

1984 BILL 11

Second Session, 20th Legislature, 33 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 11

**MUNICIPAL FINANCING STATUTES
AMENDMENT ACT, 1984**

MR. MUSGROVE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 11
Mr. Musgrove

BILL 11

1984

MUNICIPAL FINANCING STATUTES AMENDMENT ACT, 1984

(Assented to _____ *, 1984)*

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

Local Authorities Board Act

1(1) The Local Authorities Board Act is amended by this section.

(2) Section 27(1) is amended by adding the following after clause (f):

(g) to establish limits for borrowing by local authorities.

(3) Section 70 is repealed and the following is substituted:

70(1) When a local authority wishes to raise money by way of debentures, it shall apply to the Local Authorities Board for authority to do so after 3rd reading of the by-law providing for the debentures.

(2) If the debentures are for the purpose of a work or undertaking, the application under subsection (1) shall be made before any physical work is commenced on the work or undertaking.

Explanatory Notes

Local Authorities Board Act

1(1) This section will amend chapter L-27 of the Revised Statutes of Alberta 1980.

(2) Section 27(1) presently reads:

27(1) The Board has all the necessary jurisdiction and power

(a) to inquire into the merit of any application of a local authority for permission to raise money by way of debenture or on the security of stock, as provided in this Act;

(b) to supervise the expenditure of money borrowed by a local authority as provided in this Act;

(c) to deal with the financial affairs of local authorities, as provided in this Act;

(d) 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;

(e) to separate land from an urban municipality as provided in this Act;

(f) to order compromises of tax arrears as provided in this Act.

(3) Section 70 presently reads:

70 When for the purpose of a work or undertaking or for the acquisition of property or for any other object within its powers a local authority desires to raise money by way of debentures, the local authority shall apply to the Board for authority to do so before commencing or undertaking the works or project.

(4) *Section 71 is repealed.*

(5) *Section 74(a) is amended by striking out “proposed”.*

(6) *Section 76 is amended by striking out “the certificate of the Provincial Board of Health approving the proposed undertaking has first been obtained under the *Public Health Act*” and substituting “a permit has first been obtained under the *Clean Water Act*”.*

Municipal Government Act

2(1) *The Municipal Government Act is amended by this section.*

(2) *Section 324 is amended*

(a) *in subsection (1) by striking out “approval of the Local Authorities Board and the assent of the proprietary electors when their assent is required by this Act” and substituting “assent of the proprietary electors, when their assent is required by this Act, and the approval of the Local Authorities Board”;*

(b) *in subsection (3) by striking out “issuance of an order or as otherwise authorized by the Local Authorities Board approving a by-law” and substituting “first reading of a by-law”;*

(c) *by repealing subsection (6) and substituting the following:*

(6) If a by-law referred to in subsection (1)

(a) is advertised as required by subsection (3),

(b) is not required to be submitted to a vote of the proprietary electors as a result of a petition,

(c) is passed by the council, and

(d) is approved by the Local Authorities Board,

and because of an increase in the cost of the project for which the debt is to be incurred, as determined by public tender or otherwise, the authorized debenture borrowing in the by-law is insufficient to finance the project and there is no increase

(4) Section 71 presently reads:

71(1) In the case of a 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 municipality.

(2) No further action, including advertising, shall be taken by the municipality on the by-law providing for the debenture until the authorization of the Board has been obtained as provided in this Part.

(5) Section 74(a) presently reads:

74 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,

(6) Corrects reference. Section 76 presently reads:

76 When, 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 Public Health Act.

Municipal Government Act

2(1) This section will amend chapter M-26 of the Revised Statutes of Alberta 1980.

(2) Section 324(1), (3) and (6) presently read:

324(1) Subject to the exceptions set out in this or any other Act, no by-law for creating a debt not payable within the current year has any effect until it has received the approval of the Local Authorities Board and the assent of the proprietary electors when their assent is required by this Act.

(3) Within 60 days from the date of the issuance of an order or as otherwise authorized by the Local Authorities Board approving a by-law referred to in subsection (1), a council shall publish a notice of the proposed by-law, in a form approved by the Local Authorities Board, once a week for 2 consecutive weeks in at least one newspaper circulating within the limits of the municipality.

(6) If a by-law referred to in subsection (1)

(a) is approved by the Local Authorities Board,

(b) is advertised as required by subsection (3),

(c) is not required to be submitted to a vote of the proprietary electors as a result of a petition, and

(d) is passed by the council,

and because of an increase in the cost of the project for which the debt is to be incurred, as determined by public tender or otherwise, the authorized debenture borrowing in the by-law is insufficient to finance the project and there is no increase in the standards, plans, specifications or size of the project, a council without publishing a notice as required by subsection (3) may, subject to the prior approval of the Local Authorities Board, pass a

in the standards, plans, specifications or size of the project, a council without publishing a notice as required by subsection (3) may, subject to the approval of the Local Authorities Board, pass a by-law to amend the original by-law by increasing the authorized debenture borrowing to an amount sufficient to finance the project.

(7) A by-law approved by the Local Authorities Board and any debenture that is issued or that may thereafter be issued in conformity with the by-law is valid and binding on the municipality and on the property liable to the rate imposed by or under the authority of the by-law, and the validity of the by-law and the debentures is not thereafter open to question in any court.

(3) Section 338(1) is amended by striking out “and” at the end of clause (e), adding “and” at the end of clause (f), and adding the following after clause (f):

(g) any other information that may be required from time to time by the Local Authorities Board.

(4) Section 339(1) is amended by striking out “Subject to the approval of the Local Authorities Board, any such by-law” and substituting “A by-law creating a debt”.

(5) Section 340(1) is amended

(a) in clause (a) by striking out “approved by the Local Authorities Board” and substituting “set out in the by-law”;

(b) in clause (b) by striking out “thereof as may be approved by the Local Authorities Board” and substituting “of the debentures”.

(6) Section 344(2)(b) is repealed and the following is substituted:

(b) provide for the manner of repayment,

by-law to amend the original by-law by increasing the authorized debenture borrowing to an amount sufficient to finance the project.

(3) Section 338(1) presently reads:

338(1) The by-law creating the debt shall state, by recital or otherwise,

(a) the amount of the debt intended to be created and in some brief and general terms the object for which it is to be created,

(b) the period over which the indebtedness is to be spread and the amount of the instalments to be paid in each of the years or the period at the end of which it is to be paid,

(c) the maximum rate of interest, or that the maximum rate of interest shall be the interest rate fixed from time to time by the Alberta Municipal Financing Corporation, and whether it is to be paid annually or semi-annually,

(d) the amount of the equalized assessment in the municipality as last determined and fixed by the Assessment Equalization Board,

(e) the amount of the existing debenture debt of the municipality and how much, if any, of the principal or interest thereof is in arrears, and

(f) that the required consent or approval of the Minister has been obtained (if any) and the permit under the Clean Water Act has been issued, if required.

(4) Section 339(1) presently reads:

339(1) Subject to the approval of the Local Authorities Board, any such by-law may provide that all or any part of the debentures authorized thereby will be redeemable at the option of the municipality at any time or at the time or times in advance of maturity that the by-law may prescribe.

(5) Section 340(1) presently reads:

340(1) A by-law providing for the issuance of debentures may

(a) provide that the indebtedness shall be payable as to principal and interest in any manner that may be approved by the Local Authorities Board, and

(b) provide for terms and conditions of the earlier redemption thereof as may be approved by the Local Authorities Board.

(6) Section 344(2)(b) presently reads:

(2) A by-law under subsection (1)(b) may

(b) authorize any manner of repayment approved by the Local Authorities Board,

(7) Section 347 is amended by striking out “, 344”.

(8) Section 349 is repealed.

(9) Section 351(7) is amended by striking out “before” and substituting “after”.

(10) Section 353 is amended by adding the following after subsection (4):

(4.1) The Local Authorities Board may determine whether a by-law under subsection (1) is for the extension, rehabilitation, re-equipment or improvement of a public utility, sewer, sewerage works, paved street, concrete or bituminous walks, public building or other public works, a bridge, fire equipment or an asphalt paving plant or engineering equipment required for street or public utility improvements.

(11) Section 353.1(8) is amended by striking out “certificate of”.

Municipal Taxation Act

3(1) The Municipal Taxation Act is amended by this section.

(7) Section 347 presently reads:

347 No by-law authorized by section 342, 344 or 346 takes effect until approved by the Local Authorities Board.

(8) Section 349 presently reads:

349(1) A council that has passed a by-law for contracting a debt or incurring a liability or for borrowing money may apply to the Local Authorities Board for a certificate approving the by-law.

(2) A municipality that intends to apply for a certificate approving a by-law shall forward to the Board a copy of the by-law together with a copy of the proposed advertisement as required by section 324 before advertising the by-law if advertising of the by-law is required.

(3) Repealed 1983 c88 s4.

(4) The Board may grant the certificate notwithstanding any defect or irregularity in substance or in form in the proceedings prior to the final passing of the by-law or in the by-law itself if, in the opinion of the Board, the provisions of the Act under the authority of which the by-law was assumed to be passed have been substantially complied with.

(5) The certificate may be in a form approved by the Local Authorities Board.

(6) A by-law approved by the certificate of the Board and any debenture that is issued or that may thereafter be issued in conformity with the by-law is valid and binding on the municipality and on the property liable to the rate imposed by or under the authority of the by-law, and the validity of the by-law and of every such debenture is not thereafter open to question in any court.

(9) Section 351(7) presently reads:

(7) The consent of the Local Authorities Board to the consolidation of debentures under this section and the terms of repayment of the consolidated debenture shall be obtained before the 3rd reading of the consolidating by-law.

(10) Section 353(1) presently reads:

353(1) When a municipality has constructed, purchased or acquired a public utility, sewer, sewerage works, paved street, concrete or bituminous walk, public building or other public works, a bridge, fire equipment, an asphalt paving plant or engineering equipment required for street or public utility improvements, the council may pass a by-law for borrowing any further sums that may be necessary to extend, rehabilitate, re-equip or improve it.

(11) Section 353.1(8) presently reads:

(8) Any by-law under subsection (2) shall not take effect unless and until it is approved by certificate of the Local Authorities Board.

Municipal Taxation Act

3(1) This section will amend chapter M-31 of the Revised Statutes of Alberta 1980.

(2) Section 149(2) is repealed and the following is substituted:

(2) Any of the works referred to in subsection (1) may be undertaken in conjunction with any of the other works referred to in that subsection.

Transitional

4 An application for the approval of a by-law that is received by the Local Authorities Board before this Act comes into force shall be continued to its conclusion and treated for all purposes as if this Act had not come into force.

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

(2) Section 149(2) presently reads:

(2) Any one or more of the works mentioned in subsection (1)(c) may be undertaken in conjunction with the works mentioned in subsection (1)(a) or (b) and constructed as one local improvement.