



ANALYSIS

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1968, No. 2—*Local*

An Act to empower the Tawa Borough Council to levy a uniform annual fee or a uniform annual charge to cover the costs of and incidental to the establishment and maintenance of swimming pools and amenities in relation thereto and to empower the Council to make certain bylaws

[9 August 1968]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Tawa Borough Empowering Act 1968.

2. Interpretation—In this Act, unless the context otherwise requires—

“Council” means the Tawa Borough Council; and includes the Corporation of the Borough of Tawa:

“Dwelling unit” means any building or part of a building which is designed, built, rented, leased, let, or hired to be occupied, or which is occupied, as a residence for a single family with or without a common right to the use of entrances, passages, stairways, or open spaces; and, where necessary, includes a combination of parts of a building or of two or more buildings or the parts thereof:

“Ratepayers” means the persons entitled to vote at a poll taken by the Council pursuant to the Local Authorities Loans Act 1956 on a proposal to raise a special loan.

3. Annual fee—(1) For the purpose of providing the whole or part of the costs (including loan charges) of the construction, maintenance, equipment, and administration of swimming pools on land vested in or under the control of the Council, and of amenities in relation to the use and enjoyment of any such swimming pools, the Council may from time to time, subject to the provisions of this section, by special order levy a uniform annual fee not exceeding five dollars to be paid by the occupier, as defined in the Municipal Corporations Act 1954, of each dwelling unit situated within the Borough of Tawa.

(2) The amount of any such annual fee shall be recoverable as a debt due to the Council by the occupier.

(3) In the case of any dwelling unit owned by Her Majesty the Queen for the purposes of the Housing Act 1955, or for any other purpose, the State Advances Corporation of New Zealand or other Department of State administering the dwelling unit may, with the approval of the Minister of Finance and without further authority than this section, out of money received by the said Corporation under subsection (1) of section 32 of the Housing Act 1955, or, as the case may require, out of the appropriate account, pay to the Council the amount of the annual fee in respect of that dwelling unit.

(4) In any case referred to in subsection (3) of this section any Department of State may, notwithstanding anything contained in the Tenancy Act 1955, from time to time, on giving not less than fourteen days' notice in writing to the tenant, increase the rent payable in respect of the dwelling unit by an amount equal to the annual fee so payable, and on the expiry of the period of the notice the contract or agreement for the tenancy of the premises shall be deemed to be varied accordingly.

(5) Notwithstanding anything contained in this section, the Council shall not levy a uniform annual fee under this section in any rating year up to and including the rating year commencing with the first day of April, nineteen hundred and seventy-four, unless at a poll of the ratepayers on the proposal to levy such a fee, the total number of valid votes in favour of the proposal exceeds the total number recorded against the

proposal. A poll shall be held and taken by the Council under this subsection on the second Saturday in October in the year nineteen hundred and sixty-eight.

(6) If the proposal is carried at a poll under subsection (5) of this section the Council may levy a uniform annual fee under this section in any rating year, subsequent to the date on which the poll is taken, up to and including the rating year commencing with the first day of April, nineteen hundred and seventy-four.

(7) In any rating year after the rating year commencing with the first day of April, nineteen hundred and seventy-four, the Council may levy a uniform annual fee under this section unless—

(a) Five percent or more of the ratepayers whose names are inscribed on the ratepayers roll of the Borough, by writing under their hands, delivered or sent by post to the Council and received at the offices of the Council not later than the day before the date fixed for the confirmation of the special order, demand that a poll be taken on the proposal to levy an annual fee under this section; and

(b) At the poll of ratepayers held pursuant to any such demand the total number of valid votes, recorded against the proposal exceeds the total number of valid votes recorded in favour of the proposal.

(8) Notice of the right to demand a poll under subsection (7) of this section shall be included in the public notice required to be given by paragraph (c) of section 77 of the Municipal Corporations Act 1954.

(9) Every poll under subsection (5) or subsection (7) of this section shall be held and taken by the Council in the manner provided by the Local Elections and Polls Act 1966 and the provisions of that Act shall, as far as they are applicable, apply with respect to any such poll, provided, however, that any such poll may be held and taken by the Council on the day on which a triennial election of Councillors is held.

4. Annual charge on certain rateable property—Notwithstanding the provisions of section 3 of this Act, in any case where a uniform annual fee may be levied under that section to be paid by the occupier of any dwelling unit erected on land which is rateable property, the Council may, instead of levying that uniform annual fee, levy upon any such rateable property an annual charge which shall consist of a uniform annual

charge in respect of each dwelling unit situated on that rateable property, and which shall for all purposes be deemed to be a separate rate:

Provided that no such uniform annual charge shall exceed the amount of the uniform annual fee which may for the time being be levied on any dwelling unit under section 3 of this Act.

5. First annual fee or annual charge—Notwithstanding the provisions of this or any other enactment the first annual fee or annual charge levied under this Act shall be deemed to have been levied in respect of the whole rating year ending with the 31st day of March next following the date of the levy, notwithstanding that the annual fee or annual charge shall not be levied until after the commencement of that rating year.

6. Bylaws—In addition to the powers conferred on the Council by section 386 of the Municipal Corporations Act 1954, the Council may, in accordance with that Act, make such bylaws as it thinks fit for all or any of the following purposes in respect of any swimming pool or amenities established on land vested in or under the control of the Council:

- (a) Protecting from damage, injury, or misappropriation any property, whether real or personal, belonging to the Council or any voluntary organisation participating in the conduct of the swimming pool or amenities:
- (b) Regulating the use of the swimming pool and amenities and prescribing charges in respect thereof:
- (c) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

7. Other Acts not affected—The provisions of this Act are in addition to and not in derogation of the provisions of any other enactment and nothing in this Act shall prevent the exercise by the Council of any power conferred on it by any other enactment.
