



# Rural Fire District Act

CHAPTER 406

OF THE

REVISED STATUTES, 1989

amended 1990, c. 19, ss. 85-94; 1992, c. 32; 1996, c. 23, ss. 31-36;  
1998, c. 18, s. 578; 2005, c. 9, ss. 17, 18

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## An Act to Provide for the Incorporation of Fire Protection Commissioners in Rural Districts

### Short title

1 This Act may be cited as the Rural Fire District Act. *R.S., c. 406, s. 1.*

### Interpretation

2 In this Act, unless the context otherwise requires,

- (a) "area" means an area of land forming a district or a proposed district;
- (b) "chairman" means the chairman of the commissioners;
- (ba) "clerk" means the clerk of a municipality;

- (c) "commissioners" means the fire protection commissioners incorporated by this Act;
- (d) "district" means a fire protection district;
- (e) "fire protection district" means a fire protection district for which commissioners are incorporated pursuant to this Act;
- (f) "Minister" means the Minister of Municipal Affairs;
- (g) "ratepayer" means a person residing within an area and rated on the current roll of the municipality within which the area or any part thereof is located, for occupancy tax or on an assessment of real property or personal property or both within the area;
- (h) "secretary" means the secretary of the commissioners. *R.S., c. 406, s. 2; 1996, c. 23, s. 31.*

### **Act does not apply**

3 This Act does not apply to the whole or to any part of a city or of an incorporated town. *R.S., c. 406, s. 3.*

4 to 17 repealed 1998, c. 18, s. 578.

### **Incorporation of commissioners**

18 The commissioners appointed or elected pursuant to this Act and their successors in office shall be a body corporate under the name and title of "The Fire Protection Commissioners for the District of . . . . .". *R.S., c. 406, s. 18.*

### **Change of boundaries**

- 19 (1) The boundaries of the district may by by-law of the commissioners from time to time be more fully described, or be increased, or be diminished or otherwise be changed.
- (2) The area of the district may not be increased or diminished unless a petition to that effect has been submitted to the commissioners and the petition has been signed by more than one half in number of the persons assessed on real property within the area proposed to be added to or taken from the district.
- (3) The petition referred to in subsection (2) shall be filed by the commissioners with the Minister, and shall be accompanied by
- (a) a certificate from either the clerk or the assessor of the municipality, setting out that those who have signed the petition are more than one half of the persons so assessed; and
  - (b) a copy of the by-law, certified by the chairman and the secretary to have been duly

passed at a special or a regular meeting of the commissioners duly called and held. *R.S., c. 406, s. 19.*

### **Call of first meeting of ratepayers**

20 The commissioners named in the proclamation shall call a meeting of the ratepayers of the district within six months after the date of incorporation, by notice in writing posted in not fewer than five conspicuous places in the area, signed by the commissioners, setting out the day, time and place of meeting, and a meeting shall be held not less than seven days and not more than thirty days after the posting of the notice. *R.S., c. 406, s. 20.*

### **Change of number of commissioners**

21 The commissioners shall have power by by-law to change the number of members of the commissioners to six or to nine. *R.S., c. 406, s. 21.*

### **Chairman at first meeting of ratepayers**

22 At the first meeting of ratepayers the person first named as commissioner in the proclamation shall be chairman, the person named second shall be vice-chairman and the third person named in the proclamation shall be secretary, provided that the meeting may, if it so wishes, elect other ratepayers to fill any or all of these offices. *R.S., c. 406, s. 22.*

### **Election and term of office of commissioners**

23 (1) At such meeting the ratepayers present shall elect commissioners, one third of whom shall retire from office on the first Tuesday of the May following such election, one third shall retire on the first Tuesday of the second May following such election and one third shall retire on the first Tuesday of the third May following such election.

(1A) Notwithstanding subsection (1), the commissioners due to retire in February in the year 1992 shall hold office in accordance with this Section until the annual meeting in May in the year 1992.

(2) The meeting may determine, by resolution or otherwise, which commissioners shall retire on each of said dates, but if it does not do so, then the one third receiving the smallest number of votes shall retire first, the one third receiving the next smallest number shall retire second and the one third receiving the largest number shall retire last, but if by reason of tie votes, elections by acclamation or other reason, it is impossible to apply this rule, then the term of office shall be determined by the chairman drawing lots.

(3) The commissioners shall hold office until their successors are sworn into office.

(4) A commissioner whose term of office has expired shall be eligible for re-election. *R.S., c. 406, s. 23; 1990, c. 19, s. 85.*

**Election to fill vacancy or new position**

24 (1) At each annual meeting of ratepayers a sufficient number of ratepayers shall be elected to fill the vacancies created by expiration of term of office of commissioners, and they shall hold office for three years.

(2) At such meeting or at a special meeting of ratepayers, a ratepayer shall be elected to fill each vacancy which has been created by death or by resignation, and the ratepayer shall hold office during the remainder of the term of the person who has died or resigned.

(3) If additional commissioners are required because the number of commissioners has been increased, then at the annual meeting or at a special meeting of ratepayers, one third of these shall be elected for a term of one year, one third for two years and one third for three years, in the same manner as provided by Section 23. *R.S., c. 406, s. 24.*

**Oath of office**

25 (1) Every commissioner shall, before entering upon the duties of office, take and subscribe an oath of office in the Form C in the Schedule to this Act, and such oath may be administered by any person authorized by law to administer an oath.

(2) A certificate that the oaths have been taken shall be entered in the minute book of the commissioners by the secretary of the commissioners. *R.S., c. 406, s. 25.*

**Officers**

26 (1) The commissioners shall at their first meeting after the election, and thereafter at the meeting of the commissioners held first after the annual meeting of the ratepayers, elect from their number a chairman, vice-chairman, secretary and treasurer.

(2) The offices of secretary and treasurer may be held by the same person.

(3) Each of the officers shall hold office until the first meeting of the commissioners following the annual meeting of ratepayers, if the officer continues to be a member of the commissioners, but may resign his office at any time by resignation in writing, directed to the secretary or to the chairman, upon which the commissioners shall hold a special meeting to fill the vacancy.

(4) The secretary may be paid such salary as the commissioners determine.

(5) The treasurer shall, before entering upon or continuing to perform the duties of his office, give security for the faithful performance of the duties required of him as treasurer, which security shall be a bond of a guarantee company approved by the Governor in Council pursuant to the provisions of the Sureties Act, and shall be in a penal sum not less than two thousand dollars, or not less than twice the amount raised by the district by

taxation in the preceding fiscal year, whichever is the larger, and the premium on such bond shall be paid by the commissioners. *R.S., c. 406, s. 26; 1990, c. 19, s. 86.*

### **Annual and special meetings of ratepayers**

27 (1) A meeting of the ratepayers, in this Act called the "annual meeting", shall be held on the first Tuesday of May in each year.

(2) Special meetings of the ratepayers may be called by the commissioners from time to time, but no business shall be transacted at a special meeting, except such as is contained in the notice thereof. *R.S., c. 406, s. 27; 1990, c. 19, s. 87.*

### **Notice of meeting**

28 The commissioners shall give notice of the time and the place of every meeting of ratepayers by causing notices thereof to be posted up in not fewer than five conspicuous places in the district, at least ten days before the date of the meeting. *R.S., c. 406, s. 28.*

### **Presiding at meetings**

29 The chairman of the commissioners shall preside at all meetings of ratepayers, in his absence or incapacity, the vice-chairman of the commissioners shall preside and in his absence or incapacity the meeting shall elect a chairman. *R.S., c. 406, s. 29.*

### **Annual report and financial statement**

30 The commissioners shall, at the annual meeting of ratepayers, present a report of the proceedings of the preceding fiscal year, and also the audited financial statement. *R.S., c. 406, s. 30; 1990, c. 19, s. 88.*

### **Time of election of commissioners at meeting**

31 The election of the commissioner or commissioners shall take place at the annual meeting after the presentation and disposal of the report of the commissioners and of the financial statement. *R.S., c. 406, s. 31.*

### **Presiding officer, ballots and scrutineers**

32 (1) The person presiding at the meeting shall preside at the taking of the vote, but if that person is a candidate for office, then, subject to Section 29, a person elected by the meeting shall preside and the person presiding is entitled to vote.

(2) The election of a commissioner shall be by ballot.

(3) Where more than one commissioner is to be elected, a separate ballot shall be taken for each commissioner.

(4) The person presiding shall appoint two ratepayers to act as scrutineers. *R.S., c. 406, s. 32.*

### **Count of votes**

33 (1) Upon the completion of the voting, the person presiding shall, in the presence of the two scrutineers, open the ballot box and examine the ballot papers and count the votes.

(2) The person presiding shall declare the person having the largest number of votes elected.

(3) When two candidates receive the same number of votes and the addition of one vote would entitle one of them to be declared elected, the person presiding shall forthwith draw lots for the purpose of determining the person elected. *R.S., c. 406, s. 33.*

### **Preparation of statement respecting election**

34 (1) The secretary shall, after the votes are counted, make up a written statement showing with respect to each election

(a) the number of votes polled;

(b) the names of the persons running for office, and the number of votes received by each person;

(c) the number of spoiled ballots; and

(d) the number of rejected ballots.

(2) This statement shall be signed by the person presiding and by the secretary and shall be filed with the minutes of the meeting. *R.S., c. 406, s. 34.*

### **Records**

35 (1) The secretary shall truly record in a book all resolutions, decisions and other proceedings of the commissioners and shall, if requested by any commissioner, record the vote of every commissioner voting on any matter submitted and shall keep the books, records and accounts of the commissioners, and shall preserve and file all accounts, original and certified copies of the by-laws, and of all minutes of proceedings of the commissioners, and shall act as secretary at and keep records of all meetings of ratepayers.

(2) The books, records, accounts and minutes of the commissioners, and of the secretary, and of any other official, shall be open without fee to the inspection of any ratepayer at any reasonable time. *R.S., c. 406, s. 35.*

### **Powers of commissioners**

36 The commissioners are authorized and empowered to provide for the inhabitants of the district a good and sufficient system of fire protection, to organize fire fighting companies, to appoint and engage officers and servants, to acquire, hold and sell real and personal property, to make any contract or contracts required for the performance of their powers, and generally to do all such things and exercise all such powers as are necessary or incidental to the carrying out of the purposes of this Act. *R.S., c. 406, s. 36; 1998, c. 18, s. 578.*

### **Assistance at fire outside district**

37 (1) The commissioners may assist with their men, apparatus, machinery, implements and equipment at fires occurring outside the boundaries of the district.

(2) The commissioners may enter into an agreement with one or more cities, towns, municipalities, villages, commissions or persons for such length of time and on such terms as the commissioners may determine, for giving assistance at fires outside the boundaries of the district, or for receiving assistance at fires within its boundaries or for both, and may make such expenditures as are necessary to carry out the terms of the agreement.

(3) repealed 1998, c. 18, s. 578.

*R.S., c. 406, s. 37; 1998, c. 18, s. 578.*

### **Borrowing powers and title to property**

38 (1) The commissioners are authorized to borrow or raise by way of loan on the credit of the commissioners such sum or sums as the commissioners deem necessary for any of the following purposes:

(a) erecting, acquiring, purchasing, altering, adding to, improving, furnishing or equipping buildings for housing fire apparatus, machinery and implements, and for other uses in connection with the operation of the fire department;

(b) acquiring, purchasing or improving land for such buildings;

(c) equipping a fire department and acquiring or purchasing apparatus, machinery and implements for use in extinguishing fires.

(2) The commissioners may assess for, levy, collect and expend out of current revenue, any amount required to defray the cost of any of the objects set out in subsection (1).

(3) The title to all property and assets acquired in whole or in part from funds of the commissioners or from funds for repayment of which the commissioners are responsible shall be held by the commissioners. *R.S., c. 406, s. 38.*

### **Borrowing where postponement of issue of debenture**

39 (1) When the commissioners have obtained the approvals required by the Municipal Government Act to borrow or raise any sum of money by an issue of debentures, and they deem it expedient to postpone the issue of such debentures, they may, with the approval of the Minister, borrow such sum or part thereof from any chartered bank in the Province, for such time and on such terms as are agreed upon, and may, from time to time, with the approval of the Minister, extend such time or alter such terms.

(2) Every sum so borrowed may be repaid in whole or in part from revenue or other lawful source but, unless so paid, shall be repaid from the proceeds of the debentures when sold.

(3) The interest on any money so borrowed shall be paid from revenue and not from the issue of debentures. *R.S., c. 406, s. 39; 1998, c. 18, s. 578.*

### **Borrowing by or from municipality for commissioners**

40 (1) A municipality within which all or part of a district lies is authorized to borrow or raise by way of loan on the credit of the municipality such sums of money as it deems necessary, and to pay the same over to the commissioners for any of the purposes referred to in Section 38, or the municipality may, with the approval of the Minister, advance from current revenue, surplus, special reserve fund or any other lawful source, all or any part of the amount and recover the same from the commissioners with interest at the rate and on the terms agreed upon.

(2) Such borrowing shall be deemed to be for a municipal purpose within the meaning of the Municipal Government Act.

(3) Unless some other agreement is made, the municipality shall deduct each fiscal year the amounts required to pay interest and repay principal on such advance from the amounts payable to the commissioners pursuant to Section 46. *R.S., c. 406, s. 40; 1990, c. 19, s. 89; 1998, c. 18, s. 578.*

41 to 44 repealed 1998, c. 18, s. 578.

### **Alienation of property**

45 With the consent of the Minister, commissioners may sell and convey any real or personal property no longer required for the use of the commissioners, or may mortgage or lease any real or personal property. *R.S., c. 406, s. 45.*

### **Annual estimates**

46 (1) The commissioners shall annually, before the first day of May, make estimates of all sums which are required for the lawful purposes of the commissioners for the then



current fiscal year, after crediting the probable revenue from all sources other than rates, and making due allowance in such estimates for the abatement and losses which may occur in the collection of the taxes, or for taxes for the current fiscal year, which may not be collected or collectable, and the commissioners shall include therein any deficit from any preceding fiscal year and all sums which are required for the retirement of debenture debt, or for interest on debentures, or for sinking funds, if any, in respect of all debentures issued by the commissioners, or issued by the municipality on behalf of the commissioners pursuant to Section 40.

(2) The commissioners shall furnish a copy of such estimates, signed and certified by them, to the clerk of the municipality of which the district forms part, on or before the tenth day of May in each fiscal year, and thereupon the amount contained in the estimates shall be collected by the municipality as an area rate, and the commissioners may direct that part of said amount be collected by a poll tax and may fix the amount thereof not, however, to exceed the amount authorized by Section 82 of the Municipal Act.

(2A) The area rate referred to in subsection (2) may be different for commercial property and business occupancy assessments than for residential and resource property, but the area rate for commercial property and business occupancy assessments may not exceed one and a half times the area rate for residential and resource property.

(3) The municipality may add thereto such sum as may be agreed upon by the commissioners and the municipal clerk for the abatement, losses, expenses and commissions which may occur or be required in the collection of such amount, and for rates for the current fiscal year which may not be collected or collectable, not, however, in all to exceed ten per cent.

(4) The amount to be levied, after making the deductions authorized by this Act, shall be paid by the treasurer of the municipality to the commissioners in instalments from time to time upon the requisition of the commissioners.

(5) If the district forms part of more than one municipality, then a copy of the estimates as aforesaid shall be furnished to each of them, and the clerks of each such municipality shall

(a) determine for each municipality the total assessment of the property within the district, according to the current assessment roll;

(b) determine for each municipality the amount which in their respective opinions may be collected by poll tax, if one is to be levied; and

(c) divide the amount to be levied, after deducting the total probable amount which may be collected by poll tax, if any, between the municipalities in the proportion which the total assessment in each, as determined pursuant to clause (a), bears to the sum of all such total assessments,

and thereupon each municipality shall collect the amount so determined and poll tax, if any, and pay the same over in the manner provided by subsections (2), (3) and (4).

(6) Where any property lies partly within the district and partly outside of it, the assessor for the municipality shall determine the assessable value of the portion which lies within the district. *R.S., c. 406, s. 46; 1990, c. 19, s. 91; 2005, c. 9, s. 17.*

### **Temporary borrowing**

47 (1) The commissioners may, from time to time, effect temporary loans from any chartered bank in the Province for the purpose of defraying the annual current expenditures of the commissioners under this Act, and the interest on any such loans shall be added to the current expenses of the fiscal year, provided that such loan or loans shall not in the aggregate at any time exceed fifty per cent of the total amount of taxes levied for the current fiscal year.

(2) When the amount authorized to be borrowed by subsection (1) is borrowed, the power to borrow shall cease until the said loan shall have been reduced, when the power may again be exercised. *R.S., c. 406, s. 47; 1990, c. 19, s. 92.*

### **Auditor**

48 The commissioners shall annually appoint as auditor a person registered as a municipal auditor pursuant to the Municipal Government Act and Section 42 of that Act applies *mutatis mutandis*. *R.S., c. 406, s. 48; 1998, c. 18, s. 578.*

### **Annual report of auditor**

49 The auditor shall file the auditor's report for the fiscal year not later than the first day of May of the following fiscal year and shall at the same time file a copy thereof with the Minister. *1990, c. 19, s. 93.*

### **By-laws**

50 (1) The commissioners shall have power to make by-laws in respect of the following matters, that is to say, for

(a) regulating the procedure and preserving order at meetings of the commissioners;

(b) regulating the procedure and preserving order at meetings of the ratepayers of the district;

(c) regulating the management, use and control of property of the commissioners;

(d) changing the name of the commissioners; and

(e) the carrying out of any provisions of this Act.

(2) Every by-law made by the commissioners pursuant to the authority of this or any Act shall be subject to the approval of the Minister and, when so approved, shall have the force of law. *R.S., c. 406, s. 50.*

### **Annual statement of secretary**

51 The secretary shall, not later than the first day of May in each fiscal year, prepare and submit to the Minister a statement giving fully and accurately such financial, statistical and other information as the Minister may from time to time require. *R.S., c. 406, s. 51; 1990, c. 19, s. 94.*

### **Service commission under Municipal Affairs Act**

52 The commissioners shall be deemed to be a service commission for the purposes of the Municipal Government Act. *R.S., c. 406, s. 52; 1998, c. 18, s. 578.*

53 repealed 1998, c. 18, s. 578.

### **Penalty for contravention of Act**

54 Any person who violates or fails to comply with this Act shall be liable on conviction to a penalty not exceeding fifty dollars and, in default of payment, to imprisonment for a term not exceeding thirty days. *R.S., c. 406, s. 54.*

55 repealed 1998, c. 18, s. 578.

### **Dissolution of commissioners**

55A (1) The Governor in Council may

(a) upon receipt of a request in writing from the commissioners of a district, authorized by a meeting of the ratepayers of the area held in accordance with this Act; or

(b) upon the recommendation of the Minister,

order that the commissioners of a district be dissolved.

(2) The Minister shall not make a recommendation to the Governor in Council for the dissolution of the commissioners unless

(a) there has been, to the Minister's knowledge, no annual or special meeting of the ratepayers of the area held for at least two years; and

(b) ninety days' notice of the proposal to recommend dissolution has been served on

- (i) the latest commissioners known to the Minister, and
- (ii) the clerk of the municipality in which the district is located.

(3) The notice required by clause (b) of subsection (2) shall provide that any objection to the proposal be filed in writing with the Minister within sixty days after service of the notice.

(4) Upon the making of the order pursuant to subsection (1),

(a) the commissioners cease to be a body corporate and this Act no longer applies to them; and

(b) all assets and liabilities of the former commissioners become the assets and liabilities of the municipality in which the former district is located.

(5) Where, immediately before the dissolution of the commissioners, the liabilities of the commissioners exceed the assets of the commissioners, the liabilities, to the extent that they exceed the assets of the commissioners [commissioners], shall be funded by an area rate levied on the area of the former district.

(6) The area rate referred to in subsection (5) may be different for commercial property and business occupancy assessments than for residential and resource property but the area rate for commercial property and business occupancy assessments may not exceed one and a half times the area rate for residential and resource property. *1992, c. 32, s. 1; 2005, c. 9, s. 18.*

### **Act may apply to commission under another Act**

56 (1) Where, by or pursuant to any Act of the Legislature enacted on, before or after the twenty-first day of March, 1963, any commissioners are, or any commission, board, company, fire department or similar body, hereinafter referred to as a "commission", is created for the purpose of supplying fire protection to any part of the Province other than a city or an incorporated town, the commissioners or the commission as created, may, if authorized by a meeting of the ratepayers of the area to which such first mentioned Act applies, declare by resolution that the provisions of this Act shall thereafter apply and upon such declaration being filed in the office of the Minister, the Governor in Council may by proclamation declare that the provisions of this Act shall apply to such commissioners or commission, in lieu of the provisions of the Act which theretofore applied to such commissioners, or commission.

(2) The proclamation issued pursuant to subsection (1) may

(a) be in the same form as the proclamation issued pursuant to Section 17 and provide that the name of the commissioners or commission shall be that prescribed by Section 18; or

(b) provide that the name by which such commissioners or commission is thereafter to be known, the number of members, their qualifications and the method of electing them, or any one or more of such matters, shall be those prescribed by the Act by which they or it was created and, in such event, those matters not so provided for shall be as prescribed for commissioners by this Act. *R.S., c. 406, s. 56.*

SCHEDULE

Form A

Requisition for Poll

To the Sheriff of the County of .....

The requisition of the undersigned shows that the petitioners are desirous that the Rural Fire District Act be declared to apply to the District of ..... which is bounded and described as follows (here give description of land to be included in such district).

The undersigned therefore request you to hold a poll to determine whether or not said Act shall be declared to apply to the District of ..... as in said Act provided.

Dated at ..... this ..... day of ....., 19. ....

Form B

Ballot

Are you in favour of the provisions of the Rural Fire District Act being made applicable to the District of .....?

"For" "Against"

If in favour, mark an X in the space under the word "For", and if not in favour, mark an X in the space under the word "Against."

Form C

I, do swear that I am duly qualified as required by law for the office of a Commissioner for the Fire Protection District of ..... under the provisions of the Rural Fire District Act, and that I will faithfully perform the duties of Commissioner while I hold office, to the best of my ability.

So help me God.

Sworn to at .....,  
in the County of .....,  
this ..... day of .....,  
19. ...., before me .....

.....

A Commissioner, etc.

Fees of Sheriff

(Section 55)

Examining petition, preparing posters and posting same, preparing ballots, appointing officials, and making all arrangements for holding poll \$25.00

Presiding officer (payable also to the sheriff if he acts as such) not exceeding 20.00

Poll Clerk, not exceeding 14.00

Rent for each polling place heated and lighted, not exceeding 20.00

Printing ballots and posters, reasonable amount actually disbursed.

Services following poll, to and including final report to the Minister 25.00

Travel per mile from residence of Sheriff to places of poll and return, by shortest available route, not exceeding three trips .12

Telephone, postage and similar expenditures, reasonable amount actually disbursed.

*R.S., c. 406, Sch.*



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