

EXPLANATORY NOTES

B I L L

No. 186 of 2015

An Act to amend *The Cities Act, The Municipalities Act, and The Northern Municipalities Act, 2010*, and to make consequential amendments to *The Ombudsman Act, 2012* and *The Planning and Development Act, 2007*

1-1. *The Municipal Conflict of Interest Amendment Act, 2015*

Explanation

The following amendments to *The Municipalities Act* (MA), *The Cities Act* (CA), and *The Northern Municipalities Act, 2010* (NMA) respond to the Final Report of the Inspection and Inquiry in the RM of Sherwood No. 159 (Barclay Report).

The amendments address the Barclay Report's recommendations and other findings and are intended to:

- implement recommendations from the Barclay Report for legislative changes;
- address other findings of the Barclay Report regarding council procedures;
- improve government's ability to address and prevent matters of conflict of interest should they arise in the future;
- make other changes that will improve on current practices regarding conflict of interest that have been developed in consultation with the municipal sector; and
- expand the Provincial Ombudsman's mandate to review and investigate municipal matters, including conflict of interest and code of ethics matters.

2-1. PART II – *The Cities Act*

Explanation

This part contains the amendments to *The Cities Act*.

2-2. Existing Provision

None

Explanation

“Private interest” is defined as it is in *The Members Conflict of Interest Act*.

The definition is added to the general definitions subsection because it is used in more than one part of the Act.

2-3. Existing Provision**Council committees and bodies****55** A council may:

- (a) establish council committees and other bodies and define their functions; and
- (b) establish:
 - (i) the procedure and conduct of council, council committees and other bodies established by the council; and
 - (ii) rules for the conduct of councillors, of members of council committees and of members of other bodies established by council.

2002, c.C-11.1, s.55.

Explanation

This amendment will remove the provisions related to the procedure and conduct of council and council committees and bodies and the rules for the conduct of members of council, council committees and other bodies.

These will be added to proposed new section 55.1 as mandatory requirements for inclusion in a general ‘procedures’ bylaw (see below).

Discretionary authority for council to establish council committees and other bodies and define their functions is retained.

New section 55.1 will require council to establish meeting procedures by which to conduct their business and meetings. This provision applies to council, council committees and any other bodies established by council. Specifically the provisions will:

- outline generally the matters that are to be included and addressed in a ‘procedures’ bylaw, such as rules for presentations and delegations to council;
- allow for council discretion to determine other matters that may be included in a procedures bylaw; and
- ensure that procedures are established for all entities established by a council; these may, but are not required to, be the same as those for council meetings.

The Barclay Report found that while a council may have procedures for meetings, these may not always be clear, transparent or adhered to consistently for all manner of meeting submissions or delegations to council.

2-4. Existing Provision**General duty of councillors****65** Councillors have the following duties:

...

- (e) to keep in confidence matters discussed in private at a council or council committee meeting until discussed at a meeting held in public;

...

2002, c.C-11.1, s.65.

Explanation

This amendment is proposed to clarify that a councillor is to also keep confidential any matters that will be or are to be discussed in a private meeting of council or a council committee.

The current wording has been interpreted as only referring to matters that have been discussed (past tense) at an in-camera meeting of council or committee of council.

2-5. Existing Provision

None

Explanation

New section 66.1 will require councils to adopt a code of ethics. This amendment is in response to the Barclay Report which found some municipalities have codes that are “inadequate in providing meaningful guidance to members of council.”

The provision outlines generally the matters that will be prescribed in a model code of ethics, as well as allow for council discretion to include other statements of ethics and standards deemed appropriate. The model code will be set in regulations following further consultations with the municipal sector.

New section 66.2 provides for the model code of ethics prescribed in regulation to automatically become the code of ethics of a municipality that does not comply with adopting its own or the prescribed code.

2-6. Existing Provision**Oath**

68 A councillor, a mayor and a deputy or acting mayor shall not carry out any power, duty or function until that person has taken an official oath in the prescribed form.

2002, c.C-11.1, s.68.

Explanation

Amendments to this section set out specific declarations to be included in the prescribed oath of office, for the purpose of transparency for both members of council and the public. In addition to the current oath of office requirements that refer to performing the duties of office, disclosing pecuniary interest and not receiving payment or reward for the exercise of office or corrupt practices, the declarations have been expanded to include observing the code of ethics and other rules of conduct, as well as reaffirming that the member is qualified to hold the office.

Of importance is the language requiring members to have read and understand the duties of office, conflict of interest and code of ethics provisions in legislation. This applies not only to new members taking office, but current members, who will be required to retake the revised oath of office within 30 days of council's adoption of the code of ethics, rules of conduct and council procedures bylaw.

The oath will continue to be a prescribed form and will be referenced in the 'Inspection of Municipal Documents' provisions to ensure they are publicly accessible.

2-7. Existing Provision

None

Explanation

This new provision requires municipalities to establish, by bylaw or resolution, codes of conduct for their employees that include conflict of interest guidelines and procedures. While some municipalities may already have codes of conduct for their employees, this provision ensures that those address conflicts of interest.

The proposed provision provides for municipal discretion regarding the details and contents of an employee code of conduct and conflict of interest rules, and is similar to some other provinces' municipal legislation.

2-8. Existing Provision

Inspection of municipal documents

91(1) Any person is entitled at any time during regular business hours to inspect and obtain copies of:

- (a) any contract approved by the council, any bylaw or resolution and any account paid by the council relating to the city;
- (b) the statements maintained by the clerk in accordance with section 116 and the debentures register;
- (b.1) the city's financial statements and auditor's report prepared in accordance with section 155;
- (c) any report of any consultant engaged by or of any employee of the city, or of any committee or other body established by a council pursuant to clause 55(a), after the report has been submitted to the council, except any opinion or report of a lawyer;

...

2002, c.C-11.1, s.91; 2006, c.4, s.8.

Explanation

The proposed amendment removes the reference to clause 55(a) that is being repealed and adds that the prescribed oaths of office required to be taken by all members of council be made available to the public for inspection or copying.

2-9. Existing Provision

Meetings to be in public, exceptions

94 (3) Any committee or other body that is established by council pursuant to clause 55(a) solely for the purpose of hearing appeals may deliberate and make its decisions in meetings closed to the public.

...

2002, c.C-11.1, s.94.

Explanation

Reference to clause 55(a) is removed, as it is being repealed.

2-10. Existing Provision

PART VII

Pecuniary Interests of Members of Council

Explanation

The title of the Part is amended to reflect other changes that reference conflict of interest generally.

2-11. Existing Provision

Interpretation of Part

114 In this Part:

- (a) “**closely connected person**” means the agent, business partner, family or employer of a member of council;
- (b) “**controlling interest**” means an interest that a person has in a corporation if the person beneficially owns, directly or indirectly, or exercises control or direction over shares of the corporation carrying more than 25% of the voting rights attached to all issued shares of the corporation;
- (c) “**family**” means the spouse, parent or child of a member of council;
- (d) “**senior officer**” means the chair or vice-chair of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any of those offices;
- (e) “**spouse**” means:
 - (i) the legally married spouse of a person, with whom the person is cohabiting; or
 - (ii) a person who has cohabited with another person as spouses continuously for a period of not less than two years.

2002, c.C-11.1, s.114.

Explanation

This section sets out definitions specific to the financial interest and conflict of interest provisions.

Wording has been added to make explicit that any entity on which a member of council serves in his or her official capacity is included for the purposes of conflict of interest.

The definition of family is limited to spouse and dependent children, consistent with MLA conflict of interest legislation. Declarations of conflicts of interest must take these persons' interests into account; disclosure statements must also include the interests of the member's family.

A definition of meeting is added to explicitly include any meeting of a council, council committee or other body as defined above that may be held.

2-12. Existing Provision

None

Explanation

This section is added to address conflicts of interest that are broader than financial interest. The wording is based on and is consistent with *The Members' Conflict of Interest Act* (for MLAs). The Barclay Report noted the integrity and ethics of elected officials and the common law against acting in a conflict of interest extends beyond financial interest and not voting on a matter in which a member of council has a real financial interest. It extends to the use of office to further private interests and the member's impartiality in performing his or her duties and functions.

Proposed amendments to this section also allow for any standards, procedures and rules in relation to a conflict of interest to be prescribed in regulations. This will enable elaboration of "conflict of interest" in regulation rather than codifying common law in the Act. The regulation-making authority will allow, if necessary, better guidance and information for members of council in refraining from, disclosing and declaring real or apparent conflicts of interest.

2-13. Existing Provision**Pecuniary interest**

115 (1) Subject to subsection (2), a member of council has a pecuniary interest in a matter if:

...

(2) A member of council does not have a pecuniary interest by reason only of any interest:

...

Explanation

At the request of municipal stakeholders, the term "pecuniary interest" will be replaced with "financial interest", to be more readily understood.

2-14. Existing Provision

Public disclosure statement

116 (1) Every member of council shall file, within 30 days after being elected, a public disclosure statement with the clerk.

(2) A public disclosure statement required pursuant to subsection (1) must contain:

(a) the name of:

(i) the member's employer, if any;

(ii) each corporation in which the member or someone in the member's family has controlling interest, or of which the member is a director or a senior officer; and

(iii) each partnership or firm of which the member of council is a member; and

(b) the municipal address or legal description of any property located in the municipality or an adjoining municipality that

(i) the member of council or his or her spouse owns; or

(ii) is owned by corporation, incorporated or continued pursuant to the Business Corporations Act or the Canada Business Corporations Act, of which the member or his or her spouse is a director or senior officer or in which the member or his or her spouse has a controlling interest.

(2.1) Every member of council who has previously filed a public disclosure statement pursuant to subsection (1) shall annually submit a declaration that:

(a) Declares that no material change has occurred since the last public disclosure statement was filed pursuant to this section; or

(b) Details the material changes that have occurred since the last public disclosure statement was filed pursuant to this section.

(2.2) The annual declaration required pursuant to subsection (2.1) shall be submitted on or before November 30 in each year.

(3) The clerk shall:

(a) note any change reported pursuant to clause (2.1)(b) on the member's public disclosure statement and the date on which the change was noted;

(b) make each public disclosure statement filed pursuant to subsection (1) and each declaration submitted pursuant to subsection (2.1) available for public inspection during normal business hours; and,

(c) if directed to do so by council, give copies of the statements to any designated officials.

Explanation

This section currently requires all council members to file a public disclosure statement upon election to office. This requirement is being extended to the other two municipal Acts as recommended by the Barclay Report.

Amendments to this section:

- narrow the interests and holdings to be disclosed to include the member, the member's spouse and dependent children – same as for MLAs;
- clarify and make consistent the information disclosed to include material details of contracts or agreements, such as the sale, lease or development of land, employment and other involvement in business that may be seen to affect the member's impartiality; and
- require these statements to be updated annually and whenever a conflict is declared, and after a material change in the council member's interests or an error or omission is identified.

2-15. Existing Provision

Declaration of pecuniary interest

117 (1) If a member of council has a pecuniary interest in a matter before the council, a council committee or a controlled corporation of which the member is a director, the member shall, if present:

- (a) declare the general nature of the pecuniary interest before any discussion of the matter;
- (b) abstain from voting on any question relating to the matter;
- (c) subject to subsection (4), abstain from any discussion of the matter; and
- (d) subject to subsections (3) and (4), leave the room in which the meeting is being held until discussion and voting on the matter are concluded.

(2) No member of a council shall attempt in any way, whether before, during or after the meeting, to influence the voting on any question involving a matter in which the member of council has a pecuniary interest.

(3) If the matter with respect to which a member of council has a pecuniary interest is the payment of an account for which funds have previously been committed, it is not necessary for the member of council to leave the room.

(4) If the matter with respect to which a member of council has a pecuniary interest is a question on which, pursuant to this Act or another enactment, the member, as a taxpayer, an elector or an owner, has a right to be heard by the council:

- (a) the member shall leave his or her place at the council table, but is not required to leave the room; and
- (b) the member may exercise a right to be heard in the same manner as a person who is not a member of the council.

(5) The clerk shall record any abstention or declaration made in accordance with subsection (1) in the minutes of the meeting.

2002, c.C-11.1, s.117.

Explanation

This section requires council members to declare a conflict of interest and refrain from voting, discussing and influencing the matter.

Proposed amendments to this section are intended to do the following:

- use the broader term “conflict of interest” in the place of “pecuniary interest”;
- implement the recommendation of the Barclay report to require more than ‘bare’ declaration of interest be disclosed;
- clarify restrictions on a member’s influence and participation in any action or discussion if in a conflict situation;
- require details of a declaration of interest be included in the meeting minutes as well as any abstention and/ or withdrawal of a member; and
- broaden existing wording to reflect the other bodies on which a member may sit.

2-16. Existing Provision

None

Explanation

New section 117.1 is proposed in order to:

- ensure that absence from the meeting where a matter is discussed does not absolve a member from declaring and disclosing his/her interest in the matter at the next meeting of that body that the member of council attends; and
- require ongoing disclosure of an interest whenever the matter is discussed or considered in a meeting at which the member is present.

These provisions are modelled after provisions in other provinces’ municipal conflict of interest legislation.

New section 117.2 expressly prohibits a council member in a conflict situation from using his or her office to influence an internal or external decision or action, which furthers the member’s interest.

This provision is adapted from section 5 of *The Members' Conflict of Interest Act*.

2-17. Existing Provision**Effect of pecuniary interest on quorum**

119 (1) Any member of a council who declares a pecuniary interest pursuant to section 117 is not to be counted for the purpose of determining whether a quorum of the council is present when the question or matter is put to a vote.

(2) If the number of members of council declaring a pecuniary interest on a matter pursuant to section 117 results in a loss of quorum at a meeting with respect to the question or matter, the remaining number of members is deemed to be a quorum for that question or matter, unless that number is less than two.

(3) If all, or all but one, of the members of a council have declared a pecuniary interest in a matter pursuant to section 117, the council may, by resolution, apply *ex parte* to a judge of the court for an order authorizing the council to give consideration to, discuss and vote on that question or matter.

...

(5) If a judge issues an order pursuant to subsection (4), the council may give consideration to, discuss and vote on the question or matter as if those members had no pecuniary interest in the question or matter, subject to any conditions and directions that the judge may state in the order.

2002, c.C-11.1, s.119.

Explanation

This section has been amended so that provisions use the broader term of “conflict of interest” instead of the narrower “pecuniary” (or financial) interest.

2-18. Existing Provision**PART VIII****Disqualification of Members of Council****Reasons for Disqualification**

120(1) A member of council is disqualified from council if the member:

...

(e) contravenes:

(i) a bylaw passed pursuant to section 145.1 of *The Local Government Election Act*;

or

(ii) section 116 or 117 of this Act;

(f) ceases to reside in the city.

(2) A member of council who is disqualified pursuant to this section is not eligible to be nominated or elected for three years after the disqualification.

2002, c.C-11.1, s.120.

Explanation

This section is amended to make the disqualification provisions consistent among the three municipal Acts by:

- ensuring that a candidate who falsified any part of his/her nomination papers is disqualified;
- disqualifying a council member who is removed from office by Cabinet or the Minister; and
- providing that disqualified councillors will not be eligible to run for any municipal office for 12 years - equivalent to three general elections.

2-19. Existing Provision**Enforcement of disqualification**

121(1) A member of council who is disqualified must resign immediately.

...

(6) After hearing an application pursuant to this section and any evidence, either oral or by affidavit, that is required, the judge may:

- (a) declare the person to be disqualified and a position on council to be vacant;
- (b) declare the person able to remain a member of council; or
- (c) dismiss the application.

...

2002, c.C-11.1, s.121.

Explanation

This section describes the procedure to be followed if a council member is disqualified.

In response to stakeholder requests, this amendment clarifies the wording so that it is clear that if the appeal is brought after the term of the member in question is completed, they will not be reinstated but rather allowed to run again in the next election.

2-20. Existing Provision**Public accounts**

156(2)...

(b)...

- (ii) the remuneration paid to each employee and member of any committee or other body established by council pursuant to clause 55(a);

...

2002, c.C-11.1, s.156; 2006, c.4, s.12.

Explanation

The reference to clause 55(a) is removed as it is being repealed.

2-21. Existing Provision

Establishment of board of revision

192 (3) No member of a board of revision shall hear or vote on any decision that relates to a matter with respect to which the member has a pecuniary interest within the meaning of section 115.

...

2002, c.C-11.1, s.192; 2003, c.18, s.36; 2006, c.4, s.28.

Explanation

As per the request of municipal stakeholders, the word “pecuniary” is replaced with “financial”.

2-22. Existing Provision

Interpretation of Division

316 In this Division:

- (a) “**city officer**” means all employees of the city and of any committee or other body established by council pursuant to clause 55(a);

...

2002, c.C-11.1, s.316; 2006, c.4, s.46; 2007, c.20, s.23.

Explanation

The reference to clause 55(a) is removed as it is being repealed.

2-23. Existing Provision

Immunity re acts of members of council and council committees

317 (1) No action or proceeding lies or shall be instituted against a member of council, a person appointed as a youth member pursuant to section 56.1, or a member of a committee or other body established pursuant to clause 55(a) or any city officer, volunteer worker or agent of the city for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any of them pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any duty imposed by this Act or the regulations.

...

(3) A city may pay:

- (a) the cost of defending an action or proceeding against a member of council, a person appointed as a youth member pursuant to section 56.1 or a member of a committee or other body established pursuant to clause 55(a) that claims liability on the part of that person for acts or omissions done or made by the person in good faith in the course of his or her duties; or

...

2007, c.20, s.24; 2013, c.6, s.37.

Explanation

The reference to clause 55(a) that is being repealed is removed and replaced with “by a council”.

2-24. Existing Provision**Quashing bylaws**

320(1) Subject to subsections (2) and (3), any elector of a city may apply to the court to quash a bylaw or resolution in whole or in part on the basis that:

- (a) the bylaw or resolution is illegal due to any lack of substance or form;
- (b) the proceedings before the passing of the bylaw or resolution do not comply with this or any other Act; or
- (c) the manner of passing the bylaw or resolution does not comply with this or any other enactment.

(2) An application pursuant to this section must be made to the court within 60 days after the bylaw or resolution is passed.

...

2002, c.C-11.1, s.320.

Explanation

The proposed amendments are similar to amendments that were made to *The Municipalities Act* in 2013-2014. The amendments will be added to both *The Cities Act* and *The Northern Municipalities Act, 2010* for consistency. Specifically the proposed amendments will:

- expand who may apply to a court to quash a bylaw or resolution. This will now include the owner of a business that does not qualify as a voter and the Minister; and
- increase the time period in which an application to quash a bylaw or resolution may be made to the court from 60 days to six months.

2-25. Existing Provision**Audit**

352 (1) The minister may appoint one or more auditors, or the Saskatchewan Municipal Board, to audit the books and accounts of any city, committee or other body established by a council pursuant to clause 55(a) or a controlled corporation:

- (a) if the minister considers the audit to be necessary;
- (b) on the request of the council of the city; or
- (c) on receipt of a sufficient petition from the electors of the city requesting the audit.

...

(4) The auditor or the Saskatchewan Municipal Board shall report the results of the audit to:

...

(c) any committee or other body established by the council pursuant to clause 55(a) or to any controlled corporation that has been audited; and ...

2002, c.C-11.1, s.352; 2013, c.6, s.41.

Explanation

The reference to clause 55(a) is removed throughout the section, as it is being repealed.

2-26. Existing Provision

Inspection

353 (1) The minister may require any matter connected with the management, administration or operation of any city, any committee or other body established by a council pursuant to clause 55(a) or any controlled corporation to be inspected:

- (a) if the minister considers the inspection to be necessary; or
- (b) on the request of the council of the city.

(2) The minister may appoint one or more persons as inspectors or the Saskatchewan Municipal Board as an inspector for the purposes of carrying out inspections pursuant to this section.

(3) An inspector:

- (a) may require the attendance of any officer of the city or of any other person whose presence the inspector considers necessary during the course of the inspection; and
- (b) has the same powers, privileges and immunities conferred on a commission by sections 11, 15, 25 and 26 of *The Public Inquiries Act, 2013*.

(4) When required to do so by an inspector, a commissioner or manager or chief administrative officer of the city, committee or other body established by a council pursuant to clause 55(a) or controlled corporation being inspected shall produce for examination and inspection all books and records of the city, committee, other body or controlled corporation.

(5) After the completion of the inspection, the inspector shall make a report to the minister and to the council.

2002, c.C-11.1, s.353; 2010, c.6, s.30; 2013, c.27,s.7.

Explanation

These provisions provide for the appointment of a person to inspect the management or operations of a municipality, a controlled corporation or other committee or body established by a municipality.

Amendments proposed to this section will:

- Make the provisions for submitting the results or final report of the inspection consistent with those regarding inquiries; and

- Authorize the minister or council to release the results or the report of an inspection.

2-27. **Existing Provision**

Inquiry

354(1) The minister may order an inquiry described in subsection (2):

- (a) if the minister considers the inquiry to be necessary; or
 - (b) on the request of the council of the city; or
 - (c) on receipt of a sufficient petition of electors of the city requesting the inquiry.
- (2) An inquiry may be conducted into all or any of the following:
- (a) the affairs of the city, committee or other body established by the council pursuant to clause 55(a) or a controlled corporation;
 - (b) the conduct of a member of council or an employee or agent of the city, committee or controlled corporation.
- (3) The minister may appoint an individual to conduct the inquiry, or may request the Saskatchewan Municipal Board to conduct the inquiry.
- (4) Any persons appointed to conduct an inquiry have the same powers conferred on a commission by sections 11, 15 and 25 of *The Public Inquiries Act, 2013*.
- (5) The results of the inquiry shall be reported to:
- (a) the minister;
 - (b) the council; and
 - (c) any committee or other body established by the council pursuant to clause 55(a), controlled corporation, councillor or employee that may be the subject of the inquiry.

2002, c.C-11.1, s.354; 2013, c.27, s.7.

Explanation

The amendments proposed to this section:

- remove references to the clause 55(a) that is being repealed to ensure the inquiry provisions apply to other bodies established under other provisions;
- provide persons conducting inquiries with the same powers, privileges and immunities as those conducting inspections;
- ensure financial interest and conflict of interest are explicitly listed as matters for which an inquiry may be ordered; and
- authorize the minister or council to release the results or the report of an inquiry.

2-28. Existing Provision**Bank accounts**

355 (a) the balance or condition of the accounts of any city, committee or other body established by council pursuant to clause 55(a) or controlled corporation having an account with the bank, agency or institution; and ...

2002, c.C-11.1, s.355.

Explanation

The reference to clause 55(a) is removed.

2-29. Existing Provision**Minister's power to issue directions and dismiss**

356(1) If because of an audit pursuant to section 352, an inspection pursuant to section 353, or an inquiry pursuant to section 354, the minister considers that summary action is necessary, the minister may, by order, direct the council, a commissioner or manager, the chief administrative officer or a designated officer of the city to take any action that the minister considers proper in the circumstances.

(2) If an order of the minister pursuant to this section is not carried out to the satisfaction of the minister, the minister may dismiss all or any of the following:

- (a) the council;
- (b) any member of the council;
- (c) the city's commissioner or manager.

(3) On the dismissal of the council or of any member of the council, the minister may direct the election of a new council or of a member of council to take the place of any member that has been dismissed.

(4) On the dismissal of the commissioner or manager, the minister may appoint another officer and specify the remuneration that is payable to the officer by the city.

(5) The minister may appoint an official administrator:

- (a) on the dismissal of a council; or
- (b) on the dismissal of one or more members of council if the remaining members do not constitute a quorum.

(6) An official administrator appointed pursuant to subsection (5) has all the powers and duties of the council.

2002, c.C-11.1, s.356

Explanation

The amendments proposed to this section:

- define "official examination" to include an audit, inspection, inquiry or review by the ombudsman;
- add new authority for the Minister to suspend a council member, all of council, the administrator or designated officer during an official examination;
- clarify that the ministerial authority to issue directives as a result of an official examination can include removing or repealing a bylaw, resolution, fee or other charge approved by the council; and
- remove the reference to "official administrator" (see below).

2-30. Existing Provision**Official administrator as supervisor**

357(1) The minister may, at any time, appoint an official administrator to supervise a city and its council.

(2) So long as the appointment of an official administrator pursuant to this section continues:

- (a) no bylaw or resolution that authorizes the city to incur a liability or to dispose of its money or property has any effect until the bylaw or resolution has been approved in writing by the official administrator; and
- (b) the official administrator may, at any time, within 30 days after the passing of any bylaw or resolution disallow it.

(3) A bylaw or resolution disallowed pursuant to clause (2)(b) becomes and is deemed to have always been void.

2002, c.C-11.1, s.357.

Explanation

The term 'administrator' in municipal circles is typically used for the Chief Administrative Officer for a town, village, resort village or rural municipality. There may be confusion that the appointment of an 'official administrator' means that the person hired as the Chief Administrative Officer is being removed and replaced. This is not the case as the appointment of an 'official administrator' is done in circumstances where the council, by order, has been removed, or the minister has determined the council and council decisions require supervision.

Simply referencing 'a person appointed by the minister' as opposed to 'official administrator' removes this source of confusion.

Existing Provision**Remuneration for official administrator**

358 If an official administrator is appointed for a city by the minister pursuant to this Act, the remuneration and expenses of the official administrator as set by the minister must, if required by the minister, be paid by the city.

2002, c.C-11.1, s.358.

Explanation

The proposed amendments remove the reference to official administrator, consistent with the changes to the previous section.

2-31. Existing Provision

None

Explanation

New section 358.1 is intended to provide the authority for the Lieutenant Governor in Council to dismiss or to dismiss and replace the mayor, a member of council or all of council, at any time. Currently this authority only exists in *The Northern Municipalities Act, 2010* and *The Municipalities Act* (for RMs only).

This authority will be exercised only in situations where it is deemed by the Lieutenant Governor in council to be in the public interest.

New section 358.2 will ensure that someone who was dismissed from office by Cabinet or the minister previous to the coming into force of this Act is considered disqualified.

2-32. Existing Provision**Extension of time**

360(1) In this section:

(a) “**council-related matter**” means anything to be done by:

- (i) a council;
- (ii) a city employee, other than with respect to the preparation and delivery of education property tax returns pursuant to section 274; or
- (iii) a committee or other body established by a council pursuant to clause 55(a), other than a board of revision;

...

2002, c.C-11.1, s.360; 2003, c.18, s.64; 2006, c.4,s.49; 2007, c.30, s.2; 2009, c.23, s.9; 2013, c.6,s.43.

Explanation

Reference to clause 55(a) is removed.

3-1 PART III - *The Municipalities Act*

Explanation

This part contains amendments to *The Municipalities Act*.

3-2. Existing Provision

None

Explanation

“Private interest” is defined as it is in *The Members Conflict of Interest Act*.

The definition is added to the general definitions subsection because it is used in more than one part of the Act.

3-3. Existing Provision

Council committees and bodies

81 A council may:

- (a) establish council committees and other bodies and define their functions; and
- (b) establish:
 - (i) the procedure and conduct of council, council committees and other bodies established by the council; and
 - (ii) rules for the conduct of councillors and the conduct of members of council, committees and other bodies established by council.

2005, c.M-36.1, s.81.

Explanation

This amendment will remove the provisions related to the procedure and conduct of council and council committees and bodies and the rules for the conduct of members of council, council committees and other bodies.

These will be added to proposed new section 81.1 as mandatory requirements for inclusion in a general ‘procedures’ bylaw (see below).

Discretionary authority for council to establish council committees and other bodies and define their functions is retained.

New section 81.1 will require council to establish meeting procedures by which to conduct their business and meetings. This provision applies to council, council committees and any other bodies established by council. Specifically the provisions will:

- outline generally the matters that are to be included and addressed in a ‘procedures’ bylaw, such as rules for presentations and delegations to council;

- allow for council discretion to determine other matters that may be included in a procedures bylaw; and
- ensure that procedures are established for all entities established by a council; these may, but are not required to, be the same as those for council meetings.

The Barclay Report found that while a council may have procedures for meetings, these may not always be clear, transparent or adhered to consistently for all manner of meeting submissions or delegations to council.

3-4. Existing Provision

General duties of councillors

92 Councillors have the following duties:

...

- (e) to keep in confidence matters discussed in private at a council or council committee meeting until discussed at a meeting held in public;

...

2005, c.M-36.1, s.92.

Explanation

This amendment is proposed to clarify that a councillor is to also keep confidential any matters that will be or are to be discussed in a private meeting of council or a council committee.

The current wording has been interpreted as only referring to matters that have been discussed (past tense) at an in-camera meeting of council or committee of council.

3-5. Existing Provision

None

Explanation

New section 93.1 will require councils to adopt a code of ethics. This amendment is in response to the Barclay Report which found some municipalities have codes that are “inadequate in providing meaningful guidance to members of council.”

The provision outlines generally the matters that will be prescribed in a model code of ethics, as well as allow for council discretion to include other statements of ethics and standards deemed appropriate. The model code of ethics will be set in regulation following further consultation with the municipal sector.

New section 93.2 provides for the model code of ethics prescribed in regulation to automatically become the code of ethics of a municipality that does not comply with adopting its own or the prescribed code.

3-6. Existing Provision**Oath**

94 A member of council shall not carry out any power, duty or function until that person has taken an official oath in the prescribed form.

2005, c.M-36.1, s.94.

Explanation

Amendments to this section set out specific declarations to be included in the prescribed oath of office, for the purpose of transparency for both members of council and the public. In addition to the current oath of office requirements that refer to performing the duties of office, disclosing pecuniary interest and not receiving payment or reward for the exercise of office or corrupt practices, the declarations have been expanded to include observing the code of ethics and other rules of conduct, as well as reaffirming that the member is qualified to hold the office.

Of importance is the language requiring members to have read and understand the duties of office, conflict of interest and code of ethics provisions in legislation. This applies not only to new members taking office, but current members, who will be required to retake the revised oath of office within 30 days of council's adoption of the code of ethics, rules of conduct and council procedures bylaw.

The oath will continue to be a prescribed form and will be referenced in the 'Inspection of Municipal Documents' provisions to ensure they are publicly accessible.

3-7. Existing Provision

None

Explanation

This new provision requires municipalities to establish codes of conduct for their employees that include conflict of interest guidelines and procedures. While some municipalities may already have codes of conduct for their employees, this provision ensures that such codes address employee conflicts of interest.

The proposed provisions provide for municipal discretion regarding the details and contents of an employee code of conduct and conflict of interest rules. This is similar to some other provinces' municipal legislation.

3-8. Existing Provision**Inspection of municipal documents**

117 (1) Any person is entitled at any time during regular business hours to inspect and obtain copies of:

- (a) any contract approved by the council, any bylaw or resolution and any account paid by the council relating to the municipality;
- (b) the statements maintained by the administrator in accordance with section 142 and the debentures register;

...

2005, c.M-36.1, s.117; 2006, c.7, s.9.

Explanation

The proposed amendment removes the reference to clause 81(a) that is being repealed and adds that the prescribed oaths of office required to be taken by all members of council be made available to the public for inspection or copying.

3-9. Existing Provision

Meetings to be public, exceptions

120 (3) Any committee or other body that is established by council pursuant to clause 81(a) solely for the purpose of hearing appeals may deliberate and make its decisions in meetings closed to the public.

2005, c.M-36.1, s.120.

Explanation

Reference to clause 81(a) is removed, as it is being repealed.

3-10. Existing Provision

Delegation of authority

126(1) In this section, “**committee**” means a council committee or other body established by a council pursuant to clause 81(a).

...

2005, c.M-36.1, s.126.

Explanation

Reference to clause 81(a) is removed.

3-11. Existing Provision

Petition for a financial or management audit

140.1 (2)...

- (b) any council committee or other body established by the council pursuant to clause 81(a); or

...

2014, c.19, s.13.

Explanation

Reference to clause 81(a) is removed.

3-12. Existing Provision**PART VII
Pecuniary Interests of Members of Council****Explanation**

The title of the Part is amended to reflect other changes that reference conflict of interest generally.

3-13. Existing Provision**Interpretation of Part****141 In this Part:**

- (a) **“closely connected person”** means the agent, business partner, family or employer of a member of council;
- (b) **“controlling interest”** means an interest that a person has in a corporation if the person beneficially owns, directly or indirectly, or exercises control or direction over shares of the corporation carrying more than 25% of the voting rights attached to all issued shares of the corporation;
- (c) **“family”** means the spouse, parent or child of a member of council;
- (d) **“senior officer”** means the chairperson or vice-chairperson of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any of those offices.

2005, c.M-36.1, s.141.

Explanation

This section sets out definitions specific to the financial interest and conflict of interest provisions.

Wording has been added to make explicit that any entity on which a member of council serves in his or her official capacity is included for the purposes of conflict of interest.

Family is limited to spouse and dependent children, consistent with MLA conflict of interest legislation. Declarations of conflicts of interest must take these persons' interests into account; disclosure statements must also include the interests of the member's family.

A definition of meeting is added to explicitly include any meeting of a council, council committee or other body as defined above that may be held.

3-14. Existing Provision

None

Explanation

This section is added to address conflicts of interest that are broader than financial interest. The wording is based on and is consistent with *The Members' Conflict of Interest Act* (for MLAs). The Barclay Report noted the integrity and ethics of elected officials and the common law against acting in a conflict of interest extends beyond financial interest and not voting on a matter in which a member of council has a real financial interest. It extends to the use of office to further private interests and the member's impartiality in performing his or her duties and functions.

Proposed amendments to this section also allow for any standards, procedures and rules in relation to a conflict of interest to be prescribed in regulations. This will enable elaboration of "conflict of interest" in regulation rather than codifying common law in the Act. The regulation-making authority will allow, if necessary, better guidance and information for members of council in refraining from, disclosing and declaring real or apparent conflicts of interest.

3-15. Existing Provision**Public disclosure statement**

142 (1) A council may, by bylaw, require that every member of council, within 30 days after being elected, file a public disclosure statement with the administrator.

(2) A public disclosure statement must contain:

(a) the name of:

- (i) the employer of the member of council, if any;
- (ii) each corporation in which the member or someone in the member's family has controlling interest, or of which the member is a director or a senior officer; and
- (iii) each partnership or firm of which the member of council is a member; and

(b) the municipal address or legal description of any property located in the municipality or an adjoining municipality that:

- (i) the member of council or his or her spouse owns; or
- (ii) is owned by corporation, incorporated or continued pursuant to The Business Corporations Act or the Canada Business Corporations Act, of which the member or his or her spouse is a director or senior officer or in which the member or his or her spouse has a controlling interest.

(3) Every member of council who has previously filed a public disclosure statement pursuant to subsection (1) shall annually submit a declaration that:

- (a) declares that no material change has occurred since the last public disclosure statement was filed pursuant to this section; or

(b) details the material changes within 30 days that have occurred since the last public disclosure statement was filed pursuant to this section.

(3.1) The annual declaration required pursuant to subsection (3) shall be submitted on or before November 30 in each year.

(4) The administrator shall:

- (a) note any change reported pursuant to clause (3)(b) on the member of council's public disclosure statement and the date on which the change was noted;
- (b) make each public disclosure statement filed pursuant to subsection (1) and each declaration submitted pursuant to subsection (3) available for public inspection during normal business hours; and,
- (c) if directed to do so by council, give copies of the statements to any designated officials.

2005, c.M-36.1, s.142; 2010, c.24, s.18.

Explanation

As recommended by the Barclay Report the proposed amendments to this section will make filing a disclosure statement mandatory for all urban and rural municipalities, consistent with *The Cities Act*.

Amendments to this section will also :

- narrow the interests and holdings to be disclosed to include the member, the member's spouse and dependent children – same as for MLAs;
- clarify and make consistent the information disclosed to include material details of contracts or agreements, such as the sale, lease or development of land, employment and other involvement in business that may be seen to affect the member's impartiality; and
- require these statements to be updated annually and whenever a conflict is declared, and after a material change in the council member's interests or an error or omission is identified.

3-16. Existing Provision

Pecuniary interest

143(1) Subject to subsection (2), a member of council has a pecuniary interest in a matter if:

- (a) the member or someone in the member's family has a controlling interest in, or is a director or senior officer of, a corporation that could make a financial profit from or be adversely affected financially by a decision of council, a council committee, a controlled corporation, or other body established by the council pursuant to clause 81(a); or
- (b) the member of council or a closely connected person could make a financial profit from or be adversely affected financially by a decision of council, a council committee,

a controlled corporation, or other body established by the council pursuant to clause 81(a).

(2) A member of council does not have a pecuniary interest by reason only of any interest: ...

2005, c.M-36.1, s.143.

Explanation

At the request of municipal stakeholders, the term "pecuniary interest" will be replaced with "financial interest", to be more readily understood.

Also, the reference to 81(a) is removed.

3-17. Existing Provision

Disclosure of pecuniary interest

144(1) If a member of council has a pecuniary interest in a matter before the council, a council committee or a controlled corporation of which the member is a director, the member shall, if present:

- (a) declare the pecuniary interest before any discussion of the matter;
- (b) abstain from voting on any question relating to the matter;
- (c) subject to subsection (4), abstain from any discussion of the matter; and
- (d) subject to subsections (3) and (4), leave the room in which the meeting is being held until discussion and voting on the matter are concluded.

(2) No member of a council shall attempt in any way, whether before, during or after the meeting, to influence the voting on any question involving a matter in which the member of council has a pecuniary interest.

(3) If the matter with respect to which a member of council has a pecuniary interest is the payment of an account for which funds have previously been committed, it is not necessary for the member of council to leave the room.

(4) If the matter with respect to which a member of council has a pecuniary interest is a question on which, pursuant to this Act or another enactment, the member, as a taxpayer, voter or owner, has a right to be heard by the council:

- (a) the member shall leave his or her place at the council table, but is not required to leave the room; and
- (b) the member may exercise a right to be heard in the same manner as a person who is not a member of the council.

(5) The administrator shall record any abstention or disclosure made in accordance with subsection (1) in the minutes of the meeting.

2005, c.M-36.1, s.144.

Explanation

This section requires council members to declare a conflict of interest and refrain from voting, discussing and influencing the matter.

Proposed amendments to this section are intended to do the following:

- use the broader term “conflict of interest” in the place of “pecuniary interest”;
- implement the recommendation of the Barclay report to require more than ‘bare’ declaration of interest be disclosed;
- clarify restrictions on a member’s influence and participation in any action or discussion if in a conflict situation;
- require details of a declaration of interest be included in the meeting minutes as well as any abstention and/ or withdrawal of a member; and
- broaden existing wording to reflect the other bodies on which a member may sit.

3-18. Existing Provision

None

Explanation

New section 144.1 is proposed in order to:

- ensure that absence from the meeting where a matter is discussed does not absolve a member from declaring and disclosing his/her interest in the matter at the next meeting of that body that the member of council attends; and
- require ongoing disclosure of an interest whenever the matter is discussed or considered in a meeting at which the member is present.

These provisions are modelled after provisions in other provinces’ municipal conflict of interest legislation.

New section 144.2 expressly prohibits a council member in a conflict situation from using his or her office to influence an internal or external decision or action, which furthers the member’s interest.

This provision is adapted from section 5 of *The Member’s Conflict of Interest Act*.

3-19. Existing Provision**Effect of pecuniary interest on quorum**

146 (1) Any member of a council who declares a pecuniary interest pursuant to section 144 is not to be counted for the purpose of determining whether a quorum of the council is present when the question or matter is put to a vote.

(2) If the number of members of council declaring a pecuniary interest on a matter pursuant to section 144 results in a loss of quorum at a meeting with respect to the question or

matter, the remaining number of members is deemed to be a quorum for that question or matter, unless that number is less than two.

(3) When all, or all but one, of the members of a council have declared a pecuniary interest in a matter pursuant to section 144, the council may, by resolution, apply *ex parte* to a judge of the court for an order authorizing the council to give consideration to, discuss and vote on that question or matter.

...

(5) If a judge issues an order pursuant to subsection (4), the council may give consideration to, discuss and vote on the question or matter as if those members had no pecuniary interest in the question or matter, subject to any conditions and directions that the judge may state in the order.

2005, c.M-36.1, s.146.

Explanation

This section has been amended so that provisions use the broader term of “conflict of interest” instead of the narrower “pecuniary” (or financial) interest.

3-20. Existing Provision

Reasons for Disqualification

147(1) A member of council is disqualified from council if the member:

...

(e) contravenes:

- (i) a bylaw passed pursuant to section 145.1 of *The Local Government Election Act*; or
- (ii) section 142 or 144 of this Act;

...

(h) in the case of a rural municipality or a municipality other than a rural municipality that has adopted a bylaw pursuant to clause 89(2)(b), is convicted of making a false statement in the acceptance of his or her nomination as a candidate.

(2) A member of council who is disqualified pursuant to this section is not eligible to be nominated or elected for three years after the disqualification.

2005, c.M-36.1, s.147; 2014, c.19, s.14.

Explanation

This section is amended to make the disqualification provisions consistent among the three municipal Acts by:

- ensuring that a candidate who falsified any part of his/her nomination papers is disqualified;
- disqualifying a council member who is removed from office by Cabinet or the Minister; and
- providing that disqualified councillors will not be eligible to run for any municipal office for 12 years - equivalent to three general elections.

3-21. Existing Provisions

Enforcement of disqualification

148(1) A member of council who is disqualified must resign immediately.

...

(6) After hearing an application pursuant to this section and any evidence, either oral or by affidavit, that is required, a judge of the court may:

- (a) declare the person to be disqualified and a position on council to be vacant;
- (b) declare the person able to remain a member of council; or
- (c) dismiss the application.

...

2005, c.M-36.1, s.148.

Explanation

This section describes the procedure to be followed if a council member is disqualified.

In response to stakeholder requests, this amendment clarifies the wording so that it is clear that if the appeal is brought after the term of the member in question is completed, they will not be reinstated but rather allowed to run again in the next election.

3-22. Existing Provision

Establishment of board of revision

220 (3) No member of a board of revision may hear or vote on any decision that relates to a matter with respect to which the member has a pecuniary interest within the meaning of section 143.

2005, c.M-36.1, s.220.

Explanation

At the request of municipal stakeholders, the term "pecuniary interest" will be replaced with "financial interest", to be more readily understood.

3-23. Existing Provision

Interpretation of Division

354 In this Division:

...

- (b) "municipal officer" means all employees of the municipality, of any committee or other body established by council pursuant to clause 81(a), of a public utility board established by council pursuant to subsection 33(2), and of a controlled corporation of a municipality;

...

2005, c.M-36.1, s.354; 2007, c.32, s.19.

Explanation

Reference to clause 81(a) is removed.

3-24. Existing Provision**Immunity re acts of members of council and council committees**

355 (1) No action or proceeding lies or shall be instituted against a member of council, a member of a committee or other body established pursuant to clause 81(a), a member of a public utility board established pursuant to subsection 33(2), a member of a controlled corporation of a municipality or any municipal officer, volunteer worker or agent of the municipality for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any of them pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any duty imposed by this Act or the regulations.

...

(3) A municipality may pay the cost of:

- (a) defending an action or proceeding against a member of council, a member of a committee or other body established pursuant to clause 81(a), a member of a public utility board established pursuant to subsection 33(2) or a member of a controlled corporation that claims liability on the part of that person for acts or omissions done or made by the person in good faith in the course of his or her duties; or

...

2007, c.32, s.20; 2013, c.19, s.53.

Explanation

Reference to clause 81(a) that is being repealed is removed and replaced with “by a council”.

3-25. Existing Provision**Audit**

395 (1) The minister may appoint one or more auditors or the Saskatchewan Municipal Board to audit the books and accounts of any municipality, any committee or other body established by a council pursuant to clause 81(a) or any controlled corporation:

- (a) if the minister considers the audit to be needed; or
- (b) on the request of the council;
- (c) Repealed. 2014, c.19, s.30

...

(4) The auditor or the Saskatchewan Municipal Board shall report the results of the audit to:

- (a) the council;
- (b) the minister;

- (c) the committee or other body established by the council pursuant to clause 81(a) or to the controlled corporation that has been audited; and
- (d) the public by:
- (i) publishing the report or a synopsis of the report in a newspaper; or
 - (ii) mailing the report or a synopsis of the report to each person whose name appears on the last revised assessment roll.

2005, c.M-36.1, s.395; 2013, c.19, s.56; 2014,c.19, s.30.

Explanation

Reference to clause 81(a) is removed, as it is being repealed.

3-26. Existing Provision

Inspection

396 (1) The minister may require any matter connected with the management, administration or operation of any municipality, any committee or other body established by a council pursuant to clause 81(a) or any controlled corporation to be inspected:

- (a) if the minister considers the inspection to be necessary; or
- (b) on the request of the council.

(2) The minister may appoint one or more persons as inspectors or the Saskatchewan Municipal Board as an inspector for the purposes of carrying out inspections pursuant to this section.

(3) An inspector:

- (a) may require the attendance of any officer of the municipality or of any other person whose presence the inspector considers necessary during the course of the inspection; and
- (b) has the same powers, privileges and immunities conferred on a commission by sections 11, 15, 25 and 26 of *The Public Inquiries Act, 2013*.

(4) When required to do so by an inspector, the administrator, committee or other body established by a council pursuant to clause 81(a) or a controlled corporation being inspected shall produce for examination and inspection all books and records of the municipality, committee, other body or controlled corporation.

(5) After the completion of the inspection, the inspector shall make a report to the minister and to the council.

2005, c.M-36.1, s.396; 2010, c.24, s.32; 2013,c.27, s.25.

Explanation

Amendments proposed to this section will:

- Remove the reference to clause 81(a), as it is being repealed; and
- Authorize the minister or council to release the results or the report of an inspection.

3-27. Existing Provision**Inquiry**

397(1) The minister may order an inquiry described in subsection (2):

- (a) if the minister considers the inquiry to be necessary; or
 - (b) on the request of the council;
 - (c) Repealed. 2014, c.19, s.31.
- (2) An inquiry may be conducted into all or any of the following:
- (a) the affairs of the municipality, a committee or other body established by the council pursuant to clause 81(a) or a controlled corporation;
 - (b) the conduct of a member of council or of an employee or agent of the municipality, a committee or other body established by the council pursuant to clause 81(a) or a controlled corporation.
- (3) The minister may appoint an individual to conduct the inquiry, or may request the Saskatchewan Municipal Board to conduct the inquiry.
- (4) Any persons appointed to conduct an inquiry have the same powers conferred on a commission by sections 11, 15 and 25 of *The Public Inquiries Act, 2013*.
- (5) The results of the inquiry shall be reported to:
- (a) the minister;
 - (b) the council; and
 - (c) any committee or other body established by the council pursuant to clause 81(a), controlled corporation, councillor or employee that may be the subject of the inquiry.

2005, c.M-36.1, s.397; 2013, c.27, s.25; 2014, c.19, s.31.

Explanation

The amendments proposed to this section:

- remove references to the clause 81(a), as it is being repealed;
- provide persons conducting inquiries with the same powers, privileges and immunities as those conducting inspections;
- ensure financial interest and conflict of interest are explicitly listed as matters for which an inquiry may be ordered; and
- authorize the minister or council to release the results or the report of an inquiry.

3-28. Existing Provision**Bank accounts**

398 On the request of the minister, a bank, an agency of a bank or any other financial institution carrying on business in Saskatchewan shall furnish the minister with a statement showing:

- (a) the balance or condition of the accounts of any municipality, committee or other body established by a council pursuant to clause 81(a) or controlled corporation having

- an account with the bank, agency or institution; and
 (b) any particulars of the accounts that the minister may set out in the request.

2005, c.M-36.1, s.398.

Explanation

The reference to clause 81(a) is removed.

3-29. Existing Provision

Minister's power to issue directions and dismiss

399(1) In this section, “**official examination**” means:

- (a) a petition or audit pursuant to section 140.1;
- (b) a report pursuant to section 189;
- (c) an audit pursuant to section 395;
- (d) an inspection pursuant to section 396; or
- (e) an inquiry pursuant to section 397.

(1.1) If, because of an official examination, the minister considers that summary action is necessary, the minister may, by order, direct the council, the administrator or a designated officer of the municipality to take any action that the minister considers proper in the circumstances.

(2) If an order of the minister pursuant to this section is not carried out to the satisfaction of the minister, the minister may dismiss all or any of the following:

- (a) the council;
- (b) any member of the council;
- (c) the administrator.

(3) On the dismissal of the council or of any member of the council, the minister may direct the election of a new council or of a member of council to take the place of any member that has been dismissed.

(3.1) Any member of council who is dismissed pursuant to subsection (2) is disqualified from being nominated as a candidate in the election mentioned in subsection (3).

(4) On the dismissal of the administrator, the minister may appoint another officer and specify the remuneration that is payable to the officer by the municipality.

(5) The minister may appoint an official administrator:

- (a) on the dismissal of a council; or
- (b) on the dismissal of one or more members of council if the remaining members do not constitute a quorum.

(6) An official administrator appointed pursuant to subsection (5) has all the powers and duties of the council.

2005, c.M-36.1, s.399; 2014, c.19, s.32.

Explanation

The amendments proposed to this section:

- add new authority for the Minister to suspend a council member, all of council, the administrator or designated officer during an official examination;
- clarify that the ministerial authority to issue directives as a result of an official examination can include removing or repealing a bylaw, resolution, fee or other charge approved by the council; and
- remove the reference to “official administrator” (see below).

3-30. Existing Provision

Official administrator as supervisor

400(1) The minister may, at any time, appoint an official administrator to supervise a municipality and its council.

(2) So long as the appointment of an official administrator pursuant to this section continues:

- (a) no bylaw or resolution that authorizes the municipality to incur a liability or to dispose of its money or property has any effect until the bylaw or resolution has been approved in writing by the official administrator; and
- (b) the official administrator may, at any time within 30 days after the passing of any bylaw or resolution, disallow it.

(3) A bylaw or resolution disallowed pursuant to clause (2)(b) becomes and is deemed to have always been void.

2005, c.M-36.1, s.400.

Explanation

The term ‘administrator’ in municipal circles is typically used for the Chief Administrative Officer for a town, village, resort village or rural municipality. There may be confusion that the appointment of an ‘official administrator’ means that the person hired as the Chief Administrative Officer is being removed and replaced. This is not the case as the appointment of an ‘official administrator’ is done in circumstances where the council, by order, has been removed, or the minister has determined the council and council decisions require supervision.

Simply referencing ‘a person appointed by the minister’ as opposed to ‘official administrator’ removes this source of confusion.

3-31. Existing Provision**Remuneration of appointed persons**

401 If the minister appoints a person to conduct an audit, inspection or inquiry pursuant to this Act, or to act as an official administrator for a municipality, the municipality, if required to do so by the minister, shall pay that person's remuneration and expenses, as set by the minister.

2005, c.M-36.1, s.401.

Explanation

The proposed amendments remove the reference to official administrator, consistent with the changes to the previous section.

3-32. Existing Provision**Appointment of members of council of rural municipalities**

402(1) The Lieutenant Governor in Council may, at any time, appoint a person to act as reeve or councillor for one or more or all of the divisions of a rural municipality.

(2) Every person appointed pursuant to subsection (1):

- (a) has the same powers and authority as those conferred by this Act on a person who is elected as a reeve or councillor, as the case may be; and
- (b) shall be remunerated out of the funds of the rural municipality or otherwise as the Lieutenant Governor in Council may determine by order.

(3) When a person is appointed to act as reeve or councillor pursuant to this section, the person, if any, who was previously elected to that position shall cease to hold office.

(4) When one person has been appointed to act as both reeve and councillor of a rural municipality, that person may also be appointed to act as administrator.

(5) An appointment made pursuant to subsection (1) may be terminated at any time by order of the Lieutenant Governor in Council.

(6) On the issue of an order pursuant to subsection (5) terminating the appointment of a person or persons to act as reeve or councillors for one or more divisions of a rural municipality, the minister, by order, shall:

- (a) appoint a returning officer and fix a nomination period for the purpose of nominating candidates to fill the vacancies on the council;
- (b) specify the terms of office of the persons to be elected;
- (c) name a place for receiving nominations;
- (d) name one or more polling places for each division;
- (e) appoint a deputy returning officer for each polling place; and
- (f) make any further provision for the election that the minister considers advisable.

(7) An election of persons to fill vacancies on a council pursuant to this section shall be conducted in accordance with *The Local Government Election Act*.

2005, c.M-36.1, s.402.

Explanation

Amendments to section 402 are intended to provide the authority for the Lieutenant Governor in Council to dismiss or to dismiss and replace a member or all members of an urban municipal council, at any time. Currently this authority only applies to rural municipalities.

This authority will be exercised only in situations where it is deemed by the Lieutenant Governor in council to be in the public interest.

New section 402.1 will ensure that someone who was dismissed from office by Cabinet or the minister previous to the coming into force of this Act is considered disqualified.

3-33. Existing Provision

Extension of time

404 (1) In this section:

(a) “council-related matter” means anything to be done by:

...

(iii) a committee or other body established by a council pursuant to clause 81(a), other than a board of revision;

...

2005, c.M-36.1, s.404; 2006, c.7, s.47; 2007, c.30, s.5; 2009, c.23, s.15; 2013, c.19, s.58.

Explanation

The reference to clause 81(a) is removed, as it is being repealed.

4-1. Existing Provision

PART IV - *The Northern Municipalities Act, 2010*

Explanation

This part contains amendments to *The Northern Municipalities Act, 2010*.

4-2. Existing Provision

None

Explanation

“Private interest” is defined as it is in *The Members Conflict of Interest Act*.

The definition is added to the general definitions subsection because they are used in more than one part of the Act.

4-3. Existing Provision**Council committees and bodies**

100 A council may establish:

- (a) council committees and other bodies and define their functions;
- (b) the procedure and conduct of council, council committees and other bodies established by the council; and
- (c) rules for the conduct of councillors and the conduct of members of council committees and other bodies established by council.

2010, c.N-5.2, s.100.

Explanation

This amendment will remove the provisions related to the procedure and conduct of council and council committees and bodies and the rules for the conduct of members of council, council committees and other bodies.

These will be added to proposed new section 100.1 as mandatory requirements for inclusion in a general ‘procedures’ bylaw (see below).

Discretionary authority for council to establish council committees and other bodies and define their functions is retained.

New section 100.1 will require council to establish meeting procedures by which to conduct their business and meetings. This provision applies to council, council committees and any other bodies established by council. Specifically the provisions will:

- outline generally the matters that are to be included and addressed in a ‘procedures’ bylaw, such as rules for presentations and delegations to council;
- allow for council discretion to determine other matters that may be included in a procedures bylaw; and
- ensure that procedures are established for all entities established by a council; these may, but are not required to, be the same as those for council meetings.

The Barclay Report found that while a council may have procedures for meetings, these may not always be clear, transparent or adhered to consistently for all manner of meeting submissions or delegations to council.

4-4. Existing Provision

General duties of councillors

106 Councillors have the following duties:

...

(e) to keep in confidence matters discussed in private at a council or council committee meeting until discussed at a meeting held in public;

...

2010, c.N-5.2, s.106.

Explanation

This amendment is proposed to clarify that a councillor is to also keep confidential any matters that will be or are to be discussed in a private meeting of council or a council committee.

The current wording has been interpreted as only referring to matters that have been discussed (past tense) at an in-camera meeting of council or committee of council.

4-5. Existing Provision

None

Explanation

New section 107.1 will require councils to adopt a code of ethics. This amendment is in response to the Barclay Report which found some municipalities have codes that are “inadequate in providing meaningful guidance to members of council.”

The provision outlines generally the matters that will be prescribed in a model code of ethics, as well as allow for council discretion to include other statements of ethics and standards deemed appropriate. The model code of ethics will be set in regulation following further consultation with the municipal sector.

New section 107.2 provides for the model code of ethics prescribed in regulation to automatically become the code of ethics of a municipality that does not comply with adopting its own or the prescribed code.

4-6. Existing Provision

Oath

108 A member of council shall not carry out any power, duty or function until that person has taken an official oath in the prescribed form.

2010, c.N-5.2, s.108.

Explanation

Amendments to this section set out specific declarations to be included in the prescribed oath of office, for the purpose of transparency for both members of council and the public. In addition to the current oath of office requirements that refer to performing the duties of office, disclosing pecuniary interest and not receiving payment or reward for the exercise of office or corrupt practices, the declarations have been expanded to include observing the code of ethics and other rules of conduct, as well as reaffirming that the member is qualified to hold the office.

Of importance is the language requiring members to have read and understand the duties of office, conflict of interest and code of ethics provisions in legislation. This applies not only to new members taking office, but current members, who will be required to retake the revised oath of office within 30 days of council's adoption of the code of ethics, rules of conduct and council procedures bylaw.

The oath will continue to be a prescribed form and will be referenced in the 'Inspection of Municipal Documents' provisions to ensure they are publicly accessible.

4-7. Existing Provision

None

Explanation

This new provision requires municipalities to establish, by bylaw or resolution, codes of conduct for their employees that include conflict of interest guidelines and procedures. While some municipalities may already have codes of conduct for their employees, this provision ensures that those address conflicts of interest.

The proposed provision provides for municipal discretion regarding the details and contents of an employee code of conduct and conflict of interest rules, and is similar to some other provinces' municipal legislation.

4-8. Existing Provision**Inspection of municipal documents**

133 (1) Any person is entitled at any time during regular business hours to inspect and obtain copies of:

- (a) any contract approved by the council, any bylaw or resolution and any account paid by the council relating to the municipality;
- (b) the statements maintained by the administrator in accordance with section 160 and the debentures register;
- (c) the municipality's financial statements prepared in accordance with section 207 and auditor's report prepared in accordance with subsection 211(1);

...

Explanation

The proposed amendment removes the reference to clause 100(a), that is being repealed and adds that the prescribed oaths of office required to be taken by all members of council be made available to the public for inspection or copying.

4-9. Existing Provision

Meetings to be public, exceptions

138 (3) Any committee or other body that is established by council pursuant to clause 100(a) solely for the purpose of hearing appeals may deliberate and make its decisions in meetings closed to the public.

2010, c.N-5.2, s.138.

Explanation

The reference to clause 100(a) is removed, as it is being repealed.

4-10. Existing Provision

Delegation of authority

144 (1) In this section, “**committee**” means a council committee or other body established by a council pursuant to clause 100(a).

...

2010, c.N-5.2, s.144.

Explanation

The reference to clause 100(a) is removed.

4-11. Existing Provision

PART VII

Pecuniary Interests of Members of Council

Explanation

The title of the Part is amended to reflect other changes that reference conflict of interest generally.

4-12. Existing Provision

Interpretation of Part

159 In this Part:

- (a) “closely connected person” means the agent, business partner, family or employer of a member of council;
- (b) “controlling interest” means an interest that a person has in a corporation if the

person beneficially owns, directly or indirectly, or exercises control or direction over shares of the corporation carrying more than 25% of the voting rights attached to all issued shares of the corporation;

(c) “family” means the spouse, parent or child of a member of council;

(d) “senior officer” means the chairperson or vice-chairperson of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any of those offices.

2010, c.N-5.2, s.159.

Explanation

This section sets out definitions specific to the financial interest and conflict of interest provisions.

Wording has been added to make explicit that any entity on which a member of council serves in his or her official capacity is included for the purposes of conflict of interest.

Family is defined to include spouse and dependent children, consistent with MLA conflict of interest legislation. Declarations of conflicts of interest must take these persons’ interests into account; disclosure statements must also include the interests of the member’s family.

A definition of meeting is added to explicitly include any meeting of a council, council committee or other body as defined above that may be held.

4-13. Existing Provision

None

Explanation

This section is added to address conflicts of interest that are broader than financial interest. The wording is based on and is consistent with *The Members' Conflict of Interest Act* (for MLAs). The Barclay Report noted the integrity and ethics of elected officials and the common law against acting in a conflict of interest extends beyond financial interest and not voting on a matter in which a member of council has a real financial interest. It extends to the use of office to further private interests and the member’s impartiality in performing his or her duties and functions.

Proposed amendments to this section also allow for any standards, procedures and rules in relation to a conflict of interest to be prescribed in regulations. This will enable elaboration of "conflict of interest" in regulation rather than codifying common law in the Act. The regulation-making authority will allow, if necessary, better guidance and information for members of council in refraining from, disclosing and declaring real or apparent conflicts of interest.

4-14. Existing Provision

Public disclosure statement

160 (1) A council may, by bylaw, require that every member of council, within 30 days after being elected, file a public disclosure statement with the administrator.

(2) A public disclosure statement must contain:

(a) the name of:

- (i) the employer of the member of council, if any;
- (ii) each corporation in which the member or someone in the member's family has controlling interest, or of which the member is a director or a senior officer; and
- (iii) each partnership or firm of which the member of council is a member; and

(b) the municipal address or legal description of any property located in the municipality or an adjoining municipality that:

- (i) the member of council or his or her spouse owns; or
- (ii) is owned by corporation, incorporated or continued pursuant to *The Business Corporations Act* or the Canada Business Corporations Act, of which the member or his or her spouse is a director or senior officer or in which the member or his or her spouse has a controlling interest.

(3) Every member of council who has previously filed a public disclosure statement pursuant to subsection (1) shall annually submit a declaration that:

- (a) declares that no material change has occurred since the last public disclosure statement was filed pursuant to this section; or
- (b) details the material changes that have occurred since the last public disclosure statement was filed pursuant to this section.

(4) The annual declaration required pursuant to subsection (3) shall be submitted on or before November 30 in each year.

(5) The administrator shall:

- (a) note any change reported pursuant to clause (3)(b) on the member's public disclosure statement and the date on which the change was noted;
- (b) make each public disclosure statement filed pursuant to subsection (1) and each declaration submitted pursuant to subsection (3) available for public inspection during normal business hours; and,

if directed to do so by council, give copies of the statements to any designated officials.

2010, c.N-5.2, s.160.

Explanation

As recommended by the Barclay Report the proposed amendments to this section will make filing a disclosure statement mandatory for all northern municipalities, consistent with *The Cities Act*.

Amendments to this section will also:

- narrow the interests and holdings to be disclosed to include the member, the member's spouse and dependent children – same as for MLAs;
- clarify and make consistent the information disclosed to include material details of contracts or agreements, such as the sale, lease or development of land, employment and other involvement in business that may be seen to affect the member's impartiality; and
- require these statements to be updated annually and whenever a conflict is declared, and after a material change in the council member's interests or an error or omission is identified.

4-15. Existing Provision

Pecuniary interest

161 (1) Subject to subsection (2), a member of council has a pecuniary interest in a matter if:

- (a) the member or someone in the member's family has a controlling interest in, or is a director or senior officer of, a corporation that could make a financial profit from or be adversely affected financially by a decision of council, a council committee, a controlled corporation, a municipal development corporation or other body established by the council pursuant to clause 100(a); or

...

(2) A member of council does not have a pecuniary interest by reason only of any interest:

...

2010, c.N-5.2, s.161.

Explanation

At the request of municipal stakeholders, the term "pecuniary interest" will be replaced with "financial interest", to be more readily understood.

4-16. Existing Provision

Disclosure of pecuniary interest

162(1) If a member of council has a pecuniary interest in a matter before the council or a council committee or has a pecuniary interest in a matter that is before a meeting of a controlled corporation of which the member is a director, the member shall, if present:

- (a) declare the pecuniary interest before any discussion of the matter;
- (b) abstain from voting on any question relating to the matter;
- (c) subject to subsection (2), abstain from any discussion of the matter; and
- (d) subject to subsections (2) and (3), leave the room in which the meeting is being held until discussion and voting on the matter are concluded.

(2) No member of a council shall attempt in any way, whether before, during or after the meeting, to influence the voting on any question involving a matter in which the member of

council has a pecuniary interest.

(3) If the matter with respect to which a member of council has a pecuniary interest is the payment of an account for which funds have previously been committed, it is not necessary for the member of council to leave the room.

(4) If the matter with respect to which a member of council has a pecuniary interest is a question on which, pursuant to this Act or another enactment, the member, as a taxpayer, voter or owner, has a right to be heard by the council:

(a) the member shall leave his or her place at the council table, but is not required to leave the room; and

(b) the member may exercise a right to be heard in the same manner as a person who is not a member of the council.

(5) The administrator shall record any abstention or disclosure made in accordance with subsection (1) in the minutes of the meeting.

2010, c.N-5.2, s.162; 2013, c.20, s.23.

Explanation

This section requires council members to declare a conflict of interest and refrain from voting, discussing and influencing the matter.

Proposed amendments to this section are intended to do the following:

- use the broader term “conflict of interest” in the place of “pecuniary interest”;
- implement the recommendation of the Barclay report to require more than ‘bare’ declaration of interest be disclosed;
- clarify restrictions on a member’s influence and participation in any action or discussion if in a conflict situation;
- require details of a declaration of interest be included in the meeting minutes as well as any abstention and/ or withdrawal of a member; and
- broaden existing wording to reflect the other bodies on which a member may sit.

4-17. Existing Provision

None

Explanation

New section 162.1 is proposed in order to:

- ensure that absence from the meeting where a matter is discussed does not absolve a member from declaring and disclosing his/her interest in the matter at the next meeting of that body that the member attends; and
- require ongoing disclosure of an interest whenever the matter is discussed or considered in a meeting at which the member is present.

These provisions are modelled after provisions in other provinces' municipal conflict of interest legislation.

New section 162.2 expressly prohibits a council member in a conflict situation from using his or her office to influence an internal or external decision or action, which furthers the member's interest.

This provision is adapted from section 5 of *The Member's Conflict of Interest Act*.

4-18. Existing Provision

Effect of pecuniary interest on quorum

164 (1) Any member of a council who declares a pecuniary interest pursuant to section 162 is not to be counted for the purpose of determining whether a quorum of the council is present when the question or matter is put to a vote.

(2) If the number of members of council declaring a pecuniary interest on a matter pursuant to section 162 results in a loss of quorum at a meeting with respect to the question or matter, the remaining number of members is deemed to be a quorum for that question or matter, unless that number is less than two.

(3) When all, or all but one, of the members of a council have declared a pecuniary interest in a matter pursuant to section 162, the council may, by resolution, apply *ex parte* to a judge of the Court of Queen's Bench, or to a provincial court judge in the prescribed manner, for an order authorizing the council to give consideration to, discuss and vote on that question or matter.

...

(5) If a judge of the Court of Queen's Bench or a provincial court judge, as the case may be, issues an order pursuant to subsection (4), the council may give consideration to, discuss and vote on the question or matter as if those members had no pecuniary interest in the question or matter, subject to any conditions and directions that the judge of the Court of Queen's Bench or the provincial court judge, as the case may be, may state in the order.

2010, c.N-5.2, s.164.

Explanation

This section has been amended so that provisions use the broader term of "conflict of interest" instead of the narrower "pecuniary" (or financial) interest.

4-19. Existing Provision

Reasons for disqualification

165 (1) A member of council is disqualified from council if the member:

...

(e) contravenes:

(i) a bylaw passed pursuant to section 145.1 of *The Local Government Election Act*; or

(ii) section 160 or 162 of this Act; or
 (f) is determined to have made a false statement or declaration in the nomination paper filed in accordance with *The Local Government Election Act*.

- (2) A member of council who is disqualified pursuant to this section is not eligible to be nominated or elected until the earlier of:
- (a) the nomination day for the third general election following the disqualification; and
 - (b) the date of any pardon obtained with respect to a disqualification pursuant to a conviction for an indictable offence.

2010, c.N-5.2, s.165.

Explanation

This section is amended to make the disqualification provisions consistent among the three municipal Acts by:

- ensuring that a candidate who falsified any part of his/her nomination papers is disqualified;
- disqualifying a council member who is removed from office by Cabinet or the Minister; and
- providing that disqualified councillors will not be eligible to run for any municipal office for 12 years - equivalent to three general elections.

4-20. Existing Provision

Enforcement of disqualification

166(1) A member of council who is disqualified must resign immediately.

...

(8) After hearing an application pursuant to this section and any evidence, either oral or by affidavit, that is required, the judge of the Court of Queen's Bench or the provincial court judge, as the case may be, may:

- (a) declare the person to be disqualified and a position on council to be vacant;
- (b) declare the person able to remain a member of council; or
- (c) dismiss the application.

...

2010, c.N-5.2, s.166.

Explanation

This section describes the procedure to be followed if a council member is disqualified.

In response to stakeholder requests, this amendment clarifies the wording so that it is clear that if the appeal is brought after the term of the member in question is completed, they will not be reinstated but rather allowed to run again in the next election.

4-21. Existing Provision**Establishment of board of revision****241...**

(3) No member of a board of revision may hear or vote on any decision that relates to a matter with respect to which the member has a pecuniary interest within the meaning of section 161.

...

2010, c.N-5.2, s.241

Explanation

At the request of municipal stakeholders, the term "pecuniary interest" will be replaced with "financial interest", to be more readily understood.

4-22. Existing Provision**Interpretation of Division****374** In this Division:

...

(b) "municipal officer" means all employees of the municipality, of any committee or other body established by council pursuant to clause 100(a), of a public utility board established by council pursuant to subsection 34(2), and of a controlled corporation, municipal development corporation, public utility board or service district of a municipality;

...

2010, c.N-5.2, s.374.

Explanation

The reference to clause 100(a) is removed, as it is being repealed.

4-23. Existing Provision**Immunity re acts of members of council and others**

375 (1) No action or proceeding lies or shall be instituted against a member of council, a member of a committee or other body established pursuant to clause 100(a), a member of a public utility board established pursuant to subsection 34(2), a member of a controlled corporation, municipal development corporation or director of a service district of a municipality or any municipal officer, volunteer worker or agent of the municipality for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any of them pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any duty imposed by this Act or the regulations.

...

(3) A municipality may pay:

- (a) the cost of defending an action or proceeding against a member of council, a member of a committee or other body established pursuant to clause 100(a), a member of a public utility board established pursuant to subsection 34(2), a member of a controlled corporation, municipal development corporation or director of a service district that claims liability on the part of that person for acts or omissions done or made by the person in good faith in the course of his or her duties; or
- (b) any sum required to settle the action or proceeding mentioned in clause (a).

2010, c.N-5.2, s.375; 2013, c.20, s.49.

Explanation

The reference to clause 100(a) that is being repealed is removed and replaced with “by a council”.

4-24. Existing Provision

Quashing bylaws

378(1) Subject to subsections (2) and (3), any voter of a municipality may apply to the court to quash a bylaw or resolution in whole or in part on the basis that:

- (a) the bylaw or resolution is illegal due to any lack of substance or form;
- (b) the proceedings before the passing of the bylaw or resolution do not comply with this or any other Act; or
- (c) the manner of passing the bylaw or resolution does not comply with this or any other enactment.

(2) An application pursuant to this section must be made to the court within 60 days after the bylaw or resolution is passed.

...

2010, c.N-5.2, s.378.

Explanation

The proposed amendments are similar to amendments that were made to *The Municipalities Act* in 2013-2014. The amendments will be added to both *The Cities Act* and *The Northern Municipalities Act, 2010* for consistency. Specifically the proposed amendments will:

- expand who may apply to a court to quash a bylaw or resolution. This will now include the owner of a business that does not qualify as a voter and the Minister; and
- increase the time period in which an application to quash a bylaw or resolution may be made to the court from 60 days to six months.

4-25. Existing Provision**Audit**

416(1) The minister may appoint one or more auditors or the Saskatchewan Municipal Board to audit the books and accounts of any municipality, any committee or other body established by a council pursuant to clause 100(a) or any controlled corporation, municipal development corporation, public utility board or service district:

- (a) if the minister considers the audit to be needed;
- (b) on the request of the council; or
- (c) on receipt of a sufficient petition from the voters of the municipality requesting the audit.

...

(4) The auditor or the Saskatchewan Municipal Board shall report the results of the audit to:

- (a) the council;
- (b) the minister;
- (c) the committee or other body established by the council pursuant to clause 100(a) or to the controlled corporation, municipal development corporation, public utility board or service district that has been audited; and
- (d) the public by:
 - (i) publishing the report or a synopsis of the report in a newspaper; or
 - (ii) mailing the report or the synopsis to each person whose name appears on the last revised assessment roll.

2010, c.N-5.2, s.416.

Explanation

The references to clause 100(a) are removed throughout the section, as it is being repealed.

4-26. Existing Provision**Inspection**

417 (1) The minister may require any matter connected with the management, administration or operation of any municipality, any committee or other body established by a council pursuant to clause 100(a) or any controlled corporation, municipal development corporation, public utility board or service district to be inspected:

- (a) if the minister considers the inspection to be necessary; or
- (b) on the request of the council.

(2) The minister may appoint one or more persons as inspectors or the Saskatchewan Municipal Board as an inspector for the purposes of carrying out inspections pursuant to this section.

(3) An inspector:

- (a) may require the attendance of any officer of the municipality or of any other person whose presence the inspector considers necessary during the course of the inspection; and
- (b) has the same powers, privileges and immunities conferred on a commission by sections 11, 15, 25 and 26 of *The Public Inquiries Act, 2013*.
- (4) When required to do so by an inspector, the administrator, committee or other body established by a council pursuant to clause 100(a) or the controlled corporation, municipal development corporation, public utility board or service district being inspected shall produce for examination and inspection all books and records of the municipality, committee, other body, controlled corporation, municipal development corporation, public utility board or service district.
- (5) After the completion of the inspection, the inspector shall make a report to the minister and to the council.
- (6) The minister or council may release the report made pursuant to subsection (5) to the public.

2010, c.N-5.2, s.417; 2013, c.27, s.26.

Explanation

Amendments proposed to this section will:

- Remove the reference to clause 100(a); and
- Authorize the minister or council to release the results or the report of an inspection.

4-27. Existing Provision

Inquiry

418(1) The minister may order an inquiry described in subsection (2):

- (a) if the minister considers the inquiry to be necessary; or
- (b) on the request of the council; or
- (c) on receipt of a sufficient petition of voters of the municipality requesting the inquiry.
- (2) An inquiry may be conducted into all or any of the following:
- (a) the affairs of the municipality, a committee or other body established by the council pursuant to clause 100(a) or a controlled corporation, municipal development corporation, public utility board or service district;
- (b) the conduct of a member of council or of an employee or agent of the municipality, a committee or other body established by the council pursuant to clause 100(a) or a controlled corporation, municipal development corporation, public utility board or service district.
- (3) The minister may appoint an individual to conduct the inquiry, or may request the Saskatchewan Municipal Board to conduct the inquiry.

(4) Any persons appointed to conduct an inquiry have the same powers conferred on a commission by sections 11, 15 and 25 of *The Public Inquiries Act, 2013*.

(5) The results of the inquiry shall be reported to:

- (a) the minister;
- (b) the council; and
- (c) any committee or other body established by the council pursuant to clause 100(a) or a controlled corporation, municipal development corporation, public utility board or service district, councillor or employee or agent that may be the subject of the inquiry.

2010, c.N-5.2, s.418; 2013, c.27, s.26.

Explanation

The amendments proposed to this section:

- remove references to clause 100(a), as it is being repealed;
- provide persons conducting inquiries with the same powers, privileges and immunities as those conducting inspections;
- ensure financial interest and conflict of interest are explicitly listed as matters for which an inquiry may be ordered; and
- authorize the minister or council to release the results or the report of an inquiry.

4-28. Existing Provision

Bank accounts

419 On the request of the minister, a bank, an agency of a bank or any other financial institution carrying on business in Saskatchewan shall furnish the minister with a statement showing:

- (a) the balance or condition of the accounts of any municipality, committee or other body established by a council pursuant to clause 100(a) or controlled corporation, municipal development corporation, public utility board or service district having an account with the bank, agency or institution; and
- (b) any particulars of the accounts that the minister may set out in the request.

2010, c.N-5.2, s.419.

Explanation

The reference to clause 100(a) is removed, as it is being repealed.

4-29. Existing Provision

Minister's power to issue directions and dismiss

420(1) If because of an audit pursuant to section 416, an inspection pursuant to section 417, or an inquiry pursuant to section 418, the minister considers that summary action is necessary, the minister may, by order, direct the council, the administrator or a designated officer of the municipality to take any action that the minister considers proper

in the circumstances.

(2) If an order of the minister pursuant to this section is not carried out to the satisfaction of the minister, the minister may dismiss all or any of the following:

- (a) the council;
- (b) any member of the council;
- (c) the administrator;
- (d) any designated officer.

(3) On the dismissal of the council or of any member of the council, the minister may direct the election of a new council or of a member of council to take the place of any member that has been dismissed.

(4) On the dismissal of the administrator, the minister may appoint another officer and specify the remuneration that is payable to the officer by the municipality.

(5) The minister may appoint an official administrator:

- (a) on the dismissal of a council; or
- (b) on the dismissal of one or more members of council if the remaining members do not constitute a quorum.

(6) An official administrator appointed pursuant to subsection (5) has all the powers and duties of the council

2010, c.N-5.2, s.420.

Explanation

The amendments proposed to this section:

- define “official examination” to include audit, inspection, inquiry or review by the Ombudsman;
- add new authority for the Minister to suspend a council member, all of council, the administrator or designated officer during an official examination;
- clarify that the ministerial authority to issue directives as a result of an official examination can include removing or repealing a bylaw, resolution, fee or other charge approved by the council; and
- remove the reference to “official administrator” (see below).

4-30. Existing Provision

Official administrator as supervisor

422(1) The minister may, at any time, appoint an official administrator to supervise a municipality and its council.

(2) So long as the appointment of an official administrator pursuant to this section continues:

- (a) no bylaw or resolution that authorizes the municipality to incur a

liability or to dispose of its money or property has any effect until the bylaw or resolution has been approved in writing by the official administrator; and
 (b) the official administrator may, at any time within 30 days after the passing of any bylaw or resolution, disallow it.

(3) A bylaw or resolution disallowed pursuant to clause (2)(b) becomes and is deemed to have always been void.

2010, c.N-5.2, s.422.

Explanation

The term ‘administrator’ in municipal circles is typically used for the Chief Administrative Officer for a town, village, resort village, rural municipality or northern municipality. There may be confusion that the appointment of an ‘official administrator’ means that the person hired as the Chief Administrative Officer is being removed and replaced. This is not the case as the appointment of an ‘official administrator’ is done in circumstances where the council, by order, has been removed, or the minister has determined the council and council decisions require supervision.

Simply referencing ‘a person appointed by the minister’ as opposed to ‘official administrator’ removes this source of confusion.

4-31. Existing Provision

Remuneration of appointed persons

423 If the minister appoints a person to conduct an audit, inspection or inquiry pursuant to this Act, or to act as an official administrator or co-manager for a municipality, the municipality, if required to do so by the minister, shall pay that person’s remuneration and expenses, as set by the minister.

2010, c.N-5.2, s.423.

Explanation

The proposed amendments remove the reference to “official administrator” and “co-manager”.

4-32. Existing Provision

Appointment of members of council

424(1) The Lieutenant Governor in Council may, at any time, appoint a person to act as mayor or councillor for one or more or all of the council positions of a municipality.

(2) Every person appointed pursuant to subsection (1):

- (a) has the same powers and authority as those conferred by this Act on a person who is elected as a mayor or councillor, as the case may be; and
- (b) shall be remunerated out of the funds of the municipality or otherwise as the Lieutenant Governor in Council may determine by order.

(3) When a person is appointed to act as mayor or councillor pursuant to this section, the person, if any, who was previously elected to that position shall cease to hold office.

(4) An appointment made pursuant to subsection (1) may be terminated at any time by order of the Lieutenant Governor in Council.

(5) On the issue of an order pursuant to subsection (4) terminating the appointment of a person or persons to act as mayor or councillors for a municipality, the minister, by order, shall:

- (a) appoint a returning officer and fix a nomination period for the purpose of nominating candidates to fill the vacancies on the council;
- (b) specify the terms of office of the persons to be elected;
- (c) name a place for receiving nominations;
- (d) name one or more polling places;
- (e) appoint a deputy returning officer for each polling place; and
- (f) make any further provision for the election that the minister considers advisable.

(6) If the date of the next general election is less than one year after the date of the order made pursuant to subsection (4), a term specified pursuant to clause (5)(b) may extend past the date of the next general election.

(7) An election of persons to fill vacancies on a council pursuant to this section shall be conducted in accordance with *The Local Government Election Act*.

2010, c.N-5.2, s.424.

Explanation

This proposed new section is intended to provide the authority for the Lieutenant Governor in Council to dismiss or to dismiss and replace the mayor a member of council or all of council, at any time.

A limitation has been introduced by permitting the authority to be exercised only when it is deemed by the Lieutenant Governor in council to be in the public interest.

New section 424.1 will ensure that someone who was dismissed from office by Cabinet or the minister previous to the coming into force of this Act is considered disqualified.

4-33. Existing Provision

None

Explanation

This section will ensure that someone who was dismissed from office by Cabinet or the minister previous to the coming into force of this Act is considered disqualified.

4-34. Existing Provision**Extension of time****440(1)** In this section:

(a) “council-related matter” means anything to be done by:

...

(iii) a committee or other body established by a council pursuant to clause 100(a), other than a board of revision;

...

2010, c.N-5.2, s.440.

Explanation

The reference to clause 100(a) has been removed, as it is being repealed.

5-1. Existing Provision***The Ombudsman Act, 2012*****Interpretation****2** In this Act:(a) “**agency of the government**” means any board, commission, association or other body of persons, whether incorporated or unincorporated, all the members of which or all the members of the board of management or board of directors of which:

(i) are appointed by an Act or by an order of the Lieutenant Governor in Council; or

(ii) if not so appointed, in the discharge of their duties are public officers or servants of the Crown, or for the proper discharge of their duties are, directly or indirectly, responsible to the Crown;

(b) “**board member**” means a member of the board of management, or board of directors, of:

(i) an agency of the government; or

(ii) a publicly-funded health entity;

(c) “**minister**” means a member of the Executive Council;(d) “**ministry**” means a department, ministry, secretariat or office of the executive government of Saskatchewan;(e) “**Ombudsman**” means the Ombudsman appointed pursuant to section 3 and includes any acting Ombudsman appointed pursuant to section 4, 5 or 6;(f) “**publicly-funded health entity**” means:(i) a regional health authority as defined in *The Regional Health Services Act*;(ii) the Saskatchewan Cancer Agency continued pursuant to *The Cancer Agency Act*;

and

(iii) a health care organization, including an affiliate, as those terms are defined in *The Regional Health Services Act*.

2012, c.O-3.2, s.2; 2015, c.16, s.6.

Explanation

For the purposes of this Act, the amendments to section 2 will:

- define ‘chief officer’; and
- define ‘municipal entity’.

Existing Provision**Powers and duties of Ombudsman**

14(1) The Ombudsman has the powers set out in this section, and the Ombudsman has the duty to exercise those powers in accordance with this Act.

(2) With respect to a matter of administration affecting any person or body of persons in their personal capacity, the Ombudsman has the power to investigate:

(a) any decision or recommendation, including any recommendation made to a minister, that:

(i) is made in or by a ministry, an agency of the government, a publicly-funded health entity, any board member or any officer or employee of the Government in the exercise of any power, duty or function conferred or imposed on them by an Act; and

(ii) aggrieves or may aggrieve any person; or

(b) any act that:

(i) was done or omitted to be done in or by a ministry, an agency of the government, a publicly-funded health entity, a board member or any officer or employee of the Government in the exercise of any power, duty or function conferred or imposed on them by any Act; and

(ii) aggrieves or may aggrieve any person.

...

2012, c.O-3.2, s.14.

Explanation

Subclause 14(2)(a)(i) is amended to add a reference to ‘municipal entity.’ This will provide the authority for the Ombudsman to review a decision or recommendation made by a municipal entity that aggrieves or may aggrieve a person.

Subclause 14(2)(b)(i) is amended to add a reference to ‘municipal entity.’ This will provide the authority for the Ombudsman to review any act of a municipal entity that was done or omitted to be done in or by a municipal entity related to a conflict of interest or a contravention of a code of ethics.

Existing Provision**Referrals to Ombudsman by Legislative Assembly and Lieutenant Governor in Council**

16 ...

(3) The Lieutenant Governor in Council may refer to the Ombudsman for investigation and report any matter relating to any ministry, any agency of the government, any publicly-

funded health entity, a board member or any officer, employee or member of the Government.

...

2012, c.O-3.2, s.16.

Explanation

Subsection 16(3) is amended to add a reference to ‘municipal entity.’ The amendment will allow for the Lieutenant Governor in Council to refer any matter related to a municipal entity to the Ombudsman for investigation and report.

Existing Provision

Ombudsman not restricted by provisions of other Acts

17 The Ombudsman may exercise the Ombudsman’s powers and shall carry out the Ombudsman’s duties pursuant to this Act notwithstanding anything in any other Act that provides:

- (a) that any decision, recommendation, act or omission that the Ombudsman is investigating is final;
- (b) that no appeal lies with respect to the decision, recommendation, act or omission that the Ombudsman is investigating; or
- (c) that no decision, recommendation, act or omission of a ministry, agency of the government, publicly-funded health entity, board member, officer, employee or person shall be challenged, reviewed, quashed or called into question.

2012, c.O-3.2, s.17.

Explanation

Clause 17(c) is amended to add a reference to ‘municipal entity.’ The amendment allows the Ombudsman to carry out his/her powers duties under the Act on any matter, regardless if another Act prohibits the challenging, reviewing or quashing the decision or recommendation of a municipal entity on that matter.

Existing Provision

Notice to investigate

23(1) Before investigating any matter pursuant to this Act, the Ombudsman shall notify the deputy minister of the affected ministry, or the administrative or executive head of the affected agency of the government or publicly-funded health entity, of the Ombudsman’s intention to make the investigation.

(2) The notice must:

- (a) be in writing; and
- (b) set out the nature of the complaint, if any, received by the Ombudsman.

(3) At any time during or after an investigation, the Ombudsman may consult with the minister who is concerned in the matter of the investigation.

(4) On the request of the minister responsible for the ministry or agency of the government or if an investigation relates to any recommendation made to a minister, the Ombudsman shall consult with that minister after making the investigation and before forming a final opinion on any matter mentioned in section 27.

(5) On the request of the administrative or executive head of the publicly-funded health entity, the Ombudsman shall consult with that administrative or executive head after making the investigation and before forming a final opinion on any matter mentioned in section 27.

(6) If, during or after an investigation, the Ombudsman is of the opinion that there is evidence of breach of duty or misconduct on the part of any officer or employee of any ministry or agency of the government, the Ombudsman:

- (a) shall refer the matter to the minister responsible for the ministry or agency of the government; and
- (b) following the referral mentioned in clause (a), may continue with any ongoing investigation.

(7) If, during or after an investigation, the Ombudsman is of the opinion that there is evidence of breach of duty or misconduct on the part of any officer or employee of any publicly-funded health entity, the Ombudsman:

- (a) shall refer the matter to the administrative or executive head of the publicly-funded health entity; and
- (b) following the referral mentioned in clause (a), may continue with any ongoing investigation.

2012, c.O-3.2, s.23.

Explanation

Section 23 addresses the notification requirements to be made by the Ombudsman prior to conducting an investigation.

Specifically the amendments to this section:

- clarifies who is to receive the notice of investigation when the investigation involves a municipal entity;
- require the Ombudsman to consult with the chief officer prior to making a final recommendation; and
- adds references where required to ‘municipal entity.’

For the purposes of a municipality, the mayor/reeve will receive the notification from the Ombudsman that administrative staff/other council members are to be investigated.

If the mayor/reeve is to be investigated by the Ombudsman, notification will be provided to the Minister of Government Relations, with a copy of the notification being provided to the municipality.

Existing Provision**Conduct of investigation**

24(1) Every investigation by the Ombudsman pursuant to this Act must be conducted in private.

(2) The Ombudsman may:

- (a) hold any hearings and hear or obtain any information from any person that the Ombudsman considers appropriate; and
- (b) make any inquiries that the Ombudsman considers appropriate.

(3) The Ombudsman is not required to hold a hearing and no person is entitled as of right to be heard by the Ombudsman.

(4) Notwithstanding subsection (3), if at any time it appears to the Ombudsman that there are sufficient grounds for making a report or recommendation with respect to any matter that may adversely affect any ministry, agency of the government, publicly-funded health entity or person, the Ombudsman shall give that ministry, agency of the government, publicly-funded health entity or person an opportunity to make representations with respect to the matter.

(5) The ministry, agency of the government, publicly-funded health entity or person mentioned in subsection (4) may make representations with respect to the matter by counsel.

2012, c.O-3.2, s.24.

Explanation

Subsections 24(4) and (5) are amended to add a reference to ‘municipal entity.’

Amendments to 24(4) will allow a municipal entity, council members and the chief officer to make representations to the Ombudsman in instances where a report or recommendation on a matter may adversely affect the municipal entity.

Amendments to 24(5) will provide the ability for the municipal entity, council members and the chief officer to retain legal counsel for the purposes of making representations to the Ombudsman.

Existing Provision**Power to require information and examine persons**

25 (2) The Ombudsman may exercise the powers mentioned in subsection (1) whether or not:

- (a) the person mentioned in that subsection is an officer or employee of a ministry, agency of the government or publicly-funded health entity or a board member; and
- (b) the document, paper or thing is in the custody or under the control of a ministry,

agency of the government or publicly-funded health entity.

(3) The Ombudsman may take possession of any document, paper or thing mentioned in subsection (1) to make copies for the purposes of the investigation.

(4) The Ombudsman may summon and examine under oath or on affirmation:

(a) any person who is an officer, employee or member of any ministry, agency of the government or publicly-funded health entity or a board member and who in the opinion of the Ombudsman may be able to give any information relating to any matter being investigated pursuant to this Act;

(b) any complainant; and

(c) any other person who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated pursuant to this Act.

...

2012, c.O-3.2, s.25.

Explanation

Section 25 is amended to add a reference to ‘municipal entity.’

The amendments provide the authority for the Ombudsman to require a person employed by a municipal entity to provide documents under the control of a municipal entity for the purposes of conducting an investigation on a matter.

Amendments also allow the Ombudsman to summon and examine (under oath) an officer or employee of a municipal entity for the purposes of an investigation.

Existing Provision

Report on investigation

27 ...

(2) In the circumstances mentioned in subsection (1), the Ombudsman:

(a) shall report the opinion and the reasons for it to the appropriate minister and to the relevant ministry, agency of the government or publicly-funded health entity; and

(b) may make any recommendations that the Ombudsman considers appropriate.

...

2012, c.O-3.2, s.27.

Explanation

Section 27 is amended to add a reference to ‘municipal entity.’

This will require the Ombudsman, following an investigation on a matter, to report his or her opinion, along with reasons for the opinion, to the municipal entity.

Existing Provision**Notice of steps taken**

28(1) If the Ombudsman makes a recommendation pursuant to section 27, the Ombudsman may request the ministry, agency of the government or publicly-funded health entity to provide notice within a specified time of the steps that it has taken or proposes to take to give effect to the recommendation.

(2) If, within a reasonable time after a request respecting a recommendation is made pursuant to this section, no action is taken that seems to the Ombudsman to be adequate and appropriate, the Ombudsman may:

- (a) after considering the comments, if any, made by or on behalf of the ministry, agency of the government or publicly-funded health entity affected, submit a report of the matter, including a copy of the report containing the recommendation, to the Lieutenant Governor in Council; and
- (b) after submitting a report pursuant to clause (a), mention the report in the next annual report to the Legislative Assembly.

2012, c.O-3.2, s.28.

Explanation

Section 28 is amended to add a reference to ‘municipal entity.’

Amendments to subsection (1) require the municipal entity to provide notice to the Ombudsman within a specified time that steps have been taken to address a recommendation or recommendations of the Ombudsman.

Amendments to clause (2)(a) allow the Ombudsman to forward a copy of the report to the Lieutenant Governor in Council if the municipal entity has not taken steps to address a recommendation or recommendations within a specific time period.

Existing Provision**Entry on premises**

32(1) For the purposes of this Act, the Ombudsman may:

- (a) at any time enter on the premises occupied by any ministry, agency of the government or publicly-funded health entity; and
- (b) subject to section 14, carry out any investigation pursuant to this Act.

(2) Before entering on any premises pursuant to subsection (1), the Ombudsman shall notify the deputy minister or administrative or executive head of the ministry, agency of the government or publicly-funded health entity that occupies the premises of the intention to conduct an investigation pursuant to this Act and to enter the premises.

2012, c.O-3.2, s.32.

Explanation

Section 32 is amended to add a reference to ‘municipal entity.’

Existing Provision**Voluntary provision of information to Ombudsman**

34 At the request of the Ombudsman, a ministry, agency of the government or publicly-funded health entity may provide information in its possession, custody or control respecting any person who is receiving services from or dealing with the ministry, agency of the government or publicly-funded health entity to the Ombudsman if it is satisfied that providing the information will assist the Ombudsman in fulfilling any of the Ombudsman’s duties or in exercising any of the Ombudsman’s powers pursuant to this Act.

2012, c.O-3.2, s.34.

Explanation

Section 34 is amended to add a reference to ‘municipal entity.’

The amendment will provide the authority for a municipal entity, on request, to voluntarily provide information to the Ombudsman, if it is satisfied that the information will assist the Ombudsman in carrying out his/her duties or powers under the Act.

Existing Provision**Annual report of Ombudsman**

38(1) In accordance with section 13 of *The Executive Government Administration Act*, the Ombudsman shall, in each year, submit to the Speaker an annual report describing the progress and activities of the Ombudsman in the previous year.

(2) In accordance with section 13 of *The Executive Government Administration Act*, the Speaker shall lay before the Legislative Assembly each report received by the Speaker pursuant to subsection (1).

(3) The Ombudsman may, from time to time in the public interest or in the interest of any person, ministry, agency of the government or publicly-funded health entity, publish reports respecting any of the following matters, whether or not those matters have been the subject of a report to the Legislative Assembly:

- (a) the exercise of his or her powers and the performance of his or her duties pursuant to this Act;
- (b) any particular case that he or she has investigated.

2012, c.O-3.2, s.38; 2014, c.E-13.1, s.62.

Explanation

Subsection 38(3) is amended to add a reference to ‘municipal entity.’

This will provide the authority to publish a report on a matter respecting a municipal entity if it is in the public interest to do so, whether or not the matter has been addressed in the Annual Report.

Existing Provision

Power to reconsider matters

39(1) On the recommendation of the Ombudsman pursuant to subsection 27(3), a ministry, agency of the government or publicly-funded health entity may:

- (a) rehear a matter or reconsider a decision or recommendation made by the ministry, agency of the government, publicly-funded health entity, board member or officer or employee of the Government; and
- (b) quash, confirm or vary that decision or recommendation or any part of it.

(2) If a matter is reheard or reconsidered pursuant to subsection (1), the provisions of the enactment governing the original hearing or consideration apply to the rehearing or reconsideration.

(3) This section applies notwithstanding any provision in any Act to the effect that:

- (a) no appeal lies with respect to it; or
- (b) no proceeding or decision of the ministry, agency of the government or publicly-funded health entity whose decision, recommendation, act or omission it is may be challenged, reviewed, quashed or called in question.

2012, c.O-3.2, s.39.

Explanation

Section 39 is amended to add a reference to ‘municipal entity.’

This allows for a municipal entity, upon the recommendation of the Ombudsman, to have a matter reheard or reconsidered by the Ombudsman.

5-2. Existing Provision

The Planning and Development Act, 2007

Interpretation

2(1) In this Act:

...

(d) “**building permit**” means a permit, issued under a building bylaw of a municipality, authorizing the construction of all or part of any building;

...

(q) “**environmental reserve**” means dedicated lands that are provided to a municipality or to the Crown, as the case may be, pursuant to section 185;

...

(t) “**Indian band**” means an Indian band within the meaning of the *Indian Act* (Canada)

and includes the council of a band;

...

(2) A member of a Development Appeals Board, a municipal planning commission, a district planning commission, a district planning authority, a northern planning commission or a northern planning authority has a pecuniary interest if:

...

2007, c.P-13.2, s.2; 2010, c.N-5.2, s.460; 2012, c.28, s.3; 2013, c.23, s.3; 2014, c.19, s.47.

Explanation

These amendments are necessary to clarify and strengthen existing legislation and implement other amendments to this Act.

Existing Provision

None

Explanation

The Barclay Report revealed that in rare situations, additional information is required by the Minister to make a decision on a municipality's official community plan. When completed, this amendment ensures a municipality has considered the infrastructure requirements as it makes decision on the type and location of future growth within the community.

Existing Provision

Amendment or repeal of plan

39(1) Sections 35 and 36 to 38 apply, with any necessary modification, to the approval of:

- (a) an amendment to an official community plan; and
- (b) the repeal of an official community plan.

(2) Notwithstanding section 38, the minister shall render the minister's decision within 30 days after the date the minister receives an amendment to or repeal of an official community plan, unless an extended time is required by the minister.

2007, c.P-13.2, s.39.

Explanation

The Barclay Report revealed that in rare situations, additional information is required by the Minister to make a decision on an amendment to a municipality's official community plan (OCP). When completed, a cost benefit analysis will enable a council to make fully informed decisions when amending its OCP.

Existing Provision

Concept plans

44(1) If a municipality has an approved official community plan, a council may, as part of the official community plan, adopt a concept plan for the purpose of providing a framework for subsequent subdivision and development of an area of land.

...

2007, c.P-13.2, s.44.

Explanation

This amendment removes any possible source of confusion for municipalities about their requirement to comply with the official community plan amendment procedures including the public participation requirements when adopting concept plans.

6-1. Coming into Force

Explanation

This section sets out the coming into force of the amendments.

The amendments come into force on assent, except for the amendments related to requirements to adopt a code of ethics, which are made to come into force on proclamation once the necessary regulations have been developed, consulted upon and approved.