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CHAIR:

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3rd SESSION, 65th GENERAL ASSEMBLY
Province of Prince Edward Island
66 ELIZABETH II, 2017

BILL NO. 7

An Act to Amend the Municipal Government Act

Hon. Robert J. Mitchell
Minister of Communities, Land and Environment

GOVERNMENT BILL

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Queen's Printer
Charlottetown, Prince Edward Island

**For House
Use Only**

**Prince Edward Island
Legislative Assembly**

ASSEMBLY / SESSION / YEAR
65th General / 3rd / 2017

AMENDMENTS

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TITLE: **An Act to Amend the Municipal Government Act**

#	SECTION	AMENDMENT	DATE

NOTED:

COMMITTEE CLERK

CERTIFIED CORRECT:

CHAIR, IN COMMITTEE



AN ACT TO AMEND THE MUNICIPAL GOVERNMENT ACT

BILL NO. 7

2017

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

- 1. Clause 1(h) of the *Municipal Government Act* S.P.E.I. 2016, Cap. 44, is amended by the deletion of the words “, enumerators, scrutineers and confirmation officers” and the substitution of the words “and enumerators”.**
- 2. Clause 14(b) of the Act is repealed and the following substituted:**
 - (b) municipal planning services, including an official plan and bylaws,
 - (i) in the case of a municipality continued under this Act, within five years after the coming into force of this Act, and
 - (ii) in the case of a municipality restructured or established under this Act, within the shorter of
 - (A) a period specified by the Lieutenant Governor in Council in an order issued under clause 21(2)(d), or
 - (B) five years after the establishment or restructuring, as the case may be;
- 3. Clause 32(2)(e) of the Act is repealed.**
- 4. (1) Clause 33(1)(c) of the Act is amended by the addition of the following after subclause (i):**
 - (i.1) being a member of a council of another municipality,
- (2) Clause 33(4)(b) of the Act is amended by the addition of the following after subclause (i):**
 - (i.1) being a member of a council of another municipality,

- 5. Section 37 of the Act is amended by the deletion of the words “clause 21(2)” and the substitution of the words “section 21”.**
- 6. (1) Section 39 of the Act is amended by the addition of the following after subsection (6):**
- Completion of review**
- (6.1) The Electoral Boundaries Commission shall complete its review pursuant to subsection (6) within 3 months of its appointment.
- (2) Section 39 of the Act is amended by the addition of the following after subsection (7):**
- Implementing changes**
- (7.1) A recommendation of the Electoral Boundaries Commission accepted in whole, in part or with modifications by the council that requires a change to the area, boundaries or name of a ward shall be implemented for the next scheduled election following the submission of the Commission’s report.
- 7. Subsection 41(2) of the Act is amended by the deletion of the words “or Canada”.**
- 8. Section 42 of the Act is amended by the deletion of the words “September 15” and the substitution of the words “the fifth Friday before election day”.**
- 9. Section 43 of the Act is amended**
- (a) by the deletion of the words “September 16” and the substitution of the words “the fourth Wednesday before election day”; and**
- (b) by the deletion of the words “the first Friday in October” and the substitution of the words “the third Friday before election day”.**
- 10. (1) Subsection 53(1) of the Act is amended by the addition of the words “, except at the verification of votes conducted by the municipal electoral officer pursuant to the regulations” after the words “judicially reviewed”.**
- (2) Section 53 of the Act is amended by the addition of the following after subsection (4):**
- Verification**
- (4.1) The municipal electoral officer shall conduct a verification of votes in accordance with the regulations not later than 10 a.m. on the second day following election day.
- (3) Subsection 53(5) of the Act is amended by the deletion of the words “at 10:00 a.m. on the second day following election day” and the substitution of the words “no later than the seventh day following election day”.**
- (4) Section 53 of the Act is amended by the addition of the following after subsection (5):**
- Request for recount**
- (5.1) A request by a candidate for a recount by the municipal electoral officer under clause (5)(b) shall be made no later than the fourth day after election day.

(5) **Subsection 53(6) of the Act is amended by the deletion of the words “except pursuant to an order of the court”.**

11. (1) Subsection 54(1) of the Act is amended by the deletion of the words “On the fourth day following election day” and the substitution of the words “No later than the fourteenth day following election day”.

(2) **Subsection 54(2) of the Act is repealed and the following substituted:**

Judicial review

(2) Where a recount by the municipal electoral officer under subsection 53(5) fails to establish which candidate has received the highest number of votes, or where a candidate continues to dispute the results, the municipal electoral officer may and, if requested to do so by the candidate, shall make a request in accordance with the regulations as soon as possible for judicial review of the rejected ballots.

Request for judicial review

(2.1) A request by a candidate for a judicial review of rejected ballots under subsection (2) shall be made no later than the ninth day following election day.

Review by provincial court judge

(2.2) Where the municipal electoral officer has requested a judicial review under subsection (2), the rejected ballots shall be reviewed by a judge of the provincial court to determine whether the ballots should be counted or rejected no later than the third business day following receipt of the municipal electoral officer’s request.

(3) **Subsection 54(5) of the Act is amended by the deletion of the words “an election” and the substitution of the words “the declaration by the municipal electoral officer of the official results of the election”.**

12. Section 55 of the Act is amended by the addition of the following after subsection (2):

Order for inspection

(2.1) For the purposes of an application under this section, a person referred to in clause (4)(a) or a person on behalf of a group of persons referred to in clause (4)(b) may apply to the Supreme Court for an order to inspect the documents related to the election in the custody or control of the municipal electoral officer or the chief administrative officer of the municipality, as the case may be.

13. (1) Section 70 of the Act is amended

(a) **by renumbering it as subsection 70(1); and**

(b) **by the addition of the following after subsection (1):**

Contravention of regulations

(2) It is an offence for a person to contravene, or to permit another person to contravene, a provision of the regulations made pursuant to this Part.

- 14. Subsection 72(1) of the Act is amended by the addition of the words “or the regulations” after the words “under this Part”.**
- 15. Clause 96(3)(c) of the Act is amended by the deletion of the word “or” and the substitution of the word “and”.**
- 16. Subsection 145(5) of the Act is repealed and the following substituted:**
- Submission**
- (5) A council shall submit its municipal emergency management program to the provincial Emergency Measures Organization for review and approval
- (a) in the case of a municipality continued under this Act, within three years after the coming into force of this Act; and
 - (b) in the case of a municipality restructured or established under this Act, within the shorter of
 - (i) a period specified in an order of the Lieutenant Governor in Council under clause 21(2)(d), or
 - (ii) three years after the restructuring or establishment, as the case may be.
- 17. Section 229 of the Act is repealed.**
- 18. Subsection 239(1) of the Act is amended by the deletion of the word “7” and the substitution of the word “14”.**
- 19. Subsection 260(3) of the Act is amended by the addition of the words “, in so far as it is not inconsistent with this Act and the regulations,” after the word “continues”.**



EXPLANATORY NOTES

SECTION 1 amends section 1 of the *Municipal Government Act* S.P.E.I. 2016, Cap. 44, to eliminate references to “scrutineers” and “confirmation officers”. These terms are not used in the Act or the regulations under it that govern municipal elections.

SECTION 2 repeals clause 14(b) of the Act and substitutes a new clause 14(b) that clarifies the different time requirements related to the provision of municipal planning services by municipalities that are continued, restructured or established under the Act.

SECTION 3 repeals clause 32(2)(e) of the Act. Because of amendments to sections 42 and 43 of the Act, the clause is no longer needed.

SECTION 4 amends clauses 33(1)(c) and (4)(b) of the Act to add the fact that a person is already a member of a council of another municipality as an additional factor that disqualifies the person from being nominated as a candidate in a municipal election.

SECTION 5 amends section 37 of the Act to correct an error in a reference to an earlier section.

SECTION 6 amends section 39 of the Act to add a new subsection (6.1) that establishes that an Electoral Boundaries Commission must complete its review pursuant to subsection 39(6) within 3 months, and a new subsection (7.1) that provides that if a recommendation of the Commission that is accepted in whole, in part or with modifications requires a change to the area, boundary or name of a ward, the change shall be implemented for the next scheduled election following the submission of the Commission’s report.

SECTION 7 amends subsection 41(2) of the Act to delete the words “or Canada”. Councils of municipalities are only authorized to make information-sharing agreements with the provincial Chief Electoral Officer.

SECTION 8 amends section 42 of the Act to delete the reference to a specific date and substitute wording that relates the timing of events to specified days leading up to the election. This change simplifies the timing of events and makes it consistent for both ordinary municipalities, which hold elections in November, and the Resort Municipality of Stanley Bridge, Hope River, Bayview, Cavendish and North Rustico, which holds its elections in September.

SECTION 9 amends section 43 to delete references to specific dates, for consistency with the changes made in section 7 above.

SECTION 10 amends section 53 of the Act to clarify the processes for counting and recounting the ballots and the timing of events, and to add a new subsection (4.1) that requires the municipal electoral officer to conduct a verification of votes by 10 a.m. on the second day following election day. The section also adds a new subsection (5.1) that clarifies that a request under clause (5)(b) by a candidate for a recount by the municipal electoral officer must be made no later than the fourth day after election day.

SECTION 11 repeals subsection 54(2) of the Act and substitutes new subsections (2), (2.1) and (2.2) that set out a more complete process for a judicial review of rejected ballots, including requiring a candidate to make a request for judicial review no later than the ninth day after election day, and requiring the judicial review to be conducted no later than the third business day following receipt of the municipal electoral officer’s request. The section also amends subsection 54(5) to clarify that the retention period commences with the declaration by the municipal electoral officer of the results of the election, which is an event that may occur at different times depending on whether a recount or a judicial review is necessary.

SECTION 12 amends section 55 of the Act to add a new subsection (2.1) that provides a process for an application under subsection 55(2).

SECTION 13 amends section 70 of the Act by renumbering it as subsection 70(1) and adding a new subsection (2) that provides that a contravention of the regulations respecting elections is an offence under the Act on the same basis as the offences specified in subsection 70(1) and section 71.

SECTION 14 amends subsection 72(1) of the Act to refer explicitly to the regulations, in order to clarify that the penalties specified in that subsection also apply to a contravention of the regulations respecting elections.

SECTION 15 amends clause 96(3)(c) of the Act to substitute the word “and” for the word “or”. A council member who is in a conflict of interest is required to do all of the things specified in clauses 96(3)(a) to (d).

SECTION 16 repeals subsection 145(5) of the Act and substitutes a new subsection (5) that clarifies the different time requirements related to the submission of municipal emergency management programs by municipalities that are continued, restructured or established under the Act.

SECTION 17 repeals section 229 of the Act. The contents of the section are covered in subsection 162(2) of the Act.

SECTION 18 amends subsection 239(1) of the Act to extend the deadline for a person to request a review of a bylaw enforcement order from 7 days to 14 days. The original deadline was considered to be too short.

SECTION 19 amends subsection 260(3) of the Act to clarify that a bylaw, resolution or order of a council that is continued under that subsection is continued in so far as it is not inconsistent with the Act and regulations.



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<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	November 30, 2017
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

SIGNATURES:

Honourable Antoinette Perry, Lieutenant Governor

Honourable Francis (Buck) Watts, Speaker

Charles H. MacKay, Clerk

Hon. Robert J. Mitchell
Minister of Communities, Land and Environment

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