

2013 Bill 28

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First Session, 28th Legislature, 62 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 28**

## **MODERNIZING REGIONAL GOVERNANCE ACT**

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THE MINISTER OF MUNICIPAL AFFAIRS

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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## BILL 28

2013

### MODERNIZING REGIONAL GOVERNANCE ACT

(Assented to \_\_\_\_\_, 2013)

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

**Amends RSA 2000 cM-26**

**1 The *Municipal Government Act* is amended by this Act.**

**2 Section 1(1) is amended by adding the following after  
clause (k):**

(k.1) “growth management board” means a growth  
management board established under Part 17.1;

**3 Section 570.01(1) and (2)(d) and (e) are amended by striking  
out “or regional services commission” wherever it occurs and  
substituting “, regional services commission or growth  
management board”.**

## Explanatory Notes

**1** Amends chapter M-26 of the Revised Statutes of Alberta 2000.

**2** Definition of growth management board added.

**3** Section 570.01 presently reads in part:

*570.01(1) If the Minister considers that a municipal authority or regional services commission has not complied with an ALSA regional plan, the Minister may take any necessary measures to ensure that the municipal authority or regional services commission, as the case may be, complies with the ALSA regional plan.*

*(2) In subsection (1), all necessary measures includes, without limitation, an order by the Minister*

*(d) withholding money otherwise payable by the Government to the municipal authority or regional services commission pending compliance with an order of the Minister;*

**4 The following is added after section 603:**

**Validation of regulations**

**603.1(1)** Despite any decision of a court to the contrary made before or after the coming into force of this section,

- (a) a regulation made under section 603(1) before the coming into force of this section, including a new regulation described in clause (c), is validated and declared for all purposes to have been validly made as of the date on which the regulation was made,
- (b) everything done under a regulation referred to in clause (a) is validated and declared for all purposes to have been validly done, and
- (c) where a regulation made under section 603(1) before the coming into force of this section (in this clause called the “former regulation”) is repealed and another regulation made under section 603(1) (in this clause called the “new regulation”) was substituted for it, the new regulation operates as a continuation of the former regulation except to the extent that the provisions of the new regulation are not in substance the same as those of the former regulation.

**(2)** For greater certainty and without limiting the generality of subsection (1)(b) and (c),

- (a) the Minister’s approval of the Capital Region Growth Plan under section 13(1) of the *Capital Region Board Regulation* (AR 49/2008)
  - (i) is validated and declared for all purposes to have been validly approved, and
  - (ii) continues to be valid as if it had been approved under section 13(1) of the *Capital Region Board Regulation* (AR 38/2012),

*(e) repealing, amending and making policies and procedures with respect to the municipal authority or regional services commission;*

**4** Validation of regulations made under section 603.

- (b) the Minister's establishment of the Transitional Regional Evaluation Framework under section 20 of the *Capital Region Board Regulation* (AR 49/2008) is validated and declared for all purposes to have been validly established, and
- (c) the Minister's establishment of the Regional Evaluation Framework under section 21 of the *Capital Region Board Regulation* (AR 17/2010)
  - (i) is validated and declared for all purposes to have been validly established, and
  - (ii) continues to be valid as if it had been established under section 21 of the *Capital Region Board Regulation* (AR 38/2012).

**(3)** Despite section 603(2), a regulation referred to in subsection (1) of this section that is in force on the coming into force of this section is repealed on the earliest of

- (a) the coming into force of an amendment that adds the matter to this Act;
- (b) the coming into force of a regulation that repeals the regulation;
- (c) June 30, 2015.

**(4)** Subsection (3) does not apply to the following regulations:

- (a) *Proceedings Before the Board Clarification Regulation* (AR 176/2011);
- (b) *Equalized Assessment Variance Regulation, 2012* (AR 195/2011);
- (c) *Capital Region Board Regulation* (AR 38/2012);
- (d) *Municipal Emergency Exemption Regulation* (AR 142/2013).



**5 Section 690 is amended by adding the following after subsection (6):**

**(6.1)** Any decision made by the Municipal Government Board under this section in respect of a statutory plan or amendment or a land use bylaw or amendment adopted by a municipality must be consistent with any growth plan approved under Part 17.1 pertaining to that municipality.

**6 The following is added before Part 18:**

**Part 17.1  
Growth Management Boards**

**Interpretation**

**708.01(1)** In this Part,

- (a) “growth management board” means a growth management board established by regulation under section 708.02;
- (b) “growth plan” means an integrated growth management plan, including any amendments to that plan, approved by the Minister under section 708.1;
- (c) “growth region” means all or part of the land lying within the boundaries of the participating municipalities of a growth management board that is designated by regulation under section 708.02 as the growth region for that growth management board;
- (d) “municipal agreement” means an agreement entered into by a participating municipality;
- (e) “participating municipality” means a municipality that is designated by regulation under section 708.02 as a member of the growth management board;
- (f) “representative” means a person appointed by a participating municipality under section 708.04 to represent the participating municipality on a growth management board;
- (g) “statutory plan” means



**5** Provision added indicating that any decision made by the Municipal Government Board concerning an intermunicipal dispute must be consistent with any pertinent growth plan.

**6** Adds Part 17.1 to Act.

- (i) a statutory plan as defined in section 616(dd), or
- (ii) an amendment to a statutory plan referred to in subclause (i).

(2) A reference in any other Part of this Act to a resolution or bylaw does not include a resolution passed or bylaw made by a growth management board.

## **Division 1 Establishment and Operation of Growth Management Boards**

### **Establishing growth management board**

**708.02(1)** The Lieutenant Governor in Council, on the recommendation of the Minister, may establish a growth management board by regulation.

(2) The regulation establishing a growth management board must

- (a) specify the name of the growth management board,
- (b) designate the municipalities that are members of the growth management board, and
- (c) designate all or part of the land lying within the boundaries of the participating municipalities as the growth region for the growth management board.

(3) The regulation establishing a growth management board may deal with one or more of the following matters:

- (a) the appointment of persons to represent the participating municipalities;
- (b) the appointment of the chair of the growth management board, including, if necessary, the appointment of an interim chair;
- (c) the voting rights of the participating municipalities;
- (d) the mandate of the growth management board;
- (e) subject to this Part, the powers, duties and functions of



- (i) the growth management board, and
- (ii) the representatives on the growth management board;
- (f) requiring the growth management board to prepare a growth plan for the growth region;
- (g) the objectives of a growth plan;
- (h) the contents of a growth plan;
- (i) the timelines for completing a growth plan;
- (j) the form of a growth plan;
- (k) the effect of a growth plan;
- (l) the process for making amendments to a growth plan;
- (m) the application of section 708.14 in respect of a participating municipality;
- (n) any other matter or thing that the Lieutenant Governor in Council considers necessary or advisable to carry out the purposes of this Part.

**Corporation**

**708.03(1)** A growth management board is a corporation consisting of

- (a) the participating municipalities, as represented by the representatives, and
- (b) the persons appointed by the Lieutenant Governor in Council under subsection (2).

**(2)** The Lieutenant Governor in Council may appoint one or more of the following persons to a growth management board, but those persons do not have voting rights:

- (a) one or more persons to represent the Government of Alberta;
- (b) one or more persons to represent the public or other interests in the growth region.



**Appointment of representative**

**708.04** Each participating municipality must, in accordance with the regulation establishing the growth management board of which the participating municipality is a member, appoint a person to represent the participating municipality on the growth management board.

**Powers and duties of growth management board**

**708.05(1)** Except as provided for in the regulations under subsection (3), Divisions 3 and 4 of Part 15.1 and any regulations made under those Divisions apply with any necessary modifications in respect of a growth management board as if it were a regional services commission.

**(2)** Except as provided for in the regulations under subsection (3), Divisions 3 and 4 of Part 15.1 and any regulations made under those Divisions apply with any necessary modifications in respect of the representatives on a growth management board as if those representatives were directors of a regional services commission.

**(3)** The Minister may make regulations modifying any provision of Division 3 or 4 of Part 15.1 for the purpose of applying the provision to a growth management board or to the representatives on a growth management board.

**Compliance with ALSA regional plans**

**708.06** In carrying out its functions and in exercising its jurisdiction under this Part and other enactments, a growth management board must act in accordance with any applicable ALSA regional plans.

**Delegation**

**708.07(1)** Subject to subsection (2), a growth management board may delegate any of its powers, duties or functions under this Part or any other enactment to a committee, official or employee of the growth management board.

**(2)** A growth management board may not delegate

- (a) the power to make bylaws;
- (b) the power to borrow money;



- (c) the power to adopt budgets;
- (d) the power to approve financial statements.

**Bylaws**

**708.08(1)** A growth management board may make bylaws respecting its conduct and affairs, including, without limitation, rules and procedures for dealing with matters before the growth management board.

(2) Unless the Minister directs otherwise, a bylaw made under subsection (1) does not come into force until it has been approved by the Minister.

(3) The *Regulations Act* does not apply to a bylaw made under subsection (1).

**Annual report of growth management board**

**708.09** A growth management board must submit to the Minister before May 1 of each year a report summarizing its activities during the preceding calendar year.

**Division 2  
Approval and Effective  
Date of Growth Plan**

**Approval of growth plan**

**708.1(1)** On receiving a proposed growth plan from a growth management board, the Minister may by order approve the growth plan, with or without modifications or conditions, or reject it.

(2) A growth plan is not a regulation within the meaning of the *Regulations Act*.

**Effective date of growth plan**

**708.11** A growth plan takes effect on the date specified by the Minister.





### **Division 3 Effect of Growth Plan**

#### **Actions must conform with growth plan**

**708.12(1)** Despite any other enactment, no participating municipality shall take any of the following actions that conflict or are inconsistent with a growth plan:

- (a) undertake a public work, improvement, structure or other thing;
- (b) adopt a statutory plan;
- (c) make a bylaw or pass a resolution;
- (d) enter into a municipal agreement.

**(2)** If a growth management board finds that a participating municipality has taken an action described in subsection (1)(a) that conflicts or is inconsistent with a growth plan, the growth management board may, by written notice to the participating municipality, order the participating municipality to stop the action within the time set out in the notice.

**(3)** If a participating municipality fails or refuses to comply with a notice under subsection (2), the growth management board may apply to the Court of Queen's Bench for an injunction or other order.

**(4)** The Court of Queen's Bench may grant or refuse the injunction or other order or may make any order that in the opinion of the Court is just in the circumstances.

#### **Plan prevails**

**708.13** Despite any other enactment, but subject to section 708.14(5), a growth plan prevails in the event of a conflict or inconsistency between the growth plan and a statutory plan, bylaw, resolution or municipal agreement of a participating municipality.

#### **Conformity with growth plan**

**708.14(1)** The council of a participating municipality must amend every statutory plan and bylaw as necessary to conform



with a growth plan no later than the date specified by the Minister.

(2) If the council of a participating municipality fails to amend a statutory plan or bylaw in accordance with subsection (1), the statutory plan or bylaw is deemed to be invalid to the extent that it conflicts or is inconsistent with a growth plan.

(3) The Minister may, in respect of a municipal agreement entered into by a participating municipality that conflicts or is inconsistent with a growth plan, require the council of the participating municipality, to the extent possible under the terms of the municipal agreement,

(a) to amend the municipal agreement so that it conforms to the growth plan, or

(b) to terminate the municipal agreement.

(4) If the council of a participating municipality fails to amend or terminate a municipal agreement when required to do so by the Minister under subsection (3), the municipal agreement is deemed to be invalid to the extent that it conflicts or is inconsistent with the growth plan.

(5) Except as otherwise provided in the regulation establishing the growth management board of which the participating municipality is a member, section 708.13 and this section apply to statutory plans adopted, bylaws made, resolutions passed and municipal agreements entered into before or after the coming into force of that regulation.

#### **Conflict with ALSA regional plans**

**708.15** In the event of a conflict or inconsistency between a growth plan and an ALSA regional plan, the ALSA regional plan prevails to the extent of the conflict or inconsistency.

### **Division 4 General Matters**

#### **Effect of regulation on existing statutory plans**

**708.16** For greater certainty, except as provided in this Part and Part 17, all statutory plans of a participating municipality that are in effect on the coming into force of the regulation



establishing the growth management board of which the participating municipality is a member remain in full force and effect.

**Information must be provided**

**708.17(1)** The chief elected official of a participating municipality must, when required in writing by the growth management board to do so, provide the growth management board with information about the participating municipality that the growth management board requires.

(2) A person who contravenes subsection (1) is guilty of an offence and liable to a fine of \$10 000 or to imprisonment for a term of not more than one year, or to both a fine and imprisonment.

(3) This section does not apply to information acquired by a municipality that is subject to any type of legal privilege, including solicitor-client privilege.

**Matters before the Municipal Government Board**

**708.18(1)** If

- (a) a matter relating to land within a growth region is appealed to the Municipal Government Board, or
- (b) the Municipal Government Board is considering an application for an annexation of land involving 2 or more participating municipalities,

the Minister may by order direct the Municipal Government Board to defer its consideration of the matter or application.

(2) When the Minister makes an order under subsection (1), all steps in the appeal or application, as the case may be, are stayed as of the date of the order until the Minister gives notice to the Municipal Government Board that the appeal or application may be continued.

(3) This section applies to an appeal or application commenced after the coming into force of the regulation establishing the growth management board

- (a) in respect of which the land referred to in subsection (1)(a) is part of the growth region, or



- (b) of which the participating municipalities referred to in subsection (1)(b) are members.

**Limitation of actions**

**708.19** No cause of action arises as a result of

- (a) the enactment of this Part,
- (b) the making of a regulation, bylaw or order under this Part, or
- (c) anything done or omitted to be done in accordance with this Part or a regulation, bylaw or order made under this Part.

**No remedy**

**708.2** No costs, compensation or damages are owing or payable to any person, and no remedy, including in contract, restitution or trust, is available to any person in connection with anything referred to in section 708.19.

**Proceedings barred**

**708.21** No proceedings, including any proceedings in contract, restitution or trust, that are based on anything referred to in section 708.19, may be brought or maintained against any person.

**No expropriation or injurious affection**

**708.22** Nothing done or omitted to be done in accordance with this Part or a regulation, bylaw or order made under this Part constitutes an expropriation or injurious affection for the purposes of the *Expropriation Act* or otherwise.

**Regulations re complaint process**

**708.23(1)** The Minister may make regulations establishing a process for resolving complaints by a participating municipality against a growth management board with respect to any alleged breach of process, improper administration or discriminatory treatment by the growth management board, including, without limitation, regulations respecting the process for making complaints.

**(2)** A regulation made under subsection (1) may be general or specific in its application.





**(3)** If there is a conflict or inconsistency between a regulation made under subsection (1) and a bylaw made by a growth management board, the regulation prevails to the extent of the conflict or inconsistency.

**Ministerial orders**

**708.24(1)** In addition to any other orders that the Minister may make under this Part, the Minister may make any one or more of the following orders:

- (a) an order providing for transitional matters related to the coming into force of this Part;
- (b) an order respecting the requisition of operating and capital costs of a growth management board;
- (c) subject to the regulations, an order respecting the management, duties and functions of a growth management board;
- (d) an order respecting the records to be kept by a growth management board and the manner in which they are to be kept and respecting which reports are to be submitted to the Minister;
- (e) an order providing for any other matter that the Minister considers necessary for carrying out the purposes of this Part.

**(2)** In addition to the orders the Minister may make under subsection (1), the Minister may by order take any action that a growth management board may or must take under this Part or a regulation under this Part.

**(3)** If there is a conflict or inconsistency between an order made by the Minister under subsection (2) and an action taken by a growth management board, the Minister's order prevails to the extent of the conflict or inconsistency.

**(4)** The *Regulations Act* does not apply to an order made under subsection (1)(c) or (d) or (2).



**Transitional**

**708.25(1)** The *Capital Region Board Regulation* (AR 38/2012), in addition to being declared valid under section 603.1, is deemed, on the coming into force of this section, to have been made under this Part.

(2) If there is a conflict or inconsistency between a provision of the *Capital Region Board Regulation* (AR 38/2012) as it read on the date of the coming into force of this section and a provision of this Part, the *Capital Region Board Regulation* (AR 38/2012) prevails to the extent of the conflict or inconsistency.

**7 The Alberta Capital Finance Authority Act is amended in section 1(1)(j) by adding the following after subclause (iv):**

- (v) a growth management board established under the *Municipal Government Act*;

**8 The Alberta Land Stewardship Act is amended in section 2(1)(q) by adding the following after subclause (ii):**

- (ii.1) a growth management board under the *Municipal Government Act*;

**9 The Environmental Protection and Enhancement Act is amended in section 1(jj) by striking out “and” at the end of subclause (v) and adding the following after subclause (v):**

- (v.1) a growth management board under Part 17.1 of the *Municipal Government Act*, and

**10 The Freedom of Information and Protection of Privacy Act is amended in section 1(i) by adding the following after subclause (iv):**

- (iv.1) a growth management board under Part 17.1 of the *Municipal Government Act*,

**7** Amends RSA 2000 cA-14.5. Amends definition of regional authority to include a growth management board.

**8** Amends SA 2009 cA-26.8. Amends definition of local government body to include a growth management board.

**9** Amends RSA 2000 cE-12. Amends definition of local authority to include a growth management board.

**10** Amends RSA 2000 cF-25. Amends definition of local government body to include a growth management board.

**11 The *Water Act* is amended in section 1(1)(ee) by adding the following after subclause (v):**

(v.1) a growth management board established under the *Municipal Government Act*,

**12 The *Capital Region Board Regulation (AR 38/2012)* is amended by repealing section 33 and substituting the following:**

**Expiry**

**33** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on November 30, 2018.

**11** Amends RSA 2000 cW-3. Amends definition of local authority to include a growth management board.

**12** Amends AR 38/2012. Amends expiry date.

