

No. 53

5th Session, 14th Legislature, Alberta
11 Elizabeth II

BILL 53

A Bill to amend The Municipal District Act

HON. MR. HOOKE

Explanatory Note

2. (a) Clause (k) presently reads:

“(k) “hawker” or “pedlar”

- (i) means a person who, whether as principal or agent,
 - (A) goes from house to house selling or offering for sale any merchandise to any person, and who is not a wholesale or retail dealer in such merchandise and who has not a permanent place of business in the municipal district,
 - (B) offers for sale to any person by means of exposed samples, patterns, cuts or blueprints, merchandise to be afterwards delivered in or shipped into the municipal district, or
 - (C) sells merchandise on the streets or roads or elsewhere than at a building that is his permanent place of business,
- (ii) does not include a person selling
 - (A) meat, fruit or other farm produce that has been produced, raised or grown by himself, or
 - (B) fish of his own catching;”.

(b) The definition of “hospital” is amended to refer to the present hospitals Act.

(c) Clause (cc), subclause (i) presently reads:

“(cc) “transient trader”

- (i) means a person who does not ordinarily maintain within the municipal district a permanent place of business and who is not liable for a business tax in respect thereof, and who, either as a principal or as an agent,
 - (A) buys or offers to buy directly from the producer thereof any merchandise, or
 - (B) sells or offers to sell to the consumer any merchandise except
 - (I) agricultural products raised, grown or produced by him, or
 - (II) fish of his own catching;”.

3. Section 64, subsection (5) presently reads:

“(5) When a reassessment of all or any part of a municipal district is made by an assessor appointed pursuant to subsection (1), the cost of the assessment shall be computed in a manner approved by the Minister and an amount not exceeding seventy-five per cent of the computed cost shall constitute a debt due to the Crown by the municipal district and shall be paid by the municipal district concerned upon submission of the account of the Department of Municipal Affairs and the remaining percentage of the cost shall be borne by the Department of Municipal Affairs, if

- (a) the qualifications of the assessor are acceptable to the Minister,
- (b) a performance bond acceptable to the Minister has been posted, and
- (c) the work completed by the assessor has been carried out in accordance with the recommendations contained in the Assessment Manual and is acceptable to the municipal district and the Minister.”.

BILL

No. 53 of 1963

An Act to amend The Municipal District Act

(Assented to _____, 1963)

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

1. *The Municipal District Act*, being chapter 215 of the Revised Statutes, is hereby amended.

2. Section 2 is amended

(a) as to clause (k) by adding immediately after the word "merchandise" wherever it occurs the words "or services",

(b) as to clause (l) by striking out the words "*The Hospitals Act*" and by substituting the words "*The Alberta Hospitals Act*",

(c) as to clause (cc), subclause (i), paragraph (B) by adding immediately after the word "merchandise" the words "or services".

3. Section 64 is amended by striking out subsection (5) and by substituting the following:

(5) When a reassessment of all or any part of a municipal district is made by an assessor appointed pursuant to subsection (1), an amount not exceeding twenty-five per cent of the cost of the assessment computed in a manner approved by the Minister may be borne by the Department of Municipal Affairs, if

(a) the qualifications of the assessor are acceptable to the Minister,

4. (a) At the 1962 session of the Legislature various sections of the Act were amended to provide for holding the annual meeting of the ratepayers and nomination meeting on different days. Previously they were held on the same day. The provisions of subsection (3) permitting the alteration of these dates previously applied to both meetings but when the new amendments were made the provisions of this subsection only applied to the nomination meeting when it should have applied to both meetings. The proposed amendment would permit the altering of the dates of both of these meetings within a three-day limitation.

(b) Previously nomination day and the date of the annual meeting were the same day. In 1962 the Act was amended to provide that each of these meetings would be on a different date. Provision was made for the publishing of notices of nomination day but no provision was made for publishing notices of the annual meeting. This amendment will correct this oversight.

5. Section 102, subsection (1) presently reads:

"102. (1) At an hour not earlier than ten o'clock in the forenoon nor later than one o'clock in the afternoon the returning officer shall declare the annual meeting open, and shall hold an election of a chairman who shall conduct the discussion of municipal affairs."

6. Section 234, subsection (2) presently reads:

"(2) Each such public road, highway, street and lane is subject to the direction, control and management of the council of the municipal district in which it is situated, subject, however, to the provisions of The Water, Gas, Electric and Telephone Companies Act and The Pipe Line Act, 1958."

7. Section 239, subsection (3) presently reads:

"(3) Any such by-law
(a) shall be in the form prescribed by the Board or to a like effect,
(b) shall be under the seal of the municipal district, and
(c) shall be submitted to the proprietary electors in accordance with the provisions of Part V."

8. Self-explanatory.

- (b) a performance bond acceptable to the Minister has been posted, and
- (c) the work completed by the assessor has been carried out in accordance with the recommendations contained in the Assessment Manual and is acceptable to the municipal district and the Minister.

4. Section 96 is amended

- (a) by striking out subsection (3) and by substituting the following:

(3) Notwithstanding subsections (1) and (6), if it appears to the council that it is desirable to hold the nomination meeting or the annual meeting upon some other day it may provide by resolution for holding the meeting upon any other day within three days before or after the first Saturday of November or the third Saturday of February, as the case may be.

- (b) by adding the following subsection after subsection (6):

(6a) Prior to the date of the annual meeting the secretary-treasurer shall

- (a) cause to be issued a notice in Form 4a in Schedule A, and
- (b) shall publicize the notice as closely as possible in the same manner as provided in subsection (2) of section 97.

5. Section 102, subsection (1) is amended by striking out the words "returning officer" and by substituting the words "reeve or secretary-treasurer".

6. Section 234, subsection (2) is amended by adding immediately after the word "lane" the words ", except a main or secondary highway established as such under *The Public Highways Act*,".

7. Section 239, subsection (3) is amended

- (a) by striking out the word "and" at the end of clause (b) and by adding the word "and" at the end of clause (c),
- (b) by adding the following clause after clause (c):
 - (d) is governed by section 382.

8. Section 248 is amended by adding the following subsection after subsection (3):

(4) For the purpose of establishing industry or other commercial enterprises, the council by by-law may authorize the purchase, lease or other acquisition from the Government of Canada of lands previously used as military establishments.

9. A new subsection is added to permit the construction or acquisition of buildings too large for the accommodation of municipal services required and to provide for the leasing of the extra space for purposes deemed of general benefit to the residents.

10. Authority is given to enter into agreements for the maintenance and operation of campsites.

11. As section 248 has been amended to permit the acquisition of land from the Government of Canada this amendment is required to permit the municipal district to dispose of the land.

12. Section 279 reads:

"279. Not later than the tenth day of January in each year, a report in the form prescribed by the Minister shall be made to the Minister setting forth the amount spent for the destruction of pests by the municipal district during the previous year."

13. Section 287 which deals with public health by-laws is amended by striking out subsection (2) which reads:

"(2) A by-law passed pursuant to this section is valid but inoperative until it has been approved by the Minister."

14. Section 288 which deals with the provision of medical, nursing or clinical care for residents is amended by striking out subsection (5) which reads:

"(5) A by-law passed pursuant to this section is valid but inoperative until it has been approved by the Minister."

15. Sections 292 and 293 are no longer required because of other hospitalization legislation.

16. Section 294 is amended to refer to the present hospitals Act.

9. Section 249 is amended by adding the following subsection after subsection (1) :

(1a) The council may

(a) proceeds in accordance with section 251 to pass a by-law authorizing the construction or acquisition of a building the floor space of which is greater than is necessary to accommodate the municipal services required, and

(b) by by-law lease for any purpose that the council considers necessary for the general benefit of the residents of the municipal district all or any part of the floor space not required for the accommodation of municipal services.

10. The following section is added immediately after section 254 :

254a. Subject to this Act, a council may pass a by-law authorizing the making of an agreement with the Province for the maintenance, operation and use of a public work, building, or campsite or for the performance of any matter or thing deemed by the council and the Province to be a benefit to both parties.

11. Section 269 is amended by adding the following subsection after subsection (2) :

(2a) A council may by by-law sell, lease or otherwise dispose of, in whole or in part, any property acquired from the Government of Canada for the purpose of establishing an industry or other commercial enterprise thereon.

12. Section 279 is repealed.

13. Section 287 is amended by striking out subsection (2).

14. Section 288 is amended by striking out subsection (5).

15. The heading "Hospitalization Agreements" and sections 292 and 293 are repealed.

16. Section 294 is amended by striking out the words "*The Hospitals Act*" where they occur in subsections (8) and (15) and by substituting the words "*The Alberta Hospitals Act*".

17. Section 323 reads:

"323. (1) No licence is required under any of the provisions of this Act for hawking, peddling or selling any goods, wares or merchandise grown, produced or manufactured in the Province if the same are hawked, peddled or sold

(a.) by the person who is the grower, producer or manufacturer thereof, or

(b) by his employee or servant authorized in writing by him to do so.

(2) An employee or servant shall on demand produce his authority in writing to an officer of the municipal district or to a peace officer.

(3) In a prosecution for hawking or peddling or selling without a licence in contravention of a by-law passed pursuant to this Act, the onus of proof that the defendant is exempted under subsection (1) is upon the defendant."

18. Subsection (5) of section 349 which requires copies of by-laws providing for penalties on arrears of taxes to be filed with the Minister is repealed.

19. Section 354, subsections (1) and (2) presently read:

"354. (1) The taxes due in respect of land, improvement, businesses, personal property, mineral or timber may be recovered with costs and with interest as a debt due to the municipal district, from a person

(a) who was the owner, conditional owner or purchaser of the land, improvement, businesses, personal property or the mineral or who was the timber licensee of the timber at the time of its assessment, or

(b) who subsequently became the owner, conditional owner, purchaser or timber licensee of the whole or any part thereof, saving his recourse against any other person.

(2) The taxes, costs and interest referred to in subsection (1) are a special lien on

(a) the land,

(a1) the business,

(b) personal property, or

(c) mineral or timber that is not exempt from taxation by the Province,

in priority to a claim, privilege, lien or encumbrance of any person except the Crown and the lien and its priority are not lost or impaired by any neglect, omission or error."

20. Section 377 presently reads:

"377. (1) Where authorized under this Act or any other Act to levy taxation for any purpose, including ordinary current expenditure, and if authorized by by-law, the council, either before or after the passing of the by-law authorizing the rate of taxation may, by promissory note or notes under the seal of the municipal district duly attested by the signatures of the reeve or the deputy reeve and the secretary-treasurer, borrow such sums as the council deems necessary to expend in carrying out the purpose until such time as the taxes levied therefor can be collected.

(2) Where money has been borrowed or is proposed to be borrowed under this section the council either in the by-law authorizing the loan or by a by-law passed at a subsequent time may pledge as security for the repayment of the money

(a) the whole or any part of all unpaid taxes and penalties on taxes assessed or levied in any previous years, together with penalties thereon, and

(b) the whole of the taxes for the current year or such part thereof as is considered expedient."

17. Section 323 is repealed.

18. Section 349 is amended by striking out subsection (5).

19. Section 354 is amended

- (a) as to subsection (1) by adding immediately after the word "businesses," wherever it occurs the words "assessed property under *The Electric Power and Pipe Line Assessment Act*,"
- (b) as to subsection (2) by adding the following clause after clause (a1):
 - (a2) assessed property under *The Electric Power and Pipe Line Assessment Act*,

20. Section 377 is amended

- (a) as to subsection (1) by striking out the words "exp- pend in carrying out the purpose" and by sub- stituting the words "meet the current expenditures and obligations of the municipal district",
- (b) as to subsection (2)
 - (i) by striking out the word "and" at the end of clause (a) and by adding the word "and" at the end of clause (b),
 - (ii) by adding the following clause after clause (b):
 - (c) any other designated revenues for the cur- rent year.
- (c) by adding the following subsection after subsection (2):
 - (3) The council from time to time during the year in which such moneys are borrowed and the two succeeding years, may pass by-laws for extend- ing the loan and renewing or extending such promissory notes, whether original or renewed.

21. Section 379 presently reads:

"379. When any borrowing takes place to meet the current ordinary expenditures of the municipal district the total temporary loans outstanding after any borrowing is made, shall not exceed seventy-five per cent of the total of the latest tax levy by the municipal district."

22. Section 384, subsection (1), clauses (c) and (f) and subsection (2), clause (c) presently read:

- "384. (1) A by-law creating a debt shall state by recital or otherwise

 (c) the rate of interest and whether the interest is to be paid annually or semi-annually,

 (f) that the consent or approval of the Minister or of the provincial board of health required by The Public Health Act has been obtained.
- (2) The by-law

 (c) shall fix the rate or rates of interest payable on the debentures and name the places where and the times when the principal and interest are payable,".

23. Section 425 presently reads:

"425. (1) In this section "district highway" means a district highway established as such by the District Highways Board appointed pursuant to The Public Highways Act.

(2) Subject to this section, a council by by-law may prohibit the construction, placing or laying, either above or below ground, of
 (a) power transmission poles, lines or cables,
 (b) telegraph poles, telephone poles, lines or cables, and
 (c) buildings, shelter belts or wells,
 closer to the centre line of a district highway than fifty-one feet.

(3) In lieu of or in addition to prohibiting the construction, laying or placing of any of the works or things referred to in subsection (2) within fifty-one feet of the centre line of a specified district highway, the by-law may permit the same within fifty-one feet of the centre line of a specified district highway or any part of such highway upon such terms and conditions as may be set out in the by-law.

(4) A by-law made pursuant to subsection (2)

- (a) shall make provision from municipal funds for the payment of compensation by the municipal district to any person who might suffer damages as a result of the by-law,
 (b) may prescribe, for failure to comply with a by-law made pursuant to subsection (2) or to comply with any terms or conditions of the construction, laying or placing of any of the works or things referred to in subsection (2), a fine not exceeding two hundred dollars, and for a term of imprisonment not exceeding thirty days for default of payment of any fine under the by-law, and
 (c) may authorize the removal, at the expense of the owner, of any works or things that were constructed, laid or placed in contravention of the by-law.

(5) Where there is a disagreement between the council and a person who claims to have incurred damage or loss as a result of a by-law under this section, compensation shall be determined by arbitration under The Arbitration Act."

21. Section 379 is struck out and the following section is substituted:

379. The amount borrowed to meet the current expenditures and obligations shall not exceed the amount of taxes levied or estimated to be levied for the current year.

22. Section 384 is amended

- (a) as to subsection (1)
 - (i) by adding in clause (c) immediately before the words "rate of interest" the word "maximum",
 - (ii) by striking out clause (f) and by substituting the following:
 - (f) where the consent or approval of the Minister or of the Provincial Board of Health is required under this or any other Act, that such consent or approval has been obtained.
- (b) as to subsection (2), clause (c) by adding immediately after the words "fix the" the word "maximum".

23. The heading "District Highways" and section 425 are struck out and the following section is substituted:

425. (1) A council by by-law may prohibit the construction, placing or laying, either above or below the ground, of

- (a) power transmission poles, lines or cables,
- (b) telegraph poles, telephone poles, lines or cables, and
- (c) wells,

closer than fifty-one feet to the centre line of a district highway established pursuant to *The Public Highways Act*.

(2) A council by by-law may prohibit the construction or placing of

- (a) buildings and shelter belts,
- (b) farm dugouts, and
- (c) cesspools or disposal fields,

closer than one hundred feet to the centre line of any public road, highway or street.

(3) In lieu of or in addition to prohibiting the construction, laying or placing of any works or things as provided in subsections (1) and (2), the by-law may permit such construction, laying or placing within a specified distance of the centre line of a specified district highway, road, highway or street, or any part thereof, upon such terms and conditions as may be set out in the by-law.

(4) A by-law made pursuant to this section

- (a) shall provide for the payment from municipal funds of compensation by the municipal district to any

24. The obtaining of title to municipal land by adverse possession is prohibited.

25. See clause 4 of this Bill.

26. Commencement of Act.

person who suffers damages as a result of the by-law, and

- (b) may prescribe a fine for failure
 - (i) to comply with a by-law made pursuant to subsection (1) or (2), or
 - (ii) to comply with any terms or conditions of the construction, laying or placing of any of the works or things referred to, not exceeding two hundred dollars, with imprisonment for a term not exceeding thirty days for default in payment of the fine, and
- (c) may authorize the removal, at the expense of the owner, of any works or things that were constructed, laid or placed in contravention of the by-law.

(5) Where there is a disagreement between a council and a person who claims to have incurred damage or loss as a result of a by-law under this section, compensation shall be determined by arbitration under *The Arbitration Act*.

24. The following section is added immediately after section 429:

430. No person shall, by reason of the adverse or unauthorized possession, occupation, enjoyment or use of any land owned by a municipal district obtain any estate or interest therein, and it shall be deemed that no such right has heretofore been so acquired.

25. Schedule A is amended by adding the following new form after Form 4:

FORM 4a
(Section 96)

NOTICE OF MUNICIPAL MEETING

Notice is hereby given that a meeting of the electors of the Municipal District of....., No..... will be held at..... at o'clock in thenoon on Saturday, the.....day of February, 19..... (*here insert the date of the third Saturday in February*) for the discussion of the affairs of the district.

Dated this day of, 19.....

.....
Secretary-treasurer.

26. This Act comes into force on the day upon which it is assented to and upon so coming into force sections 20 and 21 shall be deemed to have been in force at all times on and after the first day of January, 1963.

No. 53

FIFTH SESSION
FOURTEENTH LEGISLATURE
11 ELIZABETH II
1963

BILL

An Act to amend The Municipal
District Act

Received and read the

First time

Second time

Third Time

HON. MR. HOOKE
