



BILL NO. 22

Government Bill

*3rd Session, 62nd General Assembly
Nova Scotia
65 Elizabeth II, 2016*

An Act to Amend Chapter 55 of the Acts of 2007, the Halifax Regional Water Commission Act

CHAPTER 23
ACTS OF 2016

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 10, 2016**

The Honourable Zach Churchill
Minister of Municipal Affairs

*Halifax, Nova Scotia
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**An Act to Amend Chapter 55
of the Acts of 2007,
the Halifax Regional Water Commission Act**

Be it enacted by the Governor and Assembly as follows:

1 Subsection 2(1) of Chapter 55 of the Acts of 2007, the *Halifax Regional Water Commission Act*, as amended by Chapter 60 of the Acts of 2012, is further amended by adding immediately after clause (g) the following clauses:

(ga) “Minister” means the Minister of Municipal Affairs;

(gb) “municipal planning strategy” means a municipal planning strategy as defined in Section 209 of the Charter;

2 Section 3 of Chapter 55 is amended by

(a) adding “(1)” immediately after the Section number; and

(b) adding the following subsection:

(2) The Commission is a corporation without share capital to which the *Companies Act* does not apply.

3 Chapter 55 is further amended by adding immediately after Section 3 the following Section:

3A (1) Subject to the approval of the Governor in Council, the Council may by resolution direct the wind-up and dissolution of the Commission.

(2) For the purpose of the *Companies Winding Up Act*, anything that is to be done by resolution, extraordinary resolution or special resolution of the Commission may be done by resolution of the Council.

4 (1) Clauses 4(1)(a) to (c) of Chapter 55 are repealed and the following clause substituted:

(a) seven residents of the Regional Municipality, up to four of whom may be members of the Council, appointed by the Council;

(2) Subsections 4(3) and (4) of Chapter 55 are repealed and the following subsections substituted:

(3) In making appointments to the Commission Board, the Council shall take into consideration expertise, competency and any other factors set out in policy.

(4) Each Commissioner appointed pursuant to clause (1)(a) holds office for a term of two or three years at the discretion of the Council, but ceases to hold office

- (a) upon ceasing to be a member of the Council, if the Commissioner was appointed while a Council member;
- (b) upon ceasing to be a resident of the Regional Municipality;
or
- (c) if the Commissioner, without leave of the Commission Board, is absent from three consecutive meetings of the Commission Board.

(3) Subsection 4(7) of Chapter 55 is repealed and the following subsection substituted:

(7) Subject to subsection (4), where a person appointed pursuant to clause (1)(a) ceases to be a Commissioner before the person's term of office expires, the Council shall, within two months after the person ceased to be a Commissioner, appoint a person pursuant to clause (1)(a) to fill the vacancy, and the person so appointed holds office as long as that person has the qualifications required by clause (1)(a) for the remainder of the term of the person who ceased to be a Commissioner.

5 Chapter 55 is further amended by adding immediately after Section 4C the following Section:

4CA (1) The roles and responsibilities of the Commissioners appointed pursuant to clause 4(1)(a) who are members of the Council and the Commissioner appointed pursuant to clause 4(1)(d) are as prescribed by policy.

(2) The Commissioners appointed pursuant to clause 4(1)(a) who are members of the Council and the Commissioner appointed pursuant to clause 4(1)(d) shall share information with the Council in accordance with policy.

6 Section 6 of Chapter 55 is amended by striking out "purposes of" in the second line and substituting "all purposes, including".

7 Section 7 of Chapter 55 is repealed and the following Sections substituted:

7 (1) Subject to the supervision and regulation of the Board pursuant to the *Public Utilities Act*, the Commission may

- (a) acquire, own or operate
 - (i) water systems, facilities and utilities,
 - (ii) wastewater systems, facilities and utilities, and
 - (iii) stormwater systems, facilities and utilities,

for the purpose of providing water, wastewater and stormwater services to customers located within the Regional Municipality;

- (b) subject to the approval and direction of the Council, acquire, own or operate
 - (i) water systems, facilities and utilities,

- (ii) wastewater systems, facilities and utilities, and
- (iii) stormwater systems, facilities and utilities,

for the purpose of providing water, wastewater and stormwater services to customers located outside of the Regional Municipality;

(c) subject to the approval and direction of the Council, engage in business activities incidental to any of the operations of the Commission referred to in clause (a) or (b), including the generation of heat or electricity in whole or in part from by-products of any of those operations;

(d) subject to any applicable municipal by-law, lease land owned by the Commission for the erection, maintenance and operation of wind turbines;

(e) exercise all necessary powers in relation to the activities, operations and purposes of the Commission as set out in this Act or any other Act, including the power to

- (i) subject to subsections (4) and (5), enter into and carry out contracts,
- (ii) buy, sell or lease interests in real or personal property,
- (iii) borrow and invest money,
- (iv) receive and issue negotiable instruments, and
- (v) hire employees and participate in pension plans or provide pension benefits.

(2) For greater certainty, the authority contained in clauses (1)(a) and (b) includes the authority to acquire, own or operate systems, facilities and utilities not located within the Regional Municipality.

(3) The Commission may only carry out an activity authorized under clause (1)(b) or (c) if the activity is carried out without subsidy from any of the operations of the Commission referred to in clause (1)(a).

(4) The Commission may not enter into a contract with a person other than a municipality, a municipal body as defined in Section 461 of the *Municipal Government Act*, a municipal water utility, the Government of the Province or of Canada or a band council pursuant to the *Indian Act* (Canada) for the purpose of providing water, wastewater or stormwater services.

(5) The entering into of a contract with a municipality, a municipal body as defined in Section 461 of the *Municipal Government Act*, a municipal water utility, the Government of the Province or of Canada or a band council pursuant to the *Indian Act* (Canada) for the purpose of providing water, wastewater or stormwater services to the municipality, municipal body, municipal water utility, Government or band is subject to the approval and direction of the Council.

7A No action lies against Her Majesty in right of the Province as a direct or indirect result of any of the Commission's activities undertaken pursuant to Section 7.

7B No action lies against the Municipality or against any agent, servant or employee of the Municipality for anything done by the Commission pursuant to Section 7.

8 Chapter 55 is further amended by adding immediately after Section 20 the following Section:

20A (1) In this Section, “debt policies” and “financial instruments” include policies and instruments, as the case may be, respecting the borrowing and investing of money, guarantees and the receipt and issuance of negotiable instruments.

(2) The Commission shall prepare and submit to the Council for the Council’s approval, at such times as directed by Council by resolution,

(a) a long-term strategic plan that addresses how the Commission will ensure alignment with the municipal planning strategies of the Regional Municipality; and

(b) an annual business plan that addresses how the Commission will ensure alignment with the annual priorities of the Regional Municipality.

(3) The Commission shall prepare and submit to the Council for the Council’s approval the Commission’s debt policies and financial instruments at such times and subject to such terms and conditions as directed by the Council by resolution and whenever the Commission is creating or amending a debt policy or financial instrument.

(4) The Commission shall provide such other information as requested by the Council at such times as directed by the Council by resolution.

(5) For greater certainty, the Council’s approval of a debt policy or financial instrument is required in addition to any other approval that may be required by the Board.

9 Notwithstanding subsection 4(1) of the *Halifax Regional Water Commission Act*, the persons referred to in clauses 4(1)(a) and (b) of that Act as it read immediately before the coming into force of this Act continue to serve on the Board of the Halifax Regional Water Commission until their successors are appointed pursuant to clause 4(1)(a) of that Act as amended by this Act.

10 This Act has effect on and after April 1, 2017.
