

1981 BILL 15

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 15

**THE MUNICIPAL GOVERNMENT AMENDMENT ACT,
1981**

THE MINISTER OF MUNICIPAL AFFAIRS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 15

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**THE MUNICIPAL GOVERNMENT AMENDMENT ACT,
1981**

(Assented to _____, 1981)

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

- 1 *The Municipal Government Act is amended by this Act.*
- 2 *Section 2, clause 4 is repealed and the following is substituted:*
- 4 “elector” means a person
- (i) who is 18 years or older,
- (ii) who is a Canadian citizen, and
- (iii) who
- (A) in the case of an election or the taking of a vote, is qualified to vote at that election or taking of a vote, or
- (B) in the case of the performance of any other function or the exercise of any right with respect to a municipality, is resident in the municipality on the day on which the function is performed or the right is exercised, and has resided in Alberta for the 6 consecutive months immediately preceding that day.
- 3 *Section 7(1)(a) is amended by striking out “qualified to vote at a general election” and substituting “electors”.*

Explanatory Notes

1 This Bill will amend chapter 246 of the Revised Statutes of Alberta 1970.

2 Section 2, clause 4 presently reads:

4 “elector” means a person qualified to vote at an election or at the taking of a vote, as the case may be;

3 Section 7(1)(a) presently reads:

7(1) Where this Act provides for the doing of any thing by a petition to be presented to a council, the petition shall consist of one or more pages each of which shall contain an accurate and identical statement of the purpose and objectives of the petition and

(a) each signature thereto shall be witnessed by an adult person, who shall take an affidavit that to the best of his belief the persons whose signatures he has witnessed are qualified to vote at a general election, and

4 Section 9(d) is amended by striking out “, or elects such other abode as his residence, in which case he shall be deemed to be a resident of this other place”.

5 Section 20 is amended by repealing subsections (1)(a), (1.1)(a) and (2).

4 Section 9(d) presently reads:

9 For the purposes of this Act, the place of residence is governed by the following rules, as far as applicable:

(d) the place where a person's family resides shall be deemed to be his place of residence unless he takes up or continues his abode in some other place with the intention of remaining there, or elects such other abode as his residence, in which case he shall be deemed to be a resident of this other place;

5 Section 20 presently reads in part:

20(1) Where a petition is presented to the Local Authorities Board

(a) by a majority of the owners of any territory in or immediately adjoining a municipality, or

(b) by the council of a municipality with respect to any territory in or immediately adjoining the municipality, or

(c) by the Minister with respect to territory forming the whole or any part of an improvement district or special area that he desires to have annexed to a municipality,

requesting that the territory be annexed to the municipality or to another municipality, improvement district or special area, the Board by order may annex territory

(d) from a municipality to an improvement district, special area or another municipality, or

(e) from an improvement district or special area to a municipality.

(1.1) In this section

(a) "owner" means

(i) with reference to territory which is Crown land, the Crown, or

(ii) with reference to territory which is not Crown land,

(A) the purchaser of the fee simple estate in the land under an agreement for sale that is the subject of a caveat registered against the certificate of title to the land, or

(B) in the absence of a person described in paragraph (A), the person registered under The Land Titles Act as the owner of the fee simple estate in the land,

and in either case includes a person who has a life estate in the land, notice of which appears on the certificate of title to the land or in respect of which a certificate of title has been issued under The Land Titles Act;

(2) The Local Authorities Board may, without a petition and of its own motion by order and after notice, annex territory

6 *Section 20.1(1) is amended by striking out “, (2)”.*

7 *Section 20.2 is repealed and the following is substituted:*

20.2(1) The Lieutenant Governor in Council may, by order, annex territory

(a) from a municipality to an improvement district, special area or another municipality, or

(b) from an improvement district or special area to a municipality.

(2) An order under subsection (1)

(a) may prescribe the terms and conditions, if any, governing the annexation, and

(b) shall be published in The Alberta Gazette.

(3) An order under subsection (1) becomes effective on the date named in the order or, if no date is named in the order, on the date of the publication of the order in The Alberta Gazette.

8 *Section 21 is amended by adding “or 20.2” after “20”.*

(a) from a municipality to an improvement district, special area or another municipality immediately adjoining thereto, or

(b) from an improvement district or special area to a municipality immediately adjoining thereto.

6 Consequential. Section 20.1(1) presently reads:

20.1(1) Notwithstanding any provision of any Act to the contrary, no order of the Local Authorities Board made under section 20, subsection (1), (2) or (5) has any effect unless it is approved by the Lieutenant Governor in Council under subsection (3) of this section.

7 Section 20.2 presently reads:

20.2(1) Notwithstanding any provision of this or any Act,

(a) where land owned by the Crown in right of Alberta has a common boundary with a municipality, improvement district or special area (other than the municipality, improvement district or special area in which that land is located), the Lieutenant Governor in Council may, by order, annex all or part of that land from the municipality, improvement district or special area within which it is located to the municipality, improvement district or special area with which it has a common boundary, or

(b) where land owned by the Crown in right of Alberta is located in a municipality, improvement district or special area and is separated from another municipality, improvement district or special area by a road allowance only, the Lieutenant Governor in Council may, by order, annex all or part of that land and that portion of the road allowance that lies between that land and that other municipality, improvement district or special area, from the municipality, improvement district or special area within which the land and road allowance are located to that other municipality, improvement district or special area.

(2) An order made under subsection (1) may prescribe

(a) the terms and conditions, if any, governing the annexation, and

(b) the date the annexation takes place.

8 Consequential. Section 21 presently reads:

21 No order made under section 20 affects or abrogates any existing contract or any existing right of or held by any municipality or person for the production, transmission, delivery or furnishing of water, gas, heat, sewer service, light, power, telephone or transportation to or for inhabitants or businesses in the annexed or excluded territories, as the case may be, but the council of the area affected by the order is upon a renewal of the utility contract being proposed, subject to the provisions of this Act respecting utility renewal or purchase.

9 *Section 29(1)(e) is amended by striking out “or British subject”.*

10 *Section 115(1)(a) and (3)(c) are amended by striking out “\$500” and substituting “\$2500”.*

11 *Section 126.2 is amended*

(a) by adding the following after subsection (1):

(1.1) Notwithstanding subsection (1), a petition for a by-law that will have the effect of repealing, amending or suspending an existing by-law has no effect unless it is received by the council within 60 days of the day on which the existing by-law was passed.

(b) by repealing subsection (2)(a), (b) and (c) and substituting the following:

(a) 5% of the population of a municipality as determined by the latest census, in a municipality having a population of 1000 or more persons, or

(b) 10% of the population of a municipality as determined by the latest census, in a municipality having a population of less than 1000 persons.

12 *Section 128(2) is amended*

(a) by repealing clause (b);

(b) in clause (f) by adding “or where land that was acquired for a public park, recreation grounds or exhibition grounds is rented or leased to a community association” after “environmental reserve”.

9 Section 29(1)(e) presently reads:

29(1) A person is not qualified to remain a member of the council if he

(e) ceases to be a Canadian citizen or British subject, or

10 Section 115(1)(a) and (3)(c) presently read:

115(1) The council may by by-law

(a) impose a penalty not exceeding \$500, exclusive of costs, for contravention of any by-law under this or any other Act and provide for reasonable punishment by imprisonment for any period not exceeding six months in case of non-payment of the fine and costs imposed for any such contravention, unless the fine and costs including the costs of committal are sooner paid,

(3) A council may, either in a general penalty provision in a by-law or in a penalty provision applicable to a contravention of a particular provision of a by-law, provide for

(c) a minimum daily fine not exceeding \$500 for every day that the offence continues after conviction, or

11 Section 126.2(1) and (2) presently read:

126.2(1) If a petition is submitted to the council for a by-law dealing with any matter within its legislative jurisdiction, the council shall cause a by-law dealing with the subject matter of the petition to be prepared and read a first time.

(2) The petition referred to in subsection (1) has no effect unless the number of electors who have signed the petition equals at least

(a) 3 per cent of the population of the municipality as determined by the latest census, in a municipality having a population of 10,000 or more persons, or

(b) 5 per cent of the population of the municipality as determined by the latest census, in a municipality having a population of less than 10,000 but more than 1,000 persons, or

(c) 7 per cent of the population of the municipality as determined by the latest census, in a municipality having a population of 1,000 persons or less.

12 Section 128(2) presently reads in part:

(2) The disposal of any land or estate or interest in land as authorized by subsection (1) does not require the assent of the electors except that the council does not have power

(a) to dispose of land or any estate or interest in land that was acquired

(i) for a public park, recreation grounds or exhibition grounds, or

(ii) as environmental reserve, municipal reserve or municipal and school reserve pursuant to The Planning Act, 1977, or

(b) to sell to any person lands, buildings or portion thereof at any sum less than what is the fair actual value thereof at the time of sale, except where the sale is for the purpose of providing land on which housing accommodation is to be constructed, or

without

(e) in the case of municipal reserve or municipal and school reserve, complying with the requirements of The Planning Act, 1977 with respect to the sale, lease or other disposal, and

(f) in every other case, except for environmental reserve, advertising the disposition and the provisions of section 311 relating to the requirements of submitting the matter to a vote of the proprietary electors apply, with the necessary modifications, to the disposition.

13 Pension or superannuation plan for council members.

14 Section 140 presently reads:

140(1) Where the municipality establishes a pension or superannuation plan or a benefit fund, the money payable therefrom to an employee or to his estate, whether by way of annuity, death benefit or otherwise

(a) is not assignable, and

(b) is not subject to garnishee proceedings or attachment or seizure, except in respect of failure of the employee to account for public money or to pay a debt due to the municipality.

(2) Subsection (1) does not apply in respect of

(a) a refund of money from a pension or superannuation plan, or

13 The following is added after section 137:

137.1(1) The council, by by-law, may set up, contract for and maintain a pension or superannuation plan or a benefit fund for the benefit of the members of council and their dependants.

(2) A pension or superannuation plan or a benefit fund under subsection (1) may require those contributions on the part of the members and on the part of the municipality that the council prescribes, and the council may deduct the contributions of the members from the remuneration paid to those members.

(3) A by-law passed under this section shall be deemed not to be a money by-law.

14 Section 140 is amended

(a) in subsection (1)

(i) by striking out “an employee” and substituting “a member or employee”, and

(ii) in clause (b) by adding “member or” after “failure of the”;

(b) in subsection (2) by striking out “an employee” and substituting “a member of council on his ceasing to be a member or to an employee”.

15 Section 142 is amended

(a) in subsection (1) by adding “or all or any members of the council” after “138”;

(b) in subsection (2) by adding “or remuneration” after “salaries”.

16 Section 149 is amended

(a) in subsection (1) by adding “or owner or purchaser of land within the municipality” after “elector”;

(b) by adding the following after subsection (1):

(1.1) Notwithstanding subsection (1), the charge for a copy of a by-law furnished by the municipal secretary under that subsection shall not exceed \$10 unless the copy is in the form of a publication that is offered for sale to the public.

17 Section 154(3) is amended

(a) in clause (a) by striking out “\$5” and substituting “\$50”;

(b) in clause (b) by striking out “\$10” and substituting “\$100”;

(c) in clause (c) by striking out “\$20” and substituting “\$200”.

(b) a refund of money from a benefit fund,

to an employee on termination of his employment with the municipality and before qualification for pension, superannuation or benefits.

15 Section 142 presently reads:

142(1) The council, by by-law, may set up, contract for or otherwise institute a scheme of insurance for the purpose of insuring all or any employees referred to in section 138 against sickness, accident or death, as the case may be.

(2) Any such scheme of insurance may require such contributions on the part of the members or employees, and on the part of the municipality, as the council in its discretion may provide in the by-law, and the council may deduct the contributions of the members or employees from their salaries.

(3) A by-law passed under this section shall be deemed not to be a money by-law.

16 Section 149(1) presently reads:

149(1) Any elector may at all reasonable times inspect

(a) any contract approved by council or an executive committee and any by-law or account after it has been submitted to the council,

(b) any report of the commissioners or of any committee or of any official of the municipality after it has been submitted to the council, other than an opinion or report of the municipal solicitor or of any counsel engaged by the municipality, and

(c) the minutes of council, after they have been adopted by the council,

and the municipal secretary shall within a reasonable time after receiving a written demand by an elector furnish him with copies of any such documents or parts thereof at the rate of not more than 50 cents per 100 words, each figure to be counted one word or at a rate of not more than \$1 per reproduced page or part thereof of any such documents.

17 Section 154(3) presently reads:

(3) A parent or guardian who permits his child to contravene the by-law is guilty of an offence and liable upon summary conviction

(a) for a first offence to a fine of \$5,

(b) for a second offence to a fine of \$10, and

(c) for a third or subsequent offence to a fine of \$20,

and in each case in default of payment to a term of imprisonment of not more than three months.

18 Section 162(1)(i) is amended by striking out “\$500” and substituting “\$2500”.

19 Section 206 is amended by adding the following after subsection (2):

(2.1) Notwithstanding subsection (2), a council may make grants in any one year in excess of the maximum amount referred to in subsection (2) if the grants in excess of that sum are paid out of money that is received by the council by way of a gift or grant for a specific purpose and the grant made by the council is consistent with that purpose.

20 Section 226(4)(b) is repealed and the following is substituted:

(b) a mobile unit used chiefly as a farm building or farm residence as defined in *The Municipal Taxation Act*, or

21 Section 233 is amended by striking out “\$100” and substituting “\$500”.

22 Section 249(4)(b) is amended by striking out “\$200” and substituting “\$1000”.

18 Section 162(1)(i) presently reads:

162(1) The council, subject to the provisions of any Act of the Parliament of Canada, or of the Legislature of Alberta, or to any order of the Canadian Transport Commission may make by-laws

(i) imposing a fine not exceeding \$500 for a breach of any such by-law.

19 Section 206(2) presently reads:

(2) Subject to subsection (3), a council may make grants for any or all of the purposes mentioned in this section but in any one year the aggregate of all such grants shall not exceed a sum equal to one-half a mill on the net total assessment of the municipality upon which taxes are levied.

20 Section 226(4)(b) presently reads:

(4) The owner of a mobile unit is not required to have a licence in respect of

(b) a mobile unit used chiefly as a farm building or residence in connection with the raising or production of crops, livestock or poultry or in connection with fur production or beekeeping and situated on farm land outside a city, town, new town, village or summer village, or

21 Section 233 presently reads:

233 The council, by by-law, may impose a penalty not exceeding \$100 exclusive of costs, for the breach of a by-law relating to the closing of shops, businesses or industries, and may provide for punishment by imprisonment for any period not exceeding 60 days in case of the non-payment of the fine and costs imposed for any such breach unless the fine and costs, including the costs of committal are sooner paid.

22 Section 249(4)(b) presently reads:

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

(b) may prescribe a fine not exceeding \$200, with imprisonment for a term not exceeding 30 days for default in payment of the fine for failure

(i) to comply with a by-law passed pursuant to subsection (1) or (2), or

(ii) to comply with any of the terms or conditions of the construction, laying or placing of any of the works or things referred to in a by-law passed pursuant to subsection (3),

and

23 *Section 303(2) is amended by striking out “\$100” and substituting “\$500”.*

24 *Section 311(3) is repealed and the following is substituted:*

(3) If a petition for a vote on a money by-law is received by the municipal secretary within 15 days of the last publication of the notice and if the petition is signed by proprietary electors equal in number to at least

(a) 5% of the population of a municipality as determined by the latest census, in a municipality having a population of 1000 or more persons, or

(b) 10% of the population of a municipality as determined by the latest census, in a municipality having a population of less than 1000 persons,

the council, if it decides to proceed with the by-law, shall submit the money by-law to a vote of the proprietary electors.

25 *Section 314 is amended*

(a) *by repealing subsection (1)(b) and substituting the following:*

(b) yearly payments of principal and interest under clause (a) do not exceed 10% of the previous year's tax levy for the municipality.

(b) *in subsection (4) by striking out “the equivalent of 15 mills on the total assessment of the municipality upon which taxes are levied” and substituting “30% of the previous year's tax levy for the municipality”;*

(c) *by adding the following after subsection (5):*

(6) For the purposes of this section “tax levy” means the total levy on the assessed value of all assessed property shown on the assessment roll of the municipality and includes revenue from grants in lieu of taxes.

23 Section 303(2) presently reads:

(2) The by-law may provide that any person who contravenes the by-law may forfeit the right to be supplied with the public utility and shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$100.

24 Section 311(3) presently reads:

(3) If a petition for a vote on a money by-law is received by the municipal secretary within 15 days of the last publication of the notice and if the petition is signed by at least

(a) 5 per cent of the proprietary electors in a municipality having a population of 10,000 or more persons, or

(b) 10 per cent of the proprietary electors in a municipality having a population of less than 10,000 persons but more than 1,000 persons, or

(c) 15 per cent of the proprietary electors in a municipality having a population of less than 1,000 persons,

the council if it decides to proceed with the by-law shall submit the money by-law to a vote of the proprietary electors.

25 Section 314 presently reads in part:

314(1) Notwithstanding anything in this Act, a council may make an expenditure for or create a liability for any capital purpose authorized by this Act if

(a) any debt created thereby is repaid within three years, and

(b) yearly payments of principal and interest under clause (a) do not exceed an amount equivalent to 5 mills on the assessment of the municipality upon which the taxes are levied.

(4) The aggregate of all liabilities incurred under this section shall not at any time exceed the equivalent of 15 mills on the total assessment of the municipality upon which taxes are levied.

26 *Section 411 is amended by striking out “\$500” and substituting “\$2500”.*

In accordance with section 4(1) of The Interpretation Act, 1980, this Bill comes into force on the date it receives Royal Assent.

26 Section 411 presently reads:

411 Any person who contravenes any provision of this Act for the contravention of which no punishment has been specifically provided is guilty of an offence and liable on summary conviction to imprisonment for a term of not more than six months, or to a fine of not more than \$500, or to both such fine and imprisonment.