

No. 106

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1st Session, 15th Legislature, Alberta  
12 Elizabeth II

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## **BILL 106**

A Bill to amend The Local Authorities Board Act

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HON. MR. HOOKE

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## **Explanatory Note**

**1.** This Bill amends The Local Authorities Board Act, which is chapter 46 of the Statutes of Alberta, 1961.

**2.** Divisions 1 of Part II of the Act sets out the powers and duties of the Board with respect to the financial affairs of local authorities. Under this Division and the various Acts governing local authorities Board approval is required for long term debenture borrowing. The definition of "debenture" in the present section 69 is broad enough to cover promissory notes or other securities given for short term borrowings which do not ordinarily require Board approval. The present section 69 is only required in connection with the provision dealing with Board authority over local authorities in financial difficulty. See note to clause 3 of this Bill.

**3.** The sections of Division 1 in Part II relating to the authority of the Board over local authorities in financial difficulty are mixed up with sections of general application to all local authorities. The purpose of the amendments made by this clause and clauses 4 to 7 is to separate the two classes of sections. No change in the law is intended.

**4.** See note to clause 3.

**5.** See note to clause 3.

**6.** The present sections 69, 78 to 89 and 91 to 97 re-enacted as a separate Division. See note to clause 3.

# BILL

No. 106 of 1964

An Act to amend The Local Authorities Board Act

(Assented to \_\_\_\_\_, 1964)

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

1. *The Local Authorities Board Act* is hereby amended.
2. Section 69 is struck out and the following is substituted:

69. In this Division, "debentures" include securities of every sort, except securities for a temporary loan.
3. Sections 78 to 89 are struck out and section 90 is re-numbered as section 78.
4. Sections 91 to 97 are struck out.
5. The words "section 103" where they occur in
  - (a) subsection (1) of section 104,
  - (b) section 106,
  - (c) subsection (1) of section 107, and
  - (d) subsection (1) of section 108,are struck out and the words "section 84" are substituted.
6. Sections 98 to 114 are renumbered as sections 79 to 95, respectively, and the following heading and sections are added after the renumbered section 95:

## Division 1A

### Controlled Local Authorities

96. In this Division "debentures" includes securities of every sort.
97. (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 become 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.

**98.** (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;
- (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 Division;
- (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.

(2) The Board may appoint an auditor for a local authority whose financial affairs are, by reason of an order made pursuant to this Division, under the supervision of the Board, and upon any such appointment being made the powers of the local authority 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.

**99.** (1) Subject to subsection (2), no order made pursuant to subsection (1) of section 98 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.





**100.** Where the Board makes an order under section 98, 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.

**101.** (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 Division, 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 Division 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) 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.

**102.** All debentures purporting to be issued under the authority of this Division 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.



**103.** (1) As long as any order of the Board under section 98 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 and the basis therefor, 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.

**104.** (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 the 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.

**105.** 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.

**106.** 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.

**107.** All borrowings by a local authority referred to in section 103 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.



**108.** When an order of the Board under section 98 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.

**109.** 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.

**110.** 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.

**111.** 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.

**112.** When an administrator has been appointed under this Division, 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 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.

**113.** When any money is advanced to an administrator under section 112, 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.

**114.** 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.

**7.** See note to clause 3.

**8.** Section 116, clause (d) refers to the increment tax under section 120, subsection (5), which is being repealed. See note to clause 9.

**9.** Section 120, subsections (1), (4) and (5) presently read:

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

(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."

**114a.** (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.

**7.** Section 115, subsection (2), clause (c) is amended by striking out the words "sections 78 to 102" and by substituting the words "Division 1A".

**8.** Section 116 is amended by striking out clause (d).

**9.** Section 120 is amended

- (a) as to subsection (1) by striking out the words "and containing at least eight acres in respect of which there is no subsisting registered plan or that is an unsubdivided part of a registered plan",
- (b) as to subsection (4)
  - (i) by striking out the word "nevertheless" and by substituting the words ", notwithstanding any other Act,"
  - (ii) by adding after the word "land" wherever it occurs the words "and the improvements thereon",
- (c) by striking out subsection (5).

**10. Section 124, subsection (1) presently reads:**

"124. (1) Where a majority of the resident landowners 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 landowners 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."

**11. Commencement of Act.**



**10.** Section 124, subsection (1) is amended

- (a) by striking out the words “the resident landowners” and by substituting the words “the registered owners”,
- (b) by striking out the words “the landowners” and by substituting the words “the registered owners”.

**11.** This Act comes into force on the day upon which it is assented to.

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FIRST SESSION  
FIFTEENTH LEGISLATURE  
12 ELIZABETH II  
1964

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**BILL**

An Act to amend The Local  
Authorities Board Act

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Received and read the

First time .....

Second time .....

Third time .....

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HON. MR HOOKE

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