

September 22, 2020

CONSULTATION DRAFT

AN ACT TO AMEND THE MUNICIPAL GOVERNMENT ACT

BILL NO.

2020

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. **Section 1 of the *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1, is amended**
 - (a) **in clause (s), by the addition of the words “, unless the context requires otherwise,” after the words “of this Act”; and**
 - (b) **by the addition of the following after clause (z):**
 - (z.1) **“public health emergency” means a state of public health emergency that has been declared pursuant to section 49 of the *Public Health Act* R.S.P.E.I. 1988, Cap. P-30.1;**
2. **Clause 14(b) of the Act is amended by the deletion of the words “and bylaws” and the substitution of the words “and bylaws in accordance with the *Planning Act* R.S.P.E.I. 1988, Cap. P-8,”.**
3. (1) **Subsection 15(2) of the Act is repealed and the following is substituted:**
 - Proposal to restructure municipality**
 - (2) Subject to subsection (3), a proposal to restructure an existing municipality may be initiated by
 - (a) the Minister; or
 - (b) the council of that municipality or another municipality affected by the restructuring.
 - Proposal to dissolve municipality**
 - (2.1) A proposal to dissolve a municipality may be initiated by
 - (a) the Minister; or
 - (b) the council of the municipality.
 - (2) **Subsection 15(4) of the Act is amended by the deletion of the words “subsection (1) or (2)” and the substitution of the words “subsection (1), (2) or (2.1)”.**

4. Subsection 17(1) of the Act is repealed and the following substituted:

17. Response to proposal

- (1) Any person may respond to a proposal to establish, restructure or dissolve a municipality by filing a written comment in the form approved by the Minister with the Commission within 30 days after
- (a) the date specified in subsection (2), in respect of a person to whom the Commission is required under clause 16(1)(a) to provide a copy of the proposal;
 - (b) the date of publication of the notice in a newspaper under clause 16(1)(b); or
 - (c) the date of posting of the notice in the affected area under clause 16(1)(c),
- whichever is latest.

5. Clause 32(2)(f) of the Act is amended by the deletion of the words “subsection 110(2)” and the substitution of the words “subsections 110(1) and (2)”.

6. Section 40 of the Act is amended by the addition of the following after subsection (1):

Prohibition

- (1.1) A serving member of council is not eligible to be appointed, and shall not serve, as the municipal electoral officer, deputy municipal electoral officer or another election official.

7. Subsection 41(1) of the Act is amended by the deletion of the words “no later than July 30, 2018” and the substitution of the words “at least 90 days before an election.”.

8. Subsection 44(3) of the Act is repealed and the following substituted:

Filling of vacancies

- (3) Where, at the conclusion of nomination proceedings, fewer persons are nominated as candidates for office than there are members to be elected, an additional seven days shall be allowed for nominating additional candidates to fill the vacancies.

9. Subsection 53(3) of the Act is amended by the deletion of the words “when all polls are closed on election day” and the substitution of the words “at a time on election day as directed by the Municipal Electoral Officer.”.

10. Subsection 62(3) of the Act is repealed and the following substituted:

Filling of vacancies

- (3) Where, at the conclusion of nomination proceedings, fewer persons are nominated as candidates for office than there are members to be elected, an additional seven days shall be allowed for nominating additional candidates to fill the vacancies.

11. Section 85 of the Act is amended by the addition of the following after subsection (2):

Exception - shared office

- (3) Despite clause (1)(a), a council may designate a place outside the municipality as its municipal office where the office is shared with another municipality as its municipal office.

12. Subsection 86(6) of the Act is amended by the addition of the words “voting in favour of the resolution to appoint, suspend or revoke the appointment of the chief administrative officer, as the case may be” after the words “then holding office”.

13. Section 90 of the Act is repealed and the following substituted:

90. Membership on committees

By virtue of the mayor’s office, the mayor is a member of every committee which the council or mayor establishes under this or another Act, other than the Electoral Boundaries Commission, the Remuneration and Allowances Commission or another independent review commission appointed in accordance with the Act, and when in attendance the mayor possesses all the privileges, including the right to vote, but none of the obligations of membership, of the other members of the committee.

14. Subsection 92(1) of the Act is amended by the addition of the words “of the municipality or a controlled corporation established by council” after the words “as an employee”.

15. Subsection 93(1) of the Act is amended by the addition of the following after clause (d):

- (d.1) is responsible for contracting, directing, managing and supervising the activities of all contractors hired or persons or firms retained by the municipality to work on behalf of council;

16. (1) Subsection 107(2) of the Act is amended

- (a) in clause (c), by the deletion of the word “and” after the semicolon;
- (b) in clause (d),
- (i) by the deletion of the words “being elected” and the substitution of the words “being elected or appointed”, and
- (ii) by the deletion of the period and the substitution of the words “; and”;
- and
- (c) by the addition of the following after clause (d):
- (e) the requirement for each council member to file an updated disclosure statement in the form approved by the Minister with the chief administrative officer by November 30 of each year the member serves on council.

(2) Section 107 of the Act is amended by the addition of the following after subsection (3):

Prohibited sanctions

- (3.1) A code of conduct bylaw shall not include any provision as a sanction that would result in a member of council who contravenes the code of conduct being disqualified from council or deemed to be guilty of an offence.

Member absent with approval

- (3.2) Where a sanction imposed on a member results in the member being absent from a regularly scheduled meeting of council or a council committee, the absence shall be considered to be with the approval of the council for the purposes of subsection 98(4).

17. Subsection 113(5) of the Act is amended by the deletion of the words “subsection (2) or (3)” and the substitution of the words “subsection (2) or (3) or an order of the Minister under subsection (4)”.

18. Subsection 116(3) of the Act is amended by the deletion of the words “on the payment of a reasonable fee established by the council” and the substitution of the words “on payment of the fee, if any, established by the council in a bylaw made pursuant to section 147”.

19. The Act is amended by the addition of the following after section 118:

118.1 Public inspection by electronic and other means

Where a provision of this Act requires council or a committee to make information available to the public or for public inspection, the council or committee, as the case may be, may comply with the provision during a state of emergency declared by the Minister under the *Emergency Measures Act*, a state of local emergency declared by the mayor under section 146 or a public health emergency

- (a) by making the information available electronically through e-newsletters and on the website of the council or committee or on any other website where the council or committee considers the information is likely to be easily found by the public; or
- (b) if requested to do so by a person, by sending the information to the person by email, mail or facsimile.

20. Subsection 119(1) of the Act is amended

- (a) **in clause (c), by the deletion of the words “, other than a person’s address, that is protected under this Act” and the substitution of the words “about an identifiable individual, including a municipal employee or an employee of a controlled corporation”; and**
- (b) **in clause (d), by the addition of the words “, including labour relations or employee negotiations” after the words “human resource matters”.**

- 21. (1) Subsection 122(1) of the Act is amended in the wording preceding clause (a), by the deletion of the words “electronic means if” and the substitution of the words “electronic means, including but not limited to a teleconference or a live publicly-streamed broadcast, if”.**
- (2) Clause 122(3)(b) of the Act is amended by the addition of the words “and the information necessary to enable the public to access the electronic meeting” after the words “electronic means”.**
- (3) Section 122 of the Act is amended by the addition of the following after subsection (3):**
- Electronic meeting during emergency**
- (3.1) During a state of emergency declared by the Minister under the *Emergency Measures Act*, a state of local emergency declared under section 146 or a public health emergency, a public meeting of council or a council committee may be held by electronic means that do not comply with the requirements of clause (3)(c) if
- (a) members of the public are able to hear the meeting as it occurs; and
 - (b) any members of the public who would be entitled to make submissions at the meeting if the meeting were being held in person are able, before and during the meeting, to make submissions by email or any other method that the council or committee considers appropriate.
- (4) Section 122 of the Act is amended by the addition of the following after subsection (6):**
- Closed or restricted electronic meetings**
- (7) Where a meeting of a council is held by electronic means in compliance with this section, electronic access to the meeting may be restricted or suspended in order to close all or part of the meeting to the public in accordance with section 119.
- 22. Subsection 128(2) of the Act is amended by the deletion of the words “on payment of a reasonable fee established by the council” and the substitution of the words “on payment of the fee, if any, established by the council in a bylaw made pursuant to section 147”.**
- 23. (1) Subsection 147(1) of the Act is amended**
- (a) by the repeal of clause (d) and the substitution of the following:**
 - (d) the auditor’s report on the audit of the annual financial statements;
 - (b) by the addition of the following after clause (l):**
 - (l.1) all compensation, expenses and other payments made annually to each council committee member pursuant to section 82 and to all members of boards or other bodies established by council;

24. Clause 152(1)(b) of the Act is amended by the addition of the words “or a public health emergency” after the words “Emergency Measures Act”.

25. (1) Subsection 158(1) of the Act is amended

- (a) **in the words immediately preceding clause (a), by the deletion of the words “Subject to subsection (3), a” and the substitution of the word “A”; and**
- (b) **in clause (b), by the addition of the words “subject to subsection (3),” before the words “the lending of money”.**

(2) Subsection 158(4) of the Act is repealed and the following substituted:

Qualifying criteria for grant, etc.

(4) A bylaw passed pursuant to subsection (1) shall state the criteria to be met for any person, institution, association, group, government or other body to apply for and obtain a grant, a gift, a sale, lease or use of municipal property, a loan of money or guarantee of the repayment of a loan or another kind of assistance referred to in subsection (1).

Other qualifying criteria

(4.1) A bylaw passed pursuant to subsection (1) shall state, in the case of a loan or a guarantee of the repayment of a loan referred to in subsection (3),

- (a) the amount of money to be loaned or guaranteed and, in general terms, the purpose for which it is to be used;
- (b) the name of the non-profit organization or controlled corporation to which the loan or guarantee is to be made; and
- (c) where the municipality
 - (i) is lending money, the minimum rate of interest, the term of the loan and the terms of repayment of the loan and the source of the money to be loaned, and
 - (ii) is guaranteeing repayment of a loan, the rate of interest of the loan, the terms and conditions of the loan and the terms and conditions of the guarantee.

26. Clause 180(g) of the Act is amended by the deletion of the words “the *Provincial Building Code Act* R.S.P.E.I. 1988, Cap. P-24” and the substitution of the words “the *Building Codes Act* R.S.P.E.I. 1988, Cap. B-5.1”.

27. The Act is amended by the addition of the following after section 181:

181.1 Controlled corporation

(1) Subject to section 183, a council may in a bylaw passed pursuant to this Act

- (a) create a controlled corporation for any purpose for which it has jurisdiction to make a bylaw; and
- (b) appoint the directors and officers of the controlled corporation.

Provision of documents

- (2) When requested by the council, the directors and officers of a controlled corporation established by the council shall provide to the council all documents and records relating to the affairs of the controlled corporation in their possession or under their control.

28. Section 207 of the Act is repealed and the following substituted:

207. Funds may be advanced

- (1) A council that provides a service or product that is ancillary to or compatible with a service provided to property owners in the municipality may by bylaw
- (a) offer a program to advance funds to property owners in relation to the product or service; and
 - (b) impose charges, and fix or provide a means for determining the charges, for the product or service provided.

Contents of bylaw

- (2) A bylaw passed pursuant to subsection (1) may provide
- (a) that only an improved property owned by a taxpayer is eligible;
 - (b) that the charges fixed by, or determined pursuant to, the bylaw may be chargeable according to a plan or method set out in the bylaw;
 - (c) that the charges may be different for different classes of development and in different areas of the municipality;
 - (d) when the charges are due and payable;
 - (e) that the amount borrowed by a taxpayer in respect of each property shall not exceed 25 per cent of the assessed value of the property as determined in accordance with the *Real Property Assessment Act*, less any local improvement charge or fee payable by the taxpayer in respect of the property;
 - (f) that the charges are liens on the real property in accordance with subsection 162(4) and may be collected in the same manner as other municipal charges and levies;
 - (g) a means of determining when the lien becomes effective or when the charges become due and payable;
 - (h) that the amount payable may, pursuant to a written agreement between the owner of the real property and the municipality, be paid in the number of instalments specified in the bylaw and that, on default in payment of any instalment, the balance immediately becomes due and payable; and
 - (i) that interest is payable on the entire amount outstanding, whether or not the owner has elected to pay by instalments pursuant to the agreement referred to in clause (h), at the rate and beginning on the date specified in the bylaw.

CONSEQUENTIAL AMENDMENT

29. Emergency Measures Act

- (1) **The *Emergency Measures Act* R.S.P.E.I. 1988, Cap. E-6.1, is amended as provided by this section.**

- (2) Clause 1(k) of the Act is amended by the deletion of the words “or chair”.**
- (3) Subsection 9(2.1) of the Act is amended by the deletion of the words “or chair”.**

EXPLANATORY NOTES

SECTION 1 amends section 1 of the *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1, to clarify the definition of “Minister” and to add a definition of “public health emergency” for the purpose of certain of the following amendments.

SECTION 2 amends clause 14(b) of the Act to clarify that the “bylaws” referred to there are bylaws made pursuant to the *Planning Act*.

SECTION 3 repeals subsection 15(2) of the Act and substitutes new subsections 15(2) and (2.1) to deal separately with proposals to restructure an existing municipality and to dissolve a municipality.

SECTION 4 repeals subsection 17(1) of the Act and substitutes a new subsection 17(1) that authorizes persons to respond to a proposal to establish, restructure or dissolve a municipality, rather than objecting to the proposal.

SECTION 5 amends clause 32(2)(f) of the Act to correct a section reference.

SECTION 6 amends section 40 of the Act by adding a new subsection (1.1) to provide that a serving member of council is not eligible to be appointed, and shall not serve, as the municipal electoral officer, deputy municipal electoral officer or another election official.

SECTION 7 amends subsection 41(1) of the Act to remove a reference to a specific date and substitute a reference to a date “at least 90 days before an election”.

SECTION 8 repeals subsection 44(3) of the Act and substitutes a new subsection (3) that clarifies that the determination of whether sufficient candidates have been nominated takes place at the conclusion of nomination proceedings.

SECTION 9 amends subsection 53(3) of the Act to clarify that the advance poll ballots are to be counted at a time on election day as directed by the municipal electoral officer.

SECTION 10 repeals subsection 62(3) of the Act and substitutes a new subsection (3) that clarifies that the determination of whether sufficient candidates have been nominated takes place at the conclusion of nomination proceedings.

SECTION 11 amends section 85 of the Act by adding a new subsection (3) that allows a council to designate a place outside the municipality as its municipal office if it shares that office with another municipality.

SECTION 12 amends subsection 86(6) of the Act to clarify the rules that apply to the appointment of a chief administrative officer or the suspension or revocation of that appointment.

SECTION 13 repeals section 90 of the Act and substitutes a new section 90 that clarifies the status of the mayor of a municipality as regards membership on committees established by the council or the mayor.

SECTION 14 amends subsection 92(1) of the Act to clarify the prohibition against a member of council serving as an employee of the municipality or a controlled corporation or other body established by council.

SECTION 15 amends subsection 93(1) of the Act by adding a new clause (d.1) to add the specified functions to the duties of the chief administrative officer of a municipality.

SECTION 16 amends clause 107(2)(d) of the Act to add a reference to a council member being appointed, and adds a new clause (e) to add a requirement to the code of conduct that each council member must file an annual, updated disclosure statement with the chief administrative officer as specified. The section also adds new subsections (3.1) and (3.2) to prohibit a council from including the specified sanctions in its code of conduct and to clarify the status of a member who is absent from a council meeting by reason of a sanction.

SECTION 17 amends subsection 113(5) of the Act to add a reference there to an order of the Minister under subsection (4).

SECTION 18 amends subsection 116(3) of the Act to substitute a reference to a fee that may be established by council in a bylaw pursuant to section 147.

SECTION 19 amends the Act by adding a new section 118.1 that establishes the rules that apply to the public inspection of information during a state of emergency declared by the Minister under the *Emergency Measures Act*, a state of local emergency or a public health emergency.

SECTION 20 amends clause 119(1)(c) of the Act to clarify the nature of the personal information referred to in that clause, and clause 119(1)(d) to add labour relations and employee negotiations as matters that may be dealt with in a closed meeting of council.

SECTION 21 amends subsection 122(1) of the Act to specify the named electronic means as examples of those that may be used to conduct a council meeting by electronic means. The section also amends clause 122(3)(b) of the Act to add a requirement for the council to give notice of the information necessary to enable the public to access the electronic meeting. The section also adds a new subsection 122(3.1) to establish the rules that apply to electronic meetings during a state of emergency declared by the Minister under the *Emergency Measures Act*, a state of local emergency or a public health emergency, and a new subsection (7) to provide that electronic access to a meeting may be restricted or suspended in order to close all or part of the meeting to the public, in accordance with section 119.

SECTION 22 amends subsection 128(2) of the Act to substitute a reference to a fee that may be established by council in a bylaw pursuant to section 147.

SECTION 23 amends subsection 147(1) of the Act to clarify the documents that are listed as documents to which the public is entitled to have access.

SECTION 24 amends clause 152(1)(b) of the Act to add a reference there to a public health emergency.

SECTION 25 amends subsection 158(1) of the Act to correct an erroneous reference to subsection (3). The section also repeals subsection 158(4) of the Act and substitutes new subsections (4) and (4.1) to clarify the qualifying criteria that apply to a grant, a gift, and the other kinds of assistance referred to in subsection (1).

SECTION 26 amends clause 180(g) of the Act to update a reference to the new *Building Codes Act*.

SECTION 27 amends the Act by adding a new section 181.1 that provides explicit authority for a council to create, by bylaw, a controlled corporation and to appoint its directors and officers, and to require them to provide the specified documents relating to the affairs of the controlled corporation to the council on request.

SECTION 28 repeals section 207 of the Act and substitutes a new section 207 that authorizes a council, by bylaw, to offer a program to advance funds to property owners, and to impose charges, related to a service or product that is ancillary to or compatible with a service provided to property owners in the municipality. The section also lists the matters that may be dealt with in the bylaw.

SECTION 29 makes the specified consequential amendments to the *Emergency Measures Act* to remove outdated references there to a “chair” of a municipality.