

## PART XIX

### MUNICIPAL AFFAIRS

#### **Interpretation**

**449** In this Part, "municipality" means a regional municipality, town or county or district municipality, except where the context otherwise requires or as otherwise defined in this Act, and includes a village, *a committee created by an intermunicipal services agreement* and a service commission.

#### **Requirements for Ministerial approval**

**450 (1)** Where, by any Act of the Legislature, an approval or a consent of a minister of the Crown of or to any resolution, regulation, by-law, plan, borrowing or other act or matter *of a municipality* is required, the approval of the Minister is also required and whenever the approval of the Minister is required, the Minister may, in the Minister's discretion

(a) approve or consent to all or part and from time to time approve or consent to other parts or to the remainder;

(b) attach any condition, subject to which approval or consent becomes effective;

(c) approve or consent with amendments and the subject matter of the approval or consent is effective as amended until subsequently amended or repealed, with the approval of the Minister, by the council that adopted it;

(d) rescind, vary or revoke the approval or consent, or any condition subject to which the approval or consent was effective, either in whole or in part, whereupon the matter approved or consented to or the condition, or part thereof, shall cease to have force and effect.

**(2)** Where, by any Act of the Legislature, a resolution, regulation, by-law or other act or matter of a municipality or of any board, committee or other body to which a municipality appoints members is subject to the approval of the Governor in Council or may be disallowed by the Governor in Council, the resolution, regulation, by-law or other act or matter is subject to the approval of the Minister and does not have effect until it receives the approval of the Minister, but is not subject to the approval of, or disallowance by, the Governor in Council.

**Prescription of accounting methods**

**451 (1)** The Minister may prescribe the

(a) system of accounting to be used by municipalities and the form in which records shall be kept and funds accounted for;

(b) information to be provided by municipalities to the Minister and when it shall be provided;

(c) manner in which municipal accounts are to be audited and the reports to be provided by municipal auditors.

**(2)** The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

**(3)** The Minister may prescribe different systems for different classes of municipality.

**Ministerial powers**

**452 (1)** The Minister may

(a) collect and analyze information relating to municipalities;

(b) prepare and publish information and advice relating to municipal affairs;

(c) study and advise upon the system of municipal institutions and the administration of municipal affairs;

(d) effect improvement in the conduct and administration of municipal affairs;

(e) consult with, assist and advise municipalities in the conduct and administration of municipal affairs;

(f) do anything necessary or incidental to the foregoing or directed to the improvement of municipal government in the Province.

(2) The Minister may enter into agreements with a municipality or a board, agency or commission of a municipality to assist in the achievement of any objects that are within the powers of the municipality or board, agency or commission and to effect improvement generally in the conduct and administration of municipal affairs.

(3) The Minister, with the approval of the Governor in Council, may enter into agreements with the Government of Canada or another province or any department or agency of either of them to assist in the achievement of any objects that are within the powers of a municipality or board, agency or commission of a municipality, and to effect improvement generally in the conduct and administration of municipal affairs.

**Date or time restrictions or limitations**

**453 (1)** Where an enactment fixes a date for, or imposes a time restriction or limitation in respect of

- (a) the determination or finalization of a budget of a municipality or a village of its estimates of revenues and expenditures;
- (b) setting a tax rate by a municipality;
- (c) the transmission of tax bills, statements or notices by a municipality;
- (d) payment of taxes to a municipality, including imposition of penalties; or
- (e) any other act relating to taxation by a municipality,

the Minister may, by order, upon the request of the council, extend the date or time restriction or limitation.

(2) The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

**Ministerial power to direct audit or review**

**454 (1)** The Minister may, at any time, direct an audit or review of a municipality by a person appointed by the Minister.

**(2)** The person appointed by the Minister to make an audit or review shall, for that purpose, have free access to all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the municipality.

**(3)** A person who fails to give any information or thing reasonably required by the person appointed to make an audit or review for the purpose of the audit or review, or who destroys, mutilates or defaces any such thing, is guilty of an offence and is liable, upon summary conviction, to a penalty of not more than fifty thousand dollars and, in default of payment, to imprisonment for a term of not more than twelve months.

**Public Inquiries Act**

**455** The Minister, or any person to whom the Minister may, in writing, delegate the authority may, for any of the purposes of this Act, examine any municipality, person, company, property or thing whatsoever, at any time, and for the purpose has the same power, privileges and immunities as a commissioner appointed under the *Public Inquiries Act*.

**Order by Minister**

**456 (1)** The Minister may order a municipality to do anything required by law or by agreement with the Minister or Her Majesty in right of the Province, or necessary or desirable in the interests of the municipality, or necessary or desirable for the due accounting for, collection or payment of any of a municipality's assets, liabilities, revenues, funds or money.

**(2)** Every person who fails to comply with an order of the Minister, votes in favour of any motion that would result in a failure to obey the order or votes against a motion to comply with the order is guilty of an offence and is liable, on summary conviction, to a penalty of not less than one thousand dollars and not more than ten thousand dollars and, in default of payment, to imprisonment for a term of not less than three months and not more than twelve months.

**Registration as municipal auditor**

**457 (1)** A person licensed as a public accountant pursuant to the *Public Accountants Act* may be registered as a municipal auditor.

**(2)** A firm or partnership may be registered as a municipal auditor if a majority of the members of the firm or partnership are licensed as public accountants pursuant to the *Public Accountants Act*.

**(3)** A person, firm or partnership shall not act as, or exercise or perform any of the duties of, a municipal auditor unless registered as a municipal auditor pursuant to this Section.

**(4)** An application for registration as a municipal auditor shall be filed with the Minister on or before June 30 in each year.

**(5)** An application for registration as a municipal auditor shall be accompanied by an application fee in the amount determined by the Governor in Council.

**(6)** The Minister may accept an application filed after June 30 but on or before December 31 in any year, upon payment of the additional fee determined by the Governor in Council.

**(7)** The Minister may publish in the Royal Gazette the names of those persons, firms and partnerships whose applications for registration have been accepted and when so published the persons firms and partnerships are registered as municipal auditors.

**(8)** Registration as a municipal auditor expires on July 31 in each year.

**(9)** The Minister may, at any time, cancel or suspend the registration of a municipal auditor for any reason that the Minister may deem sufficient and may reinstate or restore any cancelled or suspended registration.

**(10)** A person, firm or partnership shall not, while registration is cancelled or suspended, exercise or perform the duties of a municipal auditor.

(11) An unabridged copy of every statement or report, of whatsoever nature or whether interim or final, made by a municipal auditor shall forthwith be forwarded by the auditor to the Minister.

(12) A person who violates this Section is liable, on conviction, to a penalty of not more than ten thousand dollars and, in default of payment, to imprisonment for a period of not more than six months.

(13) A reference in any Act of the Legislature to a registered municipal auditor, an auditor registered pursuant to the *Municipal Act* or like term is and is deemed to be a reference to a person, firm or partnership registered as a municipal auditor pursuant to this Section.

#### **Declaration of council vacancy**

**458 (1)** Where a municipality

(a) fails, or in the opinion of the Governor in Council, is about to or may fail, to pay the amount due for principal and interest on any debenture;

(b) fails to pay into a sinking fund any amount it is required to pay;

(c) fails to pay any of its other debts or liabilities whatsoever when due;

(d) fails, in the opinion of the Governor in Council, to levy the amount required to meet the expenditures required for any fiscal year;

(e) fails, in the opinion of the Governor in Council, to comply with any order of the Minister; or

(f) has passed a resolution requesting the Governor in Council to do so,

the Governor in Council may, on the recommendation of the Minister, if deemed expedient to do so, declare vacant the offices of mayor or warden and councillors of the municipality.

(2) Where the Governor in Council has declared vacant the office of mayor or warden and councillors, the Governor in Council shall appoint a mayor or warden and councillors to hold office during pleasure, to be the council of the municipality until the first meeting of a new council elected pursuant to an order of the Governor in Council.

(3) Any vacancy occurring in a council appointed by the Governor in Council shall be filled by the Governor in Council.

(4) A member of a council appointed by the Governor in Council is not required to have the qualifications of a councillor prescribed by the *Municipal Elections Act*.

(5) Where the Governor in Council appoints a council, the tenure of every municipal employee is during the pleasure of the appointed council.

**Election of new council**

**459 (1)** After the Governor in Council appoints a council, no election shall be held pursuant to the *Municipal Elections Act* until ordered by the Governor in Council.

(2) An order of the Governor in Council for the election of a new council shall set out

(a) the dates for nomination day, advance polls and ordinary polling day for the election; and

(b) the date the new council takes office.

(3) When the Governor in Council orders the election of a new council, the tenure of every municipal employee ceases to be during the pleasure of the council.

**Powers of council appointed by Governor in Council**

**460 (1)** The council appointed by the Governor in Council has all of the powers of a council.

(2) The council appointed by the Governor in Council may, with the approval of creditors representing at least half of the aggregate indebtedness of the municipality,

(a) consolidate some or all of its debts and issue new debentures to effect the consolidation;

(b) issue debentures to pay any debt and compel acceptance of the debentures in payment of the debt;

(c) issue new debentures in exchange for any outstanding debentures and compel their acceptance;

(d) fix the terms, conditions, places and times for exchanges of debentures;

(e) postpone or vary the terms, times and places for payment of any outstanding debentures and other indebtedness and the interest;

(f) vary the rate of interest on any outstanding debentures and other indebtedness;

(g) sell any municipal assets.

(3) The council appointed by the Governor in Council may

(a) vary any tax rate or other charge imposed to pay any indebtedness;

(b) vary the basis, terms and times of payment of any tax rate or other charge imposed to pay any indebtedness;

(c) create sinking funds and reserves to pay debentures and other indebtedness;

(d) manage, invest and apply sinking funds, reserves and surpluses;

(e) ratify any agreement, arrangement or compromise entered into with creditors respecting debentures and other indebtedness;

(f) borrow any amount required to meet the current expenditures of the municipality until the taxes are collected.

**(4)** In the case of a village or service commission, the council appointed by the Governor in Council may require the county or district municipality in which the village or service commission is situate to pay an amount sufficient to provide for the orderly payment of the debts and liabilities of the village or service commission, and the amount so provided, with an allowance for collection costs and losses, shall be recovered by the county or district municipality as an area rate on the area of the village or service commission.

**(5)** In the case of a village or service commission, the council appointed by the Governor in Council may recommend the dissolution of the village or service commission and the Governor in Council may, by proclamation, dissolve the village or service commission, effective the date set out in the proclamation.