

## **Appendix A - Excerpt of Section 110 of the Municipal Act, 2001**

### **Agreements for municipal capital facilities**

**110** (1) This section applies to an agreement entered into by a municipality for the provision of municipal capital facilities by any person, including another municipality, if the agreement provides for one or more of the following:

1. Lease payments in foreign currencies as provided for in subsection (2).
2. Assistance as provided for in subsection (3).
3. Tax exemptions as provided for in subsection (6).
4. Development charges exemptions as provided for in subsection (7). 2006, c. 32, Sched. A, s. 51.

### **Contents of agreements**

(2) An agreement may allow for the lease, operation or maintenance of the facilities and for the lease payments to be expressed and payable partly or wholly in one or more prescribed foreign currencies. 2001, c. 25, s. 110 (2).

### **Assistance by municipality**

(3) Despite section 106, a municipality may provide financial or other assistance at less than fair market value or at no cost to any person who has entered into an agreement to provide facilities under this section and such assistance may include,

- (a) giving or lending money and charging interest;
- (b) giving, lending, leasing or selling property;
- (c) guaranteeing borrowing; and
- (d) providing the services of employees of the municipality. 2001, c. 25, s. 110 (3).

### **Restriction**

(4) The assistance shall only be in respect of the provision, lease, operation or maintenance of the facilities that are the subject of the agreement. 2001, c. 25, s. 110 (4).

### **Notice of agreement by-law**

(5) Upon the passing of a by-law permitting a municipality to enter into an agreement under this section, the clerk of the municipality shall give written notice of the by-law to the Minister of Finance. 2001, c. 25, s. 110 (5); 2015, c. 27, Sched. 5, s. 4 (2).

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### Tax exemption

(6) Despite any Act, the council of a municipality may exempt from all or part of the taxes levied for municipal and school purposes land or a portion of it on which municipal capital facilities are or will be located that,

- (a) is the subject of an agreement under subsection (1);
- (b) is owned or leased by a person who has entered an agreement to provide facilities under subsection (1); and
- (c) is entirely occupied and used or intended for use for a service or function that may be provided by a municipality. 2001, c. 25, s. 110 (6); 2006, c. 19, Sched. O, s. 3 (1).

### Development charges exemption

(7) Despite the *Development Charges Act, 1997*, the council of a municipality may exempt from the payment of all or part of the development charges imposed by the municipality under that Act land or a portion of it on which municipal capital facilities are or will be located that,

- (a) is the subject of an agreement under subsection (1);
- (b) is owned or leased by a person who has entered an agreement to provide facilities under subsection (1); and
- (c) is entirely occupied and used or intended for use for a service or function that may be provided by a municipality. 2006, c. 19, Sched. O, s. 3 (2).

### Notice of tax exemption by-law

(8) Upon the passing of a by-law under subsection (6), the clerk of the municipality shall give written notice of the contents of the by-law to,

- (a) the assessment corporation;
- (b) the clerk of any other municipality that would, but for the by-law, have had authority to levy rates on the assessment for the land exempted by the by-law; and
- (c) the secretary of any school board if the area of jurisdiction of the board includes the land exempted by the by-law. 2001, c. 25, s. 110 (8).

### When agreement entered into

(9) If a municipality designated as a service manager under the *Housing Services Act, 2011* has entered into an agreement under this section with respect to housing capital facilities, any other municipality that has not entered into an agreement under this section with respect to the capital facilities and that contains all or part of the land on which the

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capital facilities are or will be located may exercise the power under subsections (3), (6) and (7) with respect to the land and the capital facilities but,

- (a) a tax exemption under subsection (6) applies to taxation for its own purposes; and
- (b) clauses (8) (b) and (c) do not apply. 2001, c. 25, s. 110 (9); 2011, c. 6, Sched. 1, s. 187 (1).

### Reserve fund

(10) The council of a municipality may establish a reserve fund to be used for the exclusive purpose of renovating, repairing or maintaining facilities that are provided under an agreement under this section. 2001, c. 25, s. 110 (10).

### Same

(11) An agreement under this section may provide for contributions to the reserve fund by any person. 2001, c. 25, s. 110 (11).

### Tax exemption by school board

(12) Despite any Act, a school board that is authorized to enter into agreements for the provision of school capital facilities by any person may, by resolution, exempt from all or part of the taxes levied for municipal and school purposes land or a portion of it on which the school capital facilities are or will be located that,

- (a) is the subject of the agreement;
- (b) is owned or leased by a person who has entered an agreement to provide school capital facilities; and
- (c) is entirely occupied and used or intended for use for a service or function that may be provided by a school board. 2001, c. 25, s. 110 (12); 2006, c. 19, Sched. O, s. 3 (3).

### Education development charges exemption

(13) Despite Division E of Part IX of the *Education Act*, a school board that is authorized to enter into agreements for the provision of school capital facilities by any person may exempt from the payment of all or part of the education development charges imposed by the school board under that Part land or a portion of it on which school capital facilities are or will be located that,

- (a) is the subject of the agreement;
- (b) is owned or leased by a person who has entered an agreement to provide school capital facilities; and

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(c) is entirely occupied and used or intended for use for a service or function that may be provided by a school board. 2006, c. 19, Sched. O, s. 3 (4).

### **Notice of tax exemption by school board**

(14) Upon the passing of a resolution under subsection (12), the secretary of the school board shall give written notice of the contents of the resolution to,

- (a) the assessment corporation;
- (b) the clerk and the treasurer of any municipality that would, but for the resolution, have had authority to levy rates on the assessment for the land exempted by the resolution; and
- (c) the secretary of any other school board if the area of jurisdiction of the board includes the land exempted by the resolution. 2001, c. 25, s. 110 (14).

### **Restriction on tax exemption**

(15) The tax exemption under subsection (6) or (12) shall not be in respect of a special levy under section 311 or 312 for sewer and water. 2001, c. 25, s. 110 (15).

### **Effective date**

(16) A by-law passed under subsection (6) or (7) or a resolution passed under subsection (12) or (13) shall specify an effective date which shall be the date of passing of the by-law or resolution or a later date. 2006, c. 19, Sched. O, s. 3 (5).

### **Tax refund, etc.**

(17) Section 357 applies with necessary modifications to allow for a cancellation, reduction or refund of taxes that are no longer payable as a result of a by-law or resolution passed under this section. 2001, c. 25, s. 110 (17).

### **Taxes struck from roll**

(18) Until the assessment roll has been revised, the treasurer of the local municipality shall strike taxes from the tax roll that are exempted by reason of a by-law or resolution passed under this section. 2001, c. 25, s. 110 (18).

### **Deemed exemption**

(19) Subject to subsection (15), the tax exemption under subsection (6) or (12) shall be deemed to be an exemption under section 3 of the *Assessment Act*, but shall not affect a payment required under section 27 of that Act. 2001, c. 25, s. 110 (19).

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### Regulations

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

- (a) defining municipal capital facilities for the purposes of this section;
- (b) prescribing eligible municipal capital facilities that may and may not be the subject of agreements under subsection (1);
- (c) prescribing eligible municipal capital facilities for which municipalities may and may not grant tax exemptions under subsection (6) or development charges exemptions under subsection (7);
- (d) prescribing rules, procedures, conditions and prohibitions for municipalities entering agreements under subsection (1);
- (e) defining and prescribing eligible school capital facilities for which school boards may and may not grant tax exemptions under subsection (12) or exemptions from education development charges under subsection (13);
- (f) prescribing foreign currencies in which a municipality may make lease payments under such conditions as may be prescribed. 2001, c. 25, s. 110 (20); 2006, c. 19, Sched. O, s. 3 (6, 7).

### Section Amendments with date in force (d/m/y)