

Bill No. 9 of 1945.

A BILL TO AMEND THE MUNICIPAL DISTRICT ACT

NOTE.

Section 1 of this Bill amends section 2 of the Act. A new definition of "conditional owner" is introduced in this Act and the other municipal Acts. This section also introduces a new definition of "proprietary elector". The change in the definition provides that where several persons who are non-residents own one lot only one of them can vote as a proprietary elector.

Sections 11 and 12 of the Act deal with the formation of a municipal district and refer to the dividing of the municipality into divisions "if any". Sections 2 and 3 of the Bill strike out these words as in future there will be no municipal districts which are not divided into divisions.

The amendment made by section 4 of the Bill to section 17 is to enable the establishment of electoral divisions and defining their areas after the setting up of the municipal district.

Section 5 of the Bill covers the same matter referred to in sections 2 and 3 of the Bill.

Section 6 of the Bill which strikes out subsection (2) of section 22 and enacts a new subsection, enables the Minister either with or without a petition from the council to change the name and number of the municipal district. Formerly it was only possible to change the name.

Paragraph (a) of section 7 of the Bill cures an omission, and paragraph (b) is intended to make clear to the secretary-treasurer in preparing the voters' list the right to vote where two or more persons jointly own a parcel of land or are joint purchasers of land.

Section 8 of the Bill has the same object in setting out again the right to vote.

Section 9 of the Bill amends section 34 dealing with the right to vote. The effect of the amendment is to require voters on the assessment roll to vote in the division where their land lies and voters not on the assessment roll to vote in the division in which they reside.

Section 10 of the Bill amends section 36. Subsection (1) of the section which is struck out, is no longer necessary as it refers to municipal districts in which there are no electoral divisions. The words struck out of subsection (2) are struck out also for the reason that they are no longer necessary as they refer to a division which is represented by more than one councillor, and there will be no such cases in the future.

The change made in section 40 by section 11 of the Bill is for the same reason that there are no longer municipal districts without electoral divisions.

The amendment to section 49 made by section 13 of the Bill is for the same reason.

Section 50 of the Act which is re-drafted by section 14 of the Bill is made necessary for the same reason as to all the districts being divided into divisions.

Section 18 of the Bill which substitutes a new subsection (4) of section 75 of the Act is practically the same as before except that it is clarified to the extent that where two persons are on the assessment roll for one parcel of land they can both vote, but if there is a purchaser or purchasers in possession, he or they shall vote and not the owner.

Section 19 of the Bill strikes out section 84 and substitutes a new section. This section deals with persons who are incapacitated from marking their ballots. The new provision enables them to vote with the assistance of a friend where formerly the deputy returning officer marked the ballots.

Section 133 of the Act deals with the qualification of councillors. The first change made by section 20 of the Bill requires a councillor to be able to read and write in the English language. Formerly the requirement was that he was able to read and write. Paragraph (c) of section 20 of the Bill strikes out clause (i) of paragraph (f) of section 133 as this paragraph dealt with cases where there were no electoral divisions.

Section 136 of the Act which is struck out by section 21 of the Bill dealt with cases of municipalities where there were no electoral divisions.

The new section 138 of the Act enacted by section 23 of the Bill provides for the terms of office of councillors elected after the Minister has made an order creating electoral divisions in districts which now do not have them, pursuant to the new section 139 enacted by section 24 of the Bill.

Section 140 (2) of the Act amended by section 25 of the Bill refers to the terms of office of councillors when the number of councillors is other than six by an order of the Minister made under section 132 or section 139 as amended above.

Section 26 of the Bill strikes out section 160 (4) as no longer applicable by reason of all municipal districts having divisions.

The amendment to section 198 of the Act made by section 27 of the Bill authorizes a council to pass by-laws for the purposes mentioned in the section. Subsection (3) which is struck out is covered in the above amendment.

Section 216 amended by section 28 of the Bill authorizes a council to pass a by-law for the purpose of disposal of

property acquired for a specific purpose when the property, in the opinion of the council, is no longer needed for the purpose, subject, however, to a plebiscite. The amendment removes the necessity of a plebiscite and substitutes for it the approval of the Minister.

Section 220 of the Act provides that a council may pass a by-law for the purpose of uniting with other municipal districts in constructing public works, etc. The amendment made by section 29 of the Bill extends this authority so that there may be co-operation with other municipalities besides municipal districts.

Section 30 of the Bill extends the authority of the council given by section 245 (1) to make provision for residences for doctors and nurses.

The new section 245a enacted by section 31 of the Bill authorizes the council to pass a by-law for providing, in co-operation with other municipalities, isolation hospital facilities either by providing for the erection of a hospital or by making an agreement with an existing hospital. Authority is given to borrow for this purpose without the necessity of a plebiscite or the approval of the Board of Public Utility Commissioners.

Section 278 which is struck out by section 33 of the Bill is no longer appropriate as it deals with municipal districts which are not divided into divisions.

Section 279 is struck out by section 34 of the Bill and a new section substituted. The new section provides that a person recommend to the council what public works be undertaken. Formerly the councillor representing a division made the recommendation as to his own division. Subsection (2) gives the council power to determine what works are to be undertaken and the cost thereof; also the location of the works. There is no very material change in subsections (3), (4) and (5).

The proviso to subsection (1) of section 305 struck out by section 35 of the Bill required the consent of the Board of Public Utility Commissioners to the bringing of an action for taxes against a person who obtained title to land by foreclosing a mortgage.

Section 36 of the Bill strikes out section 326 and substitutes a new section. The section is amended to include divisions and to refer to *The School Act* under which requisitions by school divisions are made, other requisitions being made under *The School Taxation Act*.

The new section 333a enacted by section 37 of the Bill gives authority to a council, with the approval of the Minister, to cancel taxes which are incollectible and are no longer secured by a charge on property.

W. S. GRAY,
Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 9 of 1945.

An Act to amend The Municipal District Act.

(Assented to _____, 1945.)

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

1. *The Municipal District Act*, being chapter 151 of the Revised Statutes of Alberta, 1942, is hereby amended as to section 2,—

- (a) by striking out paragraph (b) thereof and by substituting therefor the following:
 - “(b) ‘Conditional owner’ means any person being the purchaser, lessee, licensee or permittee from the Dominion of Canada or the Province of land or other property if such land or property is not exempt from assessment or taxation by reason of the provisions of *The Assessment Act*;”;
- (b) by striking out paragraph (v) thereof and by substituting therefor the following:
 - “(v) ‘Proprietary elector’ means,—
 - “(i) any person, who is a resident of the town or village, who is entitled to vote at an election under this Act and whose name appears on the assessment roll in respect of any land liable to assessment and taxation; and
 - “(ii) any person, who is not a resident of the town or village, who is entitled to vote at an election under this Act and whose name appears on the assessment roll in respect of any land liable to assessment and taxation:
 - “Provided, however, that where the names of two or more non-resident persons appear on the assessment roll in respect of one parcel only one of such persons shall be a proprietary elector in respect of that parcel and entitled to vote as such;”.

2. The said Act is further amended as to section 11 by striking out the words “if any” where the same occur in paragraph (c) thereof.

3. The said Act is further amended as to section 12 by striking out the words “if any” where the same occur in paragraph (b) thereof.

4. The said Act is further amended as to section 17 by striking out paragraph (c) of subsection (1) thereof and by substituting therefor the following:

“(c) establish electoral divisions and define their areas or alter in any way the area of any division in any municipal district;”.

5. The said Act is further amended as to section 19 by striking out the words “if any” where the same occur in paragraph (b) of subsection (2) thereof.

6. The said Act is further amended as to section 22,—

(a) by striking out subsection (2) thereof and by substituting therefor the following:

“(2) The Minister may from time to time alter the name or number of any municipal district, either of his own motion or upon the petition of a majority of the council, and a notice of the alteration shall be published in *The Alberta Gazette*, and in such case the seal theretofore used by the municipal district shall continue to be the seal thereof until changed by the council.”;

(b) by adding immediately after the word “name”, where the same occurs in subsection (3) thereof, the words “or number”.

7. The said Act is further amended as to section 28,—

(a) by adding immediately after the words “business tax”, where the same occur in paragraph (e) of subsection (1) thereof, the words “who is of the full age of twenty-one years”;

(b) by striking out subsection (2) thereof and by substituting therefor the following:

“(2) Where the assessment roll shows an owner or owners and a purchaser or purchasers of any parcel, or of any part, share or interest therein, the only person or persons entitled to be placed upon the voters’ list in respect of the parcel or of any part, share or interest therein, shall be the purchaser or purchasers, if any, entitled to the possession of the parcel or any part, share or interest therein, and if there be no such purchaser or purchasers, shall be the owner or owners thereof.”

8. The said Act is further amended as to section 32 by striking out the same and by substituting therefor the following:

“32. Where there is an owner or owners and a purchaser or purchasers of any parcel or of any part, share or interest therein, the only person or persons entitled to vote in respect of the parcel or share or interest therein shall be the purchaser or purchasers, if any, entitled to the possession of

the parcel or of any part, share or interest therein, and if there be no such purchaser or purchasers, shall be the owner or owners thereof."

9. The said Act is further amended as to section 34,—

- (a) by striking out the words "shall be", where the same occur in the third line thereof, and by substituting therefor the words "shall, subject to the provisions of section 37, be";
- (b) by adding at the end of paragraph (b) thereof the words "and who duly takes the oath or affirmation in the proper form set out in Form R in the Schedule."

10. The said Act is further amended as to section 36,—

- (a) by striking out subsection (1) thereof;
- (b) by striking out all the words after the word "only" in the third line of subsection (2) thereof.

11. The said Act is further amended as to section 40 by striking out paragraph (c) of subsection (1) thereof, and by substituting therefor the following:

"(c) divide each electoral division into polling divisions and assign a name or number to each polling division, and name a polling place therefor;"

12. The said Act is further amended as to section 45 by adding immediately after the word "post", in the second line thereof, the words "or cause to be posted".

13. The said Act is further amended as to section 49 by striking out all the words after the word "electors", where the same occurs in the third line of subsection (1) thereof, and by substituting therefor the words "of such electoral divisions".

14. The said Act is further amended as to section 50 by striking out the same and by substituting therefor the following:

"**50.** At the hour of four o'clock, in the case of all electoral divisions with respect to which not more than one person has been nominated, the returning officer shall declare the persons nominated in respect of such divisions duly elected as councillors and shall send to the secretary-treasurer, if any, a signed statement giving their full names and addresses."

15. The said Act is further amended as to section 51 by striking out the same and by substituting therefor the following:

"**51.** In the event of more than one person being nominated in respect of any electoral division, the returning officer shall declare that a poll will be held for each such electoral division."

16. The said Act is further amended as to section 53 by striking out the same and by substituting therefor the following:

“**53.** If by reason of any withdrawal or withdrawals there is not more than one candidate for councillor for an electoral division, the polling shall not take place with respect to such division and the returning officer shall forthwith declare the candidate duly elected and shall send to the secretary-treasurer, if any, a signed statement giving his full name and address.”

17. The said Act is further amended as to section 55 by striking out the same and by substituting therefor the following:

“**55.** After the expiry of forty-eight hours from the close of nominations and within fourteen days thereafter, the returning officer shall cause a notice of the poll to be posted up in at least two widely separated conspicuous places in each polling division of each electoral division in which a poll is to be held and also in all post offices within the electoral division, and such notice shall be in Form K of the Schedule.”

18. The said Act is further amended as to section 75 by striking out subsection (4) thereof and by substituting therefor the following:

“(4) No person or persons shall be entitled to vote in respect of any one parcel other than the person or persons whose name or names appear on the voters’ list as originally prepared by the secretary-treasurer, or, if there be no such person or persons, the person or persons entitled to vote shall be the purchaser or purchasers entitled to the possession of the parcel, and if there be no purchaser or purchasers, shall be the owner or owners thereof, if such purchaser or owner takes the oath or affirmation provided for in Form R.”

19. The said Act is further amended as to section 84 by striking out the same and by substituting therefor the following:

“**84.** If a person claiming to be entitled to vote is incapacitated by blindness or other physical cause from marking his ballot paper or if a person claims to be unable to read and takes the declaration in Form T of the Schedule, the deputy returning officer shall, if required so to do by such voter and if he is accompanied by a friend, permit that friend to accompany the voter into a voting compartment for the purpose of marking the voter’s ballot paper; and the ballot when marked shall be delivered by the voter or the friend to the deputy returning officer to be placed by him in the ballot box.”

20. The said Act is further amended as to section 133,—

(a) by striking out paragraph (a) thereof and by substituting therefor the following:

- “(a) he can read and write in the English language; and”;
- (b) by striking out the words “or, where there are no electoral divisions, in the municipal district” where the same occur in paragraph (e) thereof;
- (c) by striking out clause (i) of paragraph (f) thereof;
- (d) by striking out the words “or where there are no electoral divisions in the municipal district” where the same occur in clause (ii) of paragraph (f) thereof.

21. The said Act is further amended as to section 136 by striking out the same.

22. The said Act is further amended as to section 137 by striking out the words “where the election has been by electoral divisions” where the same occur in subsection (1) thereof.

23. The said Act is further amended as to section 138 by striking out the same and by substituting therefor the following:

“**138.** The provisions of section 137 or section 140, as the case may be, shall apply *mutatis mutandis* to every first election after an order changing the method of election under the provisions of section 139.”

24. The said Act is further amended as to section 139 by striking out the same and by substituting therefor the following:

“**139.**—(1) When in any municipal district no electoral divisions have been established and wherein the council has been elected by general vote, the Minister may by order establish electoral divisions, and in the order may fix the number of divisions and terms of office of all the then councillors shall expire at a date prescribed by the order.

“(2) The order shall fix the dates for receiving nominations and for holding a poll if required as well as directions as to any other matter or thing requisite for the proper carrying on of an election.”

25. The said Act is further amended as to section 140 by adding immediately after the word and figures “section 132”, where the same occur in subsection (2) thereof, the words and figures “or section 139”.

26. The said Act is further amended as to section 160 by striking out subsection (4) thereof.

27. The said Act is further amended as to section 198,—

- (a) by adding immediately after paragraph (g) of subsection (1) thereof the following new paragraphs:

- “(h) for the purpose of erecting or maintaining thereon machine sheds or other buildings used for general municipal purposes;
 - “(i) for use as a community grazing pasture;
 - “(j) for use as an airport or landing field.”
- (b) by striking out subsection (3) thereof.

28. The said Act is further amended as to section 216 by striking out the words “approval of the proprietary electors obtained in the same manner as in the case of a vote upon a debenture loan”, where the same occur therein, and by substituting therefor the words “approval of the Minister”.

29. The said Act is further amended as to section 220 by striking out the words “municipal districts”, where the same occur therein, and by substituting therefor the word “municipalities”.

30. The said Act is further amended as to section 245 by adding immediately after paragraph (e) of subsection (1) thereof the following new paragraph:

- “(f) to make provision for maintaining residence facilities for the use of medical practitioners or nurses and for that purpose to purchase land or land and buildings or to erect a building or buildings upon land so purchased.”

31. The said Act is further amended by adding immediately after section 245 thereof the following new section:

“**245a.**—(1) The council may pass a by-law,—

- “(a) authorizing the making of an agreement with one or more cities, towns, villages or municipal districts for the joint construction or leasing and for the equipment and operation by all the municipalities executing the agreement of an isolation hospital for the care and treatment of their residents requiring hospitalization in such a hospital; or

- “(b) authorizing the making of an agreement alone or jointly with one or more cities, towns, villages or municipal districts for the provision by an established hospital of the care and treatment of residents requiring treatment in an isolation hospital.

“(2) Notwithstanding any other provisions of this Act, the council after entering into an agreement pursuant to paragraph (a) of subsection (1) may borrow by the issue of debentures or otherwise the amount required to provide its proportion of the capital cost of the construction and equipment of the isolation hospital and may do so without submitting a by-law authorizing the borrowing to the proprietary electors or to the Board of Public Utility Commissioners.

“(3) Notwithstanding the provisions of any Act incorporating a city, the council of the city may authorize or enter into any agreement which a municipal district is hereby authorized to enter into with a city, and in order to carry out the terms of such agreement, may borrow by the issue of debentures or otherwise, the amounts required to provide its proportion of the capital cost of the construction and equipment of the hospital and may do so without submitting a by-law authorizing it to the proprietary electors or burgesses or to the Board of Public Utility Commissioners.”

32. The said Act is further amended as to section 251 by striking out paragraph (c) of subsection (3) thereof and by substituting therefor the following:

“(c) ‘Local authority’ means the council of any city, town, village or municipal district, and with respect to any improvement district means the Minister of Public Welfare, and with respect to any special area means the Minister of Lands and Mines.”

33. The said Act is further amended as to section 278 by striking out the same.

34. The said Act is further amended as to section 279 by striking out the same and by substituting therefor the following:

“**279.**—(1) Immediately after the preparation of the estimates, as required by section 287, the council shall cause to be prepared a report or reports in Form A of the Schedule, setting out what works of a public nature are recommended to be undertaken throughout the municipal district, and for that purpose may appoint such person or persons as the council shall by resolution determine.

“(2) Upon receipt of the aforesaid recommendation or recommendations, the council shall at its discretion, determine what works shall be undertaken and the amount that shall be expended thereon and shall by resolution authorize the location of the works and the amount of the expenditures in connection therewith.

“(3) At least fifty per cent (or such lesser percentage as may be determined by a unanimous vote of the council) of the total estimated expenditure upon public works shall be distributed amongst the electoral divisions in proportion to the amount of their respective assessments.

“(4) Except in the case of sudden and urgent necessity, no public work shall be undertaken or expense incurred in connection therewith until the resolution authorizing the expenditure has been passed by the council, as provided by subsection (2).

“(5) No grant of funds by the Province to a municipal district, to be expended on public works therein, shall be disbursed until a resolution as required by subsection (2) has

been passed by the council unless it is otherwise directed by the Province in making the grant."

35. The said Act is further amended as to section 305 by striking out the proviso to subsection (1) thereof.

36. The said Act is further amended as to section 326 by striking out the same and by substituting therefor the following:

"**326.**—(1) The council of every municipal district shall in each year pay to each school district or school division the amount of the requisition duly transmitted by the board of trustees of each such school district or school division under the provisions of *The School Taxation Act* or *The School Act*, as the case may be, and the said amount shall be paid in equal quarterly instalments on the fifteenth day of each of the months of March, June, September and December in the said year.

"(2) In the event of the council failing to pay to any school district or school division the amount required from time to time, as hereinbefore provided, such amount shall become a debt due, owing and payable by the municipal district to the school district or school division, as the case may be.

"Provided, however, that the debt may not be recovered by suit at law unless permission to enter suit is granted by the Minister of Education."

37. The said Act is further amended by adding immediately after section 333 thereof the following new section:

"**333a.** The council may pass a by-law, subject to the approval of the Minister, for the purpose of cancelling arrears of taxes which appear on the assessment and tax roll and which are no longer secured by a charge against land or other property and which are no longer collectible from the person taxed."

38. The said Act is further amended as to Form A in the Schedule by striking out the word "Councillor" where the same occurs therein.

39. The said Act is further amended as to Form G in the Schedule by striking out all that portion of the Form following and including the heading "Oath of the Tenant of a Non-Resident".

40. The said Act is further amended as to Form J in the Schedule by striking out the same and by substituting therefor the following:

“FORM J.

“(Sections 49 and 133.)

“CANDIDATE’S ACCEPTANCE.

“I,, of
hereby state,—

“1. That I can read and write in the English language;
and

“2. That I am a British subject; and

“3. That I am of the full age of twenty-one years; and

“4. That I am not disqualified under this or any other
Act; and

“5. That I am a resident at this date in Electoral Division
Number of the Municipal District of
..... Number; and

“6. That I am assessed in the said Municipal District
with respect to the following lands and no other lands:
..... (Description
of lands); and

“7. That my name appears upon the last revised assess-
ment roll of the municipal district as the owner, conditional
owner or purchaser of land which is not exempted from
taxation; or, I have been liable to a business tax in respect
of a business carried on in the said Electoral Division
Number for a period of at least two months
prior to the date of my nomination; or (in the case of a
first election), I have been the owner, conditional owner or
purchaser of assessable land in the municipal district, or
have been liable to a business tax therein for a period of at
least two months prior to the date of my nomination; and

“8. That I will accept the office if elected.

“Signed this day of
..... A.D. 19.....

.....
Signature of Candidate.

In the presence of

.....
Signature of Witness.”

41. The said Act is further amended as to Form K in
the Schedule by striking out all of the words commencing
with the words “Election by General Vote” down to and
including the words “Returning Officer” where the same
first occur therein.

42. The said Act is further amended as to Form T in
the Schedule by striking out the same and by substituting
therefor the following:

“FORM T.

“(Section 84.)

“AFFIRMATION OR DECLARATION OF ILLITERATE ELECTOR.

I,, of
being a duly qualified voter at this election, hereby declare
that I am unable to read.

"Dated this.....day of.....,
19.....

(Mark)

In the presence of

.....
Deputy Returning Officer."

43. The said Act is further amended as to Form U in the Schedule by striking out the same.

44. This Act shall come into force on the day upon which it is assented to.

No. 9.

FIRST SESSION
TENTH LEGISLATURE
9 GEORGE VI
1945

BILL

An Act to amend The Municipal
District Act.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. GERHART.

EDMONTON:
A. Shnitka, King's Printer
1945