

2009 Bill 23

Second Session, 27th Legislature, 58 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 23

MUNICIPAL GOVERNMENT AMENDMENT ACT, 2009

THE MINISTER OF MUNICIPAL AFFAIRS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 23

2009

MUNICIPAL GOVERNMENT AMENDMENT ACT, 2009

(Assented to _____, 2009)

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

Amends RSA 2000 cM-26

1 The *Municipal Government Act* is amended by this Act.

**2 Section 284 is amended by adding the following after
subsection (2):**

(3) For the purposes of this Part and Parts 10, 11 and 12, any
document, including an assessment notice and a tax notice, that
is required to be sent to a person is deemed to be sent on the day
the document is mailed or otherwise delivered to that person.

**3 Section 289(2)(b) is amended by striking out “valuation
standard” and substituting “valuation and other standards”.**

Explanatory Notes

1 Amends chapter M-26 of the Revised Statutes of Alberta 2000.

2 Meaning of “sent”.

3 Section 289(2) presently reads:

(2) Each assessment must reflect

(a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and

(b) the valuation standard set out in the regulations for that property.

4 Section 293(1)(a) is amended by adding “and other” after “valuation”.

5 Section 299 is amended

(a) by adding the following after subsection (1):

(1.1) For the purposes of subsection (1), “sufficient information” in respect of a person’s property must include

- (a) all documents, records and other information in respect of that property that the assessor has in the assessor’s possession or under the assessor’s control,
- (b) the key factors, components and variables of the valuation model applied in preparing the assessment of the property, and
- (c) any other information prescribed or otherwise described in the regulations.

(b) in subsection (2) by adding “, in accordance with the regulations,” after “must”.

6 Section 300 is amended

(a) by adding the following after subsection (1):

(1.1) For the purposes of subsection (1), a summary of an assessment must include the following information that the assessor has in the assessor’s possession or under the assessor’s control:

- (a) a description of the parcel of land and any improvements, to identify the type and use of the property;
- (b) the size of the parcel of land;

4 Section 293(1) presently reads:

293(1) In preparing an assessment, the assessor must, in a fair and equitable manner,

- (a) apply the valuation standards set out in the regulations, and*
- (b) follow the procedures set out in the regulations.*

5 Section 299 presently reads:

299(1) An assessed person may ask the municipality, in the manner required by the municipality, to let the assessed person see or receive sufficient information to show how the assessor prepared the assessment of that person's property.

- (2) The municipality must comply with a request under subsection (1).*

6 Section 300 presently reads:

300(1) An assessed person may ask the municipality, in the manner required by the municipality, to let the assessed person see or receive a summary of the assessment of any assessed property in the municipality.

- (2) The municipality must comply with a request under subsection (1) if it is satisfied that necessary confidentiality will not be breached.*

- (c) the age and size or measurement of any improvements;
 - (d) the key factors, components and variables of the valuation model applied in preparing the assessment of the property;
 - (e) any other information prescribed or otherwise described in the regulations.
- (b) in subsection (2) by adding “, in accordance with the regulations,” after “must”.**

7 Section 305 is amended

- (a) in subsection (4) by adding “or section 477 or 517” after “section”;**

(b) by adding the following after subsection (4):

(5) If a complaint has been made under section 460 or 488 about an assessed property, the assessor must not correct or change the assessment roll in respect of that property until a decision of an assessment review board or the Municipal Government Board, as the case may be, has been rendered or the complaint has been withdrawn.

(6) Despite subsection (5), subsection (1)(b) does not apply if the assessment roll is

- (a) corrected as a result of a complaint being withdrawn by agreement between the complainant and the assessor, or
- (b) changed under section 477 or 517.

8 Section 309(1)(c) is repealed and the following is substituted:

- (c) the date by which a complaint must be made, which date must be 60 days after the assessment notice or amended assessment notice is sent to the assessed person;

7 Section 305 presently reads:

305(1) If it is discovered that there is an error, omission or misdescription in any of the information shown on the assessment roll,

(a) the assessor may correct the assessment roll for the current year only, and

(b) on correcting the roll, an amended assessment notice must be prepared and sent to the assessed person.

(2) If it is discovered that no assessment has been prepared for a property and the property is not listed in section 298, an assessment for the current year only must be prepared and an assessment notice must be prepared and sent to the assessed person.

(3) If exempt property becomes taxable or taxable property becomes exempt under section 368, the assessment roll must be corrected and an amended assessment notice must be prepared and sent to the assessed person.

(4) The date of every entry made on the assessment roll under this section must be shown on the roll.

8 Section 309(1) presently reads:

309(1) An assessment notice or an amended assessment notice must show the following:

(a) the same information that is required to be shown on the assessment roll;

9 Section 310 is amended

- (a) **by repealing subsection (1) and substituting the following:**

Sending assessment notices

310(1) Subject to subsection (1.1), assessment notices must be sent no later than May 1 of each year.

- (b) **by adding the following after subsection (1):**

(1.1) An amended assessment notice must be sent no later than the date the tax notices are required to be sent under Part 10.

10 Section 316 is amended

- (a) **in subsection (2)(c) by striking out “not be less than 30 days” and substituting “be 60 days”;**
- (b) **in subsection (3) by striking out “310” and substituting “310(1.1)”.**

- (b) *the date the assessment notice or amended assessment notice is sent to the assessed person;*
- (c) *the date by which a complaint must be made, which date must not be less than 30 days after the assessment notice or amended assessment notice is sent to the assessed person;*
- (d) *the name and address of the designated officer with whom a complaint must be filed;*
- (e) *any other information considered appropriate by the municipality.*

9 Section 310(1) presently reads:

310(1) The assessment notices must be sent no later than the date the tax notices are required to be sent under Part 10.

10 Section 316(2) and (3) presently read:

(2) A supplementary assessment notice must show, for each assessed improvement, the following:

- (a) *the same information that is required to be shown on the supplementary assessment roll;*
- (b) *the date the supplementary assessment notice is sent to the assessed person;*
- (c) *the date by which a complaint must be made, which date must not be less than 30 days after the supplementary assessment notice is sent to the assessed person;*
- (d) *the address to which a complaint must be sent.*

11 Section 321 is amended by striking out “appeal” and substituting “may make a complaint regarding”.

12 Section 322(1) is amended

(a) in clause (e) by adding “processes and” after “respecting”;

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

- (g.1) prescribing or otherwise describing information for the purposes of sections 299(1.1)(c) and 300(1.1)(e);
- (g.2) respecting procedures and time-lines to be followed by a municipality in dealing with a request for information under section 299 or a request for a summary of an assessment under section 300;
- (g.3) respecting the imposition of penalties or other sanctions against a municipality for failing to comply with a request for information under section 299 or a request for a summary of an assessment under section 300;

13 Section 453 is repealed and the following is substituted:

Interpretation

453(1) In this Part,

- (a) “assessment notice” includes an amended assessment notice and a supplementary assessment notice;
- (b) “assessment roll” includes a supplementary assessment roll;
- (c) “composite assessment review board” means an assessment review board consisting of

(3) Sections 309(2), 310 and 312 apply in respect of supplementary assessment notices.

11 Section 321 presently reads:

321 A municipality may appeal the amount of an equalized assessment to the Municipal Government Board not later than 30 days from the date the Minister sends the municipality the report described in section 320.

12 Section 322(1)(e) presently reads:

322(1) The Minister may make regulations

(e) respecting procedures for preparing assessments;

13 Section 453 presently reads:

453 In this Part,

(a) “assessment notice” includes an amended assessment notice and a supplementary assessment notice;

(b) “assessment roll” includes a supplementary assessment roll;

(c) “tax notice” includes a supplementary tax notice;

(d) “tax roll” includes a supplementary tax roll.

- (i) one provincial member and 2 other members who are not provincial members, or
- (ii) subject to section 454.2(3), one provincial member;
- (d) “local assessment review board” means an assessment review board consisting of
 - (i) 3 members who are not provincial members, or
 - (ii) subject to section 454.1(2), one member who is not a provincial member;
- (e) “provincial member” means a person appointed as a provincial member to a composite assessment review board by the Minister under section 454.2(2) or (3);
- (f) “tax notice” includes a supplementary tax notice;
- (g) “tax roll” includes a supplementary tax roll.

(2) In this Part, a reference to an assessment review board means a local assessment review board or a composite assessment review board, as the case requires.

14 Section 454 is repealed and the following is substituted:

Assessment review boards established

454(1) A council may by bylaw at any time establish one or more local assessment review boards and one or more composite assessment review boards.

(2) Despite subsection (1), a council must by bylaw on receiving a complaint under section 461 establish a local assessment review board or a composite assessment review board, depending on the type of complaint, to hear the complaint.

14 Section 454 presently reads:

454(1) A council may by bylaw at any time, but must on receiving a complaint under section 461, establish one or more assessment review boards.

(2) The council must

- (a) appoint a minimum of 3 members to each assessment review board unless subsection (2.1) applies,*
- (b) prescribe the term of office of each member and the manner in which vacancies are to be filled, and*
- (c) prescribe the remuneration and expenses, if any, payable to each member.*

(2.1) Subject to the conditions prescribed by the regulations, the council may appoint an assessment review board consisting of only one member.

15 The following is added after section 454:

Appointment of members to local assessment review board

454.1(1) A council must

- (a) appoint 3 persons as members to each local assessment review board,
- (b) prescribe the term of office of each member appointed under clause (a) and the manner in which vacancies are to be filled, and
- (c) prescribe the remuneration and expenses, if any, payable to each member appointed under clause (a).

(2) Despite subsection (1) but subject to the conditions prescribed by the regulations, a council may establish a local assessment review board consisting of only one member appointed by the council.

(3) The members of each local assessment review board must choose a presiding officer from among themselves.

Appointment of members to composite assessment review board

454.2(1) A council must

- (a) appoint 2 persons as members to each composite assessment review board,
- (b) prescribe the term of office of each member appointed under clause (a) and the manner in which vacancies are to be filled, and
- (c) prescribe the remuneration and expenses, if any, payable to each member appointed under clause (a).

(2) The Minister must, in accordance with the regulations, appoint one provincial member to each composite assessment review board.

(3) The members of each assessment review board must choose a presiding officer from among themselves.

15 Appointment of members to local and composite assessment review boards.

(3) Despite subsections (1) and (2) but subject to the conditions prescribed by the regulations, a council may establish a composite assessment review board consisting of only a provincial member appointed by the Minister.

(4) The provincial member is the presiding officer of a composite assessment review board.

16 The following is added after section 454.2:

Qualifications of members

454.3 A member of an assessment review board may not participate in a hearing of the board unless the member is qualified to do so in accordance with the regulations.

17 Section 457 is repealed and the following is substituted:

Acting members

457(1) The chief elected official may appoint a person as an acting member of

- (a) a local assessment review board, or
- (b) a composite assessment review board

if any member, other than a provincial member, is unable for any reason to attend a hearing of the board.

(2) The Minister must, in accordance with the regulations, appoint a person as an acting provincial member of a composite assessment review board if the provincial member is unable for any reason to attend a hearing of the board.

18 Section 458 is repealed and the following is substituted:

Quorum

458(1) Two members of a local assessment review board referred to in section 453(1)(d)(i) constitutes a quorum of the local assessment review board.

(2) The provincial member and one other member of a composite assessment review board referred to in section

16 Qualifications of members.

17 Section 457 presently reads:

457 The chief elected official may appoint a person as an acting member of an assessment review board if any member is unable for any reason to attend a hearing of the board.

18 Section 458 presently reads:

458 A majority of the members of an assessment review board constitutes a quorum.

453(1)(c)(i) constitutes a quorum of the composite assessment review board.

19 Section 460 is amended

(a) in subsection (2) by striking out “writing” and substituting “the form prescribed in the regulations”;

(b) by repealing subsection (7) and substituting the following:

(7) A complainant must

- (a) indicate what information shown on an assessment notice or tax notice is incorrect,
- (b) explain in what respect that information is incorrect,
- (c) indicate what the correct information is, and
- (d) identify the requested assessed value, if the complaint relates to an assessment.

(c) by repealing subsections (10) and (11) and substituting the following:

(10) A complaint must include the mailing address of the complainant if the mailing address of the complainant is different from the address shown on the assessment notice or tax notice.

(11) An assessment review board has no jurisdiction to deal with a complaint about linear property or an amount set by the Minister under Part 9 as the equalized assessment for a municipality.

20 The following is added after section 460:

Jurisdiction of assessment review boards

460.1(1) A local assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on

19 Section 460 presently reads in part:

(2) A complaint must be in writing and must be accompanied with the fee set by the council under section 481(1), if any.

(3) A complaint may be made only by an assessed person or a taxpayer.

(7) A complaint must explain why the complainant thinks that information shown on an assessment or tax notice is incorrect.

(10) The complaint must include the mailing address of the complainant.

(11) An assessment review board has no jurisdiction to deal with a complaint about linear property.

20 Jurisdiction of assessment review boards.

- (a) an assessment notice for
 - (i) residential property with 3 or fewer dwelling units, or
 - (ii) farm land,
- or
- (b) a tax notice other than a property tax notice.

(2) Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a).

21 Section 461(2) is amended by adding “in accordance with the regulations” **after** “board”.

22 Section 462 is repealed and the following is substituted:

Notice of assessment review board hearing

462(1) If a complaint is to be heard by a local assessment review board, the designated officer must

- (a) within 30 days after receiving the complaint, provide the municipality with a copy of the complaint, and
- (b) within the time prescribed by the regulations, notify the municipality, the complainant and any assessed person other than the complainant who is affected by the complaint of the date, time and location of the hearing.

(2) If a complaint is to be heard by a composite assessment review board, the designated officer must

- (a) within 30 days after receiving the complaint, provide the municipality with a copy of the complaint, and

21 Section 461(2) presently reads:

(2) On receiving a complaint, the designated officer referred to in section 455 must set a date, time and location for a hearing before an assessment review board.

22 Section 462 presently reads:

462(1) If the complaint is to be heard by an assessment review board, the designated officer must

- (a) within 30 days after receiving the complaint, provide the municipality with a copy of the complaint, and*
- (b) at least 14 days before the hearing, notify the municipality, the complainant and any assessed person other than the complainant who is affected by the complaint of the date, time and location of the hearing.*

(2) The notice period required under subsection (1)(b) may be reduced with the consent of all the persons who are to be notified under that subsection.

- (b) within the time prescribed by the regulations, notify the Minister, the municipality, the complainant and any assessed person other than the complainant who is affected by the complaint of the date, time and location of the hearing.

23 Section 463 is repealed and the following is substituted:

Absence from hearing

463 If any person who is given notice of the hearing does not attend, the assessment review board must proceed to deal with the complaint if

- (a) all persons required to be notified were given notice of the hearing, and
- (b) no request for a postponement or an adjournment was received by the board or, if a request was received, no postponement or adjournment was granted by the board.

24 Section 467 is repealed and the following is substituted:

Decisions of assessment review board

467(1) An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

(2) An assessment review board must dismiss a complaint that was not made within the proper time or that does not comply with section 460(7).

(3) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

- (a) the valuation and other standards set out in the regulations,
- (b) the procedures set out in the regulations, and
- (c) the assessments of similar property or businesses in the same municipality.

23 Section 463 presently reads:

463 If any person who is given notice of the hearing does not attend, the assessment review board may proceed to deal with the complaint if it is satisfied that all persons required to be notified were given notice of it.

24 Section 467 presently reads:

467(1) An assessment review board may make any of the following decisions:

- (a) dismiss a complaint that was not made within the proper time or that does not comply with section 460(7);*
- (b) make a change with respect to any matter referred to in section 460(5);*
- (c) decide that no change to an assessment roll or tax roll is required.*

(2) An assessment review board must not alter any assessment that is fair and equitable, taking into consideration assessments of similar property or businesses in the same municipality.

(4) An assessment review board must not alter any assessment of farm land, machinery and equipment or railway property that has been prepared correctly in accordance with the regulations.

25 Section 468 is repealed and the following is substituted:

Assessment review board decisions

468(1) Subject to the regulations, an assessment review board must, in writing, render a decision and provide reasons, including any dissenting reasons,

- (a) within 30 days from the last day of the hearing, or
- (b) before the end of the taxation year to which the complaint that is the subject of the hearing applies,

whichever is earlier.

(2) Despite subsection (1), in the case of a complaint about a supplementary assessment notice, an amended assessment notice or any tax notice other than a property tax notice, an assessment review board must render its decision in writing in accordance with the regulations.

26 The following is added after section 468:

Costs of proceedings

468.1 A composite assessment review board may, or in the circumstances set out in the regulations must, order that costs of and incidental to any hearing before it be paid by one or more of the parties in the amount specified in the regulations.

Effect of order relating to costs

468.2 An order of the composite assessment review board under section 468.1 may be registered in the Personal Property Registry and at any land titles office and, on registration, has the same effect as if it were a registered writ of enforcement issued after judgment has been entered in an action by the Court of Queen's Bench.

25 Section 468 presently reads:

468 The assessment review boards established by a council must make all decisions

- (a) on complaints relating to property tax, within 150 days after the assessment notices are sent out by that municipality, and*
- (b) on complaints relating to any tax other than property tax, within 150 days after the tax notices are sent out by that municipality.*

26 Costs of proceedings; effect of decision relating to costs.

27 Section 469 is repealed and the following is substituted:

Notice of decision

469 The designated officer appointed under section 455 must, within 7 days after an assessment review board renders a decision, send the board's written decision and reasons, including any dissenting reasons, to the persons notified of the hearing under section 462(1)(b) or (2)(b), as the case may be.

28 Section 470 is repealed and the following is substituted:

Appeal

470(1) An appeal lies to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

(2) Any of the following may appeal the decision of an assessment review board:

- (a) the complainant;
- (b) an assessed person, other than the complainant, who is affected by the decision;
- (c) a municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;
- (d) the assessor for a municipality referred to in clause (c).

(3) An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision under section 469, and notice of the application for leave to appeal must be given to

- (a) the assessment review board, and
- (b) any other persons as the judge directs.

(4) If an applicant makes a written request for materials to the assessment review board for the purposes of the application for

27 Section 469 presently reads:

469(1) The designated officer referred to in section 455 must send the decision of the assessment review board, and the board's reasons if requested, to the persons notified of the hearing under section 462(1)(b).

(2) A request for the board's reasons must be made at the time of the hearing and any request made after the hearing need not be complied with.

28 Section 470 presently reads:

470(1) The decision of an assessment review board may be appealed to the Municipal Government Board.

(2) Any of the following may appeal the decision of an assessment review board:

(a) an assessed person;

(b) a taxpayer;

(c) an assessor;

(d) a municipality, if the decision being appealed relates to property that is within the boundaries of that municipality.

leave to appeal under subsection (3), the assessment review board must provide the materials requested within 14 days from the date on which the written request is served.

(5) On hearing the application and the representations of those persons who are, in the opinion of the judge, affected by the application, the judge may grant leave to appeal if the judge is of the opinion that the appeal involves a question of law or jurisdiction of sufficient importance to merit an appeal and has a reasonable chance of success.

(6) If a judge grants leave to appeal, the judge may

- (a) direct which persons or other bodies must be named as respondents to the appeal,
- (b) specify the question of law or the question of jurisdiction to be appealed, and
- (c) make any order as to the costs of the application that the judge considers appropriate.

(7) On leave to appeal being granted by a judge, the appeal must proceed in accordance with the practice and procedure of the Court of Queen's Bench.

(8) Notice of the appeal must be given to the parties affected by the appeal and to the assessment review board.

(9) Within 30 days from the date that the leave to appeal is obtained, the assessment review board must forward to the clerk of the Court of Queen's Bench the transcript, if any, and the record of the hearing, its findings and reasons for the decision.

Decision on appeal

470.1(1) On the hearing of an appeal,

- (a) no evidence other than the evidence that was submitted to the assessment review board may be admitted, but the Court of Queen's Bench may draw any inferences
 - (i) that are not inconsistent with the facts expressly found by the assessment review board, and

(ii) that are necessary for determining the question of law or the question of jurisdiction,

and

(b) the Court may confirm or cancel the decision.

(2) In the event that the Court of Queen's Bench cancels a decision, the Court must refer the matter back to the assessment review board, and the board must rehear the matter and deal with it in accordance with the opinion of or any direction given by the Court on the question of law or the question of jurisdiction.

(3) No member of the assessment review board is liable for costs by reason of or in respect of an application for leave to appeal or an appeal under this Act.

(4) If the Court of Queen's Bench finds that the only ground for appeal established is a defect in form or a technical irregularity and that no substantial wrong or miscarriage of justice has occurred, the Court may deny the appeal, confirm the decision of the assessment review board despite the defect or irregularity, and order that the decision takes effect from the time and on the terms that the Court considers proper.

29 The following is added before section 477:

Referral of unfair assessment to Minister

476.1 An assessment review board may refer any assessment that it considers unfair and inequitable to the Minister and the Minister may deal with it under sections 324 and 571.

30 Section 480 is amended by renumbering it as section 480(1) and by adding the following after subsection (1):

(2) For the purposes of subsection (1), a member of an assessment review board has a pecuniary interest in a matter to the same extent that a councillor would have a pecuniary interest in the matter as determined in accordance with section 170.

29 Referral of unfair assessment to Minister.

30 Section 480 presently reads:

480 A member of an assessment review board must not hear or vote on any decision that relates to a matter in respect of which the member has a pecuniary interest.

31 Section 481 is amended

- (a) in subsection (1) by striking out “484.1(f)” and substituting “484.1(q)”;**
- (b) in subsection (3)(b) by striking out “Municipal Government Board” and substituting “Court of Queen’s Bench”.**

32 Section 484.1 is repealed and the following is substituted:

Regulations

484.1 The Minister may make regulations

- (a) respecting the eligibility of persons to be provincial members;
- (b) respecting the appointment of provincial members and acting provincial members to composite assessment review boards;
- (c) prescribing the conditions under which a council may establish a local assessment review board consisting of only one member;
- (d) prescribing the conditions under which a council may establish a composite assessment review board consisting of only a provincial member;
- (e) respecting the training and qualifications of members of assessment review boards and persons appointed as designated officers under section 455;

31 Section 481(1) and (3) presently read:

481(1) Subject to the regulations made pursuant to section 484.1(f), the council may set fees payable by persons wishing to make complaints or to be involved as a party or intervenor in a hearing before an assessment review board and for obtaining copies of an assessment review board's decisions and other documents.

(3) If

- (a) the assessment review board makes a decision that is not in favour of the complainant, and*
- (b) on appeal, the Municipal Government Board makes a decision in favour of the complainant,*

the fees paid by the complainant under subsection (1) must be refunded.

32 Section 484.1 presently reads:

484.1 The Minister may make regulations

- (a) respecting the conditions under which a council may appoint an assessment review board consisting of only one member;*
- (b) respecting the procedures and functions of assessment review boards;*
- (c) respecting the jurisdiction of assessment review boards;*
- (d) respecting the authority of assessment review boards to hear complaints and the manner in which the boards are to hear complaints;*
- (e) respecting any other matter relating to assessment review boards;*
- (f) setting maximum amounts for any fees that a council may set pursuant to section 481(1).*

- (f) respecting the setting by the designated officer of the date, time and location of a hearing before an assessment review board;
- (g) prescribing the period of time for purposes of section 462(1)(b) and (2)(b);
- (h) respecting the procedures and functions of assessment review boards;
- (i) governing the disclosure of evidence in a hearing before an assessment review board;
- (j) respecting the jurisdiction of assessment review boards;
- (k) respecting the authority of assessment review boards to hear complaints and the manner in which the boards are to hear complaints;
- (l) respecting costs that may or must be imposed by a composite assessment review board in respect of a hearing, including, without limitation, regulations respecting
 - (i) the circumstances in which costs must be imposed, and
 - (ii) the amount of costs;
- (m) respecting the rendering of decisions by assessment review boards;
- (n) respecting the circumstances under which a person may act as an agent for an assessed person or taxpayer at a hearing before an assessment review board;
- (o) respecting any other matter relating to assessment review boards;
- (p) respecting appeals under section 470;
- (q) setting amounts for any fees that a council may set pursuant to section 481(1).

33 The following is added after section 487:

Qualifications of members

487.1 A member of a panel of the Board may not participate in a hearing related to assessment matters unless the member is qualified to do so in accordance with the regulations.

34 Section 488 is amended

(a) in subsection (1)

(i) in clause (b) by striking out “appeal” and substituting “complaint”;

(ii) by repealing clause (c);

(b) in subsection (2) by striking out “(1)(a), (b) and (c)” and substituting “(1)(a) and (b)”.

35 Section 488.1 is amended

(a) by striking out “an appeal” and substituting “a complaint”;

(b) by striking out “the appeal” and substituting “the complaint”.

36 Section 491 is repealed and the following is substituted:

Form of complaint

491(1) Any matter that is to be dealt with by a hearing before the Board must be in the form prescribed by the regulations and

33 Qualifications of members.

34 Section 488 presently reads in part:

488(1) The Board has jurisdiction

(b) to hear any appeal relating to the amount set by the Minister under Part 9 as the equalized assessment for a municipality,

(c) to hear appeals from decisions of assessment review boards,

(2) The Board must hold a hearing under Division 2 of this Part in respect of the matters set out in subsection (1)(a), (b) and (c).

35 Section 488.1 presently reads:

488.1 The Board has no jurisdiction under section 488(1) to hear an appeal relating to an equalized assessment set by the Minister under Part 9 if the reason for the appeal is

(a) that the equalized assessment fails to reflect a loss in value where the loss in value has not been reflected in the assessments referred to in section 317,

(b) that information provided to the Minister by a municipality in accordance with section 319(1) does not properly reflect the relationship between assessments and the value of property in the municipality for the year preceding the year in which the assessments were used for the purpose of imposing a tax under Part 10, or

(c) that information relied on by the Minister pursuant to section 319(2) is incorrect.

36 Section 491 presently reads:

491(1) Any matter that is to be dealt with by a hearing before the Board must be in the form of a written statement and must be filed with the administrator within the following periods:

must be filed with the administrator within the following periods:

- (a) for a complaint about an assessment for linear property, not later than the date shown on the assessment notice;
- (b) for a complaint relating to the amount of an equalized assessment, not later than 30 days from the date the Minister sends the municipality the report described in section 320.

(2) The form referred to in subsection (1) must include

- (a) the reason the matter is being referred to the Board,
- (b) a brief explanation of the issues to be decided by the Board, and
- (c) an address to which any notice or decision of the Board is to be sent.

(3) In addition to the information described in subsection (2), in respect of a complaint about an assessment for linear property, the form referred to in subsection (1) must

- (a) indicate what information on an assessment notice is incorrect,
- (b) explain in what respect that information is incorrect,
- (c) indicate what the correct information is, and
- (d) identify the requested assessed value, if the complaint relates to an assessment.

(4) In addition to the information described in subsection (2), in respect of a complaint about an amount of an equalized assessment, the form referred to in subsection (1) must

- (a) explain in what respect the amount is incorrect, and
- (b) indicate what the correct amount should be.

- (a) for a complaint about an assessment for linear property, not later than the date shown on the assessment notice;*
 - (b) for an appeal relating to the amount of an equalized assessment, not later than December 1 of the year in which the equalized assessment is prepared;*
 - (c) for an appeal from the decision of an assessment review board, not later than 30 days after the decision is sent to the complainant.*
- (2) The statement referred to in subsection (1) must include*
- (a) the reason for the matter being referred to the Board,*
 - (b) a brief explanation of the issues to be decided by the Board,
and*
 - (c) an address to which any notice or decision of the Board is to be sent.*

37 Section 493(1) is amended by adding “in accordance with the regulations” **after** “Board”.

38 Section 494 is amended

- (a) **in subsection (1)(b) by striking out** “at least 14 days before the hearing” **and substituting** “within the time prescribed by the regulations”;
- (b) **by repealing subsection (2).**

39 Section 495 is repealed and the following is substituted:

Absence from hearing

495 If any person who is given notice of the hearing does not attend, the Board must proceed to deal with the matter if

- (a) all persons required to be notified were given notice of the hearing, and
- (b) no request for a postponement or an adjournment was received by the Board or, if a request was received, no postponement or adjournment was granted by the Board.

37 Section 493(1) presently reads:

493(1) On receiving a written statement referred to in section 491(1), the administrator must set a date, time and location for a hearing before the Board.

38 Section 494 presently reads:

494(1) If a matter is to be heard by the Board, the administrator must

- (a) within 30 days after receiving a written statement under section 491(1), provide the municipality with a copy of the statement, and*
- (b) at least 14 days before the hearing, notify the municipality, the person who sent the written statement to the administrator and any assessed person who is affected by the matter to be heard of the date, time and location of the hearing.*

(2) The notice period required under subsection (1)(b) may be reduced with the consent of all of the persons who are to be notified under that subsection.

39 Section 495 presently reads:

495 If any person who is given notice of the hearing does not attend, the Board may proceed to deal with the matter if it is satisfied that all persons required to be notified were given notice of it.

40 Section 499 is repealed and the following is substituted:

Decisions of the Board

499(1) On concluding a hearing, the Board may make any of the following decisions:

- (a) make a change with respect to any matter referred to in section 492(1), if the hearing relates to a complaint about an assessment for linear property;
- (b) make a change to any equalized assessment, if the hearing relates to an equalized assessment;
- (c) decide that no change to an equalized assessment or an assessment roll is required.

(2) The Board must dismiss a complaint that was not made within the proper time or that does not comply with section 491(1), (2) or (3).

(3) The Board must not alter

- (a) any assessment of linear property that has been prepared correctly in accordance with the regulations, and
- (b) any equalized assessment that is fair and equitable, taking into consideration equalized assessments in similar municipalities.

(4) The Board may, in its decision,

- (a) include terms and conditions, and
- (b) make the decision effective on a future date or for a limited time.

41 Section 500 is repealed and the following is substituted:

Board decisions

500(1) Subject to the regulations, if the hearing relates to a complaint about an assessment for linear property, the Board

40 Section 499 presently reads:

499(1) On concluding a hearing, the Board may make any of the following decisions:

- (a) dismiss a complaint or an appeal that was not made within the proper time;*
 - (b) make a change with respect to any matter referred to in section 492(1), if the hearing relates to a complaint about an assessment for linear property;*
 - (c) make a change to any equalized assessment, if the hearing relates to an equalized assessment;*
 - (d) make any decision that the assessment review board could have made, if the hearing relates to the decision of an assessment review board;*
 - (e) decide that no change to an equalized assessment or an assessment or tax roll is required.*
- (2) The Board must not alter*
- (a) any assessment that is fair and equitable, taking into consideration assessments of similar property in the same municipality, and*
 - (b) any equalized assessment that is fair and equitable, taking into consideration equalized assessments in similar municipalities.*
- (3) The Board may, in its decision,*
- (a) include terms and conditions, and*
 - (b) make the decision effective on a future date or for a limited time.*

41 Section 500 presently reads:

500(1) If the hearing relates to a complaint about an assessment for linear property, the Board must make its decision within 150 days after the assessment notices relating to linear property are sent out.

must, in writing, render a decision and provide reasons, including any dissenting reasons,

- (a) within 30 days from the last day of the hearing, or
- (b) before the end of the taxation year to which the assessment that is the subject of the hearing applies,

whichever is earlier.

(2) Subject to the regulations, if the hearing relates to a complaint about the amount of an equalized assessment, the Board must, in writing, render a decision and provide reasons, including any dissenting reasons,

- (a) within 30 days from the last day of the hearing, or
- (b) within 150 days from the date the Minister sends the municipality the report described in section 320,

whichever is earlier.

42 Section 501 is repealed and the following is substituted:

Costs of proceedings

501 The Board may, or in the circumstances set out in the regulations must, order that costs of and incidental to any hearing before it be paid by one or more of the parties in the amount specified in the regulations.

43 Section 502 is amended by striking out “A decision of the Board under section 501 relating to costs” **and substituting** “An order of the Board under section 501”.

(2) If the hearing relates to an equalized assessment, the Board must make its decision within 90 days after receiving a written statement under section 491(1)(b).

(3) If the hearing relates to the decision of an assessment review board, the Board must make its decision within 150 days after receiving the written statement under section 491(1).

42 Section 501 presently reads:

501 The Board may determine the costs of and incidental to any hearing before it and decide by whom and to whom the costs are to be paid.

43 Section 502 presently reads:

502 A decision of the Board under section 501 relating to costs may be registered in the Personal Property Registry and at any land titles office and, on registration, has the same effect as if it were a registered writ of enforcement issued after judgment has been entered in an action by the Court of Queen's Bench.

44 Section 505 is repealed and the following is substituted:

Notice of decision

505 The Board must, within 7 days after it renders a decision, send its written decision and reasons, including any dissenting reasons, to the persons notified of the hearing under section 494(1)(b).

45 Section 506 is repealed and the following is substituted:

Appeal

506(1) An appeal lies to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of the Board.

(2) Any of the following may appeal the decision of the Board:

- (a) the complainant;
- (b) an assessed person, other than the complainant, who is affected by the decision;
- (c) a municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;
- (d) the assessor for a municipality referred to in clause (c).

(3) An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision under section 505, and notice of the application for leave to appeal must be given to

- (a) the Board, and
- (b) any other persons as the judge directs.

(4) If an applicant makes a written request for materials to the Board for the purposes of the application for leave to appeal under subsection (3), the Board must provide the materials requested within 14 days from the date on which the written request is served.

44 Section 505 presently reads:

505 The Board must send its decision, and its reasons if requested, to the persons notified of the hearing under section 494(1)(b).

45 Section 506 presently reads:

506 There is no appeal from a decision of the Board.

(5) On hearing the application and the representations of those persons who are, in the opinion of the judge, affected by the application, the judge may grant leave to appeal if the judge is of the opinion that the appeal involves a question of law or jurisdiction of sufficient importance to merit an appeal and has a reasonable chance of success.

(6) If a judge grants leave to appeal, the judge may

- (a) direct which persons or other bodies must be named as respondents to the appeal,
- (b) specify the question of law or the question of jurisdiction to be appealed, and
- (c) make any order as to the costs of the application that the judge considers appropriate.

(7) On leave to appeal being granted by a judge, the appeal must proceed in accordance with the practice and procedure of the Court of Queen's Bench.

(8) Notice of the appeal must be given to the parties affected by the appeal and to the Board.

(9) Within 30 days from the date that the leave to appeal is obtained, the Board must forward to the clerk of the Court of Queen's Bench the transcript, if any, and the record of the hearing, its findings and reasons for the decision.

Decision on appeal

506.1(1) On the hearing of an appeal,

- (a) no evidence other than the evidence that was submitted to the Board may be admitted, but the Court of Queen's Bench may draw any inferences
 - (i) that are not inconsistent with the facts expressly found by the Board, and
 - (ii) that are necessary for determining the question of law or the question of jurisdiction,

and

(b) the Court may confirm or cancel the decision.

(2) In the event that the Court of Queen's Bench cancels a decision, the Court must refer the matter back to the Board, and the Board must rehear the matter and deal with it in accordance with the opinion of or any direction given by the Court on the question of law or the question of jurisdiction.

(3) No member of the Board is liable for costs by reason of or in respect of an application for leave to appeal or an appeal under this Act.

(4) If the Court of Queen's Bench finds that the only ground for appeal established is a defect in form or a technical irregularity and that no substantial wrong or miscarriage of justice has occurred, the Court may deny the appeal, confirm the decision of the Board despite the defect or irregularity, and order that the decision takes effect from the time and on the terms that the Court considers proper.

46 Section 517 is amended by renumbering it as section 517(1) and by adding the following after subsection (1):

(2) The Minister must make any changes to the Minister's assessment roll for linear property that are necessary to reflect the decision of the Board.

47 Section 520 is amended by renumbering it as section 520(1) and by adding the following after subsection (1):

(2) For the purposes of subsection (1), a member has a pecuniary interest in a matter to the same extent that a councillor would have a pecuniary interest in the matter as determined in accordance with section 170.

48 Section 522 is repealed.

46 Section 517 presently reads:

517 The municipality must make any changes to its assessment roll or tax roll, or both, that are necessary to reflect the decision of the Board.

47 Section 520 presently reads:

520 A member of the Board must not hear or vote on any decision or recommendation that relates to a matter in respect of which the member has a pecuniary interest.

48 Section 522 presently reads:

522 The Minister may set fees payable by parties, intervenors or others who appear at hearings before the Board or at inquiries conducted by the Board and for obtaining copies of the Board's decisions and other documents.

49 Section 527.1 is repealed and the following is substituted:

Regulations

527.1 The Minister may make regulations

- (a) respecting the training and qualifications of members of the Board and the administrator or the administrator's delegate;
- (b) respecting the setting by the administrator of the date, time and location for a hearing before the Board;
- (c) prescribing the period of time for purposes of section 494(1)(b);
- (d) respecting the conditions under which the administrator may appoint one member of the Board to sit as a panel of the Board;
- (e) respecting the procedures and functions of the Board;
- (f) governing the disclosure of evidence in a hearing before the Board;
- (g) respecting costs that may or must be imposed by the Board in respect of a hearing, including, without limitation, regulations respecting
 - (i) the circumstances in which costs must be imposed, and
 - (ii) the amount of costs;
- (h) respecting the circumstances under which a person may act as an agent for an assessed person or taxpayer at a hearing before the Board;
- (i) respecting the rendering of decisions by the Board;
- (j) respecting appeals under section 506;
- (k) setting fees payable by complainants, or by parties, interveners or others who appear at hearings before the Board or at inquiries conducted by the Board, and for

49 Section 527.1 presently reads:

527.1(1) The Minister may make regulations respecting the conditions under which the administrator may appoint one member of the Board to sit as a panel of the Board.

(2) Despite any other provision in this Part, the Minister may, with respect to the Board's jurisdiction to hear appeals from decisions of assessment review boards under section 488(1)(c), make regulations respecting

- (a) the procedures and functions of the Board;*
- (b) the Board's authority to hear appeals and the manner in which the Board is to hear appeals;*
- (c) any remedies the Board may grant;*
- (d) any other matter relating to the Board.*

obtaining copies of the Board's decisions and other documents.

50 Section 553(1)(h) is repealed and the following is substituted:

- (h) unpaid costs awarded by a composite assessment review board under section 468.1 or the Municipal Government Board under section 501, if the composite assessment review board or the Municipal Government Board has awarded costs against the owner of the parcel in favour of the municipality and the matter before the composite assessment review board or the Municipal Government Board was related to the parcel;

51 The *Municipal Government Amendment Act, 2002* is amended by repealing section 17.

52(1) Sections 3, 4, 5, 6, 9 and 10 apply in respect of assessments prepared under Part 9 of the *Municipal Government Act* in respect of 2010 and subsequent years.

(2) Sections 7, 8, 11, 13 to 31, 33 to 48 and 50 apply in respect of complaints made under Parts 11 and 12 of the *Municipal Government Act* after December 31, 2009.

53 This Act comes into force on January 1, 2010.

50 Section 553(1)(h) presently reads:

553(1) A council may add the following amounts to the tax roll of a parcel of land:

- (h) unpaid costs awarded by the Municipal Government Board under section 501, if the Board has awarded costs against the owner of the parcel in favour of the municipality and the matter before the Board was related to the parcel;*

51 Amends SA 2002 c19 (consequential to the amendment to 491(1)(b)). Section 17 of SA 2002 c19 presently reads:

17 Section 491(1)(b) is repealed and the following is substituted:

- (b) for an appeal relating to the amount of an equalized assessment, not later than 30 days from the date the Minister sends the municipality the report described in section 320;*

52 Transition.

53 Coming into force.

