

No. 64

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1st Session, 14th Legislature, Alberta  
8 Elizabeth II

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## **BILL 64**

**A Bill to Revise and Consolidate The Public Utilities Act,  
being an Act Prescribing the Duties and Functions  
of the Public Utilities Board of the Province**

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HON. MR. MANNING

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## Explanatory Note

General. This Bill repeals and replaces The Public Utilities Act, being chapter 267 of the Revised Statutes. The provisions of that Act relating to those utilities that supply gas will be found in a complementary Bill to enact The Gas Utilities Act. Apart from those provisions, this Bill is a consolidation and revision of The Public Utilities Act with but few substantive changes, which are noted in these following notes.

For convenience of arrangement, the Bill is divided into the following Parts and Divisions:

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(In these notes the section references are to the sections in the present Public Utilities Act.)

### 1. New short title.

(a) Section 2 (b) in substance but title shortened.

(b) Section 2 (c).

(c) Section 2 (d).

(d) Section 2 (g) altered to refer to the body of the local authority instead of the "council", "trustees", etc., and "new town" and "junior college" added as they come also within the ambit of the Board's jurisdiction.

(e) Section 2 (h).

(f) Section 2 (i) but "new town" added.

(g) Section 2 (j).

# BILL

No. 64 of 1960

An Act to Revise and Consolidate The Public Utilities Act,  
being an Act Prescribing the Duties and Functions  
of the Public Utilities Board of the Province

(Assented to \_\_\_\_\_, 1960)

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

**1.** This Act may be cited as "*The Public Utilities Board Act*".

## Interpretation

**2.** In this Act,

- (a) "Board" means the Public Utilities Board as constituted pursuant to this Act;
- (b) "charter" means any special or general legislative Act of the Province or Ordinance of the Northwest Territories by or by virtue of which a corporation is incorporated, and the certificate of incorporation or other document issued by virtue of any such Act or Ordinance, or granting powers to a corporation;
- (c) "court of appeal" means the Appellate Division of the Supreme Court of Alberta;
- (d) "local authority" means any city, town, new town, village, county or municipal district, a school division, a school district not being a school district included in a school division, a junior college, a municipal hospital district, an irrigation district, and a drainage district;
- (e) "Minister" means the Minister of Municipal Affairs;
- (f) "municipality" means any city, town, new town, village, county or municipal district;
- (g) "oil" means crude petroleum oil and all other hydrocarbons, regardless of gravity, that are or can be recovered from a pool in liquid form by ordinary production methods;

(h) Section 2 (k).

(i) Section 2 (l) in substance but "proprietor of a public utility" changed to "owner of a public utility".

(j) Section 2 (m) revised to remove therefrom reference to those utilities included within the meaning of "gas utility" in the proposed Bill relating thereto. Also removed, are the references to milk and cream distribution which are dealt with elsewhere in the Act, but apart from the general "public utility" provisions.

(k) Section 2 (p) with "new town" added.

(h) "oil pipe line" means

- (i) any pipe or any system or arrangement of pipes wholly within the Province and whereby oil is conveyed from any place at which it is produced to any other place, or from any place where it is stored, processed or treated to any other place, and
- (ii) includes
  - (A) all property of any kind used for the purpose of or in connection with, or incidentally to, the operation of a pipe line in the gathering, transporting, handling and delivery of oil, and
  - (B) tanks, reservoirs, pumps, racks and storage facilities incidental to delivery;

(i) "owner of a public utility" means

- (i) a person owning, operating, managing or controlling a public utility and whose business and operations are subject to the legislative authority of the Province, and the lessees, trustees, liquidators thereof or any receivers thereof appointed by any court, but
- (ii) does not include a municipality that has not voluntarily come under this Act in the manner provided in this Act;

(j) "public utility" means

- (i) any system, works, plant, equipment or service for the conveyance of telegraph or telephone messages,
- (ii) any system, works, plant, equipment or service for the conveyance of travellers or goods over a railway, street railway or tramway,
- (iii) any system, works, plant, equipment or service for the production, transmission, delivery or furnishing of water, heat, light or power, either directly or indirectly, to or for the public, and
- (iv) any oil pipe line declared by the Oil and Gas Conservation Board to be a common carrier;

(k) "urban municipality" means a city, town, new town, or village.

**3.** (1) Public Utilities Board. Section 3 (1) in part.  
(2) Section 3 (1) in part.  
(3) Section 3 (5) revised.  
(4) Section 3 (6) revised.

**4.** Vacancy in Board. Section 3 (2).

**5.** Reappointment and retirement. Section 3 (9) and (8).

**6.** Duties of Board. Section 3 (10).

**7.** Chairman of Board. Balance of Section 3 (1).

**PART I**

**ADMINISTRATION**

**Division 1**

**Constitution of Board**

**3.** (1) The Board of Public Utility Commissioners is hereby continued under the style and title of the "Public Utilities Board".

(2) The Board shall be composed of three members to be appointed by the Lieutenant Governor in Council.

(3) Subject to section 5, a member of the Board shall hold office during good behaviour for ten years from the date of his appointment to the Board, but a member is removable from office by the Lieutenant Governor in Council on address of the Assembly.

(4) For cause assigned, a member may be suspended at any time by the Lieutenant Governor in Council and another person appointed to act in the stead of the suspended member until the session of the Assembly next ensuing after the suspension.

**4.** In the event of the absence of any members of the Board, or of their inability to act, or in the event of any vacancies in the membership of the Board, the member of the Board present may exercise all the jurisdiction and powers of the Board.

**5.** (1) If not disqualified by age, a member of the Board on the expiration of his term of office is eligible for re-appointment.

(2) Subject to the Provisions of *The Public Service Act* relating to reappointment or continuance in office, a member shall cease to hold office upon reaching the age of sixty-five years.

**6.** The members of the Board shall receive such remuneration, conduct such investigations, make such reports and perform such duties, in addition to the duties assigned to them by this or any other Act, as may be prescribed or directed by the Lieutenant Governor in Council.

**7.** (1) One member of the Board shall be appointed by the Lieutenant Governor in Council to be chairman of the Board.

**8.** (1) Signature of documents. Section 3 (3), but made to apply generally and not simply where there is an absence or disability of the chairman.

(2) Section 3 (4).

**9.** (1) Acting members. Section 4 (1) but the words prefacing this section "At any time during which the Board consists of the chairman thereof but no others" are removed; and "temporary" member replaced by "acting" member.

(2) Section 4 (2), but "acting" instead of "temporary".

**10.** Body corporate. Section 5 (1) in part.

**11.** (1) Common seal of Board. Balance of section 5 (1).

(2) Section 5 (2).

**12.** Employees of Board. Section 6 revised.

**13.** (1) Technical assistance. Section 7 (1).



(2) The member so appointed is entitled to hold the position of chairman so long as he continues to be a member of the Board.

**8.** (1) An order, rule, regulation or other document may be signed by any one member on behalf of the Board and when so signed has the like effect as if signed by the chairman.

(2) Whenever it appears that a member not being the chairman has acted for and in the stead of the chairman, it shall be conclusively presumed that he has so acted in the absence or disability of the chairman.

**9.** (1) The Lieutenant Governor in Council, upon the request of the chairman, may appoint one or more fit and proper persons as acting members of the Board, or a substitute for an acting member to act during the absence or illness of an acting member, for such period and upon such terms and at such remuneration as may be prescribed by the Lieutenant Governor in Council.

(2) An acting member of the Board shall assist the chairman in the discharge of the powers and duties of the Board and in the performance of that duty the acting member has and may exercise all the powers and authority that are by this Act conferred upon a member of the Board.

**10.** The Board is a body corporate.

**11.** (1) The common seal of the Board shall be of such design as may be approved by the Lieutenant Governor in Council.

(2) The common seal of the Board shall be judicially noticed.

**12.** (1) Subject to the approval of the Lieutenant Governor in Council, the Board may employ the services of such engineers, accountants, legal counsel and technical and professional persons, and such other officers, clerks or employees as the Board deems necessary.

(2) The Board may prescribe the duties and conditions of employment and remuneration of all persons employed by it.

**13.** (1) Subject to the approval of the Lieutenant Governor in Council, the Board may from time to time appoint one or more experts or persons having special technical or other knowledge to inquire into and report to the Board in respect of any matter before the Board or in respect of which the Board deems it necessary to have information for the proper carrying out of its duties under this Act.

(2) Section 7 (2).

**14. Secretary.** Section 8 revised.

**15. Copies of Board rules, etc.** Section 9 revised.

**16. Acting secretaries.** Section 10, but instead of a “secretary pro tem”, Board may now appoint acting secretaries.

**17. Report by member.** Section 11 revised.

**18. Services of provincial employees.** Section 12.

(2) A person appointed by the Board pursuant to this section shall be paid such remuneration as may be prescribed by the Lieutenant Governor in Council.

**14.** Subject to the approval of the Lieutenant Governor in Council, the Board shall appoint a secretary who shall

- (a) keep a record of all proceedings conducted before the Board or any member thereof,
- (b) have the custody and care of all records and documents belonging to or pertaining to the Board and filed in his office,
- (c) obey all rules or directions given by the Board touching his duties or office, and
- (d) ensure that every regulation, rule or order made by the Board is drawn pursuant to the direction of the Board, properly authenticated and retained in his office.

**15.** Upon the application of any person and on payment of such fees as the Board may prescribe, the secretary shall deliver to him a certified copy of any regulation, rule or order made by the Board.

**16.** The Board may appoint acting secretaries to act in the absence of the secretary, but a member of the Board may act as secretary in the absence of the secretary.

**17. (1)** The Board or the chairman may authorize any one of the members to report to the Board upon any question or matter arising in connection with the business of the Board.

(2) A member authorized pursuant to this section to report to the Board upon a question has and may exercise all the powers of the Board for the purpose of taking evidence or acquiring the necessary information for the purpose of his report.

(3) When a member so authorized reports to the Board, the report may be adopted as the order of the Board or otherwise dealt with as to the Board seems proper.

**18. (1)** For the purposes of carrying out the duties and exercising the powers imposed or conferred upon it by or pursuant to this Act, the Board may avail itself of the services of any officer or other employee of any board, commission or department of the Province.

**19.** Remuneration for special services. Section 13 revised.

**20.** Payment of Board expenses. Section 14.

**21.** Residence of Board members. Section 15 revised.

**22.** Quarters. Section 16 in part; balance of section 16 and section 17 omitted, ie. place where Board is to sit.

**23.** Use of court houses. Section 18 (1).

**24.** Use of municipal halls. Section 18 (2).

**25.** Full time service on Board. Section 19 revised.

**26.** Prohibitions. Section 20. Introductory words before clause (a) are new; balance revised.

(2) Each officer or employee of any board, commission or department of the Province shall give to the Board such service, assistance and information as he is able to give and the Board requires, subject to the approval of the Minister in charge of the administration of the service in which the officer or employee is employed.

**19.** Where the Board appoints or directs any person not being a member of its staff to perform any service required by this Act, that person shall be paid therefor such sum for services and expenses as the Lieutenant Governor in Council may determine.

**20.** The salaries and all expenses incurred by the Board in the performance of its duties, including all reasonable travelling and subsistence expenses of the members and the secretary, and of such members of the staff of the Board as may be required by the Board, shall be paid monthly out of the General Revenue Fund of the Province.

**21.** The members of the Board shall, during their terms of office, reside in such places as the Lieutenant Governor in Council determines from time to time.

**22.** The Lieutenant Governor in Council shall cause the Board to be provided with suitable quarters, furniture and facilities for the holding of its sittings and the transactions of its business generally.

**23.** Where sittings of the Board, or of any member thereof, are to be held in any city, town or place in which a court house is situate, the member presiding at any such sittings has, in all respects, the same authority as a judge of the Supreme Court with regard to the use of the court house and other buildings or apartments set apart in the judicial district for the administration of justice, but subject to the prior right of the court and of judicial and administrative officers to use such buildings and apartments for the purposes of the administration of justice.

**24.** Where sittings of the Board or of any member thereof are to be held in any municipality where there is a hall belonging to the municipality, the municipality shall, upon request, allow the sittings to be held in that hall without charge.

**25.** Unless otherwise expressly directed by the Lieutenant Governor in Council, the members of the Board shall devote their whole time to the performance of their duties under this Act.

**26.** No member of the Board shall hold any office or carry on any business or employment inconsistent with the performance of his duties under this Act, nor shall he, directly or indirectly,

**27.** Report to Executive Council. Section 52.

**28.** (1) Jurisdiction and powers. Section 21 (a) to (h) revised.  
Clause (i) substance of section 2 (m) (ix).

- (a) hold, purchase, or become interested in any stock, debenture or other security issued by a local authority in Alberta, or become concerned or interested in a bargain or contract for the construction of any work made with or on behalf of any such local authority, or become or remain a member of any company that deals in the securities of local authorities or is concerned or interested in any such bargain or contract,
- (b) hold or acquire any interest in the stock or securities of an owner of a public utility or of a company that is the only or principal shareholder of the owner of a public utility, or
- (c) have any interest in any device, appliance, machine, patent, process or article, or in any part thereof, that may be used for the purpose of the business of a public utility.

**27.** The Board shall, in the month of January in each year, transmit to the President of the Executive Council for the year ending on the preceding thirty-first day of December, a report showing briefly,

- (a) the applications to the Board and summaries of the findings made thereon,
- (b) the number and nature of the inquiries that it has held of its own motion, and
- (c) such other matters as the Lieutenant Governor in Council directs.

## **Division 2**

### **Powers of the Board**

**28.** (1) The Board has all the necessary jurisdiction and power:

- (a) to deal with public utilities and the owners thereof as provided in this Act;
- (b) to inquire into the merit of any application of a local authority for permission to raise money by way of debenture or upon the security of stock, as provided in this Act;
- (c) to supervise the expenditure of moneys borrowed by a local authority as provided in this Act;
- (d) to deal with the financial affairs of local authorities, as provided in this Act;
- (e) to grant permission for the extension of the time for repaying the indebtedness incurred by a local authority for the cost of its public works, as provided in this Act;
- (f) to separate land from an urban municipality and annex land to a city, as provided in this Act;
- (g) to order compromises of tax arrears as provided in this Act;

(2) Section 2 (i) revised.

**29.** General power. Section 23 (1).

**30.** Questions of law and fact. Section 23 (2).

**31.** Board has powers of Supreme Court. Section 23 (3).

**32.** Form of evidence. Section 23 (4).

**33.** Rules of evidence. Section 23 (5).



- (h) to deal with plans of subdivision as provided in this Act, and deal with public utilities and related matters as they concern suburban areas adjacent to a city, as provided in this Act;
- (i) to deal with any plant, premises, equipment, service or organization for the production, processing, handling, bottling, distribution, supply, delivery, keeping for sale or the sale of milk and cream, or the products of milk in liquid form, as provided in this Act.

(2) In addition to the jurisdiction and powers mentioned in subsection (1), the Board has all necessary jurisdiction and powers to perform such duties as are from time to time assigned to it by statute or pursuant to statutory authority.

**29.** In matters within its jurisdiction the Board may order and require any person, or local authority, to do forthwith or within or at any specified time and in any manner prescribed by the Board, so far as it is not inconsistent with this Act or any other Act conferring jurisdiction, any act, matter or thing that such person, or local authority, is or may be required to do under this Act or under any other general or special Act, and may forbid the doing or continuing of any act, matter or thing that is in contravention of any such Act or of any regulation, rule, order or direction of the Board.

**30.** The Board may, as to matters within its jurisdiction, hear and determine all questions of law or of fact.

**31.** Except as otherwise provided in this Act, the Board has, in regard to the amendment of proceedings, the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders, the payment of costs, and all other matters necessary or proper for the due exercise of its jurisdiction or otherwise for carrying any of its powers into effect, all such powers, rights, privileges and immunities as are vested in the Supreme Court of Alberta.

**32.** The Board may in its discretion accept and act upon evidence by affidavit or written affirmation, or by the report of any officer or engineer appointed by it, or obtained in such other manner as it may deem proper.

**33.** All hearings and investigations before the Board shall be governed by rules which may be adopted by the Board, and in the conduct of hearings and investigations before it the Board is not bound by the technical rules of legal evidence.

**34.** (1) Incriminating questions. Section 23 (6).  
 (2) Section 23 (7).

**35.** (1) New.  
 (2) Privilege of member and employee. Section 23 (8).

**36.** (1) Examining officers. Section 45 (1).  
 (2) Section 45 (2).  
 (3) Section 45 (3) revised.

**37.** (1) Examining officer's report. Section 23 (9) (a) (i) to (iv) revised.  
 (2) Section 23 (9) (b) revised.

**34.** (1) No person shall be excused from testifying or from producing any book, document or paper in any investigation or inquiry by or upon a hearing before the Board, when ordered to do so by the Board, upon the ground that the testimony or evidence, book, document or paper required of him may tend to criminate him or subject him to penalty or forfeiture, and no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he has, under oath, testified or produced documentary evidence, but no person so testifying is exempt from prosecution or punishment for any perjury committed by him in his testimony.

(2) Nothing in this section shall be construed as giving to any body corporate any immunity of any kind.

**35.** (1) Neither the members, nor the secretary of the Board, nor any employee of the Board, shall be personally liable for anything done by the Board or by him or under the authority of this or any other Act of the Legislature.

(2) No member or employee of the Board shall, in any civil suit to which the Board is not a party, be required to give testimony with regard to information obtained by him in the discharge of his official duty.

**36.** (1) The Board may appoint or direct any person to make an inquiry and report upon any application, complaint or dispute before the Board, or upon any matter or thing over which the Board has jurisdiction.

(2) The Board may order by whom and in what proportion the costs and expenses incurred in making the inquiry and report shall be paid, and may fix the amount of the costs and expenses.

(3) Any application, petition, matter or complaint over which the Board has jurisdiction under this Act or any other Act may be heard by a single member of the Board who, after the hearing, shall report his findings to the Board, and the Board may thereupon deal with the application, petition, matter or complaint as if the hearing had been before the Board.

**37.** (1) The Board or any person authorized by the Board to make an inquiry or report may, when it appears expedient,

- (a) enter upon and inspect any place, building, works or other property,
- (b) require the attendance of all such persons as it or he thinks fit to summon and examine and take the testimony of such persons,
- (c) require the production of all books, plans, specifications, drawings and documents, and
- (d) administer oaths, affirmations or declarations.

(2) The Board or any person authorized by the Board to make an inquiry or report has the like powers as are vested in the Supreme Court, to summon witnesses, enforce their attendance, and compel them to give evidence and produce

**38.** (1) Hearing by Board. Section 24 (1).  
(2) Section 50.

**39.** Exercise of power. Section 24 (2).

**40.** Rules of practice. Section 28 (1).

**41.** (1) Section 29 (1).  
(2) Section 29 (2).

**42.** New. Broadens the basis of contempts of the Board. Cf. section 29 (3).

**43.** (1) Notices. Section 30.

the books, plans, specifications, drawings and documents that it or he may require them to produce.

**38.** (1) The Board of its own motion may, and upon the request of the Lieutenant Governor in Council shall, inquire into, hear and determine any matter or thing within its jurisdiction.

(2) The Lieutenant Governor in Council may, by order, at any time refer to the Board for a report or other action any question, matter or thing arising or required to be done in respect of any matter subject to the jurisdiction of the Board under any general or special Act and the Board shall without unnecessary delay comply with the order.

**39.** Any jurisdiction or power vested in the Board under this Act or any other Act may be exercised from time to time, or at any time, as the occasion requires.

**40.** The Board may make rules of practice, not inconsistent with this Act, regulating its procedure and the times of its sittings.

**41.** (1) The Board may, where in its opinion the attendance of any witnesses before the Board is desirable, cause to be served upon such witnesses a notice requiring their attendance before the Board, and the notice shall be signed by a member or the secretary thereof.

(2) In case of failure or refusal on the part of any person to comply with a notice to attend issued by the Board, a judge of the Supreme Court of Alberta, on the application of the Board, may issue a bench warrant requiring the attendance of the witness before the Board.

**42.** A person who commits or does any act, matter or thing that would, if done in or in respect of the Supreme Court, constitute a contempt of the Court is in contempt of the Board, and on the application of the Board a judge of the Supreme Court of Alberta may commit that person for contempt of the Board, and the judge has the same power of committal in respect of contempt of the Board as he has in respect of contempts of the Supreme Court.

**43.** (1) Any notice with regard to matters before or to come before the Board and required or authorized to be given in writing

- (a) by the Board, may be signed by the chairman, any other member of the Board, or the secretary,
- (b) by any person appointed by the Board, may be signed by that person, or
- (c) by any other person, may be signed by that other person or his duly authorized agent or solicitor.

~~(2) Section 31.~~

(3) Section 32 (1), but publication in local newspaper made an alternative rather than an additional service as at present.

(4) Section 39.

~~44.~~ Service of Board orders, etc. Section 32 (2) changed to permit service by mail and on agent or solicitor.

~~45.~~ Peace officers to assist Board. Section 33.

~~46.~~ (1) Section 34 (1).

(2) Section 34 (2).

(2) Any such notice required to be given to a company, a municipal or other corporation, co-partnership, firm or individual, shall be deemed to be sufficiently given by delivering the same, or a copy thereof, within the time, if any, limited therefor,

- (a) in the case of a municipal corporation, to the head of the municipality or to the clerk or secretary,
- (b) in the case of any other corporation or company, to the president, vice-president, manager or secretary, or to some adult person in its employ at its head office or chief place of business within the Province,
- (c) in the case of a firm or co-partnership, to any member thereof or at the last known place of abode of any such member, to any adult member of his household, or at the office or place of business of the firm to a clerk employed therein, and
- (d) in the case of an individual, to him, or, at his last known place of abode, to any adult member of his household, or, at his office or place of business, to a clerk in his employ.

(3) If, in any case within the jurisdiction of the Board, it is made to appear to the satisfaction of the Board that service of any such notice cannot conveniently be made in the manner provided in subsection (2), the Board may order and allow service to be made by publication in the Gazette or by publication in a local newspaper, and such publication in each case shall be deemed to be equivalent to service in the manner provided in subsection (2).

(4) In contentious matters, the Board may require such notice of an application to or hearing by the Board to be given, as it deems requisite.

**44.** Any rule, order, direction, decision, report or other document may, unless in any case otherwise provided, be served by personal delivery or by mailing a certified copy thereof, with postage prepaid, to the person to be served or his duly authorized agent or solicitor.

**45.** Sheriffs, deputy sheriffs, constables and other peace officers shall, whenever required to do so, aid, assist and obey the Board in the exercise of the jurisdiction conferred by this Act.

**46.** (1) The officials of any local authority to whom the Board makes application for statements, reports, copies of documents or information of any kind, shall furnish the required statements, copies or information to the Board free of cost.

(2) The Registrars of Land Titles in the different land registration districts in the Province and the Department of Public Works shall furnish the Board with such certificates and certified copies of documents as the Board may in writing require, without charge, and the Board and any

**47.** Corporation instruments as evidence. Section 35.

**48.** (1) Signature on Board documents. Section 36 (1).  
(2) Section 36 (2) revised.

**49** (1) Certified copies. Section 37 (1).  
(2) Section 37 (2).

**50.** (1) Orders without notice. Section 40 (1).



member or official of the Board thereunto authorized may at any time search in the public records of the land titles offices without charge.

**47.** A written or printed document purporting to have been issued or authorized by a corporation or any officer, agent or employee of a corporation, or by any other person or corporation, for or on its behalf, shall, as against the corporation, be received in evidence as *prima facie* proof of the issue of that document by the corporation, without any further proof than the mere production of the document.

**48.** (1) A document purporting to be signed by the chairman and secretary of the Board or by a single member of the Board, or by any officer of the Board, is, without proof of the signature, *prima facie* proof that the document was duly signed, and is sufficient notice to a company and all parties interested, if served in the manner hereinbefore provided for service of notice, that the document was duly signed and issued by the Board or an officer of the Board, as the case may be.

(2) If the document purports to be a copy of any regulation, rule, order, direction, decision or report made or given by the Board, or any of its officers, it is *prima facie* proof of the regulation, rule, order, direction, decision or report, and when served in the manner hereinbefore provided is sufficient notice of the regulation, rule, order, direction, decision or report from the time of service.

**49.** (1) A document purporting to be certified by the secretary as being a copy of a document deposited with the Board, or any portion thereof, is, without proof of the signature of the secretary, *prima facie* proof of the original document, and that it is so deposited, signed, certified, attested or executed by the persons by whom and in the manner in which it purports to be signed, certified, attested or executed, as shown or appearing from the certified copy, and also, if the certificate states the time when the original was deposited, that it was deposited at the time so stated.

(2) A copy of any regulation, order or other document in the custody of the secretary, or of record with the Board, purporting to be certified by the secretary to be a true copy and purporting to be sealed with the seal of the Board, is *prima facie* proof of the regulation, order or document without proof of the signature of the secretary.

**50.** (1) When the Board is authorized upon notice to the parties interested to hear an application, complaint or dispute, or to make an order, it may, upon the ground of urgency or for other reason appearing to the Board to be sufficient, notwithstanding any want of or insufficiency in the notice, make the like order or decision in the matter as if due notice had been given to all parties, and the order or decision is as valid and takes effect in all respects as if made on due notice.

(2) Section 40 (2).

**51.** Complaint and order thereon. Section 27 but widened to include other matters over which Board has jurisdiction.

**52.** (1) Terms of order. Section 41 (1).  
(2) Section 41 (2).

**53.** Partial or other relief. Section 42.

**54.** Interim orders. Section 43.

**55.** Extension of time. Section 44.

(2) A person entitled to notice and not sufficiently notified may, at any time within ten days after becoming aware of any order or decision, or within such further time as the Board may allow, apply to the Board to alter or rescind the order or decision, and the Board shall thereupon, on such notice to the other parties interested as in its discretion it thinks desirable, hear the application, and either alter or rescind the order or decision or dismiss the application as to it seems just.

**51.** Where the Attorney General, a municipality or any party interested, makes a complaint to the Board that any person has unlawfully done or unlawfully failed to do, or is about unlawfully to do, or unlawfully not to do, something relating to a matter over which the Board has jurisdiction under this or any other Act, and prays that the Board make some order in the premises, the Board shall, after hearing such evidence as it thinks fit to require, make such order as it thinks proper under the circumstances.

### **Division 3** **Board Orders**

**52. (1)** The Board may direct in any order that the order, or any portion or provision thereof, come into force at a future fixed time, or upon the happening of any contingency, event or condition specified in the order, or upon the performance, to the satisfaction of the Board or a person named by it for the purpose, of any terms that the Board imposes upon any party interested, and the Board may direct that the whole or any portion of the order have force for a limited time or until the happening of any specific event.

(2) The Board may, instead of making an order final in the first instance, make an interim order and reserve further direction, either for an adjourned hearing of the matter or for further application.

**53.** Upon any application to the Board, the Board may make an order granting the whole or part only of the application, or may grant such further or other relief in addition to, or in substitution for, that applied for as to the Board seems just and proper, as fully and in all respects as if the application had been for such partial, further or other relief.

**54.** The Board may, if the special circumstances of any case, in its opinion so require, make an interim *ex parte* order authorizing, requiring or forbidding anything to be done that the Board would be empowered on application, petition, notice and hearing to authorize, require or forbid, but no such order shall be made for any longer time than the Board deems necessary to enable the matter to be heard and determined.

**55.** When any work, act, matter or thing is, by any rule, order or decision of the Board, required to be done, performed or completed within a specified time, and if the

**56.** Rehearing, variation, etc. Section 46 revised.

**57.** Order need not show jurisdiction. Section 47 (1) revised.

**58.** Enforcement orders. Section 48 (1).

**59.** (1) Registration of order. Section 48 (2).

(2) Section 48 (3).

(3) Section 48 (4).

**60.** (1) Costs of proceedings. Section 51 (1).

(2) Section 51 (2).

(3) Section 51 (3).

(4) Section 51 (4).

circumstances of the case in its opinion so require, the Board may, upon giving such notice as it deems reasonable, or in its discretion without notice, extend the time so specified.

**56.** The Board may rehear an application before deciding it, and may review, rescind or vary any order or decision made by it.

**57.** An order of the Board need not show upon its face that any proceeding or notice was had or taken, or that any circumstance existed necessary to give it jurisdiction to make the order.

**58.** The observance of an order of the Board may be enforced by a written direction addressed to the sheriff of any judicial district, endorsed upon or annexed to a certified copy of the order and signed by the Board, and in the case of an order for payment of any money, costs, expenses or penalty, the sheriff receiving the direction shall levy the amount with his costs and expenses in like manner and with the same powers as if the order were an execution against the goods of the party to pay issued out of the Supreme Court of Alberta.

**59.** (1) In the case of an order of the Board for payment of any money, costs, expenses or penalty, a certified copy of the order signed by the secretary may be registered in any land titles office in the Province.

(2) When so registered the order constitutes a lien and charge upon any land, or interest therein that is

(a) held by the party, person, company or corporation ordered to pay the money, and

(b) situate in the land registration district in which such office is situate,

to the same extent and in the same manner as the lands would be bound by the registration of an execution issued after judgment in the Supreme Court of Alberta.

(3) The amount ordered to be paid by any order so registered may be realized in the same manner and by similar proceedings as the amount of any registered execution of the Supreme Court of Alberta.

**60.** (1) The costs of and incidental to any proceeding before the Board, except as otherwise provided in this Act, are in the discretion of the Board, and may be fixed in any case at a sum certain or may be taxed.

(2) The Board may order by whom and to whom any costs are to be paid, and by whom the same are to be taxed and allowed.

(3) The Board may prescribe a scale under which such costs are to be taxed.

(4) The Board may, with the approval of the Lieutenant Governor in Council, prescribe the fees to be paid by local authorities or persons interested in the matters that come before the Board.

**61.** Operation of orders. Section 49 (10) but revised to refer to case where no date specified.

**62.** (1) Appeal from Board. Section 49 (1).  
(2) Section 49 (2).

**63.** Deposit. Section 49 (4) revised.

**64.** (1) Evidence on appeal. Section 49 (3).  
(2) Section 49 (5).

**65.** Board may be heard. Section 49 (6).

**61.** Every order of the Board takes effect at the time prescribed by the order or if no date is prescribed, on the date of the order, and its operation is not suspended by any appeal to the court of appeal unless otherwise ordered by the court of appeal, but the Board itself may suspend the operation of its order, when appealed from, until the decision of the court of appeal is rendered, if the Board thinks fit.

#### **Division 4**

##### **Appeals**

**62.** (1) Subject to subsection (2), upon a question of jurisdiction or upon a question of law, an appeal lies from the Board to the Appellate Division of the Supreme Court of Alberta.

(2) Leave to appeal shall be obtained from a judge of the court of appeal upon application made within one month after the making of the order, decision, rule or regulation sought to be appealed from, or within such further time as the judge under special circumstances may allow, and upon notice to the parties and to the Board, and upon hearing such of them as appear and desire to be heard, and the costs of the application are in the discretion of the judge.

**63.** (1) Upon leave being obtained the party appealing shall deposit with the Registrar of the court of appeal the sum of two hundred and fifty dollars, by way of security for costs, and thereupon the Registrar shall set the appeal down for hearing at the next sittings.

(2) The party appealing shall, within ten days after the appeal has been set down, give to the parties affected by the appeal or the respective solicitors by whom the parties were represented before the Board, and to the secretary of the Board, notice in writing that the case has been set down to be heard in appeal, and the appeal shall be heard by the court of appeal as speedily as practicable.

**64.** (1) On the hearing of the appeal, no evidence other than the evidence that was submitted to the Board upon the making of the order appealed from shall be admitted, and the court of appeal shall proceed either to confirm, vary or vacate the order appealed from and in the latter event shall refer the matter back to the Board for further consideration and redetermination.

(2) On the hearing of the appeal the court may draw all such inferences as are not inconsistent with the facts expressly found by the Board and as are necessary for determining the question of jurisdiction or of law, as the case may be, and shall certify its opinion to the Board, and the Board shall make an order in accordance with that opinion.

**65.** The Board is entitled to be heard by counsel or otherwise upon the argument of any appeal.

**66.** (1) Costs on appeal. Section 49 (7) revised.  
(2) Board not liable for costs. Section 49 (8).

**67.** Orders final. Section 49 (9).

**68.** Municipality may intervene. Section 26 revised.

**69.** Regulations of Board. Section 38 revised to conform with  
The Regulations Act and to remove special publication in Gazette.

**70.** (1) Application of Part. Section 53 (1) revised.



**66.** (1) The court of appeal may fix the costs and fees to be taxed, allowed and paid upon the appeal and may make rules of practice respecting appeals under this Act, and until such rules are made the rules and practice applicable to appeals from a judge of the Supreme Court to the court of appeal apply.

(2) Neither the Board nor any member of the Board is in any case liable to costs by reason or in respect of an appeal or application.

**67.** Except as otherwise provided in this Act,

- (a) every decision or order of the Board is final, and
- (b) no order, decision or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari* or any other process or proceeding in any court.

## Division 5

### Miscellaneous Administrative Matters

**68.** (1) Where the council of a municipality deems that the interest of the public in the municipality or in a considerable portion of the municipality is sufficiently concerned, the council may by resolution authorize the municipality to become a complainant or intervenant in any matter within the jurisdiction of the Board.

(2) For the purposes of subsection (1), the council of a municipality may take any steps, incur any expense and take any proceedings necessary to submit the question in dispute to the decision of the Board, and if necessary may authorize the municipality to become a party to an appeal from a decision of the Board.

**69.** (1) A regulation, rule or order of the Board that is a regulation within the meaning of *The Regulations Act* has, when filed as required by that Act and while it remains in force, the same effect as if it had been enacted in this Act.

(2) A regulation prescribing rules of practice under section 40 and a regulation under Division 5 of Part II come into force upon publication in the Gazette or on such later date as may be specified therefor by the Board, and not upon the date of filing under *The Regulations Act*.

(3) The courts shall take judicial notice of any regulation, rule, order or decision of the Board.

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## PART II

### PUBLIC AND OTHER UTILITIES

#### Division 1

##### General

**70.** (1) This Part applies:

- (a) to all public utilities owned or operated by or under the control of a company or corporation that is subject to the legislative authority of the Province or

(2) Section 53 (2) revised.

(3) Section 53 (4) revised.

**71.** Investigation of utilities and rates. Section 57 revised.

**72.** Rates established by agreement. Section 58 (1) revised.

that has, by virtue of an agreement with a municipality, submitted to the jurisdiction and control of the Board;

- (b) subject to subsection (2), to every person owning or operating a public utility to which the jurisdiction of the Province extends;
- (c) to all public utilities owned or operated by or under the control of the Crown, or an agent of the Crown, in right of Alberta.

(2) This Part does not apply to a public utility owned or operated by a municipality unless the public utility is brought under this Act by a by-law of the municipality as provided in this Part.

(3) Where *The Water Resources Act* is applicable to an owner of a public utility, this Part shall be applied thereto as being subject to that Act and to the orders and regulations made thereunder.

**71.** When it is made to appear to the Board, upon the complaint of any owner of a public utility or of any municipality or person having an interest, present or contingent, in the matter in respect of which the complaint is made, that there is reason to believe that the tolls demanded by an owner of a public utility exceed what is just and reasonable, having regard to the nature and quality of the service rendered or of the commodity supplied, the Board

- (a) may proceed to hold such investigation as it deems fit into all matters relating to the nature and quality of the service or the commodity in question, or to the performance of the service and the tolls or charges demanded therefor,
- (b) may make such order respecting the improvement of the service or commodity and as to the tolls or charges demanded, as seems to it to be just and reasonable, and
- (c) may disallow or change, as it thinks reasonable, any such tolls or charges as, in its opinion, are excessive, unjust or unreasonable or unjustly discriminate between different persons or different municipalities, but subject however to such of the provisions of any contract existing between the owner of the public utility and a municipality at the time the complaint is made as the Board considers fair and reasonable.

**72.** Where, by any contract between an owner of a public utility and any municipality or person for the supply of any commodity or service by means of the public utility, any rate, toll or charge is agreed upon either as a fixed or variable rate, toll or charge, or a maximum or minimum rate, toll or charge, and whether such rate, toll or charge is agreed upon with respect to a present or future supply of an existing or non-existing commodity or service, then, notwithstanding any other provision of this Act, the Board

**73.** Use of public lands in a municipality. Section 59.

**74.** Permission to use public ways. Section 60 revised.

**75.** (1) Variation in terms. Section 61 (1).

(2) Section 61 (2) revised.

may, upon the application of the owner, municipality, or person and upon it being shown on the hearing of the application that the rate, toll or charge is insufficient, excessive, unjust or unreasonable, change the rate, toll or charge to such other greater or lesser rate, toll or charge, as it deems fair and reasonable.

**73.** When an owner of a public utility who has the right to enter a municipality for the purpose of placing therein, with or without the consent of the municipality, rails, posts, wires, pipes, conduits or other appliances, upon, along, across, over or under any public road, street, square, watercourse or part thereof, cannot come to an agreement with the municipality as to the use, as aforesaid, of the roadway or the watercourse in question, or as to the terms and conditions of its use, and applies to the Board for permission to use the roadway or watercourse, or to fix the terms and conditions of its use, the Board may permit the use of the roadway or watercourse, and prescribe the terms and conditions thereof.

**74.** When an owner of a public utility

- (a) is unable to extend his system, line or apparatus from a point where he lawfully does business to another point or points where he is authorized to do business, without placing rails, posts, wires, pipes, conduits or other apparatus upon, along, across, over or under some public road, street, square, watercourse or part thereof,
- (b) cannot lawfully so place rails, posts, wires, pipes, conduits or other apparatus without the consent of the municipality having control of the public road, street, square, watercourse or part thereof, and
- (c) is unable to come to an agreement with the municipality,

if the owner applies to the Board for permission to use the public road, street, square, watercourse or part thereof, for the purpose of such extension only, and without unduly preventing the use thereof by other persons already lawfully using it, the Board may permit such use, notwithstanding any law or contract granting any other person exclusive rights with respect thereto, but the Board shall prescribe the terms and conditions upon which the owner of the public utility may use the road, street, square or watercourse, or part thereof.

**75.** (1) In all differences arising between an owner of a public utility and a municipality with reference to the performance of the terms and conditions mentioned in sections 73 and 74, the Board may change the terms and conditions if, in its opinion, such changes are necessary or desirable.

(2) Upon the complaint of any municipality that an owner of a public utility doing business in the municipality has failed to extend his services to any part of the

**76.** User of public ways. Section 62 revised.

**77.** General supervision by Board. Section 64 with references to safety appliances, etc., removed as these matters are now under other enactments.

**78.** (1) Fiduciary owner of public utility. Section 65 (1) revised.  
(2) Section 65 (2) revised.

**79.** (1) Investigation of public utility. Section 66 (1).  
(2) Section 66 (2) revised.

municipality, the Board, after hearing the parties and their witnesses and making such inquiry into the matter as it sees fit, may order the extension of the services and specify the conditions under which the extension is to be done, including the cost of all necessary works which it may apportion between the owner of the public utility and the municipality in any manner it deems equitable.

**76.** Subject to the terms of any contract between an owner of a public utility and any municipality, and of the franchise or rights of that owner, the Board may define or prescribe the terms and conditions upon which an owner of a public utility, will be required or permitted to use, for any of the purposes of the public utility, any highway or any public bridge or subway constructed or to be constructed by the municipality, or two or more municipalities, and may enforce compliance with those terms and conditions.

**77.** (1) The Board shall exercise a general supervision over all public utilities, and the owners thereof, and may make such orders regarding extension of works or systems, reporting and other matters, as are necessary for the convenience of the public or for the proper carrying out of any contract, charter or franchise involving the use of public property or rights.

(2) The Board shall conduct all inquiries necessary for the obtaining of complete information as to the manner in which owners of public utilities comply with the law, or as to any other matter or thing within the jurisdiction of the Board.

**78.** (1) The fact that a receiver, manager or other official of any public utility, or a sequestrator of the property thereof, has been appointed by any court in the Province, or is managing or operating a public utility under the authority of any such court, does not prevent the exercise by the Board of any jurisdiction conferred by this Act.

(2) Every such receiver, manager or official shall manage and operate the public utility in accordance with this Act and with the orders and directions of the Board, whether general or referring particularly to the public utility, and every such receiver, manager or official, and every person acting under him, shall obey all orders of the Board within its jurisdiction in respect of the public utility, and is subject to have them enforced against him by the Board, notwithstanding the fact that the receiver, manager, official or person is appointed by, or acts under the authority of, a court.

**79.** (1) The Board may, upon its own initiative, or upon complaint in writing, investigate any matter concerning a public utility.

(2) When in the opinion of the Board it is necessary to investigate a public utility or the affairs of the owner there-

(3) Section 66 (3) revised.

**30.** Filing of schedules and rates. Section 66a revised.

**31.** (1) Fixing of rates. Section 67 revised, and section 67(1)(e), 67 (5), (6) and (7) omitted for inclusion in Gas Utilities Bill.

(a) Section 67 (1) (a) revised.

(b) Section 67 (1) (a1) revised.



of, the Board shall have access to and may use any books, documents or records with respect to the public utility and in the possession of any owner of the public utility or municipality or under the control of a board, commission or department of the Province.

(3) Where any person directly or indirectly controls the business of an owner of a public utility within Alberta, that person and any company controlled by that person shall give the Board or its agent access to any of the books, documents and records that relate to the business of the owner or shall furnish such information in respect thereof as may be required by the Board.

**80.** An owner of a public utility shall, with respect to the public utility,

- (a) file with the Board complete schedules of every classification employed and of every individual or joint rate, toll, fare or charge made, charged or enacted by him for any product supplied or service rendered within Alberta, as may be prescribed by the Board,
- (b) furnish safe, adequate and proper service and keep and maintain his property and equipment in such condition as to enable him to do so,
- (c) keep his books, records and accounts so as to afford an intelligent understanding of the conduct of his business and in accord with such uniform system of accounting as the Board may prescribe by regulations,
- (d) furnish annually, and at such other periodic intervals as the Board may require, a detailed report of finances and operations, in such form and containing such matters and verified in such manner as the Board may require,
- (e) subject to any order of the Board, maintain proper and adequate depreciation, amortization or depletion accounts on a straight line basis or unit of production method or such other basis or method as the Board may direct upon application thereto.

**81.** (1) The Board, either upon its own initiative or upon complaint in writing, may by order in writing, which shall be made after giving notice to and hearing the parties interested,

- (a) fix just and reasonable individual rates, joint rates, tolls or charges or schedules thereof, as well as commutation, mileage and other special rates, which shall be imposed, observed and followed thereafter by the owner of the public utility,
- (b) fix proper and adequate rates and methods of depreciation, amortization or depletion in respect of the property of any owner of a public utility, who shall make his depreciation, amortization or depletion accounts conform to the rates and methods fixed by the Board,

(c) Section 67 (1) (b) revised.

(d) Section 67 (1) (c).

(e) Section 67 (1) (d).

(2) Section 67 (2).

(3) Section 67 (3).

(4) Section 67 (4).

(5) Section 67 (8).

- (c) fix just and reasonable standards, classifications, regulations, practices, measurements or service which shall be furnished, imposed, observed and followed thereafter by the owner of the public utility,
  - (d) direct any railroad or street railway or tramway company to establish and maintain at any junction or point of connection or intersection with any other line of the company, or with any line of any other railroad, street railway or tramway company, such just and reasonable connections as are necessary to promote the convenience of shippers of property, or of passengers, and in like manner direct any railroad, street railway or tramway company engaged in carrying merchandise to construct, maintain and operate, upon reasonable terms, a switch connection with any private sidetrack or line that is constructed by any private shipper to connect with the railroad or street railway or tramway where, in the judgment of the Board, such switch connection is reasonable and practicable and can be put in with safety, and will furnish sufficient business to justify the construction and maintenance of the same, and
  - (e) require an owner of a public utility to establish, construct, maintain and operate any reasonable extension of his existing facilities when in the judgment of the Board such extension is reasonable and practical and will furnish sufficient business to justify its construction and maintenance, and when the financial position of the owner of the public utility reasonably warrants the original expenditure required in making and operating the extension.
- (2) In fixing just and reasonable rates, tolls or charges, or schedules thereof, to be imposed, observed and followed thereafter by an owner of a public utility, the Board shall determine a rate base for the property of the owner that is used or required to be used in his service to the public within Alberta and fix a fair return thereon.
- (3) In determining a rate base under subsection (2), the Board shall give due consideration
- (a) to the cost of the property when first devoted to public use, to prudent acquisition cost to the owner, less depreciation, amortization or depletion in respect of each, and
  - (b) to necessary working capital.
- (4) In fixing under subsection (2) the fair return that an owner of a public utility is entitled to earn on the rate base, the Board shall give due consideration to all such facts as in its opinion are relevant.
- (5) In fixing just and reasonable rates, the Board has power to give effect to such part of any excess revenues received or losses incurred by an owner of a public utility

(6) Section 42a revised.

**82.** (1) Review by Board. Section 67a (1).  
(2) Section 67a (2).  
(3) Section 67a (3).

**83.** Limitation on increasing rates. Section 68.

**84.** Joint user of equipment. Section 69.

**85.** (1) Span wires. Section 70 (1).

after an application has been made to the Board for the fixing of rates as the Board may determine has been due to undue delay in the hearing and determining of the application.

(6) In fixing just and reasonable rates, tolls or charges or schedules thereof, under this section, to be imposed thereafter by the owner of a public utility, the Board shall not fix any rate, toll or charge or schedules thereof in such a manner that the rate to the consumers or any class of consumers may be increased from year to year or other period without a further application to and order of the Board thereon.

**82.** (1) The Board shall, at least once in every three years, review the affairs, earnings and accounts of each owner of a public utility in respect of which the Board has previously fixed just and reasonable rates, tolls or charges, or schedules thereof, under section 81.

(2) The Board may from time to time in its discretion review the affairs, earnings and accounts of any owner of a public utility in respect of whose business the Board has not fixed just and reasonable rates, tolls or charges under section 81.

(3) A person or municipality whose interest, in the opinion of the Board, is affected or likely to be affected by the result of a review by the Board of the business of an owner of a public utility is entitled to obtain from the Board the result of the review, including all information in the Board's possession in respect of the earnings of the owner.

**83.** In considering and acting upon any application or matter before the Board and involving the question of rates to be charged for service by any owner of a public utility, the Board shall not make any ruling or direction to raise rates for any such service beyond the amounts that the owner of the public utility desires to impose.

**84.** Where it is in the public interest or where, as a means of saving expense, it is in the interest of any owners of public utilities that there be a joint use of the poles, conduits or any equipment or other means of distribution, the Board may, after notice to all parties concerned, in cases where it is practicable, order such joint user and declare the terms thereof, and by such order or subsequent order make such provisions as are necessary for the convenient and effectual carrying out of the work, and for the operation of the services by means of the equipment so to be jointly used.

**85.** (1) For the purpose of clearing and improving the appearance of streets, and wherever it may be found practicable to do so, the Board may, after notice to all parties concerned, direct that the wires known as span wires of a street

(2) Section 70 (2).

(3) Section 70 (3).

(4) Section 70 (4).

**36.** Listing of utility officers. Section 71.

**37.** (1) Prohibitions. Section 79 (1) revised.

railway or tramway company shall, on any street or part of a street be affixed to buildings on the properties abutting on the street.

(2) No direction shall be made so as to involve any expense to the owner or occupant of any such building, but the expense shall be paid by the municipality or by the street railway or tramway company, as the case may be, or by the two jointly, as the Board may direct.

(3) The directions shall be given and the work shall be so carried out as to cause no permanent injury to any building or inconvenience to the owner or occupant thereof.

(4) The necessary access to any building for this purpose shall be afforded and, in case of any question affecting the same, the Board shall give proper directions.

**86.** The Board may require every corporation that is the owner of a public utility

- (a) to file with the Board a statement in writing, verified by the oaths of the president and secretary thereof and setting forth the name, title of office or position and post office address, and the authority, powers and duties, of every officer, member of the board of directors, trustee, executive committee, superintendent, chief or head of construction and operation, or department, division or line of construction and operation thereof, in such form as to disclose the source and origin of each administrative act, rule, decision, order or other action of the corporation, and
- (b) within ten days after any change is made in the title of, or authority, powers or duties appertaining to, any such office or position, or the person holding the same, to file with the Board a like statement, verified in like manner, setting forth the change.

## **Division 2**

### **Particular Restrictions, Duties and Obligations**

**87.** (1) No owner of a public utility shall

- (a) make, impose or extract any unjust or unreasonable or unjustly discriminatory or unduly preferential individual or joint rate, commutation rate, mileage or other special rate, toll, fare, charge or schedule for any product or service supplied or rendered by it within Alberta,
- (b) adopt or impose any unjust or unreasonable classification in the making of or as the basis of any individual or joint rate, toll, fare, charge or schedule for any product or service rendered by it within Alberta,
- (c) adopt, maintain or enforce any regulation, practice or measurement that is unjust, unreasonable, unduly preferential, arbitrarily or unjustly discrim-

(2) (a) and (b) Section 79 (2) (a) and (b).



inatory or otherwise in violation of law, or provide or maintain any service that is unsafe, improper or inadequate, or withhold or refuse any service that can reasonably be demanded and furnished when ordered by the Board,

- (d) make, or give, directly or indirectly, any undue or unreasonable preference or advantage to any person or corporation or to any locality or to any particular description of traffic in any respect whatsoever, or subject any particular person or corporation or locality or any particular description of traffic to any prejudice or disadvantage in any respect whatever,

- (e) issue any

- (i) of its shares or stock, or
  - (ii) any bonds or other evidences of indebtedness, payable in more than one year from the date thereof,

unless it has first satisfied the Board that the proposed issue is to be made in accordance with law and obtained the approval of the Board of the purposes of the issue and an order of the Board authorizing the issue,

- (f) capitalize

- (i) its right to exist as a corporation,
  - (ii) any right, franchise or privilege, or
  - (iii) any contract for consolidation, merger or lease, in excess of the amount actually paid to the Province or any municipality as the consideration therefor, exclusive of any tax or annual charge, or

- (g) without the approval of the Board,

- (i) sell, lease, mortgage or otherwise dispose of or encumber its property, franchises, privileges or rights, or any part thereof, or
  - (ii) merge or consolidate its property, franchises, privileges or rights, or any part thereof, with that of any other owner of a public utility,

and every sale, lease, mortgage, disposition encumbrance, merger or consolidation made in contravention of this clause is void and of no effect, but nothing in this clause shall be construed to prevent in any way the sale, lease or other disposition of any of the property of any owner of a public utility in the ordinary course of his business.

- (2) Notwithstanding subsection (1), but subject to clause (g) thereof, the approval, authority, permission or consent of the Board is not required in or with respect to

- (a) the issue of any shares of its capital stock by an owner of a public utility under the exercise of any optional right of conversion attaching to any shares, stocks, bonds, debentures, debenture stock or other evidence of indebtedness, the issue of which has previously been approved by the Board,

(c) New.

**88.** (1) Prohibited share transactions. Section 80 revised.  
(2) Section 89 (1) revised.  
(3) Section 81 (2).

**89** (1) and (2) Rate changes prohibited. Section 83 (1) revised.  
(3) Section 83 (2).

**90.** Accounts of municipal utility. Section 84.

- (b) a right of entry, sale, disposition or other proceedings for the enforcement of a mortgage or charge created by trust deed or other instrument or security, in the enforcement of, or pursuant to, the security thereby constituted or in the exercise of the rights or remedies thereby granted or otherwise available at law, if such trust deed or other instrument or security was approved or authorized by the Board, or
- (c) the declaration or issuance of a stock dividend by an owner of a public utility.

**88.** (1) Unless authorized to do so by an order of the Board, the owner of a public utility incorporated under the laws of Alberta, in this section referred to as the "Alberta company", shall not sell or make or permit to be made upon its books any transfer of any share or shares of its capital stock

(a) to any other owner of a public utility, or

(b) to any other corporation, however incorporated, if the result of the sale or transfer, in itself or in connection with other previous sales or transfers, would be to vest in the other corporation more than one-half of the outstanding capital stock of the Alberta company.

(2) Every purported

(a) assignment or transfer, or

(b) agreement for assignment or transfer,

by or through any person or corporation in contravention of subsection (1) is void and of no effect.

(3) Nothing in subsection (1) shall be construed to prevent the holding of stock lawfully acquired before the first day of July, 1923.

**89.** (1) No change in any existing individual rates, joint rates, tolls or charges or schedules thereof or any commutation, mileage or other special rates shall be made by any owner of a public utility, nor shall any new schedule of any such rates, tolls or charges be established, until the changed rates or new rates are approved by the Board.

(2) Upon approval the changed rates or new rates come into force on a date to be fixed by the Board, and the Board may, either upon written complaint or upon its own initiative, hear and determine whether the proposed increases, changes or alterations are just and reasonable.

(3) The burden of proof to show that any such increases, changes or alterations are just and reasonable is upon the owner of the public utility seeking to make them.

**90.** Every municipality operating a public utility shall keep the accounts thereof in the manner prescribed by the Board for the accounting by the owners of similar public utilities, and shall file with the Board such statements thereof as may be directed by the Board.

**91.** Prohibitions applying to railways. Section 85 revised.

**92.** Highway crossings. Section 86.

**93.** Railway crossing gates. Section 87.

**94.** (1) Municipal franchises. Section 88 (1) revised.

(2) Section 88 (2) altered to permit approvals upon the consent of the parties to a proposed franchise agreement.

(3) Section 88 (3).

**95.** (1) Franchises to extra-provincial companies. Section 89 (1) revised.

**91.** No railway company within the legislative authority of the Province shall, without first obtaining the approval of the Board, abandon any railway station or stop the sale of passenger tickets, or cease to maintain an agent to receive and discharge freight, at any station in Alberta at which passenger tickets are regularly sold or at which an agent is maintained.

**92.** (1) No highway shall be constructed at grade across the tracks of any railway company within the legislative authority of the Province, nor shall the tracks of any such railway company, or of any street railway company be laid across any highway, so as to make a new crossing at grade, nor shall the tracks of any such railway or street railway company be laid across the tracks of any other railway or street railway company, without first obtaining therefor permission from the Board.

(2) This section does not apply to the replacement of lawfully existing tracks.

**93.** Whenever it appears to the Board that a public highway and a railway within the legislative authority of the Province cross one another, or that a public highway and a street railway cross one another, or that such a railway and a street railway cross one another, at the same level, and that conditions at the grade crossing make it necessary for the protection of the travelling public at the grade crossing that gates be erected or that some other reasonable provision for the protection of the travelling public at the grade crossing should be adopted, the Board may order and direct the railway company or the street railway company, or either or both of them to install such protective devices or adopt such other reasonable provision for the protection of the travelling public at such crossing as in the opinion of the Board is necessary.

**94.** (1) No privilege or franchise granted to any owner of a public utility by any municipality within Alberta is valid until approved by the Board.

(2) Approval may be given when, after hearing the parties interested, or with the consent of the parties, the Board determines that the privilege or franchise is necessary and proper for the public convenience and properly conserves the public interests.

(3) The Board may, in so approving, impose such conditions as to construction, equipment, maintenance, service or operation as the public convenience and interests reasonably require.

**95.** (1) No municipality shall enter into any agreement with, or grant any franchise to, any company, the business and operations of which are not subject to the legislative authority of the Province, for the operation, management, or control of any system, works, plant or equipment for the

(2) Section 89 (2).

(3) Section 89 (3).

**96.** Conditions required in municipal franchises. Section 90 (1) and (2) revised.

**97.** (1) Rural electrical power. Section 90 (3) revised.  
(2) Section 90 (4).

production, transmission, delivery or furnishing of water, heat, light or power, either directly or indirectly, to the municipality, unless there is contained in the agreement or grant a provision whereby the company agrees to submit its business and operations to the control and supervision of the Board in the same manner and to the same extent as if the company were an owner of a public utility within the meaning of this Act.

(2) Any such provision shall, before the final entering into of any agreement or the granting of any franchise, be submitted for approval to the Board.

(3) Any agreement entered into between any municipality and any such company as is referred to in this section, and any franchise granted by any municipality to any such company, in contravention of this section, is void and of no effect.

**96.** The Board shall not approve of the granting by a municipality to any person of any franchise or privilege in respect of the supply of power unless

- (a) it is a term of the grant that the rights conferred thereby are not exclusive as against Her Majesty in right of the Province,
- (b) the person seeking the franchise or privilege has satisfied the Board that his scheme for the supply of power is reasonable and sufficient, having regard to the general circumstances, and
- (c) the Board is satisfied that having regard to the availability of any other source of supply in the area in which the municipality is situate and to any other circumstances, the granting of the franchise or privilege is to the general benefit of the area directly or indirectly affected thereby.

**97.** (1) No person shall supply electrical power within any county, municipal district or improvement district, to any person without the approval of the Board, which shall not be given unless the Board is satisfied, having regard to the availability of any other source of power and to any other circumstances, that it is to the general benefit of the area.

(2) Before granting any approval required by subsection (1), the Board shall also give consideration to the present or future need for the extension of electrical service to rural areas throughout Alberta, and in its order granting the approval shall impose such conditions, with respect to the construction of main transmission lines and service lines and with respect to the equipment used or required for or in connection with the operation thereof, as appear to the Board expedient or requisite having regard to existing or future extensions of electrical service to rural areas.

(3) Section 90 (5).

**98.** Union of utilities. Section 91.

**99.** Telephone system connections. Section 108.

**100.** Section 109.

**101.** (1) Oil pipe lines. Section 76 (1) revised.



(3) Notice of any application to the Board for the approval required by subsection (1) shall be given by the applicant to the Alberta Power Commission.

**98.** Where, by any general or special Act, an owner of a public utility is authorized to unite with the owner of any other public utility, the union is subject to the consent of the Board, and has no effect until the order authorizing the same is published in the *Gazette*.

**99.** (1) Where an owner of a public utility for the conveyance of telephone messages desires to have his system connected or reconnected with that of another owner of a like public utility for the purpose of obtaining direct communication whenever required between one telephone or telephone exchange on the one telephone system and another telephone or telephone exchange on the other telephone system, or where the owner of a public utility for the conveyance of telephone messages is dissatisfied with the terms and conditions upon which an existing connection between the telephone utilities is maintained or proposed to be maintained, the owner may apply to the Board for an order directing the connection, reconnection or the maintenance of the existing connections, as the case may be.

(2) Upon any such application, the Board, after taking into consideration all circumstances that in its opinion ought to be considered, may make any order in the premises that the Board deems proper and may thereby

- (a) prescribe the conditions upon which the order is to become operative, and the rates, tolls, charges or other compensation to be paid by either owner to the other owner, or by any person or persons to either of the owners, in respect of any such connection, reconnection, or maintenance of an existing connection or in respect of the benefit accruing therefrom,
- (b) vary the terms and conditions of any existing connection,
- (c) direct any connection to be discontinued, and
- (d) give such other ancillary directions as in the opinion of the Board are calculated to render the order a complete and effective remedy.

**100.** An owner of a public utility for the conveyance of telephone messages, whose business and operations are not subject to the legislative authority of the Province, may, if he has capacity to do so, make an application under section 99, but every order made as a consequence of such an application is only effective with respect to matters within the legislative authority of the Province.

### **Division 3**

#### **Pipe Line Charges**

**101.** (1) The Board, after notice to and hearing of the parties interested, may fix the just and reasonable rates,

(2) Section 76 (2) revised.

**102.** Municipally owned utilities. Section 100 revised.

**103.** (1) Milk products. Section 54 (1).

(2) Section 54 (2) in part but reference to "inquiry" replaced by "opinion of board".

(3) (a) Balance of section 54 (2) and section 54 (2) (a).

tolls and charges for the gathering, transporting, distributing, handling and delivery of oil or any specified kind thereof by means of any oil pipe line that is or is declared by the Oil and Gas Conservation Board to be a common carrier, or for any service performed by the proprietor of the oil pipe line in relation to the gathering, transporting, distribution, handling or delivery of any oil.

(2) Where the subject matter of an inquiry under *The Public Inquiries Act* has included an inquiry into the operation of any oil pipe line, or any matter pertaining thereto, and the commissioners appointed to make the inquiry, recommend by any report made at any time, whether in the course of the inquiry or at the close thereof, that any rates be fixed for the gathering, transporting, distributing, handling or delivery of oil or any specified kind or kinds thereof by means of any oil pipe line, or for any service performed by the proprietor of any oil pipe line in relation to the gathering, transporting, distributing, handling or delivery of any oil, then upon the rates being approved by order of the Lieutenant Governor in Council, the Board shall, without any inquiry, make an order fixing the rates for the gathering, transporting, distributing, handling or delivery of oil, or any specified kind thereof, by means of the oil pipe line to which the report relates, at the rates recommended by the report.

#### **Division 4**

##### **Municipally Owned Utilities**

**102.** (1) A municipality owning or operating any public utility may, by by-law of the council thereof approved by the Lieutenant Governor in Council, provide that the public utility shall come under the operation of this Act and be subject to the control and orders of the Board.

(2) Upon the approval of the by-law by the Lieutenant Governor in Council the public utility owned or operated by the municipality thereafter comes under the operation of this Act and is subject to the control and orders of the Board.

#### **Division 5**

##### **Milk and Food Products**

**103.** (1) The Board has jurisdiction upon its own initiative or upon complaint in writing to inquire into any matter relating to the production, supply, distribution or sale of milk.

(2) Where, in the opinion of the Board, the milk supply in any part of the Province is likely to be interrupted or impaired in quality to an extent affecting the public health or convenience or that the distribution, sale or disposal is subject to discriminatory, unfair or unwarranted competition, the Board may make such regulations and orders as it deems necessary in the public interest.

(3) Without limiting the generality of its powers under subsection (2), the Board may

(b) Section 54 (2) (b).

(c) Section 54 (2) (c).

(d) Section 54 (2) (d).

(e) Section 54 (2) (e).

(f) Section 54 (2) (f) in part.

(g) Section 54 (2) (g).

(h) Section 54 (2) (h).

**104.** (1) Cream products. Section 55 in part.

(2) (a) Balance of section 55 and section 55 (a).

(b) Section 55 (b).

(c) Section 55 (c) in part.

- (a) prescribe the areas, whether bounded municipally or otherwise, in which any such regulations or orders are to have effect,
- (b) supervise the production, furnishing, delivery, keeping for sale and the sale of milk, within the areas prescribed, including the licensing, if deemed expedient, of any of the respective classes or persons referred to in the regulations or orders, and the fixing and collection of a reasonable fee therefor,
- (c) prohibit any person or any class or classes of persons who may be designated by the Board from engaging in the production, distribution, selling or keeping for sale of milk and milk products or such of them as may be designated by the Board, unless authorized to do so by the Board, and suspend or cancel any authorization previously given,
- (d) prescribe the terms and conditions upon which milk may be produced, received, handled, stored, delivered, kept for sale or sold in any such area,
- (e) classify milk producers and distributors or other persons keeping milk for sale or selling milk,
- (f) approve or establish from time to time schedules of minimum rates at which milk is to be supplied by the respective classes, having regard primarily to the interests of the public and to the continuity and quality of supply,
- (g) establish schedules of prices at which a distributor carrying on business in a prescribed area shall, outside that area, furnish, deliver, sell or keep for sale any fluid milk, and
- (h) establish schedules of minimum prices at which milk may be purchased by a distributor in a prescribed area from any milk producer whether located within or without the prescribed area.

**104.** (1) The Board has jurisdiction upon its own initiative or upon complaint in writing to inquire into any matter relating to the production, supply, distribution or sale of cream produced in the Province.

(2) The Board may make such regulations and orders as it deems necessary in the public interest, and, without limiting the generality of the foregoing, may

- (a) define milk and cream,
- (b) prescribe the areas, whether bounded municipally or otherwise, in which any such regulations or orders are to have effect,
- (c) supervise the production, furnishing, delivery, keeping for sale and the sale of cream, within the areas prescribed, including the licensing, if deemed expedient, of any of the respective classes of persons referred to in the regulations or orders and the fixing and collection of a reasonable fee therefor,

(d) Section 55 (d).

(e) Section 55 (e).

(f) Section 55 (f).

(g) Section 55 (g) in part.

**105.** (1) Jurisdiction over milk and cream. Balance of section 54 (3) revised, but "cream" included, and powers related to powers over "public utilities" and owners thereof.

(2) New. Added for certainty.

**106.** (1) Licences by Board. Balance of section 55 (c).

(2) Balance of section 55 (g).

**107.** (1) Food products. Section 54 (3) in part.

- (d) prohibit any person or any class or classes of persons as may be designated by the Board from engaging in the production, distribution, selling or keeping for sale of cream unless specifically authorized to do so by the Board, and suspend or cancel any authorization previously given,
- (e) prescribe the terms and conditions upon which cream may be produced, received, handled, stored, delivered, kept for sale or sold in any area,
- (f) classify cream producers and distributors or other persons keeping cream for sale or selling cream, and
- (g) notwithstanding anything herein contained, approve or establish from time to time schedules of minimum rates at which cream is to be supplied by the respective classes having regard primarily to the interests of the public and to the continuity and quality of supply.

**105.** (1) The Board has the same powers in respect of the plant, premises, equipment, service and organization for the production, marketing, processing, manufacture, distribution and sale by wholesale or retail of milk or cream and over the operations and business of the owner thereof as are by this Act conferred upon the Board in the case of public utilities and the owners of public utilities.

(2) Without limiting the generality of subsection (1) the Board has, in respect of the matters mentioned in subsection (1), all the powers vested in the Board by sections 37 and 117.

**106.** (1) Where the Board requires licensing under section 103 or 104, the Board may in its discretion refuse to license any person or suspend or cancel any licence issued by it.

(2) In approving or establishing schedules of minimum rates for the supplying of milk or cream, the Board is not bound by any rule of law or of public utility practice to see that any rate of return is provided on any plant, equipment or investment in excess of the actual value thereof.

**107.** (1) Upon it being made to appear to the Lieutenant Governor in Council that any food product grown, produced, processed or manufactured in Alberta is being offered for sale by retail in Alberta at a price so low as to be calculated

- (a) to jeopardize the continuity or sufficiency of the supply thereof,
- (b) to embarrass the legitimate operations of persons engaged in the production, processing, manufacture or distribution thereof, or
- (c) to dislocate the prices to the producer ordinarily prevailing for any product in the ordinary markets therefor,

the Lieutenant Governor in Council may direct the Board to inquire into the circumstances of the production, marketing,

(2) Section 53 (3) balance.

**108.** (1) Offence. Section 54 (4).

(2) Section 54 (5).

**109.** (1) Offence. Section 54 (6).



processing, manufacture and distribution of any such product for the purpose of fixing a minimum price at which the product may be retailed.

(2) The Board, after making an inquiry, has the same powers in respect of the plant, premises, equipment, service or organization for the distribution and sale by wholesale or retail of the product mentioned in the direction of the Lieutenant Governor in Council as are by this Division conferred upon the Board in respect of milk and cream.

**108.** (1) A person who sells or otherwise disposes of any commodity, in respect of which a minimum price has been prescribed by any order of the Board, at a price lower than the minimum price so prescribed is guilty of an offence and liable upon summary conviction,

- (a) for a first offence, to a fine of not less than twenty-five dollars nor more than two hundred and fifty dollars for every day during which any commodity has been so produced or distributed or kept for sale or sold by him, and in default of payment to imprisonment for a term of not more than three months, and
- (b) for a second or subsequent offence to a fine of not less than fifty dollars nor more than five hundred dollars for every day during which any commodity has been so produced or distributed or kept for sale or sold by him, and in default of payment to imprisonment for a term of not more than six months.

(2) Where a minimum price has been fixed in respect of a commodity and upon the sale thereof

- (a) any discount or rebate, either in money or in kind, is allowed, or
- (b) any plan, system or device is used whereby any advantage of any kind, whether in money, goods, services or otherwise, accrues to the purchaser either directly or indirectly, and whether as a term of the sale or collaterally or incidentally,

so that the price for the commodity is in effect reduced to less than the minimum price fixed in respect of it, the sale so made shall be deemed to be a sale at less than the minimum price.

**109.** (1) A person who, by producing or distributing or keeping for sale or selling any commodity without being the holder of a subsisting licence from the Board, contravenes any order or regulation of the Board made pursuant to this Division is guilty of an offence and liable upon summary conviction

- (a) for a first offence, to a fine of not less than twenty-five dollars nor more than two hundred and fifty dollars for every day during which any commodity has been so produced or distributed or kept for sale or sold by him, and in default of payment to imprisonment for a term of not more than three months, and

(2) Section 54 (7).

(3) Section 54 (8).

(4) **New.**

- (b) for a second or subsequent offence to a fine of not less than fifty dollars nor more than five hundred dollars for every day during which any commodity has been so produced or distributed or kept for sale or sold by him, and in default of payment to imprisonment for a term of not more than six months.
- (2) A person who, by producing or distributing or keeping for sale or selling any commodity without being authorized by the Board to do so, contravenes any order or regulation of the Board made pursuant to this Division is guilty of an offence and liable upon summary conviction
  - (a) for a first offence, to a fine of not less than twenty-five dollars, nor more than two hundred and fifty dollars for every day during which any product has been so produced or distributed or kept for sale or sold by him, and in default of payment to imprisonment for a term of not more than three months, and
  - (b) for a second or subsequent offence to a fine of not less than fifty dollars nor more than five hundred dollars for every day during which any commodity has been so produced or distributed or kept for sale or sold by him, and in default of payment to imprisonment for a term of not more than six months.
- (3) A person who contravenes any provision of any order or regulation made by the Board pursuant to this Division and for the contravention of which no penalty is by this Division expressly provided, is guilty of an offence and liable upon summary conviction
  - (a) for a first offence to a fine of not less than twenty-five dollars nor more than two hundred and fifty dollars and in default of payment to imprisonment for a term of not more than three months, and
  - (b) for a second or subsequent offence to a fine of not less than fifty dollars nor more than five hundred dollars or in default of payment to imprisonment for a term of not more than six months,
 and in any case, either in lieu of or in addition to a fine, to imprisonment for a term of not more than six months.
- (4) In a prosecution for an offence in respect of milk or cream,
  - (a) the description of a commodity purporting to be milk or cream on the cap or any label on the container in which such commodity is contained is admissible in evidence as *prima facie* proof of the contents of the container and of the grade or class of milk or cream,
  - (b) any invoice purporting to record the sale of milk or cream is admissible in evidence as *prima facie* proof of the sale of the type of milk or cream set out in the invoice at the price specified in the invoice.

**110.** Remedies additional. Section 54 (9).

**111.** Service of suspension order. Section 54 (11).

**112.** (1) Costs of enforcement. Section 54 (12) revised.

(2) Section 54 (13) revised.

**113.** (1) Recovery of assessments. Section 54 (14).

(2) Section 54 (15).

**110.** The remedies provided by this Division for the enforcement of orders and regulations of the Board are in addition to any other remedy provided for that purpose in this Part or in Part I.

**111.** An order for the suspension or cancellation of a licence issued under the provisions of this Division may be served upon the person or corporation affected in the manner set out in section 115 and, notwithstanding any other provisions of this Act, takes effect from and after a time which shall be specified in the order for that purpose.

**112.** (1) The costs incurred or to be incurred in enforcing any orders or regulations made by the Board pursuant to section 103 or 104, or in the administration of both or either of these sections in any area prescribed as an area in which any of such regulations are to have effect, shall be borne and paid as to twenty-five per cent thereof by the Crown and as to seventy-five per cent thereof by persons who are licensed by the Board as milk or cream producers in such areas and by persons licensed as milk or cream distributors who market, distribute, process, keep for sale or sell in such areas milk and cream or either of them in liquid form.

(2) For the purpose of defraying

- (a) the portion of the costs required to be paid pursuant to this section by persons engaged in the production, marketing, distribution, processing, keeping for sale and selling in prescribed areas milk and cream in liquid form and who are so licensed by the Board,
- (b) the cost of such other activities as the Board deems necessary or expedient for the proper conduct of the milk trade in any prescribed areas, and
- (c) without in any way limiting the generality of the foregoing, sums sufficient to cover the cost of general advertising for the milk trade, cost surveys and special investigations,

the Board may, from time to time as occasion requires, raise sums sufficient therefor by means of assessment and levy upon the persons mentioned in clause (a) in such manner and in such amounts as may be fixed by the Board.

**113.** (1) Every person referred to in section 112 shall on demand pay to the Board on behalf of the Crown the amount of the sum or sums so assessed and levied, and the Board may recover any sum so assessed and levied by action brought by the Board in the name of the Crown as a debt due to the Crown, and all sums so levied and collected shall be paid to the Provincial Treasurer and shall be kept by him in a special trust account subject to subsection (2) and section 114 and shall be used for the purposes above mentioned.

(2) The Board may determine whether any expenditure made from the funds in such account shall be classified as

**114.** Section 54 (16).

**115.** Service of orders. Section 92, but reference made to agent and solicitor of person to be served.

**116.** (1) Section 94 (1).

(2) Section 94 (2) altered to apply section 61 as the rule for service under this Part.

**117.** (1) Enforcement of orders. Section 95 (1) revised.

(2) Section 95 (2).

an expense of administration or of enforcement in section 112, or as an expense for purposes other than enforcement or administration.

**114.** Any moneys raised by the Board by assessment and levy under this Part and not required for the purpose of administration or enforcement as determined by the Board shall on the thirty-first day of March in each year be transferred by the Provincial Treasurer to a reserve trust account, and such funds, together with accumulated reserves from year to year, may be used for any purpose that the Board deems necessary or expedient in any matter relative to the proper conduct of the milk or cream trade in any prescribed areas.

#### **Division 6**

##### **Relating to Board Orders under this Part**

**115.** Every order made by the Board under this Part shall be served upon the person affected thereby or his duly authorized agent or solicitor, within ten days from the time the order is signed, or within such longer time as the Board may direct.

**116.** (1) An order of the Board made under this Part to continue service or rates in effect at the time the order is made is immediately operative.

(2) Section 61 applies in respect of every other order made under this Part.

**117.** (1) The Board may take such steps and employ such persons as are necessary for the enforcement of any order made by it, and for the purposes thereof may forcibly or otherwise enter upon, seize and take possession of the whole or part of the movable and immovable property of the owner of any public utility, together with the books and offices thereof, and may, until such order has been enforced, assume and take over the management of the undertaking for and in the interests of the shareholders and the public, and all or any of the powers, duties, rights and functions of the directors and officers of the undertaking in all respects, including the employment and dismissal of officers and servants thereof, for such time as the Board continues to direct the management.

(2) Upon the Board taking possession of any undertaking every officer and employee of the owner of the public utility shall obey the orders of the Board or of such person or persons as it places in authority in the management of any or all departments of the undertaking.

(3) Section 95 (3).

(4) Section 95 (4).

(5) Section 95 (5).

(6) Section 95 (6).

(7) Section 95 (7).

**118.** (1) Default. Section 96 (1).

(2) Section 96 (2).

(3) Section 96 (3).

**119.** Construction of works, Section 97.



(3) The Board may, upon taking possession of an undertaking, determine, receive and pay out all moneys due to or owing by the owner of the public utility, and give cheques, acquittances and receipts for moneys to the same extent and as fully as the proper officers thereof could do if no such possession had been taken.

(4) The costs and expenses of and incidental to proceedings to be taken by the Board under this section are in the discretion of the Board, and the Board may direct by whom and to what extent they are to be paid.

(5) When any order of the Board is made requiring the owner of a public utility to make repairs to or to install new or additional equipment for the purpose of ensuring safety of life and property, then if the owner fails to comply with such order, the Board may enter into and upon the premises of such public utility and forcibly discontinue the operations of and the service given by the owner of the public utility.

(6) The operations or service shall not be resumed by the owner of the public utility or by any other person, firm or corporation until the said order has been complied with to the satisfaction of the Board and until the Board has given to the owner or other person, firm or corporation, authority in writing to do so.

(7) Any person who resumes or attempts to resume such operations or service without the written authority of the Board is guilty of an offence and liable on summary conviction to a fine of not less than two hundred dollars nor more than one thousand dollars, and in default of payment to imprisonment for a term of not less than three months nor more than six months.

**118.** (1) When it is proved that the owner of a public utility has not complied with an order given by the Board, if the Board is of opinion that there are no effectual means of compelling him to obey the order, the Board, as an alternative, shall transmit to the Attorney General a certificate signed by the Board and secretary, which shall set forth the nature of the order and the default of the owner in complying therewith.

(2) After public notice in the *Gazette* of the receipt by the Attorney General of the certificate, the default so established is ground in the case of a corporate owner for an action to dissolve the corporation or to revoke its charter.

(3) The proceedings upon the action shall be governed by the rules of procedure of the Supreme Court.

**119.** When, in the exercise of the powers conferred upon it by this Act or by any special Act, the Board directs any structure, appliances, equipment or works to be provided, constructed, reconstructed, altered, repaired, installed, used or maintained, it may order by what company, municipality or persons interested and when or within what time and upon what terms and conditions as to the payment of compensation or otherwise, and under what supervision such work is to be carried out.

**120.** Emergency orders. Section 98 revised.

**121.** Notification of order to employees of utility. Section 99.

**122.** Offence. Section 101 revised so as to make it a summary conviction offence.

**123.** Offence. Section 102 revised.

**124.** Offence. Section 103 revised.

**120.** No order involving any outlay, loss or deprivation to the owner of any public utility or to any municipality or person shall be made without due notice and full opportunity to all parties concerned to be heard at a public sitting of the Board, except in case of urgency, and, in such case, as soon as practicable thereafter, the Board shall, on the application of any party affected by such order, rehear and reconsider the matter and make such order as seems just.

**121.** An owner of a public utility shall, as soon as possible after having received or having been served with any order or other document of the Board, notify the same to each of his officers and servants performing duties that are or may be affected thereby, by delivering a copy to him or by posting up a copy in some place where his work or duties or some of them are to be performed.

#### **Division 7**

##### **Offences**

**122.** A public utility that fails to comply with an order of the Board, after it becomes effective, is guilty of an offence and liable on summary conviction to a fine of one hundred dollars a day for every day during which the default continues.

**123.** A person is guilty of an offence

- (a) who knowingly and wilfully performs, commits or does, or participates in performing, committing or doing any act or thing forbidden or prohibited by this Part,
- (b) who knowingly or wilfully causes or participates or joins with others in causing, any owner of a public utility or any person to do, perform or commit, any act or thing forbidden or prohibited by this Part, or
- (c) who advises, solicits, persuades or knowingly and wilfully instructs, directs or orders any officer, agent or employee of any owner of a public utility or any person to perform, commit or do any act or thing forbidden or prohibited by this Part.

**124.** A person is guilty of an offence

- (a) who knowingly and wilfully neglects, fails or omits to do or perform any act or thing required to be done by this Part,
- (b) who knowingly and wilfully causes or joins or participates with others in causing any owner of a public utility or any person to neglect, fail or omit to do or perform any act or thing required to be done by this Part, or
- (c) who advises, solicits or persuades, or knowingly or wilfully instructs, directs or orders any agent or em-

**125.** Offence. Section 104.

**126.** Penalty for offences. Section 105.

**127.** Saving clause. Section 106.

**128.** Definitions. Section 117.

**129.** Borrowing by local authority. Section 110 revised.

**130.** Urban municipality's application. Section 111 (1) revised.

ployee of any owner of a public utility or any person to neglect, fail or omit to do any act or thing required to be done by this Part.

**125.** Any owner of a public utility or any person who performs, commits or does any act or thing prohibited or forbidden by this Act, or who neglects, fails or omits to do or perform any act or thing required by this Act to be done or performed by him, is guilty of an offence.

**126.** Every person who is guilty of an offence under this Part is, in addition to all other penalties, liable on summary conviction to a fine of not less than fifty dollars nor more than five hundred dollars, and, in default of payment, if an individual, to imprisonment for a term not exceeding six months.

**127.** This Part shall be deemed not to have the effect of releasing or waiving any right of action by the Board or by any person for any right, penalty or forfeiture that has arisen, or that arises, under any of the laws of the Province, and any penalty or forfeiture enforceable under this Act does not affect or bar any action at law, or any prosecution, against any owner of a public utility, or the officers, directors, agents or employees thereof.

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### PART III

#### MUNICIPAL AND OTHER DUTIES

##### Division I

##### Respecting Financing by Local Authorities

**128.** In this Part, "debenture" includes securities of every sort and "debenture holder" has a meaning similarly extended.

**129.** Where for the purpose of any work or undertaking or for the acquisition of property or for any other object within its powers a local authority desires to raise moneys by way of debentures, the local authority shall apply to the Board for authority to do so.

**130.** (1) In the case of an urban municipality, the application to the Board shall be made before or forthwith after the first reading of a by-law providing for the debenture and before the by-law is submitted to a vote of the proprietary electors of the urban municipality.

(2) No further action shall be taken by the local authority of the urban municipality upon the by-law providing for the debenture until the authorization of the Board has been obtained as provided in this Part.

**131.** (1) Other local authorities. Section 111 (2) revised.

(2) Section 111 (3).

(3) Section 111 (4).

(4) New.

(5) New.

**132.** Applications. Section 112 revised.

**133.** Factors to be examined. Section 113.

**134.** Procedure. Section 114.

**135.** Money for sewer systems. Section 115 revised.

**131.** (1) In the case of a municipal district or county, the council shall follow the procedure set out in *The Municipal District Act* for obtaining authority to borrow money.

(2) In the case of school districts and divisions, the board of trustees thereof shall follow the procedure set out in *The School Act* for obtaining authority to borrow money.

(3) In the case of an irrigation district or a drainage district, the trustees of the irrigation district or drainage district shall follow the procedure set out in the respective Acts relating to the borrowing of money by the irrigation or drainage district, as the case may be.

(4) In the case of a municipal hospital district, the board of trustees of the district shall follow the procedure set out in *The Municipal Hospitals Act* for obtaining authority to borrow money.

(5) In the case of a junior college, the procedure set out in *The Public Junior Colleges Act* relating to the obtaining of money for the purposes of the junior college shall be followed.

**132.** An application shall be addressed to the secretary of the Board and shall be accompanied

- (a) in the case of an application by the council of an urban municipality, by a certified copy of the proposed by-law providing for the debenture,
- (b) in the case of an application by other local authorities, by the documents prescribed by the statutes, if any, governing the application, and
- (c) by such other information as the Board may require.

**133.** The Board in conducting its inquiry and in arriving at its decision shall consider the nature of the work, undertaking or other object of the proposed debentures, the necessity for or expediency of the same, the financial position of the local authority and all such other matters as in the opinion of the Board call for consideration.

**134.** The Board in the course of an inquiry may summon and examine on oath any person whose evidence it desires to obtain, and may fix a date for the hearing of all parties interested in the granting or refusing of an application, in which case it may order that proper public notice be given of the hearing.

**135.** Where, for the purpose of establishing or extending a system of waterworks or of constructing, altering or extending a common sewer or system of sewerage, a municipality proposes to borrow money by way of debenture, the Board shall not grant the authority applied for until the certificate of the Provincial Board of Health approving the proposed undertaking has first been obtained under the provisions of *The Public Health Act*.

**136.** (1) Particulars on debentures. Section 116 (1) but the requirement that chairman sign has been widened to permit any member to sign, whether the chairman is present or not.

(2) Section 116 (2).

(3) Section 116 (3).

(4) Section 116 (4).

**137.** (1) Inquiry. Section 118 (1) revised.

(2) Section 118 (2).

(3) Section 118 (3).

(4) Section 118 (4).

**138.** (1) Powers of Board. Section 119 (1) but reference to "service tax" in cities removed.



**136.** (1) All debentures issued by local authorities shall contain, in addition to the other particulars required by law, a note or memorandum authorizing the issue, which shall be under the seal of the Board and signed by a member of the Board.

(2) Notwithstanding subsection (1), a debenture duly countersigned by the Board under the provisions of any other Act need not contain any such note or memorandum.

(3) Any such signature may be lithographed or engraved.

(4) Nothing in this Act shall be deemed to repeal any of the provisions concerning the countersigning of debentures or debenture coupons by a Minister or Deputy Minister and contained in any Act in force in the Province.

**137.** (1) The Board may institute an inquiry whenever it is shown to the satisfaction of the Board that a local authority

- (a) has failed to retire its debentures or debenture coupons as they became due and were duly presented for payment,
- (b) is in such serious financial difficulties as to render default in payment of its outstanding debentures or debenture coupons probable, or
- (c) has failed to pay sums of money due by it and the default is in the opinion of the Board due to the fact that the local authority is in financial difficulties.

(2) The inquiry shall only be instituted upon the request of the Minister, or of the local authority, or of the holders of one-fourth in value of the amount of the bonded indebtedness of the local authority.

(3) Where school taxes are collected by a municipality, then a request by or in regard to any school district the taxes of which are so collected, or by or in regard to a municipality, may be treated as a request by any or all such school districts and the municipality.

(4) The Board shall give such notice of any inquiry to be held under the provisions of this section, and to such persons, as it deems proper.

**138.** (1) If satisfied of the propriety of such a course, the Board may do any or all of the following:

- (a) order the retirement of existing debentures or the consolidation of debenture debts secured by different issues of debentures or of debenture debts and debts existing in respect of outstanding accounts, and authorize the issue of new debentures securing the payment of such debts, and determine the form of such debentures, the method and time or times of the repayment of principal or payment of interest, the rate of interest payable and such other terms and conditions in connection therewith as seem proper;

(2) Section 119 (2).

(3) New.

- (b) order that the time for the payment of debentures or of any part of them be extended for a fixed period;
- (c) order that the liability of the local authority to pay money into a sinking fund be postponed or reduced in whole or in part;
- (d) order a variation in the rate of interest payable upon any debt of the local authority;
- (e) order that arrears of interest payable upon any debt of the local authority be rebated or funded;
- (f) order that surplus capital moneys of the local authority be disposed of in any way that seems proper to the Board;
- (g) order that any plan of a registered subdivision be dealt with under the provisions of Division 4 of this Part;
- (h) appoint a time and place at which debentures or receipts for debts may be deposited or offered in exchange for debentures authorized under this Part;
- (i) order that the levy of a rate or sum imposed or required to be levied by the by-law under the authority of which any existing debenture issue or debt was made or incurred, be or be not made in any year or years, and make such order operative upon the fulfilment of any condition or conditions attached thereto;
- (j) order that taxes, whether in arrears or not, be set aside to be used for any specific purpose or purposes;
- (k) ratify any agreement entered into by a local authority with the holders of its existing debentures or its creditors, if the terms of the agreement are such as might be ordered by the Board and give to such agreement the same effect as an order of the Board;
- (l) prescribe and regulate the rates, rents, charges or fees to be charged, levied or collected for the services of municipal public works;
- (m) prescribe the fees to be charged for licences.

(2) The Board may appoint an auditor for a municipality whose financial affairs are, by reason of an order made pursuant to this Part, under the supervision of the Board, and upon any such appointment being made the powers of the municipality to appoint an auditor are suspended until such time as the affairs of the municipality cease to be under the supervision of the Board.

(3) Where in the opinion of the Board the financial affairs of a local authority with respect to which an order has been made under this section are in such a condition that it is unnecessary that its program be supervised by the Board, the Board may discharge the order upon such terms and conditions as may seem proper to the Board.

**139.** (1) Conditions of order binding. Section 120 (1) revised.

(2) Section 120 (2).

**140.** Stay of proceedings. Section 121.

**141.** (1) Limitation of actions against local authorities. Section 122 (1).

(2) Section 122 (2).

**139.** (1) Subject to subsection (2), no order made pursuant to subsection (1) of section 138 is binding until a recommendation embodying the proposed terms thereof

- (a) has received the consent of the holders of three-fifths in value of the amount of the bonded indebtedness to be affected by the order, and
- (b) has received the approval of the Lieutenant Governor in Council,

but upon receipt of that consent and approval, the order is valid and binding upon all persons whom it purports to bind, and all such persons may act as directed by the order, notwithstanding any statutory requirement, restriction or limitation that might otherwise be applicable thereto.

(2) Where the proposed order does not prejudicially affect the interests of the holders of the bonded indebtedness of the local authority, the consent thereto of the holders of the bonded indebtedness is not necessary.

**140.** Where the Board makes an order under this Part, no action or other proceedings shall, as long as the order is operative, be maintained with regard to any debentures, account or other cause of action specifically dealt with in the order, and a judgment recovered in any such action or other proceeding is not enforceable in any way against the local authority concerned.

**141.** (1) No action shall be brought against any local authority that has come under the supervision of the Board by virtue of any refunding order or orders under the provisions of this Part, so long as any such order remains in force, for the recovery of any moneys due to any person by virtue of the provisions of any refunding or other order made under this Part or in respect of any money accumulated by the local authority for the purpose of making provision for the payment of any liability or obligation, not being money in a sinking fund, unless the consent of the Board to the bringing of such action is first obtained.

(2) Where any moneys or securities in the hands of any local authority, or in the hands of any person for and on behalf of such local authority, have been set up or set aside for any particular purpose or for any particular persons or class of persons, whether in pursuance of any order or direction of the Board or independently of the Board, the Board if it is satisfied that it is necessary for the local authority to use such moneys or securities for the purpose of rehabilitating any utility owned and operated by it, may, in its discretion and upon being satisfied that it is in the best interests of the local authority, order that such money or any portion thereof be available for use by the local authority, and the Board may attach conditions in regard to the expenditure by the local authority of the money.

(3) Section 122 (3).

**142.** Approval of debentures. Section 123.

**143.** (1) Program of financing. Section 124 (1) in part, but date changed from 28th February to 1st of April.

(2) Balance of section 124 (1).

**144.** School estimates. Section 124 (2) revised.

**145.** Program decided by Board. Section 124 (3).

(3) Upon the making of any order under subsection (2) the money or securities to which it relates are freed and discharged from all claims and demands whether legal or equitable of any person other than the local authority.

**142.** All debentures purporting to be issued under the authority of this Part shall be submitted for the approval of the Board and when so approved the chairman or a member of the Board shall sign the same and affix the seal of the Board thereto, and the signature and sealing is conclusive proof of the legality of the issue of the debentures, and their validity shall not be questioned by any court, but the debentures shall be held to be good and indefeasible security in the hands of any *bona fide* holder thereof.

**143.** (1) As long as any order of the Board continues in force, or any obligation of a local authority thereunder remains undischarged, the local authority, not later than the first day of April in each year, shall submit to the Board for its consideration

- (a) particulars of its scheme of assessment and taxation,
  - (b) its annual estimates of revenue and expenditure, including those of the municipally-owned utilities, if any,
  - (c) the scale of fees and charges on which they are based, and
  - (d) the proposed capital outlay, if any,
- all of which are hereinafter referred to as "the program".

(2) The local authority shall not finally settle the program, or pass any by-law in respect thereof, until the program has been approved by order of the Board.

**144.** (1) The board of trustees of every school district or division, the whole or any part of the taxes of which are collected by a municipality affected by an order of the Board, shall prepare and submit to the Board, not later than the twenty-eighth day of February, a detailed estimate of its probable expenditure for the current year.

(2) No estimate shall be adopted and no demand shall be made by any such school district or division upon any such municipality unless the estimate or demand is first approved by the Board.

(3) The Board may modify or vary any such estimate or demand as to it seems necessary or expedient.

**145.** If the local authority fails to obtain the approval of the Board of its program, or if after approval of its program it fails, in whole or in part, to conduct its affairs in accordance therewith, then and so often as such failure occurs, the Board may, by order, lay down a program for the local authority, which thereupon becomes effective and binding upon the local authority, its officers and officials, and all persons interested therein or affected thereby.

**146.** Variation in program. Section 124 (4).

**147.** Limitation on borrowings. Section 124 (5).

**148.** Application of Division. Section 124 (6).

**149.** Liability of councillors, etc. Section 125.

**150.** Appointment of administrator. Section 126.

**151.** School taxes and administrator. Section 127 (1).

**152.** Removal of administrator. Section 127 (2).

**153.** Funds for administrator. Section 127(3).



**146.** The program laid down by the Board may be amended from time to time and may apply only to that part of the affairs of the local authority with respect to which, in the opinion of the Board, the local authority has failed to carry out the program approved by the Board.

**147.** All borrowings by a local authority referred to in section 143 are subject to the sanction of the Board and no money shall be borrowed for purposes other than or in excess of the amounts authorized by order of the Board.

**148.** When an order of the Board under section 138 comes into force after the twenty-eighth day of February or the first day of April, as the case may be, in any year, the provisions of this Division apply for the remainder of that year as if it were necessary that the program of the local authority should be submitted to the Board and such submission has been duly made.

**149.** When a local authority borrows or applies any money without the sanction of or in contravention of an order made by the Board under the provisions of this Part, the members of the council or trustees who voted for such borrowings or misapplication are jointly and severally liable to restore the amounts so borrowed or misapplied, and the liability may be enforced by action by the local authority, or by any person paying taxes to the local authority, or by any debenture holder of the local authority.

**150.** Where the Board reports to the Lieutenant Governor in Council that it is expedient that the council of a municipality or the board of trustees of a school district or division should be dismissed and that an administrator of its affairs should be appointed, then the Lieutenant Governor in Council may dismiss the council or board and appoint an administrator of its affairs, and fix his salary.

**151.** Where the school taxes are collected by a local authority, other than the school district in respect of which they are payable, and an administrator is appointed, then the administrator is also the official trustee of the school district and upon his appointment the board of trustees of the school district ceases to hold office.

**152.** An administrator may be removed from office at any time and a successor may be appointed to the office, who has the like powers and authority and is charged with the like duties and responsibilities as his predecessor in office.

**153.** When an administrator has been appointed under this Part, the Lieutenant Governor in Council may from time to time advance to the administrator out of the General Revenue Fund, without any further or other appropriation than is provided by this section, such sum or

**154.** Security for funds. Section 127 (4) in part.

**155.** Debentures of administrator. Balance of section 127 (4).

**156.** (1) Powers of administrator. Section 128 (1) in part and revised.

(2) Balance of section 128 (1).

(3) Section 128 (2).

**157.** Statement of assets, etc. Section 129 revised.

sums, not exceeding in any one year the sum of twenty thousand dollars, to discharge in whole or in part the liabilities of the local authority over the affairs of which an administrator has been appointed, and the expenses of such administrator.

**154.** When any money is advanced to an administrator under section 153, the Provincial Treasurer may take such securities therefor as seem fit to him, and the administrator may issue debentures therefor without taking any vote with regard to the issue.

**155.** The debentures issued have the same effect as debentures issued in strict compliance with the provisions of the Act regulating the issue of debentures by the local authority over the affairs of which the administrator has been appointed.

**156.** (1) Notwithstanding anything in any Act or regulations, the administrator

- (a) has all the powers, and may perform all the duties of a council, mayor, reeve, commissioner, clerk, secretary, treasurer, secretary-treasurer, assessor, collector of taxes and of any other official appointed or that might be appointed or elected under any Act or charter applicable to the local authority of which he is administrator,
- (b) is responsible for the due performance of all such duties,
- (c) has the right and power to discharge any official of the local authority and to appoint his successor, and
- (d) may employ such assistants as he deems advisable to assist him in the discharge of any such duties and shall fix the salary of every such official and assistant.

(2) All salaries and the cost generally of administering the affairs of the local authority, including the administrator's own salary, shall be paid out of the funds of the local authority.

(3) Upon the removal of any administrator appointed under this Act the council or board of trustees of the local authority of the affairs of which he was administrator and, if necessary, the board of school trustees, may be reinstated by the Lieutenant Governor in Council, or directions may be given by the Lieutenant Governor in Council as to the election of a council and if necessary a board of school trustees to take the place of the administrator removed.

**157.** (1) The Board may inquire from time to time into the financial affairs of local authorities and for that purpose is entitled to obtain from any local authority at any time a statement in detail of its assets and liabilities and of its revenue and expenditure for any definite period and any other statement of its affairs that the Board deems expedient.

**158.** (1) Sinking funds. Section 130 (1).

(2) and (3) Section 130 (2) revised.

**159** (1) Regulations. Section 131 (1).

(2) Section 131 (2) revised.

**160.** Management of sinking fund. Section 132 revised.

**161.** (1) Audit. Section 133 (1).

(2) Section 133 (2).

(2) The Board has such general supervision of the financial affairs of local authorities as is necessary to ensure that no local authority incurs debts beyond the amount permitted by law, nor imposes taxation beyond the limits imposed by law.

**158.** (1) Whenever any money is borrowed by a local authority the Board may direct the formation of a sinking fund for the payment thereof.

(2) All such sinking funds shall be under the supervision of the Board, which may direct the deposit of the same with the Provincial Treasurer or any other disposition thereof.

(3) The Board is entitled to receive such information as to and such report upon the sinking fund as it may from time to time demand.

**159.** (1) The Board may make regulations as to the accounts to be kept by local authorities, the methods of keeping the same and the audit thereof, and may from time to time prescribe penalties for neglect to levy rates for the upkeep of any necessary sinking fund, and for the disposal of any surplus moneys that occur in connection therewith.

(2) All regulations made by the Board pursuant to this section shall be laid upon the table of the Assembly at the next ensuing session of the Legislature and if then disallowed by it cease to have any effect thereafter.

**160.** The Board may undertake the management of the sinking fund of any municipality, and upon its so doing

- (a) the Board may invest the sinking fund in all or any of the securities in which trustees having trust money in their hands are authorized to invest such money under the provisions of *The Trustee Act*,
- (b) the Board has all the powers and authorities conferred upon sinking fund trustees by *The City Act*, *The Town and Village Act*, or *The Municipal District Act*, or as the case may be, and
- (c) the treasurer of the local authority is subject to the control and requisition of the Board and shall deposit the sinking fund as required by *The City Act*, *The Town and Village Act*, or *The Municipal District Act*, or as the case may be.

**161.** (1) The Provincial Auditor shall arrange for an annual audit of the accounts of the Board in connection with sinking funds and their management, and an inspection of the books and records of the Board connected with such funds for the preceding year.

(2) The audit and inspection shall be under the supervision of the Provincial Auditor and the costs and expenses thereof shall be paid by the Board as part of the cost of managing the funds at its disposal.

**162.** (1) Extension of debenture payments. Section 135 (1) revised.

(2) Section 135 (2).

**163.** (1) Variation in assessment for local improvements. Section 135 (3) revised.

(2) Section 136 (1).

(3) Section 136 (2).

(4) Section 136 (3).

**164.** (1) Commutation of assessment. Section 137 (1).

(2) Section 137 (2) revised.

**165.** By-law for levying rate. Section 137 (3).

**162.** (1) Where a municipality has issued debentures or has passed a by-law duly authorizing the issue of debentures and the council of the municipality is of the opinion that the period for payment of the debentures is less than the lifetime of the work or undertaking and desires to pass a new by-law extending the payment for the work or undertaking over its lifetime, the municipality may make application to the Board for permission to do so.

(2) The Board may grant the application on such terms as it deems advisable but the period over which the indebtedness may be spread shall be fixed by the Board and shall be based on the lifetime of the work or undertaking or other object of the proposed extending by-law, as the same may be estimated by the Board.

**163.** (1) Where a proposed by-law under section 162 is one relating to local improvements and the council desires to alter the mode of assessment, it may do so under the local improvement sections of the respective Act or Acts applicable thereto upon first obtaining the consent of the Board to the altered mode of assessment, and the reassessment shall be made accordingly.

(2) Notwithstanding anything in any Act or law to the contrary, there is no appeal against the assessment except on the ground that there is an error in the frontage assessed.

(3) The municipality shall forward notices of any such reassessment to the party assessed, giving particulars thereof as provided by the Act respecting the notice.

(4) Notwithstanding subsection (3), the non-transmission or non-delivery of the notice does not invalidate the reassessment, which is valid and binding in all respects.

**164.** (1) Where the assessment and charges of a local improvement have been commuted and a different mode or method of assessment is adopted whereby a lesser assessment is made against the property affected, then the municipality shall rebate the difference, if any, to the party entitled thereto.

(2) Where the assessment and charges of a local improvement have been commuted and a different mode or method of assessment is adopted whereby a heavier assessment or charge is made against the property affected, the municipality shall assess and levy the additional charge in the same manner as it would an original charge pursuant to the provisions of the Acts applicable thereto.

**165.** Upon the consent of the Board being obtained, the municipality may, without the assent of the proprietary electors authorized to vote on money by-laws, pass by-laws providing for raising a sum of money and levying rates sufficient to meet the indebtedness at the maturity of the extended period as provided in section 162.

**166.** (1) Sinking fund for extended debentures. Section 137 (4).

(2) Section 137 (5).

(3) Section 137 (6).

(4) Section 137 (7).

(5) Section 137 (8).

(6) Section 137 (9).

(7) Section 137 (10).

**167.** (1) Issue of debentures. Section 138 (1).



**166.** (1) From and after the passage of a by-law for the purposes of section 162, and the execution and issue of debentures as thereby authorized, the municipality shall levy annually the respective sums thereby required to be raised sufficient, with interest compounded yearly at the rate of four per cent per annum, to meet the indebtedness at maturity, and, taking into consideration the amount of the money at the credit of the sinking fund under the superseded by-law, sufficient to form a sinking fund for the payment of the principal of the said debentures, and shall cease to levy the respective sums required to be levied by and under the superseded by-law or by-laws for the purpose of forming sinking funds for the payment of the principal of the debentures issued under such by-laws respectively.

(2) The municipality shall continue to levy annually under the superseded by-laws the respective amounts required to pay the interest on the debentures issued under any such by-laws or on such of the debentures issued under any such by-laws as are outstanding.

(3) The new by-law shall make provision for the issue of debentures for an amount sufficient to meet the principal at maturity and bearing the same rate of interest as that provided for by the superseded by-law, but no levy shall be made for such interest during the period that levies are being made for interest under the superseded by-law.

(4) The new by-law shall also provide for the issue of debentures to an amount sufficient to meet any difference that arises in the sinking fund from year to year between the amount provided by the superseded by-law and the amount provided by the new by-law, and the debentures shall be placed to the credit of the sinking fund until such time as they are sold or otherwise disposed of and the proceeds placed to the credit of the sinking fund.

(5) No debentures issued pursuant to the provisions of subsection (4) shall be sold without the consent of the Board, and the debentures shall be sold only when the proceeds of the sale are required to redeem debentures issued under the superseded by-law or by-laws, but no levy shall be made for interest on the debentures issued under the superseding by-law or by-laws during the period that levies are being made for interest under the superseded by-law or by-laws.

(6) Any shortage that arises from the sale or other disposition of such debentures shall be made up by annual levies by the municipality as the same occur.

(7) A separate by-law or by-laws may be passed by the municipality to provide for the difference, instead of making provision therefor in the new by-law.

**167.** (1) When debentures have been issued under any new by-law under section 162, the municipality may, with the consent of the Board and upon obtaining the consent of all parties interested, issue new debentures in such form

(2) Section 138 (2).

**168.** Purchase money. Section 138 (3).

**169.** Not general indebtedness. Section 139.

**170.** By-law not to be repealed. Section 140.

**171.** Applicability of governing Acts. Section 141.

**172.** (1) Retirement fund for debentures. Section 142 (1).

(2) Section 142 (2).

(3) Section 142 (3).

(4) Section 142 (4).

as it deems expedient, and may, if agreed, exchange such debentures for outstanding debentures under the same by-law, and the outstanding debentures shall be forwarded to the Board for cancellation.

(2) The municipality may, in case any debentures authorized by any by-law have not been issued, or, having been issued, have become the property of the municipality, provide by by-law that the debentures if issued be destroyed and if unissued be not issued, and may authorize debentures to be issued under the authority of the by-law providing for the extended period of payment for any work or undertaking.

**168.** A purchaser of any of the debentures that may be issued under the authority of this Part is not bound to ensure that the purchase money is applied for the purposes herein or in the by-laws specified.

**169.** No portion of any loan raised by a municipality under the provisions of a superseded by-law under this Part shall, after the passage of the new by-law, form part of the general debt of the municipality within the meaning of any Act limiting the borrowing powers of municipalities, and it is not necessary to recite the amount of the loan secured by a superseded by-law.

**170.** A by-law passed under this Part, unless otherwise provided, shall not be repealed until the debt created under the by-law is fully paid and satisfied.

**171.** The provisions of Acts relating to local authorities are, except in so far as inconsistent herewith, applicable thereto.

**172.** (1) An application may be made to the Board for an order authorizing a local authority to provide a fund sufficient with interest at four per cent per annum to retire the debenture indebtedness of the local authority under any by-law during the estimated lifetime of the work or undertaking, and prior to the maturity of the debenture.

(2) The Board may grant the application on such terms as it deems advisable but the Board shall fix the period within which a sufficient amount to retire the indebtedness within such shorter period is to be raised.

(3) The local authority may thereupon pass a by-law without referring it to the proprietary electors, which shall make provision for an annual levy sufficient, with interest compounded yearly at four per cent per annum, to raise the amount within the fixed period, and the by-law shall be in a form approved by the Board.

(4) The amount of the annual levy shall from time to time be placed to the credit of the sinking fund account of the local authority, but shall be specially marked "Depreciation Fund".

(5) Section 142 (5).

(6) Section 142 (6).

**173.** (1) Form of by-law and debentures. Section 143 (1).  
(2) Section 143 (2).

**174.** (1) Compromise of tax arrears. Section 151 (1).  
(2) Section 151 (2).

**175.** Provision of compromise. Section 152.

(5) The depreciation fund is subject to the same provisions as to the raising and investment thereof as the sinking fund.

(6) Application may from time to time be made to the Board for permission to use the depreciation fund or a portion thereof to replace the work or undertaking or such part thereof as is required to be replaced, and upon consent being obtained the local authority may use so much of the fund as the Board may authorize.

**173.** (1) Notwithstanding anything to the contrary in any Act, the by-law and debentures referred to in this Part may be in such form as may be approved of by the Board.

(2) Upon the approval of the Board being obtained, no irregularities in the form of any of the debentures issued under the authority of this Part, or any by-law authorizing the issue thereof or any other by-law referred to in this Part shall be deemed to render the debentures invalid nor shall any such irregularities be allowed as a defence to any action against the local authority for the recovery of the amount thereof or the interest thereon or any part thereof.

## Division 2

### Municipal Tax Arrears

**174.** (1) The Board may order a compromise of tax arrears to be entered into between any taxpayer and any local authority, or the Minister may do so in the case of land lying within an improvement district.

(2) A compromise may only be ordered

- (a) with respect to land that is in an urban municipality and that may be made the subject of an application for separation from the urban municipality under Part III,
- (b) upon the application of a taxpayer, where the taxpayer and the authority imposing the taxes cannot agree as to the terms of a compromise permitted by law, or
- (c) with respect to lands lying within a municipality or school district, if the affairs of the municipality or school district are the subject of an inquiry held under sections 137 to 161.

**175.** Any compromise made under the powers given by section 174 may provide for

- (a) an extension of the time of payment of such arrears,
- (b) the reduction of the amount thereof,
- (c) the acceptance of the land affected by the taxes due, or a part thereof, or of other land in whole or in part payment of such taxes, or
- (d) the payment to the local authority or Minister of an increment tax upon the subsequent sale of any part of the land affected by the order, at a fixed

**176.** Tax transfers. Section 153 revised.

**177.** Issue of debentures for arrears. Section 154.

**178.** Compromise of arrears in certain cases. Section 155.

**179.** (1) Separation of land. Section 144 (1).

rate, and the fixing of the basis upon which the amount of the increment tax is to be arrived at and the mode of collecting the same.

**176.** If the amount of the arrears as fixed by the Board with respect to any land is not paid within the time limited by the Board therefor, the Board may order that the title to the land be transferred to the local authority or Minister, whereupon the Registrar of the land registration district in which the land concerned is situated shall issue to the local authority or to the Minister, as the case may be, a certificate of title, free of all encumbrances except such arrears of taxes as are payable to any other authority, upon the payment of a fee of fifty cents for each certificate of title.

**177.** (1) Where any arrears of taxes are reduced or otherwise made the subject of a compromise pursuant to this Part, then if the local authority has previously incurred any liability upon the credit of the existence of the arrears, the Board may direct the issue of debentures by the local authority for raising the amount or any part of the amount required to discharge the liability.

(2) The debentures to be issued for the purposes of subsection (1) shall be made payable upon such terms and conditions at such rates of interest and at such periods, and be secured by such methods, as the Board thinks fit.

**178.** Notwithstanding any Act to the contrary, a compromise may be ordered under the provisions of this Part in the case of lands that by reason of non-payment of taxes

- (a) have been forfeited to the Crown or a local authority and have not been sold to and completely paid for by a purchaser thereof,
- (b) have been put up for sale under the provisions of *The Tax Recovery Act*, and have not been sold to and completely paid for by a purchaser thereof, or finally acquired by a municipality, or
- (c) have been transferred to the Crown or a local authority under the provisions of *The Tax Recovery Act*, but the ownership thereof has not been finally acquired under the provisions of that Act,

but in such cases the order shall provide for the payment of all costs incurred by the Crown or local authority in respect of the forfeiture, sale or transfer.

### Division 3

#### Separation of Land from Municipalities

**179.** (1) Upon petition of an owner of any parcel of land within an urban municipality and containing at least eight acres in respect of which there is no subsisting registered

(2) Section 144 (2) but made consistent with section 19 (1) of The Town and Village Act.

(3) Section 144 (3).

(4) Section 144 (4).

(5) Section 144 (5).

(6) Section 144 (6).

**180.** General plan. Section 145.

**181.** Contents of separation order. Section 146.



plan or that is an unsubdivided part of a registered plan, the Board may order that the land cease to form part of the urban municipality.

(2) The order may be made subject to such terms and conditions as to the Board seem proper, and becomes effective upon the date named in the order or in the absence of any date therein upon the date of the publication of the order in the *Gazette*.

(3) Any land taken out of the urban municipality, unless the Board otherwise orders, continues to be liable for the payment of any debenture indebtedness to which it was subject when comprised in the urban municipality and is liable for all debenture rates or taxes imposed in respect of such indebtedness and to all the remedies for the recovery of any such payment or rate or tax as it would have been liable to if it had remained in the municipality, but the Board may upon making any such order or by a subsequent order, direct that the land taken out of the urban municipality be no longer liable and thereupon such liability ceases and determines.

(4) Where the Board refuses a petition under subsection (1) it may nevertheless direct that the urban municipality assess the land upon any basis or principle of assessment that to the Board seems proper, and that it continue to do so for a fixed term of years, and the Board may fix a maximum rate of taxation for the land for a fixed term.

(5) Whether the Board does or does not direct that the land cease to form a part of the urban municipality, it may direct that upon the sale of any part of the land an increment tax at a fixed rate be payable to the municipality, and the Board may fix the basis upon which the amount of the increment tax is to be arrived at and the mode of collecting the same.

(6) No land shall be separated from any urban municipality otherwise than under the provisions of this section.

**180.** Where, from the number of petitions for separation from an urban municipality, or from any facts that come to the notice of the Board during the hearing of any petition, it seems expedient to the Board that a general plan including lands, whether subdivided or not, and of any acreage, other than those comprised in the petition, should be adopted, then the Board, upon giving such notice to all parties interested as to it seems proper, may formulate and bring into effect a general plan and may treat all lands comprised in the general plan as if they were a parcel of land duly included under a petition made under section 179.

**181.** Where the Board makes any order pursuant to section 179 whereby any land is taken out of an urban municipality, the Board shall, either by that order or by a separate order, provide that the land, from the date upon which it is taken out, be added to and form part of the lands included within any other municipality or improvement district that is designated in the order and that im-

**182.** Change in taxation. Section 147.

**183.** (1) Annexation to city. Section 148 (1).

(2) Section 148 (2) in part and section 148 (2) (a) to (c).

(3) Balance of 148 (2) but made consistent with new section 179 (2).

**184.** (1) Annexation petition. Section 166 (1).

mediately before the order became effective was, as to any part of its corporate boundaries, contiguous with or adjacent to or co-extensive with any boundary of the parcel or any part thereof, and thereupon the land becomes for all the purposes of that municipality or improvement district part of the land included within the corporate boundaries of the municipality or improvement district.

**182.** If the rate of taxation of an urban municipality is changed by the Board, the change does not in any way affect the right of the municipality to levy and collect a debenture rate necessary to fulfill the terms of any municipal debentures issued by the municipality prior to the order.

**183.** (1) Where a majority of the resident land owners of any territory adjacent to a city desires its annexation thereto or the council of any city desires that any such territory should be annexed to the city, if the territory is not within the boundaries of an urban municipality, then the land owners or the council, as the case may be, may present a petition to the Board to that effect, and the Board thereupon by order may annex any such territory to and make it a part of the city.

(2) The order may be made subject to such terms and conditions as to the Board seem proper, and in particular the order may

- (a) contain directions that the annexed territory be or be not subject to debentures already issued by the city or the rate levied to meet such debentures,
- (b) contain directions that the city assess the land in such territory upon any basis or principle of assessment that seems proper to the Board, and that the city continue to do so for a fixed term of years, and
- (c) fix a maximum rate of taxation for the land in the territory for a fixed term.

(3) The order becomes effective upon the date named in the order or in the absence of any date therein upon the date of the publication of the order in the *Gazette*.

**184.** (1) The Board may by order annex any territory to a city upon presentation of a petition for such annexation from

- (a) the council of any urban municipality that desires the annexation of the territory of the urban municipality to the city,
- (b) the council of a city that desires that any territory adjacent to the city be annexed to the city,
- (c) the council of any municipal district that desires any part or parts of its territory to be annexed to the city, or
- (d) the Minister in respect of any part or parts of an improvement district that he desires to have annexed to a city.

(2) Section 166 (2).

**185.** Annexation otherwise prohibited. Section 148 (3).

**186.** Application of next section. Section 163.

**187.** (1) Definitions.

(a) Section 164 (a) revised.

(b) Section 164 (c) revised.

(2) Section 165 revised.

(3) Section 167 (1).

(4) Section 167 (2).

(5) Section 167 (3) revised.

**188.** Saving existing rights. Section 150.

(2) For the purpose of carrying out the provisions of this section, the Board has all the powers vested in the Board by section 183, and in addition thereto may make recommendations to the Lieutenant Governor in Council with respect to such measures as it deems requisite to remove any resulting hardship or any injustice to any municipality concerned in the annexation.

**185.** Notwithstanding the provisions of any other Act, no territory shall be added to any city except under the provisions of this Part.

**186.** Section 187 applies to such areas of the Province as may be defined and described by an order of the Board made upon the recommendation of the Provincial Planning Advisory Board.

**187.** (1) In this section,

- (a) "proprietor municipality" means a municipality that owns, operates, manages or controls a public utility;
- (b) "public utility" includes, in addition to its defined meaning under section 2, a sewerage system.

(2) Upon application by a municipality or, in the case of an improvement district, the Minister, the Board may by order require the proprietor municipality

- (a) to deliver, supply and furnish water, light or power, as the case may be, at a place to be designated by the Board and to do so on such terms and conditions as to the Board seem proper, and
- (b) to make available, on such terms and conditions as to the Board seem proper, to the municipality or improvement district making the application or on whose behalf the application was made, the sewage disposal facilities of a proprietor municipality.

(3) Subject to subsection (5), Part II applies, *mutatis mutandis*, to a public utility within any area to which this section applies and in respect of the public utilities of a proprietor municipality as though a by-law had been passed and approved by the Lieutenant Governor in Council under section 102 bringing its public utilities under this Act.

(4) This Division shall not be construed so as to derogate from the powers vested in the provincial board of health under *The Public Health Act*.

(5) This section does not apply to the operation and management of a public utility of a proprietor municipality in so far as they relate to the affairs and business of the public utility within the corporate limits from time to time of the proprietor municipality.

**188.** No order made under this Division affects or abrogates any existing contract or any existing right, of or held by, any company for the production, transmission, delivery

**189.** "Interest". Section 157 (2) revised.

**190.** (1) Cancellation of subdivision. Section 156 (1).  
(2) Section 156 (2) revised to refer to **consent order hereunder**.

**191.** Vesting order. Section 157 (1).

**192.** (1) Compensation. Section 158 (1).

(2) Transfer of equities. Section 158 (2).

**193.** Taxes, etc., on subdivision cancellation. Section 159.

or furnishing of water, gas, heat, light or power to or for inhabitants or businesses in the annexed or excluded territories, as the case may be.

#### **Division 4**

##### **Cancellation of Plans of Subdivisions**

**189.** In this Division "interest" includes

- (a) the right or interest of a mortgagee or encumbrancee and of any owner of any other charge against land, and
- (b) the right or interest of a local authority or the Crown in any roads, streets, lanes or other land.

**190.** (1) Upon the application of the registered owner or beneficial owner of any land included in a registered plan of subdivision, and upon such terms and conditions as to costs or otherwise as it may fix, the Board may order the cancellation, in whole or in part, or the amendment or alteration, of the registered plan.

(2) The Board may make such an order with the consent of the parties or may hear such persons upon the application as it deems proper and give such notice of the hearing as it deems sufficient.

**191.** The Board may by the order direct that any land in the subdivision, or any right or interest in any land therein, be vested in the applicant, and the Board may make such order as to the vesting or revesting of any land included in the plan or survey as it thinks fit.

**192.** (1) Where, upon such application, any land, or any interest therein, is ordered to be vested in the applicant, the Board shall fix the amount of compensation payable therefor to the owner thereof, or may require the owner to accept, by way of entire or partial compensation therefor, any other land, or any interest therein, whether in that subdivision or not, and may vest the other land in the owner.

(2) The Board may order that any land fixed as compensation for any other land be subject to the same equities, rights or interests as the land for which the compensation is given, and the order has the effect of transferring all such equities, rights or interests to the parcel of land given as compensation.

**193.** Where a plan of subdivision or part thereof has been ordered to be cancelled, all taxes, assessments or rates in arrears or due upon the separate parcels of land within the area of which the plan has been ordered to be cancelled, become taxes, assessments, or rates upon or in respect of the area, and all the remedies for the enforcement and collection of taxes theretofore applicable for the recovery of the taxes, assessments or rates upon the separate parcels of land, apply in the same manner as if the taxes, rates, or assessments have been levied against the whole area ordered to be cancelled.

**194.** (1) Roads and mortgagee's interests. ~~Section 160~~ (1).  
(2) Section 160 (2).  
(3) Section 160 (3).

**195.** Registration of new plan. Section 161.

**196.** Arrears of taxes on subdivision. Section 162.

**197.** Repeal of R.S.A. 1955, c. 267.

**198.** Commencement.



**194.** (1) Whenever owing to the operation of an order made under this Division the ownership of any roads, streets or lanes would vest in a mortgagor, then the Board may direct that such roads, streets or lanes be included in any mortgage or other security previously given to any mortgagee of lands adjoining such roads, streets or lanes.

(2) Upon receipt by the Registrar of the land titles office of any order vesting any roads, streets, or lanes in a mortgagor, the Registrar shall make a memorandum upon the mortgage of the fact that the roads, streets or lanes mentioned in the order are included in the parcels that are subject to the mortgage, and thereupon the mortgage operates as if such roads, streets or lanes had been included therein at the date of its making.

(3) In this section "mortgagee" includes any mortgagee, encumbrancee or other person having a security upon land adjoining such roads, streets or lanes, whether his mortgage, encumbrance or charge is registered in the land titles office, or not, and the expressions "mortgage" and "mortgagor" have a meaning similarly extended.

**195.** Upon receipt of any order under this Division, and upon payment of the proper fees, the Registrar of Land Titles for the land registration district in which the subdivision is situate, shall cancel in whole or in part, or amend, or alter the subdivision in accordance with the terms of the order, and shall cancel the certificate of title issued according to the original plan and issue such new certificates of title according to the new or amended plan as are by the order required, and shall make such other cancellations and registrations and shall do all such things as are necessary to give full effect to the order.

**196.** In the case of an application under this Division by a municipality or by the Minister, the Board may fix a limited time within which the owner, or any interested party in the name of and for the benefit of the owner, is to pay the amount of the arrears of taxes standing against the land concerned, and in case the amount of arrears against the land is not paid within the time limited, the Board may by order vest the title of the land free of all encumbrances, except such arrears of taxes as are payable to any other tax enforcing authority, in the municipality or the Minister, as the case may be.

**197.** This Act repeals and replaces *The Public Utilities Act*, being chapter 267 of the Revised Statutes of Alberta, 1955.

**198.** This Act comes into force on the first day of July, 1960.

No. 64

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FIRST SESSION

FOURTEENTH LEGISLATURE

8 ELIZABETH II

1960

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## **BILL**

An Act to Revise and Consolidate The  
Public Utilities Act, being an Act  
prescribing the Duties and Func-  
tions of the Public Utilities Board  
of the Province

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. MANNING

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