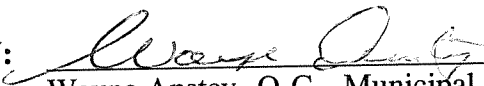


Halifax Regional Council  
April 15, 2003  
6:00 p.m.

TO: Mayor Kelly and Members of Regional Council

SUBMITTED BY:   
Wayne Anstey, Q.C., Municipal Solicitor

DATE April 03, 2003

SUBJECT Proposed Changes To Municipal Legislation

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**INFORMATION REPORT**

**ORIGIN**

The Nova Scotia Legislature on March 31, 2003, gave First Reading to Bill No. 09, the *Municipal Law Amendment (2003) Act* to amend the *Municipal Elections Act*, the *Municipal Government Act* and the *Municipal Grants Act*.

**BACKGROUND/DISCUSSION:**

The following amendments are included in the Bill which is presently before the House of Assembly for consideration and adoption:

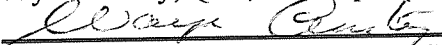
- 1) *Municipal Elections Act* - Appendix "A"; and
- 2) *Municipal Government Act* - Appendix "B".

The Bill also contains a number of amendments of an updating and clarifying nature to the *Municipal Grants Act*.

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Additional copies of this report and information on its status can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report prepared by: Wayne Anstey, Q.C., Municipal Solicitor and Vi Carmichael, Municipal Clerk.

Report approved by:   
Wayne Anstey, Director of Legal Services 490-4229

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**Appendix "A"****Amendments To *The Municipal Elections Act*  
And *The Education Act***

The most substantive amendments are:

1. A definition of the term "level access" is added to the Act to mean "premises that are so located that a person may reach the premises from the street or roadway and enter the premises without going up or down any step, stairs or escalator".
2. The Act is amended to clarify that the returning officer need not be the municipal clerk. The role of assistant returning officer is clarified and the Act sets out the date by which the returning officer must be appointed.

***These amendments were recommended by the Municipal Elections Act Review Committee, and endorsed by Halifax Regional Council.***

3. The Act is amended to provide for Ministerial regulations to allow for more certain levels of cost recovery by municipalities for running school board elections.

***The Municipal Elections Act Review Committee recommended fee schedules for School Board Elections so that additional costs associated with School Board Elections could be more clearly defined for charge back. Regional Council referred this matter to the Halifax Regional School Board. A motion was adopted by Council to separate School Board Elections from Municipal Elections.***

4. The Act is amended to provide for an additional week to prepare for Special Elections, increasing the time from ten to eleven weeks.

***The Municipal Elections Act Review Committee recommended that the current ten weeks is reasonable time, and Regional Council endorsed the recommendation.***

5. Section 16 of the Act is amended by adding immediately after subsection (2) the following subsection:

- (3) Where a person is ordinarily resident in a dwelling that is generally occupied only during some or all of the months of May to October, inclusive, and the person has no other dwelling to which, at will, the person could move, the person is ordinarily resident at the place where the dwelling is located.

***This amendment deals with seasonal residency and is consistent with the Provincial Election Act.***

6. The Act is amended to change the details of the tax certificate required before a person can be nominated to be elected as councillor, requiring that taxes and charges that are liens on the person's property must be fully paid. The present legislation requires that "the rates and taxes and other charges of all kinds due to the municipality by the candidate" must have been fully paid.

*The Municipal Elections Act Review Committee recommended the requirement for tax certificates be removed from the Act, and this was endorsed by Halifax Regional Council.*

7. The Act is amended to clarify the options for preparing the voters' list and the role of Council in the process. This removes the 12 month time limit to use list from a previous election and provides for use of a permanent register of electors. In addition, this requires Council's approval as to method of preparing the preliminary list, and allows the Returning Officer to choose the method of preparing the preliminary list for Special Elections.

*The above amendment was recommended by the Municipal Elections Act Review Committee, and endorsed by Halifax Regional Council.*

8. The Act is amended to provide for the inspection of enumeration index sheets but are not to be photocopied.
9. The Act is amended to provide for broader posting of preliminary list of electors and clarifies that the list is not available for distribution and is not otherwise open for inspection, disposed of or sold.

*This amendment was recommended by the Municipal Elections Act Review Committee, and subsequently endorsed by Halifax Regional Council.*

10. The Act is amended to provide for Council setting the final date for revisions to the voting list, thereby providing greater opportunity for as many qualified voters as possible to be included on the voters' list.

*This amendment was recommended by the Municipal Elections Act Review Committee, and subsequently endorsed by Halifax Regional Council.*

11. The Act is amended to provide for a new method for voters to register after the final voters list is completed. This allows voters to obtain a certificate to have their name added to the list stating they are eligible to vote. The cut off date would be the same as for transfer certificates, the Wednesday prior to ordinary polling day.

***This amendment was recommended by the Municipal Elections Act Review Committee, and subsequently endorsed by Halifax Regional Council.***

12. Nomination day is changed from the last Monday in September to the second Tuesday in September. As well, it considers Labour Day weekend. This allows more time between nomination day and the election day for Returning Officers to prepare for the event.
13. The Act is amended to provide that a nomination may be filed during the five business days preceding nomination day.

***This amendment was recommended by the Municipal Elections Act Review Committee, and subsequently endorsed by Halifax Regional Council.***

14. The Act is amended to provide that once nomination papers are signed by the Returning Officer, they become public.

***This amendment was recommended by the Municipal Elections Act Review Committee, and subsequently endorsed by Halifax Regional Council.***

15. The Act is amended to clarify that the failure to file a disclosure statement within sixty days after regular polling day, or the filing of a false disclosure statement is an offense.

***This amendment was recommended by the Municipal Elections Act Review Committee, and subsequently endorsed by Halifax Regional Council.***

16. The Act is amended to delete the requirement for Ministerial approval of a by-law with respect to the deposit for the filing of nomination papers.
17. The Act is amended to require that copies of voters' lists be returned by the candidate following the election or the candidate's deposit is forfeited.

***The above amendment with respect to returning lists was recommended by the Municipal Elections Act Review Committee, and subsequently endorsed by Halifax Regional Council.***

18. The Act is amended to permit campaigning in apartment buildings.

*This amendment was recommended by the Municipal Elections Act Review Committee, and endorsed by Halifax Regional Council.*

19. The Act is amended to clarify the date for declaring a candidate elected by acclamation in the case of a special election. The candidate can be sworn in sooner if no ordinary polling day is required due to the acclamation.

*This amendment was recommended by the Municipal Elections Act Review Committee, and subsequently endorsed by Halifax Regional Council.*

20. The Act is amended to provide that all polling stations must be in premises with level access.

*This amendment was recommended by the Municipal Elections Act Review Committee, and subsequently endorsed by Halifax Regional Council.*

21. The Act is amended to provide that candidates who are their own official agents are prohibited from being in the polls as agents.

*This amendment was recommended by the Municipal Elections Act Review Committee but was not endorsed by Halifax Regional Council.*

22. The Act is amended to confirm that a candidate may act as official agent and repeals the provision that a candidate may himself act as or assist an agent.

23. The Act is amended to remove the restriction that proxy voters and voters must be in the same polling division, and if the elector and proxy voter are not on the list, they can be added by providing a certificate of eligibility.

24. The Act is amended to limit the number of voters a person and a candidate can assist with voting. Candidates can only act as a friend of relatives as stated and not for any other voter.

*This amendment was recommended by the Municipal Elections Act Review Committee and endorsed by Halifax Regional Council.*

25. The Act is amended to provide that the poll clerk shall enter in the poll book the number of a certificate of eligibility.
26. The Act is amended to clarify who can be present at the voting count - candidates and agents, and clarifies that candidates and agents may be present for the count at one polling station only and cannot move from polling station to polling station during the count.

***This amendment was recommended by the Municipal Elections Act Review Committee and endorsed by Halifax Regional Council.***

27. The Act is amended to provide that an elector who expects to be unable to vote on ordinary polling day may vote at advance poll.
28. The Act is amended to remove the requirement for a declaration to vote on advance poll.

***This amendment was recommended by the Municipal Elections Act Review Committee and endorsed by Halifax Regional Council.***

29. The Act is amended to provide that poll books shall be open for inspection for twenty-one days after ordinary polling day, but shall not be photocopied or otherwise reproduced for members of the public.

***This amendment was recommended by the Municipal Elections Act Review Committee and endorsed by Halifax Regional Council.***

30. The Act is amended to authorize a municipal by-law to permit the use of new voting methods.

***This amendment was recommended by the Municipal Elections Act Review Committee but the component reflective of mail-in voting was not endorsed by Halifax Regional Council.***

31. The act is amended to provide that campaign signage is not permitted within 200 feet of any wall of a building in which a polling place is located.

***This amendment was recommended by the Municipal Elections Act Review Committee and endorsed by Halifax Regional Council.***

32. The Act is amended to replace the requirement for a written statement of qualification in order for qualified voters to vote for the Conseil scolaire acadien provincial, with a requirement to confirm eligibility by selecting the ballot to vote for the Conseil. Similarly the requirement for a written statement of qualification in order to vote for the African Nova Scotian matter, with a requirement to confirm eligibility by selecting the ballot to vote for the African Nova Scotian matter. A signed statement confirming that a person is an African Nova Scotian elector at the time of filing of Nomination Papers given in good faith is conclusive evidence of that fact..

*When the Municipal Elections Act Review Committee Report was reviewed by Council, the entire issue of School Board elections (combined municipal and school board elections and fees schedules) was referred to the School Board. In addition, Council adopted a motion “to separate all school board elections from municipal elections”.*

33. In addition to the foregoing the Bill contains various clarifying amendments as well as removing redundant provisions.

**Appendix "B"**  
**Amendments To The *Municipal Government Act***

The most substantial amendments to the *Municipal Government Act* are:

1. The definition of "dangerous and unsightly premises" is proposed to be amended to include "a building or structure that is unsightly in relation to neighbouring properties because the exterior finish of the building or structure or the landscaping is not maintained"

This amendment would permit the Dangerous and Unsightly Committee to address issues which arise from time to time with respect to un-maintained landscaping.

**This amendment was requested by the HRM Council.**

2. The Act is to be amended to add the following subsections in respect of the legislation governing in camera meetings:

- (6) Any councillor or employee of a municipality who discloses any report submitted to, or details of matters discussed at, a private meeting of the council or committee, as a result of which the municipality has lost financially or the councillor or employee of a municipality has gained financially, is liable in damages to the municipality for the amount of the loss or gain.

- (7) Subsection (6) does not apply to information disclosed pursuant to subsection (4) or subsection 473(2).

This amendment provides that a councillor or employee of a municipality who releases information from a private meeting will be responsible for any loss or personal profit arising from the release of the information.

**This amendment was requested by the HRM Council.**

3. New Section 51A will be added to the Act to authorize the sale of unusable parcels of land for less than market value to the abutter provided that the lands are consolidated with the abutter's holdings. No public hearing would be required as is usually the case with sales of less than market value.

The exact wording is:

51A Where a municipality holds land that is of insufficient size or dimensions to be capable of any reasonable use, in the opinion of the council, all or part of the land may be sold to the owner of any lot abutting that land and may be consolidated with such lot and, notwithstanding Section 51, the sale price of the land so sold may be set by council at a price that is less than market value at the time of the sale.

**This amendment was requested by the Halifax Regional Municipality.**



4. Section 65 of the present Act placed a limit on the total amount of grants to charities to one percent of the general taxes levied by the municipality. This limitation will be removed but the municipality shall be required to publish annually in a newspaper circulating in the municipality a list of the organizations and grants and contributions.
5. Section 109 of the Act will be amended to provide that deeds of land to municipalities are exempt from deed transfer tax. Since deed transfer tax is payable by the purchaser of the land, the amendment has no financial effect since previously the municipality was both the payer and the payee of the tax.
6. A new Section 139A will be added to the Act to authorize a court application for difficult tax sales, such as when the land title history may be vague. This will put the municipality in a situation where an application setting for all of the facts respecting the property may be put before the courts, whereupon the judge can rule on respective rights before the sale, therefore reducing the risk which municipalities sometimes assumed when they proceeded in the past without any such support, because no clear procedure was set forth in the legislation.
7. At the present time, the MGA provides for notice to properties with 30 metres of a site-plan approval application. Amendments to Section 214(1)(o)(vi), 231(1) and 232 will permit Council to establish larger notification areas for specific applications for site-plan approvals.  
**This amendment was requested by the HRM Council.**
8. An amendment to Section 220 gives Council the ability to regulate or prohibit development within a distance specified in the by-law of a watercourse or a municipal water supply wellhead.
9. An amendment to Section 227 and 235 permits Council to incorporate the minor variance provisions of the MGA in a development agreement.
10. Section 231 is amended to provide that site-plan approvals may apply to developments of one or two dwelling units.
11. Section 242 is amended to permit the MPS to provide for the extension, enlargement or alteration or structure containing nonconforming uses with or without permitting the expansion of the non-conforming use into the addition.

12. Section 268 is amended to provide that subdivision approval is not required for a subdivision resulting from the disposal by a municipality of a street, former street or trail.
13. A new Section 268A provides for the deemed consolidation of two or more lots that are and have been in common ownership and used together since April 15, 1987, or earlier and provides the process for establishing the same.
14. Section 270 is amended to provide that a subdivision by-law that is inconsistent with the provincial subdivision regulations is deemed to be amended by the regulations unless the by-law provisions are more stringent.
15. Section 271 is amended to provide that a subdivision by-law may provide that where land being subdivided has frontage on the ocean, a river or a lake, the land to be transferred to the municipality must also include land with frontage on the ocean, river or lake to provide public access to the ocean, river or lake.
16. Section 273 is amended to permit the development officer to accept a bond or security for parkland without Council approval.
17. Section 348 is amended to allow the Dangerous and Unsightly Committee to set the notice period for an order to remedy an unsightly condition as well as a dangerous condition.  
**This amendment was requested by the HRM Council.**
18. The Act contains a number of provisions respecting the incorporation of towns that have no application to HRM.
19. The Act contains of number of provisions respecting villages that have no application to HRM.
20. Several amendments are made to the FOIPOP provisions of the Act to reflect the changes made to the *Freedom of Information and Protection of Privacy Act* in 1999.
21. There are also several amendments of a technical and clarifying nature.