



BILL NO. 156

Government Bill

*4th Session, 61st General Assembly
Nova Scotia
61 Elizabeth II, 2012*

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

CHAPTER 60
ACTS OF 2012

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 6, 2012**

The Honourable John M^{ac}Donell
Minister of Service Nova Scotia and Municipal Relations

*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 (1) Subsection 2(1) of Chapter 55 of the Acts of 2007, the *Halifax Regional Water Commission Act*, is amended by

(a) adding immediately after clause (a) the following clause:

(aa) “Charter” means the *Halifax Regional Municipality Charter*;

(b) striking out the period at the end of clause (i) and substituting a semi-colon;

(c) adding immediately after clause (i) the following clauses:

(j) “sewage” means the combination of liquid and water-carried wastes from buildings, containing animal, vegetable or mineral matter in suspension or solution, together with such groundwater, surface water or stormwater as might be present;

(k) “sewer” means a pipe or conduit for carrying sewage, groundwater, stormwater or surface runoff, and includes all sewer drains, storm sewers, clearwater sewers, storm drains and combined sewers vested in, or under the control of, the Commission;

(l) “stormwater” means water from precipitation of all kinds, and includes water from the melting of snow and ice, groundwater discharge and surface water;

(m) “stormwater system” means a method or means of carrying stormwater, including ditches, swales, sewers, drains, canals, ravines, gullies, pumping stations, retention ponds, streams, watercourses, floodplains, ponds, springs, creeks, streets or private roads, roadways or drive-ways;

(n) “wastewater facilities” means the structures, pipes, devices, equipment, processes or other things used, or intended, for the collection, transportation, pumping or treatment of sewage and disposal of the effluent;

(o) “water system” means the source, structures, pipes, hydrants, meters, devices, equipment or other things used, or intended, for the collection, transportation, pumping or treatment of water.

(2) Subsection 2(2) of Chapter 55 is amended by striking out “*Municipal Government Act*” in the second line and substituting “Charter”.

2 Subsections 4(2) to 4(5) of Chapter 55 are repealed and the following subsections substituted:

(2) Where, for any reason, there is a vacancy on the Commission Board, the Commissioners who are appointed and have consented to act may continue to act and to exercise all the powers or functions of the Commission Board until the vacancy is filled.

(3) Each Commissioner appointed pursuant to clause (1)(b) holds office for a term of two or three years, at the discretion of the Council, but ceases to hold office upon ceasing to be a member of the Council or if the Commissioner, without leave of the Commission Board, is absent from three consecutive meetings of the Commission Board.

(4) Each Commissioner appointed pursuant to clause (1)(c) holds office for a term of two or three years, at the discretion of the Council, but ceases to hold office upon ceasing to be a resident of the Regional Municipality or if the Commissioner, without leave of the Commission Board, is absent from three consecutive meetings of the Commission Board.

(5) The Commissioner appointed pursuant to clause (1)(d) holds office for such a term as is designated by the Chief Administrative Officer at the time of the appointment, but ceases to hold office upon ceasing to be a member of the staff of the Regional Municipality.

(6) Each Commissioner is eligible for re-appointment.

(7) Subject to subsection (3) or (4), as the case may be, where a person appointed pursuant to clause (1)(b) or (c) ceases to be a Commissioner before the person's term of office expires, the Council shall, within two months after the person ceases to be a Commissioner, appoint a person pursuant to clause (1)(b) or (c), as the case may be, to fill the vacancy and the person so appointed holds office, as long as that person has the qualifications required by clause (1)(b) or (c), as the case may be, for the remainder of the term of the person who ceases to be a Commissioner.

(8) Where a person appointed pursuant to clause (1)(d) ceases to be a Commissioner, the Chief Administrative Officer shall appoint to the Commission Board another member of the staff of the Regional Municipality to fill the vacancy and the person so appointed holds office for such a term as is designated by the Chief Administrative Officer.

3 Chapter 55 is further amended by adding immediately after Section 4 the following Sections:

4A Each Commissioner is an officer of the Commission for the purpose of any immunities conferred by this Act.

4B The Commission Board shall appoint a Chair and a Vice-chair from among its members to hold office until their successors are appointed.

4C (1) The Commission Board shall appoint a Secretary and a Treasurer from among its members or from among the employees of the Commission to hold office until their successors are appointed.

(2) The duties of the Secretary and of the Treasurer shall be determined by the Commission.

(3) One person may be appointed as both Secretary and Treasurer.

4D Four voting Commissioners constitute a quorum of the Commission Board.

4E Commissioners who are not members of the Council may be paid from the revenue of the Commission such annual honorarium as the Commission Board determines, but the total of the annual honoraria must not exceed one tenth of one per cent of the gross annual revenue of the Commission.

4 Chapter 55 is further amended by adding immediately after Section 6 the following Section:

6A Where there is a conflict between this Act and the Charter, this Act prevails.

5 Section 7 of Chapter 55 is amended by

(a) adding immediately after clause (a) the following clause:

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

and

(b) striking out clause (c) and substituting the following clause:

(c) engage in other incidental business activities, including the generation of heat or electricity in whole or in part from by-products of any of the operations of the Commission set out in clause (a) and the provision of contract services to persons located outside the Regional Municipality, so long as such activities are carried out without subsidy from any of the operations of the Commission set out in clause (a) and relate to the provision of water, wastewater or stormwater services, and for the purpose of this clause exercise any of the powers set out in clause (b).

6 Subsection 8(2) of Chapter 55 is amended by striking out “*Municipal Government Act*” in the fourth line and substituting “Charter”.

7 Subsection 9(1) of Chapter 55 is amended by

(a) adding “the Charter,” immediately after “under” in the fourth line;

(b) striking out “*Municipal Government Act*” in the second line of clause (d) and substituting “Charter”;

(c) striking out “*Municipal Government Act*” in the second line of clause (e) and substituting “Charter”; and

(d) striking out “*Municipal Government Act*” in the second line of clause (f) and substituting “Charter”.

8 (1) Subsection 20(1) of Chapter 55 is amended by striking out “*Regulations of the Board of Commissioners of Public Utilities of Nova Scotia Prescribing a Uniform System of Accounts*” in the fourth and fifth lines and substituting “*NOVA SCOTIA UTILITY AND REVIEW BOARD Water Utility Accounting and Reporting Handbook*, as amended from time to time”.

(2) Subsection 20(3) of Chapter 55 is amended by adding “, and may be based on an amount denominated as a percentage of the Commission’s rate base allocated to one or more of water, wastewater and stormwater systems or by reference to any other formula agreed to by the Commission and the Council” immediately after “Council” in the fourth line.

(3) Section 20 of Chapter 55 is further amended by adding immediately after subsection (3) the following subsections:

(4) The amount or amounts in an agreement made pursuant to subsection (3) must be paid as

(a) a grant in lieu of taxes on taxable assets pursuant to Section 92 of the Charter regardless of whether the amount is calculated by reference to a formula that includes non-taxable assets; or

(b) a dividend.

(5) Any amount payable pursuant to subsection (3) is subject to review and approval by the Board.

9 Section 21 of Chapter 55 is amended by

(a) striking out “532 of the *Municipal Government Act*” in the first and second lines and substituting “92 of the Charter”; and

(b) striking out “and business occupancy” in the third and fourth lines.

10 Section 22 of Chapter 55 is amended by

(a) striking out “*Municipal Government Act*” in the first and second lines and substituting “Charter”; and

(b) striking out “or business occupancy” in the third and fourth lines.

11 Clause 23(b) of Chapter 55 is amended by striking out “532 of the *Municipal Government Act*” in the first and second lines and substituting “92 of the Charter”.

12 Subsection 27(2) of Chapter 55 is repealed.

13 Chapter 55 is further amended by adding immediately after Section 27 the following Section:

27A The Commission is not liable for nuisance as a result of the construction or operation of any work owned or operated by it, including, without limiting the generality of the foregoing, any water system, stormwater system or wastewater facilities,

if the nuisance could not be avoided by any other practically feasible method of constructing or operating the work.

14 Section 31 of Chapter 55 is amended by

- (a) striking out “an” in the second line and substituting “a professional”; and**
- (b) adding “, accountant or actuary” immediately after “surveyor” in the second line.**

15 Section 35 of Chapter 55 is amended by adding “and Part XII and Part XIV of the Charter” immediately after “Act” in the third line.

16 Section 36 of Chapter 55 is amended by adding “and Part XII and Part XIV of the Charter” immediately after “Act” in the fifth line.
