

No. 73

5th Session, 13th Legislature, Alberta
7 Elizabeth II, 1959

BILL 73

A Bill to amend The Municipal District Act

HON. MR. HOOKE

Explanatory Note

2. (a) The term "felony" is being removed from the Act. See clause 4. Clause (f) presently reads:

"2. In this Act,

.....

(f) "felony" means any indictable offence that is under the Criminal Code punishable with death or imprisonment for a period of five years or over;"

(b) New term defined.

3. This amendment is intended to ensure that the total days for which a councillor may be paid for supervision will be applied to the case where more than one councillor has held office in an electoral division in the same year. Section 55, subsection (7) presently reads:

"(7) No payment shall be made under subsection (6)

(a) for more than twenty days in any one year, in respect of a municipal district that is not greater than fifteen full townships in area, or

(b) for more than forty days in any one year, in respect of a municipal district that is greater than fifteen full townships in area."

4. The term "felony" is being removed from this section. Cf. present section 85(g) of this Act. Section 57, subsection (1) presently reads as relevant:

"57. (1) When, after the election of a person as a member of the council,

(a) he is convicted of a felony,

.....

his seat in the council shall be vacated forthwith and the council shall forthwith declare his seat vacant."

BILL

No. 73 of 1959

An Act to amend The Municipal District Act

(Assented to _____, 1959)

HER 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 215 of the Revised Statutes, is hereby amended.

2. Section 2 is amended

(a) by striking out clause (f),

(b) the following clause is added immediately after clause (g):

(g1) "mobile home" means any vacation trailer or house trailer that is

(i) designed for, or intended to be equipped with, wheels whether or not it is so equipped, and

(ii) constructed or manufactured to provide a domicile for one or more persons,

but does not include a trailer otherwise designed;

3. Section 55 is amended by adding at the end of subsection (7) the words:

"and where in any year two or more persons hold the office of councillor for the same electoral division, the total days for which all of such councillors are paid shall not exceed twenty days or forty days, as the case may be, under clause (a) or (b)".

4. Section 57, subsection (1) is amended by striking out clause (a) and by substituting the following:

(a) he is convicted of a criminal offence punishable by death or by imprisonment for more than two years,

5. (a) Section 68, subsection (4) presently reads:

"(4) The auditor shall also prepare in duplicate, in such forms as the Minister may direct, a statement of the receipts and payments of the municipal district during the last preceding financial year."

(b) Section 68, subsection (5) presently reads:

"(5) The auditor shall forward to the Minister one duplicate of the abstract and report together with one duplicate of the statement of receipts and payments and shall deliver the other to the secretary-treasurer."

6. See clause 4 and note thereto. The reference to this provision is being removed as the matter is already provided for by clause (g) of this section. Section 86, as relevant, presently reads:

"86. The following persons are not eligible to be elected a member of the council, and are not entitled to sit or vote therein,

-
- (g) any person who has been convicted of a criminal offence punishable by death or by imprisonment for more than two years,
- (i) any person whose seat on the council has been declared vacant by reason of clause (a), (f) or (g) of subsection (1) of section 57, until the expiration of three years from the date upon which his seat was so declared vacant."

7. Sections 204 and 205 presently read:

"204. A person of the full age of twenty-one years

- (a) who has been the owner, purchaser or conditional owner of assessable land in the municipal district for a period of at least two months immediately before the date of submission of the by-law that it is sought to pass, and
- (b) who signs the solemn affirmation in Form 15 in Schedule A, is entitled to vote on a by-law submitted to the proprietary electors before the completion of the first list of electors.

205. A person of the full age of twenty-one years

- (a) whose name appears upon the list of electors as a proprietary elector, or
- (b) whose name does not appear upon the list of electors as a proprietary elector but, subject to the provisions of section 203, whose name appears upon the assessment roll in respect of land liable to taxation, if such person takes the oath or affirmation set out in Form 16 in Schedule A, is entitled to vote on a by-law submitted to the proprietary electors after completion of the first list of electors."

8. This amendment will require the preparation of proprietary voters' lists where now there may not be any list of electors available for by-law voting purposes since a voters' list is not required to be made unless an election is to be held.

9. See clause 8 and new section 211a. Sections 214, 215 and 216 presently read:

"214. At a voting on a by-law held before the completion of the first list of electors, each person who presents himself for voting shall, before he is handed a ballot paper, sign a solemn declaration in Form 15 in Schedule A.

215. At a voting on a by-law held after the completion of the first list of electors, the deputy returning officer shall

- (a) satisfy himself that the name of each person who presents himself for the purpose of voting, or a name apparently intended for that of such person, is on the list of electors as a proprietary elector, or
- (b) administer to him the oath in Form 16 in Schedule A.

216. The deputy returning officer, while the poll is open and if required to do so by a person whose name does not appear on the list of electors as a proprietary elector, shall

- (a) administer to such person an oath in Form 16 in Schedule A, and
- (b) cause, after the oath has been taken, that person's name to be added to the list of electors as a proprietary elector with the word "sworn" or "affirmed" written thereafter according to the fact."

5. Section 68 is amended

- (a) by adding at the end of subsection (4) the words “unless the Minister has granted permission to the auditor to omit the statement”,
- (b) as to subsection (5) by adding immediately after the word “payments” the words “, if required,”.

6. Section 86 is amended by striking out the letter “(a)” where it occurs in clause (i).

7. Sections 204 and 205 are repealed.

8. The following section is added immediately after section 211:

211a. (1) A list of proprietary electors shall be prepared by the secretary-treasurer from the latest assessment roll and the council may, until the eighth day before the next ensuing date fixed for voting on a by-law in which the list is to be used,

- (a) strike from the list the name of a person who has ceased to have the necessary qualifications, and
- (b) add to the list the name of a person who has acquired the necessary qualifications.

9. Sections 214, 215 and 216 are struck out and the following section is substituted:

214. At a voting on a by-law, the deputy returning officer shall satisfy himself that the name of each person who presents himself for the purpose of voting, or a name apparently intended for that of such person, is on the list of proprietary electors.

10. Cf. section 250 of The Town and Village Act. (R.S.A. 1955, c. 338). Sections 136 to 194 set out the proceedings at an election; sections 207 to 219 relate to voting on by-laws.

11. Section 248, subsection (1), clause (e) presently reads:

"248. (1) The council may pass a by-law authorizing the purchase, lease or other acquisition of land or of any interest therein within or without the municipal district

.....
(e) for use as quarry, gravel or sand pit."

12. Section 250 presently reads:

"250. (1) Notwithstanding sections 248 and 249, where a council wishes to move the office of the municipal district to another community, the council shall first pass a by-law authorizing the same.

(2) Notice of the proposed by-law shall be posted up for a period of not less than thirty days in not less than fifteen conspicuous places in the municipal district, one of which shall be the office of the secretary-treasurer, and there shall also be inserted in a newspaper of general circulation in the municipal district a notice in Form 31 in Schedule A or a notice to the like effect.

(3) Subject to subsection (5), if the petition mentioned in Form 31 in Schedule A is not received by the council or by the secretary-treasurer within thirty days of the publication of the notice of the by-law, the council may proceed to pass the by-law.

(4) If within a period of thirty days a petition is received from ten per cent of the proprietary electors of the municipal district asking that the by-law be submitted to a vote of the proprietary electors of the district,

(a) the by-law shall be submitted to a vote of the proprietary electors and Part V applies to the taking of the vote, and

(b) the by-law shall not be finally passed by the council until it has been approved by a majority of the proprietary electors voting thereon.

(5) When the moving of the office of the municipal district will involve an expenditure or the assumption of a liability in excess of ten thousand dollars, or five mills on the net total assessment of land, buildings and improvements of the municipal district, whichever is the greater, the by-law under this section shall be combined with the by-law required under section 251 and shall be dealt with as a by-law under that section."

13. A reference to the section being repealed by clause 11 is here removed.

14. Rural fire protection areas.

15. Subsection (1) of section 295 begins:

"295. (1) A council may pass by-laws."

10. The following section is added immediately after section 220:

220a. Sections 136 to 194 apply, *mutatis mutandis*, to the proceedings under sections 207 to 219 in so far as they are not inconsistent therewith.

11. Section 248, subsection (1), clause (e) is amended by striking out the words "or sand pit" and by substituting the words "pit, sand pit or barrow pit".

12. Section 250 is repealed.

13. Section 251, subsection (1) is amended by striking out the word and figures "249 or 250" and by substituting the word and figure "or 249".

14. The following section is added immediately after section 274:

274a. (1) The council may pass by-laws

- (a) establishing and determining the boundaries of a rural fire protection area,
- (b) authorizing the purchase of apparatus and equipment for extinguishing fires and preserving life and property from injury or destruction by fire in the rural fire protection area,
- (c) providing for recovering the cost of the apparatus and equipment so purchased by a levy of a special tax on all property in the rural fire protection area and appearing on the assessment roll of the municipal district, and
- (d) authorizing agreements with other municipalities for the joint use, control and management of the apparatus and equipment.

(2) Section 251 applies, *mutatis mutandis*, to a by-law under this section.

15. Section 295, subsection (1) is amended by adding immediately after clause (b) the following:

- (b1) to grant aid to any organization that operates a summer camp and provides recreational, educational or camping facilities,

16. Authority to licence mobile homes is being given to the municipal districts.

17. Municipal recreation programs authorized.

18. This amendment authorizes the taxing of certain oil well drilling equipment which was previously taxed as personal property by municipal districts, before the personal property tax was done away with.

16. The following section is added immediately after section 323:

323a. (1) A council may pass by-laws providing for the licensing of mobile homes situate in the municipal district.

(2) The licence fee to be imposed in respect of a mobile home pursuant to a by-law under this section shall not exceed ninety dollars per year or seven dollars and fifty cents per month for each calendar month or part thereof during which the mobile home is within the boundaries of the municipal district.

(3) Where a mobile home licence fee is imposed pursuant to a by-law under this section, the full amount of the annual licence fee is due and payable as soon as a mobile home is used as a residence in the municipal district but where an agreement has been entered into between the municipal district and the owner of the mobile home the licence fee may be made payable on a monthly basis as agreed upon.

(4) Where the owner of a mobile home has paid the full annual licence fee imposed pursuant to this section and the mobile home is moved from the municipal district or ceases to be occupied as a residence, the owner upon application therefor shall be refunded one-twelfth of the annual licence fee for each full calendar month or part thereof remaining in the year and during which the mobile home is not within the municipal district or the mobile home is not occupied as a residence.

(5) A licence shall not be required in respect of a vacation trailer occupied by a *bona fide* tourist.

(6) A mobile home licensed under this section is not liable to assessment pursuant to any provision of *The Assessment Act*.

17. The following section is added immediately after section 326a:

326b. A council by by-law may

- (a) provide a recreation program in such manner and on such conditions as may be deemed advisable,
- (b) expend such sums as may be required to provide for the recreation program,
- (c) appoint a recreation board to administer the program, and
- (d) authorize agreements with other municipalities to provide for the joint operational cost, control and management of a recreational program.

18. The following section is added immediately after section 345:

345a. (1) The council by by-law may provide for the imposition of a tax on persons who are in legal possession of equipment when the equipment is engaged in the drilling of any well for which a licence is required under *The Oil and Gas Conservation Act*.

19. Self-explanatory. Cf. section 545 of The City Act.

20. Section 382, subsection (2) presently reads:

“(2) Except as otherwise provided in this Act, a by-law for borrowing money or contracting debts and not payable out of the revenues of the current year

- (a) shall provide for the issue of debentures,
- (b) shall provide for the levy of annual taxes for the payment of the borrowings or the debts contracted, and
- (c) shall receive the assent of two-thirds of the proprietary electors voting thereon before the final passing of the by-law.”.

21. This corrects the references to the sections requiring this Form in the light of the amendments to be made by this Bill.

(2) The tax shall be computed in accordance with a schedule, which may be established by the Lieutenant Governor in Council.

(3) The secretary-treasurer in writing may require any owner, conditional owner or lessee of drilling equipment to supply such information as may be necessary to compute the tax.

(4) The tax may be imposed at any time during a calendar year and becomes due and payable upon cessation of the drilling operation and may be recovered with costs and with interest as a debt due to the municipal district from the owners, conditional owners or lessees of the equipment.

(5) When taxes imposed by a by-law passed under this section remain unpaid for a period of thirty days after the cessation of the drilling operation the secretary-treasurer or any person appointed by him in writing may levy the same with costs by distress under section 358.

(6) This section does not apply in respect of any equipment licensed under *The Mobile Construction Equipment Licensing Act* or *The Seismographic Recording and Drilling Equipment Licensing Act*.

19. The following section is added immediately after section 374:

374a. (1) No person is entitled to any abatement of the taxes imposed on improvements to land that subsequent to the assessment thereof have been damaged or destroyed by fire or otherwise.

(2) If the improvements are damaged or destroyed in any year so as to render them unfit for further use or occupation in that year, the council may, subject to the approval of the Minister, pass a by-law for the purpose of remitting such proportion of the taxes as the council deems proper.

20. Section 382, subsection (2) is amended by striking out clause (c) and by substituting the following:

- (c) shall be governed by section 251, except that
 - (i) the ten thousand dollar or five mill limit referred to in subsection (1) of section 251 does not apply, and
 - (ii) when a vote of the proprietary electors is required the by-law shall not be finally passed by the council until it has been approved by two-thirds of the proprietary electors voting thereon.

21. Form 15 in Schedule A is amended by striking out the word and figures "200, 204 and 214" and by substituting the word and figure "and 200".

22. This amends references to sections where Form 16 is required in the light of amendments to be made by this Bill.

23. The purpose of this clause is to quiet certain titles to land and minerals concerned in tax recovery proceedings between the years 1930 to 1947 in municipal districts. Until 1930 municipal districts were authorized to tax minerals. By chapter 48 of that year the definition of mineral (included as "land" in the definition of that term in 1926, chapter 41, section 2(k)) was altered to read: "mineral" shall include coal, but shall not include natural gas, petroleum, gasoline or any oil of a mineral nature". By The Tax Recovery Act, municipalities are deemed to have taken title under tax recovery proceedings only to that which they were empowered to assess at the time of final acquisition of the land. In 1945, the Mineral Taxation Act 1945 (1945, c. 9) empowered the Minister of Lands and Mines to tax all minerals. However, the power of municipal districts to assess some minerals was not expressly taken from municipal districts until 1947. In the meantime a practice had developed of treating coal as the only mineral liable to assessment by a municipal district and titles were dealt with accordingly. This provision will quiet these titles.

24. Commencement. Clauses 18 and 19 are retroactive in effect.

22. Form 16 in Schedule A is amended by striking out the word and figures "200, 205, 215 and 216" and by substituting the word and figure "and 200".

23. (1) For the purpose of quieting certain titles to land acquired in municipal districts by or through tax recovery and sale proceedings under statutory authority in the years 1930 to 1947, it is hereby declared that clause (b) of section 2 of chapter 48 of the Statutes of Alberta, 1930 amend clause (l) of section 2 of chapter 41 of the Statutes of Alberta, 1926, being an Act entitled *The Municipal District Act*, was effective to and did remove from the definition of "mineral" for the purposes of the said Act and chapter 151 of the Revised Statutes of Alberta, 1942, all minerals other than coal for the period from the twenty-first day of March, 1930 to the thirty-first day of March, 1947.

(2) This section shall not be construed so as to divest a *bona fide* purchaser for value of an interest in minerals acquired by registration under *The Land Titles Act*.

24. (1) This Act comes into force on the day upon which it is assented to and upon so coming into force sections 18 and 19 shall be deemed to have been in force at all times on and after the first day of January, 1959.

(2) Section 16 is applicable on and after the first day of April, 1959.

FIFTH SESSION
THIRTEENTH LEGISLATURE
7 ELIZABETH II
1959

BILL

An Act to amend The Municipal
District Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. HOOKE
