

By-laws re special services

326. (1) A municipality may by by-law,

- (a) identify a special service;
- (b) determine which of the costs, including capital costs, debenture charges, charges for depreciation or a reserve fund, of the municipality are related to that special service;
- (c) designate the area of the municipality in which the residents and property owners receive or will receive an additional benefit from the special service that is not received or will not be received in other areas of the municipality;
- (d) determine the portion and set out the method of determining the portion of the costs determined in clause (b) which represent the additional costs to the municipality of providing the additional benefit in the area designated in clause (c);
- (e) determine whether all or a specified portion of the additional costs determined in clause (d) shall be raised under subsection (4). 2001, c. 25, s. 326 (1); 2006, c. 32, Sched. A, s. 136 (1).

Definitions

(2) In this section,

“benefit” means a direct or indirect benefit that is currently available or will be available in the future; (“avantage”)

“special service” means a service or activity of a municipality or a local board of the municipality that is,

- (a) not being provided or undertaken generally throughout the municipality, or
- (b) being provided or undertaken at different levels or in a different manner in different parts of the municipality. (“service spécial”) 2001, c. 25, s. 326 (2).

Limitation

(3) An area designated by a municipality for a year under clause (1) (c) cannot include an area in which the residents and property owners do not currently receive an additional benefit but will receive it in the future unless the expenditures necessary to make the additional benefit available appear in the budget of the municipality for the year adopted under section 289 or 290 or the municipality has established a reserve fund to finance the expenditures over a period of years. 2001, c. 25, s. 326 (3).

Levies

(4) For each year a by-law of a municipality under this section remains in force, the municipality shall, except as otherwise authorized by regulation,

- (a) in the case of a local municipality, levy a special local municipality levy under section 312 on the rateable property in the area designated in clause (1) (c) to raise the costs determined in clause (1) (e);
- (b) in the case of an upper-tier municipality, direct each lower-tier municipality which includes any part of the area designated in clause (1) (c) to levy a special upper-tier levy under section 311 on the rateable property in that part of the municipality to raise its share of the costs determined in clause (1) (e). 2001, c. 25, s. 326 (4).

Regulations

(5) The Minister may make regulations providing for any matters which, in the opinion of the Minister, are necessary or desirable for the purposes of this section, including,

- (a) prescribing services that cannot be identified as a special service under clause (1) (a);
- (b) establishing conditions and limits on the exercise of the powers of a municipality under this section, including making the exercise of the powers subject to the approval of any person or body;

- (c) prescribing the amount of the costs or the classes of costs for the purpose of clause (1) (b);
- (d) prescribing the area or rules for determining the area for the purpose of clause (1) (c);
- (e) prescribing the amount of the additional costs or the rules for determining the additional costs for the purpose of clause (1) (d);
- (f) providing for a process of appealing a by-law under this section and the powers the person or body hearing the appeal may exercise;
- (g) providing that an appeal under clause (f) may apply to all or any aspect of the by-law;
- (h) providing for rules or authorizing the person or body hearing an appeal under clause (f) to determine when by-laws subject to appeal come into force, including a retroactive date not earlier than the day on which the by-law was passed;
- (i) for the purpose of subsection (4), exempting or delegating to a municipality the power to exempt specified rateable property from all or part of a special local municipality levy or a special upper-tier levy for a specified special service. 2001, c. 25, s. 326 (5); 2006, c. 32, Sched. A, s. 136 (2).

Retroactive

(6) A regulation under this section may be retroactive to a date not earlier than January 1 of the year in which the regulation is made. 2001, c. 25, s. 326 (6).

Deemed services

(7) If a municipality or a local board of a municipality pays for a service or activity provided or undertaken by another municipality or a local board of another municipality, the service or activity shall be deemed to be a service or activity of the first municipality or local board. 2001, c. 25, s. 326 (7).