



Province of Alberta

MUNICIPAL GOVERNMENT ACT

MUNICIPALLY CONTROLLED CORPORATIONS REGULATION

Alberta Regulation 112/2018

Extract

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ALBERTA REGULATION 112/2018

Municipal Government Act

**MUNICIPALLY CONTROLLED
CORPORATIONS REGULATION**

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Interpretation

1(1) In this Regulation,

- (a) “Act” means the *Municipal Government Act*;
- (b) “controlled corporation” means a controlled corporation as defined in section 75.1(1)(a) of the Act;
- (c) “corporation” means a corporation as defined in section 75.1(1)(b) of the Act.

(2) For the purposes of section 75.4(1) of the Act, the definition of “public utility” in section 1(1)(y) of the Act is limited to subclause (i) of that definition.

Notification to Minister

2(1) A municipality must notify the Minister if the council of the municipality passes a resolution under section 75.1(2) of the Act.

(2) The notification must include a copy of the resolution and be sent to the Minister within 60 days of the passing of the resolution.

Public hearing

3(1) For the purposes of sections 75.1(3)(b) of the Act, the municipality must disclose

- (a) the services the corporation intends to provide,
- (b) the names of the shareholders of the corporation,
- (c) the geographic locations in and outside Alberta in which the corporation intends to provide services,
- (d) in the case of a corporation that intends to provide utility services, a projected rate structure, and
- (e) the market impact analysis contained in the business plan, if any.

(2) The information described in subsection (1) must be made available for public inspection no less than 30 days prior to the public hearing.

(3) Subject to subsection (2), notice of the public hearing must be given in accordance with section 606 of the Act.

(4) The public hearing must be held pursuant to section 230 of the Act.

Business plan

4 For the purposes of section 75.1(4)(e) of the Act, a business plan must include the following information:

- (a) the services the corporation intends to provide;
- (b) the names of the shareholders of the corporation;
- (c) the geographic locations in and outside Alberta in which the corporation intends to provide services;
- (d) any potential environmental, financial, labour or other liability risk in controlling the corporation;
- (e) information demonstrating that the corporation will not be dependent on the shareholders for its ongoing operations;
- (f) the impact of controlling the corporation on each municipality's financial viability;
- (g) in the case of a corporation that intends to provide utility services, a projected rate structure;

- (h) a market impact analysis if municipal control of the corporation would result in competition with similar services provided by the private sector.

Unanimous shareholder agreement

5(1) If one or more municipalities propose to establish or acquire control of a corporation, the councils of the municipalities must, after passing resolutions under section 75.1(2)(a) of the Act adopt, by resolution, a unanimous shareholder agreement.

(2) The unanimous shareholder agreement must address the following matters:

- (a) the matters referred to in section 146(1) of the *Business Corporations Act*;
- (b) the controlled corporation's service delivery standards and decision-making structure;
- (c) a dispute resolution process in the event of disputes between shareholders;
- (d) a method by which the shareholders must provide direction to the controlled corporation with respect to what action, if any, the controlled corporation is to take regarding a proposed material change in response to one or more reports received under section 7(5).

Annual financial statements

6 For the purposes of section 75.2(1) of the Act, there must be included with the controlled corporation's annual financial statements a supplementary disclosure of the nature and amount of any financial assistance, including transfers of money or other assets, loans and loan guarantees, provided to the controlled corporation by any shareholder, the province or the federal government.

Material change

7(1) In this section, "material change", in respect of a controlled corporation, means

- (a) a change in the type of services offered by the controlled corporation,
- (b) the purchase, sale, transfer or issuance of any shares in the controlled corporation that would result in a change to the controlling interest,

- (c) a change in the geographic locations where the controlled corporation offers services, if that change was not contemplated in the business plan under section 75.1(3)(a) of the Act, or
- (d) a change in the business, financing, operations or affairs of the controlled corporation that would be considered important by a reasonable person taking into account the circumstances of the controlled corporation in its entirety.

(2) When a municipality is required under section 75.3 of the Act to notify their residents of a proposed material change, the following information, if relevant to the proposed material change, must be made available to them:

- (a) the services the controlled corporation intends to provide;
- (b) the names of the shareholders of the controlled corporation;
- (c) the geographic locations in and outside Alberta in which the controlled corporation intends to provide services;
- (d) in the case of a controlled corporation that intends to provide utility services, a projected rate structure;
- (e) the market impact analysis contained in the business plan, if any.

(3) The information described in subsection (2) must be made available not less than 30 days prior to the engagement process.

(4) Subject to subsection (3), notice of any planned engagement must be given in accordance with section 606 of the Act.

(5) After giving their residents the opportunity to make representations on the proposed material change, the council of each municipality that is a shareholder of the controlled corporation must provide a report to the controlled corporation summarizing the representations made during the engagement process.

Exemption

8(1) EPCOR Utilities Inc. and ENMAX Corporation, and their subsidiaries, are exempt from

- (a) sections 75.1(2) to (4), 75.2 and 75.3 of the Act, and
- (b) sections 2 to 7 of this Regulation.

(2) Section 75.4(3) is modified to the extent that section 45(3)(b) of the Act does apply to EPCOR Water Services Inc. and its subsidiaries.

Expiry

9 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 June 30, 2021.

Repeal

10 The *Control of Corporations Regulation* (AR 284/2003) is repealed.

Coming into force

11 This Regulation comes into force on the coming into force of section 13 of the *Modernized Municipal Government Act*.



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