENTAL ASSESSMENT ACT

Approved: April 16th, 1992
Filed: April 28th, 1992

EXEMPTION—TOWNSHIP OF ASPHODEL—ASPH-T-1

Having received a request from The Corporation of the Township of Asphodel (the Township) that an undertaking, namely:

ONTARIO REGULATION 812/94
made under the
MUNICIPAL BOUNDARY NEGOTIATIONS ACT

Made: December 15, 1994
Filed: December 20, 1994

UNITED TOWNSHIPS OF GALWAY AND CAVENDISH,
TOWNSHIPS OF BURLEIGH AND
ANSTRUTHER BOUNDARY

1. On January 1, 1995, the portion of the townships of Burleigh and Anstruther described in the Schedule is annexed to the United Townships of Galway and Cavendish.

2. All real property of The Corporation of the Townships of Burleigh and Anstruther situate in the annexed area vests in The Corporation of the United Townships of Galway and Cavendish on January 1, 1995.

3. On January 1, 1995, the by-laws of The Corporation of the United Townships of Galway and Cavendish extend to the annexed area and the by-laws of The Corporation of the Townships of Burleigh and Anstruther cease to apply to such area, except,

(a) by-laws of The Corporation of the Townships of Burleigh and Anstruther,

- (i) that were passed under section 34 or 42 of the *Planning Act* or a predecessor of those sections,
- (ii) that were kept in force by subsection 13 (3) of *The Municipal Amendment Act, 1941*, or
- (iii) that were passed under the *Highway Traffic Act* or the *Municipal Act* that regulate the use of highways by vehicles and pedestrians and that regulate the encroachment or projection of buildings or any portion thereof upon or over highways,

which shall remain in force until repealed by the council of The Corporation of the United Townships of Galway and Cavendish;

(b) by-laws of The Corporation of the Townships of Burleigh and Anstruther passed under section 3 of the *Development Charges Act* which shall remain in force until the earliest of,

- (i) the date they are repealed by the council of The Corporation of the United Townships of Galway and Cavendish, and
- (ii) the date they expire under section 6 of the *Development Charges Act*;

(c) by-laws of The Corporation of the Townships of Burleigh and Anstruther passed under section 45, 58 or 61 of the *Drainage Act*, section 3 or 9 of the *Shoreline Property Assistance Act* or section 2 or 8 of the *Traffic Drainage Act* or a predecessor of those sections; and

(d) by-laws conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the council of The Corporation of the Townships of Burleigh and Anstruther.

4. The clerk of The Corporation of the Townships of Burleigh and Anstruther shall as soon as practicable prepare and furnish to the clerk of The Corporation of the United Townships of Galway and Cavendish a special collector's roll showing all arrears of real property and business taxes or special rates assessed against the land in the annexed area up to and including December 31, 1994 and the persons assessed therefor.

5. (1) All real property and business taxes levied under any general or special Act and uncollected in the annexed area which are due and unpaid on December 31, 1994 shall be deemed on January 1, 1995 to be taxes due and payable to The Corporation of the United Townships of Galway and Cavendish and may be collected by The Corporation of the United Townships of Galway and Cavendish.

(2) On or before April 1, 1995, The Corporation of the United Townships of Galway and Cavendish shall pay to The Corporation of the Townships of Burleigh and Anstruther an amount equal to the amount of all deemed taxes that The Corporation of the United Townships of Galway and Cavendish is entitled to collect in the annexed area under subsection (1), that were due but unpaid on December 31, 1994.

6. For the purposes of the assessment roll to be prepared for the United Townships of Galway and Cavendish under subsection 14 (1) of the *Assessment Act* for the 1995 taxation year, the annexed area shall be deemed to be a part of the United Townships of Galway and Cavendish.

7. The agreement between The Corporation of the United Townships of Galway and Cavendish and The Corporation of the Townships of Burleigh and Anstruther entered into on September 2, 1994 is hereby given effect.

Schedule

PORTION OF THE TOWNSHIPS OF BURLEIGH AND
ANSTRUTHER TO BE ANNEXED TO THE UNITED
TOWNSHIPS OF GALWAY AND CAVENDISH

Township of Burleigh (Northern Division), County of Peterborough, Province of Ontario, Lot 26, Concession 1.

Township of Burleigh (Northern Division), County of Peterborough, Province of Ontario, Lot 26, Concession 2.

Township of Anstruther, County of Peterborough, Province of Ontario, Lot 1, Concession 2.

Township of Anstruther, County of Peterborough, Province of Ontario, Lot 1, Concession 5.

1/95

ONTARIO REGULATION 813/94
made under the
DEVELOPMENT CHARGES ACT

Made: December 15, 1994
Filed: December 21, 1994

Amending Reg. 268 of R.R.O. 1990
(Education Development Charges)

Note: Regulation 268 has not been amended in 1994. For prior amendments, see the Table of Regulations in the Statutes of Ontario, 1993.

1. Regulation 268 of the Revised Regulations of Ontario, 1990 is amended by adding the following section:

EXEMPTION—TORONTO RAILWAY LANDS CENTRAL AND WEST

16. (1) In this section,

"agreement" means the agreement entitled "Development Levy Agreement—Railway Lands Central and West" made as of October 21, 1994 among The Corporation of the City of Toronto, Canadian National Railway Company, CN Transactions Inc., The Board of

Education for the City of Toronto, Metropolitan Separate School Board and The Metropolitan Toronto School Board, and registered in the Land Registry Office for the Land Titles Division of Metropolitan Toronto (No. 66) as Instrument No. C920254;

"lands" means the lands described in Schedules A and B to the agreement.

(2) A board shall exempt an owner from education development charges on the lands to the extent provided for in the agreement.

1/95

ONTARIO REGULATION 814/94
made under the
EDUCATION ACT

Made: November 23, 1994
Approved: December 15, 1994
Filed: December 21, 1994

Amending O. Reg. 244/94
(Calculation of Average Daily Enrolment)

Note: Since it was made, Ontario Regulation 244/94 has not been amended.

1. (1) Section 1 of Ontario Regulation 244/94 is amended by adding the following definition:

"combined program" means a program operated by a board on or after the school year commencing in 1994 on a five day cycle consisting of,

- (a) two days of junior kindergarten for an average of 300 minutes of classroom instruction per school day, and
- (b) three days of kindergarten for an average of 300 minutes of classroom instruction per school day;

(2) The definition of "half-time pupil" in section 1 of the Regulation is revoked and the following substituted:

"half-time pupil" means a pupil who,

- (a) is enrolled in a junior kindergarten or kindergarten that is not part of a combined program, and
- (b) in respect of a cycle, is registered for classroom instruction for an average of at least 150 minutes per school day;

(3) The definition of "part-time pupil" in section 1 of the Regulation is revoked and the following substituted:

"part-time pupil" means,

- (a) a pupil who is enrolled in a combined program, or
- (b) a pupil who is enrolled in day school and is neither a full-time pupil nor a half-time pupil.

DAVE COOKE
Minister of Education and Training

Dated at Toronto on November 23, 1994.

1/95

ONTARIO REGULATION 815/94
made under the
MUNICIPAL ACT

Made: December 21, 1994
Filed: December 21, 1994

DISPOSAL OF PROPERTY

1. A municipality or local board may sell the following classes of real property without obtaining an appraisal under subsection 193 (4) of the Act:

1. Land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*.
2. Highways, roads and road allowances.
3. Land formerly used for railway branch lines if sold to an owner of land abutting the former railway land.
4. Land that does not have direct access to a highway if sold to the owner of land abutting that land.
5. Land repurchased by an owner in accordance with section 42 of the *Expropriations Act*.
6. Land to be used for sites for the establishment and carrying on of industries and of industrial operations and incidental uses.
7. Land sold under sections 112, 112.1, 112.2 and 113 of the *Municipal Act*.
8. Easements granted to public utilities or to telephone companies.
9. Land sold under the *Municipal Tax Sales Act*.

2. A municipality or local board may sell real property to the following classes of public bodies without obtaining an appraisal under subsection 193 (4) of the Act:

1. Any municipality, including a metropolitan, regional or district municipality and the County of Oxford.
2. A local board as defined in the *Municipal Affairs Act*.
3. An authority under the *Conservation Authorities Act*.
4. The Crown in Right of Ontario or of Canada and their agencies.

3. A municipality or local board is not required to list the following classes of real property in the public register established under subsection 193 (7) of the Act:

1. Land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*.
2. All highways, roads and road allowances, whether or not opened, unopened, closed or stopped up.
3. Land formerly used for railway branch lines.

4. This Regulation comes into force on the day section 55 of the *Planning and Municipal Statute Law Amendment Act, 1994* comes into force.

ED PHILIP
Minister of Municipal Affairs

Dated at Toronto on December 21, 1994.

1/95

ONTARIO REGULATION 473/97
made under the
EDUCATION ACT

Made: December 10, 1997
Filed: December 11, 1997

Amending Reg. 295 of R.R.O. 1990
(Northern District School Area Board)

Note: Since January 1, 1997, Regulation 295 has been amended by Ontario Regulations 186/97 and 393/97. For prior amendments, see the Table of Regulations in the Statutes of Ontario, 1996.

1. The definition of "residential property" in section 1 of Regulation 295 of the Revised Regulations of Ontario, 1990 is revoked.

2. This Regulation comes into force on January 1, 1998.

52/97

ONTARIO REGULATION 474/97
made under the
EDUCATION ACT

Made: December 10, 1997
Filed: December 11, 1997

Amending Reg. 294 of R.R.O. 1990
(James Bay Lowlands Secondary School Board)

Note: Regulation 294 has been amended by Ontario Regulation 394/97.

1. (1) The definition of "equalized assessment" in section 1 of Regulation 294 of the Revised Regulations of Ontario, 1990 is revoked.

(2) The definition of "residential property" in section 1 of the Regulation is revoked.

2. Section 7 of the Regulation is revoked.

3. This Regulation comes into force on January 1, 1998.

52/97

ONTARIO REGULATION 475/97
made under the
DEVELOPMENT CHARGES ACT

Made: December 10, 1997
Filed: December 11, 1997

Amending Reg. 268 of R.R.O. 1990
(Education Development Charges)

Note: Regulation 268 has not been amended in 1997. For prior amendments, see the Table of Regulations in the Statutes of Ontario, 1996.

1. The definitions of "construction cost", "cost of site purchase", "elementary rate of grant", "local share", "project", "secondary

rate of grant" and "treasurer" as set out in section 1 of Regulation 268 of the Revised Regulations of Ontario, 1990 are revoked and the following substituted:

"construction cost" means the construction cost of providing pupil accommodation, approved by the Minister of Education and Training, for the purposes of payment of a legislative grant under section 234 of the *Education Act*;

"cost of site purchase", in respect of a site acquired or proposed to be acquired by a board for the purpose of a project that provides pupil accommodation, means the cost approved by the Minister of Education and Training for the purposes of payment of a legislative grant under section 234 of the *Education Act*;

"elementary rate of grant" means the percentage of the construction cost of an elementary school project or of the cost of site purchase of an elementary school project that may be financed by a legislative grant under section 234 of the *Education Act*;

"local share" means the portion of the cost of a project approved by the Minister of Education and Training for the purposes of payment of a legislative grant under section 234 of the *Education Act* that may be financed by money collected under an education development charge;

"project" means a plan for school facilities that represents an education capital cost and that is approved by the Minister of Education and Training;

"secondary rate of grant" means the percentage of the construction cost of a secondary school project or of the cost of site purchase of a secondary school project that may be financed by a legislative grant under section 234 of the *Education Act*;

"treasurer" means the treasurer of a board.

2. The heading immediately before section 2 of the Regulation is revoked and the following substituted:

CONDITIONS TO THE PASSAGE OF BY-LAW

3. Section 2 of the Regulation is revoked and the following substituted:

2. (1) A board shall not pass an education development charge by-law unless the following conditions are met:

1. The Minister of Education and Training has approved the board's estimates of the projected elementary enrolment and secondary enrolment for each year of the term of the proposed education development charge by-law and, in at least one year, the projected elementary enrolment exceeds the elementary pupil place capacity or the projected secondary enrolment exceeds the secondary pupil place capacity.

2. Every board that has territorial jurisdiction in the area in which the proposed education development charge by-law is to apply has approved in writing the board's elementary yield factors and secondary yield factors or, in the absence of those approvals, the Minister of Education and Training has approved the board's elementary yield factors and secondary yield factors.

3. The Minister of Education and Training has approved the board's estimates of the number of growth-related new elementary school pupils and growth-related new secondary school pupils.

4. The Minister of Education and Training has approved the number of elementary school projects and the number of secondary school projects that the board proposes to use to provide accommodation for the estimated growth-related new elementary school pupils and the estimated growth-related new secondary school pupils.

5. The board can document its efforts to make long-term lease arrangements or other arrangements with other boards, municipalities or the private sector to accommodate the estimated growth-related new elementary school pupils and growth-related new secondary school pupils, and the results of those efforts.

(2) In subsection (1),

"elementary enrolment" means the enrolment as determined by the Minister of Education and Training for the purpose of the calculation of legislative grants under section 234 of the *Education Act* for new elementary pupil places;

"elementary pupil place capacity" means the number of pupil places counted by the Minister of Education and Training for the purpose of the calculation of legislative grants under section 234 of the *Education Act* for new elementary pupil places;

"secondary enrolment" means the enrolment as determined by the Minister of Education and Training for the purpose of the calculation of legislative grants under section 234 of the *Education Act* for new secondary pupil places;

"secondary pupil place capacity" means the number of pupil places counted by the Minister of Education and Training for the purpose of the calculation of legislative grants under section 234 of the *Education Act* for new secondary pupil places.

4. Subsection 5 (7) of the Regulation is amended by striking out "Minister of Education for the purposes of payment of a legislative grant under subsection 11 (3)" in the first and second lines and substituting "Minister of Education and Training for the purposes of payment of a legislative grant under section 234".

5. Section 6 of the Regulation is revoked and the following substituted:

6. (1) Money may be withdrawn from an education development charges account for the purpose of making investments permitted under clause 241 (1) (a) of the *Education Act*.

(2) During the year that begins on the day section 241 of the *Education Act* comes into force and ends on the first anniversary of that day, subsection (1) as it read on December 31, 1997, continues to apply

to investments made before the day that section 241 of the *Education Act* comes into force.

(3) An investment to which subsection (2) applies shall not be continued past the end of the year mentioned in subsection (2) unless the investment is in a security or class of securities that is prescribed under clause 241 (6) (b) of the *Education Act*.

(4) Money held in a joint education development charges account may only be withdrawn under subsection (1) or (2) if the investments made are held jointly by the boards in whose name the account is held.

6. Section 7 of the Regulation is amended by striking out "Minister of Education" in the second and third lines in the portion before clause 7 (a) and substituting "Minister of Education and Training".

7. The Regulation is further amended by adding the following heading and section:

INDUSTRIAL DEVELOPMENT EXEMPTION

9.2 (1) If a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the education development charge that is payable under an education development charge by-law passed on or after January 1, 1998 is determined in accordance with this section.

(2) If the gross floor area is enlarged by 50 per cent or less, the amount of the education development charge in respect of the enlargement is zero.

(3) If the gross floor area is enlarged by more than 50 per cent, the amount of the education development charge in respect of the enlargement is the amount of the education development charge that would otherwise be payable multiplied by the fraction determined as follows:

1. Determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the enlargement.
2. Divide the amount determined under paragraph 1 by the amount of the enlargement.

(4) In this section,

"existing industrial building" means an existing industrial building assessed as manufacturing and industrial for municipal taxation purposes;

"gross floor area" means the total floor area, measured between the outside of exterior walls or between the outside of exterior walls and the centre line of party walls dividing the building from another building, of all floors above the average level of finished ground adjoining the building at its exterior walls.

8. This Regulation comes into force on January 1, 1998.

THE TORONTO DISTRICT SCHOOL BOARD

-and -

**HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF ONTARIO**

Applicant

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)**

FACTUM OF THE RESPONDENT

THE ATTORNEY GENERAL OF ONTARIO
Civil Law Division
Constitutional Law Branch
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Counsel for the Respondent,
Her Majesty the Queen in Right of the Province of
Ontario