

BILL NO. 146

(as passed)



*2nd Session, 58th General Assembly
Nova Scotia
51 Elizabeth II, 2002*

Government Bill

Municipal Government Act (amended)

CHAPTER 36 OF THE ACTS OF 2002

The Honourable Angus MacIsaac
Minister of Service Nova Scotia and Municipal Relations

[First Reading](#): November 5, 2002 (LINK TO BILL AS INTRODUCED)

Second Reading: November 12, 2002

[Third Reading](#): November 21, 2002

Royal Assent: November 28, 2002



An Act to Amend Chapter 18

**of the Acts of 1998,
the Municipal Government Act,
and to Require a Vote to be Taken
with Respect to the Incorporation
of the Town of Chester**

WHEREAS the *Municipal Government Act* enables an application to be made to the Nova Scotia Utility and Review Board for the incorporation of a town;

AND WHEREAS the Nova Scotia Utility and Review Board may, after holding a hearing on the application, refuse the application for the incorporation of a town or approve the application if the Board is satisfied that it is in the best interests of the inhabitants of the area that the town be incorporated;

AND WHEREAS municipal governments are responsible to the people and require the support of the people;

AND WHEREAS it is deemed expedient that the Nova Scotia Utility and Review Board be required to hold a vote of the electors of an area to determine whether the electors are in favour of the incorporation, before an incorporation taking effect;

THEREFORE be it enacted by the Governor and Assembly as follows:

1 Subsection 383 (2) of Chapter 18 of the Acts of 1998, the *Municipal Government Act*, is amended by striking out "one hundred" in the second line and substituting "one third of the".

2 Subsection 388(1) of Chapter 18 is repealed and the following subsections substituted:

(1) After the application has been heard, the Board shall, if satisfied that an order incorporating the area as a town is in the best interests of the inhabitants of the area taking into account the financial and social implications of the order applied for, make an interim order defining the boundaries of the area and for the taking of a vote pursuant to Section 388A to determine whether the inhabitants of the area are in favour of the incorporation.

(1A) Where the result of the vote taken pursuant to Section 388A is that a majority of the electors who voted were in favour of the proposed incorporation, the Board shall issue an order incorporating the area as a town upon such terms as it considers advisable.

(1B) Where the result of the vote taken pursuant to Section 388A is that a majority of the electors who voted did not vote in favour of the proposed incorporation, the Board shall dismiss the application to incorporate the area as a town.

3 Chapter 18 is further amended by adding immediately after Section 388 the following Section:

388A (1) Where the Board orders the taking of a vote pursuant to Section 388, the Chief Electoral Officer shall take a vote of the electors in the area defined by the Board in the manner prescribed in this Act and the regulations at which the question is

Do you favour the incorporation of [define area] in the Municipality of [name] as a town?

and the choices are yes or no, only.

(2) Where a vote of the electors is to be taken pursuant to this Section, the following provisions apply:

(a) the voting upon the question shall be by ballot on a day fixed by the Chief Electoral Officer;

(b) the dates for revision of the preliminary list of electors, ordinary polling day and advance polling days shall be set by the Chief Electoral Officer in accordance with the requirements of the *Municipal Elections Act* for special elections;

(c) public notification of the time and place of the revision and voting shall be given by advertisement in a newspaper circulating in the plebiscite area, and by such other means as the Chief Electoral Officer deems advisable;

(d) the Chief Electoral Officer shall appoint a returning officer to administer the plebiscite in the plebiscite area, and the returning officer shall arrange for a suitable place or places in the area for the vote to be taken and shall appoint deputy returning officers, poll clerks, revising officers, enumerators and other election officers required to conduct the vote, and any officer so appointed has the same powers and privileges as the corresponding officers in the case of an election pursuant to the *Municipal Elections Act*;

(e) the list of electors to be used at the vote shall be determined by the Chief Electoral Officer and the use or distribution of the list as directed by the Chief Electoral Officer is an election purpose pursuant to the *Municipal Elections Act*;

(f) the list of electors referred to in clause (e) shall form the preliminary list of electors, which shall be revised in accordance with the *Municipal Elections Act*, except that in lieu of posting the list, the Chief Electoral Officer shall cause a notification to be sent to each elector whose name and address is on the preliminary list of electors indicating when and where applications will be received for amendment to the preliminary list of electors and containing such other information as the Chief Electoral Officer decides;

(g) the Chief Electoral Officer shall advertise in a newspaper circulating in the plebiscite area that notifications have been sent and provide information about how, when and where the preliminary list of electors will be revised;

(h) notwithstanding clause (f), the Chief Electoral Officer may require that persons applying to be added to the list of electors provide satisfactory evidence of identity and residence before being added to the list of electors by the revising officer;

(i) a group of electors in favour of and a group of electors opposed to the question may register with the returning officer;

(j) the registration of a group of electors by the returning officer shall be in the prescribed form and shall identify a name for the group and the name, address and telephone number of a designated representative of the group;

(k) the designated representative of a registered group of electors is authorized to nominate one or more agents to represent the group at a polling station and to receive the list of electors on behalf of the group;

(l) the returning officer shall appoint each agent of a registered group of electors and the appointment shall specify at which polling station the agent may act;

(m) an agent of a registered group of electors may be appointed to more than one polling station, but only one agent representing each registered group may be present in the polling station at a time; and

(n) upon appointment, an agent representing a registered group is in the same position as an agent representing a candidate pursuant to the *Municipal Elections Act*.

(3) Following the counting of the votes, the returning officer shall make a return to the Chief Electoral Officer in the prescribed form.

(4) The Chief Electoral Officer may make a tariff of fees, costs, allowances and expenses to be paid and allowed to persons appointed to conduct and receive the vote, of other persons employed at or with respect to the taking of

the vote and may from time to time revise and amend the tariff.

(5) The fees, costs, allowances and expenses referred to in subsection (4) shall be paid by Her Majesty in right of the Province.

(6) The Minister shall give such directions and make such regulations and prepare such forms as may appear to be necessary for the purpose of this Section and for the guidance of the Chief Electoral Officer and other officers or persons employed in the taking of the vote and may apply, modify or alter any of the provisions of the *Municipal Elections Act* and may make due provision for circumstances that may arise and that are not otherwise provided for.

(7) The forms to be used at the taking of the vote and the procedure with respect to voting and other matters shall be the same as nearly as may be as in the case of an election pursuant to the *Municipal Elections Act* but such forms and procedure may be modified and altered to such extent as is deemed necessary by the Chief Electoral Officer.

(8) A person whose name is not on the final list of electors is permitted to vote following the procedure in the *Municipal Elections Act* as modified or altered by the Chief Electoral Officer in the circumstances.

(9) Except as otherwise provided by this Act or the regulations, the *Municipal Elections Act* applies *mutatis mutandis* to the taking of the vote as if it were a special election pursuant to that Act.

4 (1) Notwithstanding the *Municipal Government Act* or any other enactment, the order of the Nova Scotia Utility and Review Board, issued June 28, 2002, providing for the incorporation of Municipal Polling District No. 3 of the Municipality of the District of Chester as a town, and any further orders or directions issued with respect to or in furtherance of that order, are suspended and of no force or effect until the completion of the vote provided by this Section.

(2) The Chief Electoral Officer shall take a vote of the electors in Municipal Polling District No. 3 of the Municipality of the District of Chester in the manner prescribed in this Section at which the question is

Do you favour the incorporation of Municipal Polling District No. 3 of the Municipality of the District of Chester as a town?

and the choices are yes or no, only.

(3) The voting upon the question referred to in subsection (2) shall be by ballot on a day fixed by the Chief Electoral Officer, not later than February 28, 2003.

(4) Where the result of the vote is that a majority of the electors who voted were in favour of the incorporation of Municipal Polling District No. 3 of the Municipality of the District of Chester as a town, the orders of the Nova Scotia Utility and Review Board are reinstated and declared to be of full force and effect.

(5) Where the result of the vote is that a majority of the electors who voted did not vote in favour of the incorporation of Municipal Polling District No. 3 of the Municipality of the District of Chester as a town, the orders of the Nova Scotia Utility and Review Board with respect to the incorporation are void and of no force or effect.

(6) For greater certainty, Section 388A of the *Municipal Government Act* applies *mutatis mutandis* to the vote taken pursuant to this Section.

