

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 30 April 1982.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Ruth Richardson

ELLESMERE COUNTY COUNCIL (LUMP SUM CONTRIBUTIONS) EMPOWERING

[LOCAL]

ANALYSIS

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A BILL INTITULED

An Act to enable ratepayers of the Ellesmere County to make a lump sum contribution to the capital costs of water works and drainage works *(and sewage works)* and to apportion such costs equally *(between)* among all ratepayers affected thereby

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

No. 3—2

1. Short Title—This Act may be cited as the Ellesmere County Council (Lump Sum Contributions) Empowering Act (1981) 1982.

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

“Council” means the Ellesmere County Council:

“County” means the Ellesmere County:

“Lump sum capital contribution” means the lump sum capital contribution as determined in accordance with this Act:

“Uniform annual charges” means uniform annual charges as determined in accordance with the Local Government Act 1974:

“Works” and “proposed works” include water works as defined by section 376 of the Local Government Act 1974, and drainage works as defined by section 441 of that Act.

3. Power to give right of election to make lump sum payment—(1) If the Council proposes to raise a special loan under the Local Authorities Loans Act 1956 for the purpose of financing, either in whole or in part, any works within any water supply area constituted within the county under section 377 of the Local Government Act 1974 or any works within an urban drainage area constituted within the county under section 443 of that Act, the Council may by resolution apply the provisions of this Act to those works.

(2) If the Council applies the provisions of this Act to any works it shall give every ratepayer in respect of each separately rated property in the water supply area or urban drainage area, as the case may be, affected the right either—

(a) To pay an equal share of the total cost of the works by means of a lump sum capital contribution assessed in accordance with sections 4 and 10 of this Act; or

(b) As the Council determines, to pay an equal share of the total cost of the works and any loan charges by way of uniform annual charges, or to pay a proportionate share of that cost and those charges by way of a special or separate rate, in respect of each separately rated property of the ratepayer, made and levied under section 47 of the Local Authorities Loans Act 1956 or section 143, section 158, or section 162 of the Local Government Act 1974.

4. Estimates to be prepared before Act applied to works—Before the Council applies the provisions of this Act to any works it shall—

- 5 (a) Cause to be prepared an estimate of the cost of the works proposed and deduct the amount (if any) of any subsidies estimated as payable to the Council in respect thereof, and the balance shall be the estimated net capital cost of the works; and
- 10 (b) Divide the estimated net capital cost of the works by the number of separately rated properties within the area to benefit from the proposed works, and the amount so calculated shall be the estimated lump sum capital contribution; and
- 15 (c) Cause an assessment to be made of the estimated amount of the annual rate in the dollar or the uniform annual charge required to be levied to pay the annual charges payable by the Council on a special loan for an amount equal to the estimated net cost of the proposed works.

20 **5. Ratepayers to be notified and make an election**—

The Council, within 14 days after the passing of a resolution under section 3 of this Act, shall cause notice in form 1 in the Schedule to this Act to be served on each ratepayer in respect of each separately rated property in the water supply area or

25 urban drainage area, as the case may be, affected requiring every such ratepayer, within 2 months after the date of service of the notice, to advise whether, in respect of each separately rated property, the ratepayer elects to pay a lump sum capital contribution to the cost of the proposed works or to be liable

30 in respect of that cost for a special or separate rate or uniform annual charge made and levied as set out in section 3 of this Act.

6. Annual rate payable in default of election and election irrevocable—

(1) Where any ratepayer fails to

35 notify the Council within the prescribed time of his election in accordance with section 5 of this Act, that ratepayer shall in respect of each separately rated property in respect of which no election is made be deemed to have elected to be liable to pay the rates or any uniform annual charge that may be made

40 and levied to repay any such loan and interest thereon required to be raised for the works.

(2) Every election made under section 5 of this Act to pay a lump sum capital contribution shall be irrevocable.

(3) A ratepayer who has elected or who is deemed to have elected to pay by way of a special or separate rate or a uniform annual charge, as the case may be, may with the consent of the Council change that election to a lump sum capital contribution at any time before the Council invokes the provisions of section 52 of the Local Authorities Loans Act 1956 to raise all or the first issue of the special loan for the works to which the election relates.

7. Power to raise loan for balance of cost—After the expiration of the period of 2 months in which the ratepayer may make an election as provided in section 5 of this Act, the Council shall deduct the total amount of all the lump sum capital contributions which ratepayers have elected to pay in respect of each separately rated property from the estimated net capital cost of the works and the Council may thereafter raise a special loan in accordance with the provisions of the Local Authorities Loans Act 1956 for the residual amount calculated as remaining.

8. Consequences of electing lump sum capital contributions—Any separately rated property in respect of which the ratepayer has elected to pay a lump sum capital contribution under this Act shall—

- (a) Be included on the special roll prepared under section 27 (3) of the Local Authorities Loans Act 1956 for the special loan required to be raised to finance the works; and
- (b) Not be liable for the special rate made and levied pursuant to section 47 of the Local Authorities Loans Act 1956 as security for repayment of the loan raised to finance those works; and
- (c) Not be liable for any portion of any separate rate or uniform annual charge made and levied under section 143, section 158, or section 162 of the Local Government Act 1974 for the purpose of paying the annual charges on the loan raised to finance those works; and
- (d) Be liable for that portion of any separate rate or uniform annual charge made or levied under section 143, section 158, or section 162 of the Local Government Act 1974 for the purpose of meeting maintenance and operating costs in respect of those works.

9. Payment of lump sum capital contributions—When the Council invokes the provisions of section 52 of the Local Authorities Loans Act 1956 to raise all or the first issue of any special loan required to finance the works it shall thereupon
5 serve a notice in form 2 in the Schedule to this Act on the ratepayer of each separately rated property in respect of which an election was made to pay a lump sum capital contribution requiring that ratepayer to pay, within 3 months
10 after the date of the notice, the estimated lump sum capital contributions referred to in the said notice as assessed in accordance with section 4 (b) of this Act.

10. Reassessment on completion of works—After the completion of construction of any works to which this Act has been applied the Council shall ascertain the actual cost of the
15 works and actual subsidies received in respect thereof, and the actual number of separately rated properties within the area to benefit from the works, and shall redetermine the actual lump sum capital contribution payable in respect of each separately rated property for which an election to make
20 such contribution was made pursuant to sections 5 and 6 (3) of this Act.

11. Refund of overpayment or payment to meet deficiency—As soon as practicable after making an assessment of the actual lump sum capital contribution in
25 accordance with section 10 of this Act the Council shall—

- (a) If that amount is less than the amount of the estimated lump sum capital contribution already paid, refund the amount of any overpayment to the ratepayer who made that payment; or
- 30 (b) If the amount is more than the amount of the estimated lump sum capital contribution, serve a further notice in form 2 in the Schedule to this Act on the ratepayer for the time being of each separately rated property in respect of which an election was made to
35 pay a lump sum capital contribution requiring that ratepayer in respect of that property to pay the balance owing within 1 month after the date of service of the notice.

12. Additional charge on unpaid capital contribu-
40 **tions**—An additional charge not exceeding 10 percent may by resolution of the Council be added to any lump sum

capital contribution or balance thereof which has not been paid on or before the date on which it fell due under this Act, and such additional charge may be credited to the general revenues of the county.

13. Power to recover capital contribution etc.—Every lump sum capital contribution and balance thereof payable under this Act, and every additional charge payable under section 12 of this Act, shall constitute a charge on the separately rateable property in respect of which it is payable, and in default of payment may be recovered by the Council in the same manner as if it were a rate payable under the Rating Act 1967. 5
10

14. Service of notices—(1) Any notice required to be served on the Council under this Act shall be sufficiently served if it is posted or delivered to or left at the office of the Council. 15

(2) Any notice required to be served on a ratepayer under this Act shall be delivered in accordance with section 65 of the Rating Act 1967, and the provisions of that section shall apply as if the notice were a rates assessment. 20

(3) If a notice is sent by post it shall be deemed to have been served at the time when it would have been delivered in the ordinary course of post.

SCHEDULE

Form 1

Section 5

To [Name and address of ratepayer] being the ratepayer for the property included in valuation assessment No. and described therein [insert legal description]. Pursuant to the provisions of the Ellesmere County Council (Lump Sum Contributions) Empowering Act 1981, the Ellesmere County Council hereby notifies you that it proposes to instal a (water or sewerage) scheme in the [insert name of area] area, which will be available to service the above described property. Further, it notifies you that you must, within 2 months after the date of service of this notice elect to pay the said property's share of the capital cost of the scheme (if it proceeds) by either—

1. Your paying a lump sum capital contribution, which at this stage is estimated to be \$....., but which will be finally assessed after the work is completed and actual costs are known; or

2. The property being made liable for the payment of an annual rate (or charge) to meet the annual charges on a loan which the Council would raise to finance the scheme or that part of the scheme not paid for by lump sum capital contributions. At this stage it is estimated that the amount of the rate (or charge) payable in respect of your property would be [insert amount] per annum for the [insert number] year term of the loan.

NOTE—Any payment under clause 1 or clause 2 above would be for the capital cost of the work only and would not cover maintenance and operating costs.

Further, you are notified as follows:

- (a) That the attached duplicate copy of this form must be completed and returned to the undersigned so as to be received not later than 5.00 p.m. on [insert date].
(b) That if the attached form is not returned within the prescribed time, or if it does not clearly indicate your wishes, it will be assumed that you do not wish to make a lump sum capital contribution and your property will be rated annually if the scheme proceeds.
(c) If you elect to pay a lump sum capital contribution, you may not change your decision, and if you do not pay it on or before the due date you may be charged a penalty of up to 10 percent.
(d) If you elect to pay by way of an annual rate (or charge) you may apply to the Council to change to a lump sum capital contribution before the loan is raised.

Dated this day of 19 .

County Clerk or
County Manager

Ellesmere County Council (Lump Sum Contributions) Empowering

SCHEDULE—continued

County Clerk (or County Manager),
Ellesmere County Council

I hereby make an election that if the above scheme proceeds—

I agree to pay the required lump sum capital contribution towards the cost

OR

I agree that the above described property be rated for the annual charges on the loan raised to finance the scheme

(Write "yes" in the box after the line which indicates your wishes.)

.....
(Ratepayer's signature)

Section 9

Form 2

To [Name and address of ratepayer]

The estimated (or balance) lump sum contribution for works being, or to be, undertaken in the (name of water supply or urban drainage area) is now due by you in respect of the undermentioned property. The amount shown below is payable to the Ellesmere County Council at [insert office] on or before [insert date]

An additional charge of [insert percentage] will be added to any portion of the amount which is not paid by that date.

Dated this day of 19 .

.....
County Clerk or
County Manager

Description of property [insert description]
Amount payable \$.....