

1937

c 277 Municipal Franchises Act

Ontario

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3. MISCELLANEOUS MUNICIPAL MATTERS.

CHAPTER 277.

The Municipal Franchises Act.

1. In this Act,—

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| <p>(a) "Franchises" shall include any right or privilege to which this Act applies;</p> <p>(b) "Gas" shall include natural gas, artificial gas, or any mixture of natural gas and artificial gas;</p> <p>(c) "Highway" shall include a street and a lane;</p> <p>(d) "Public utility" shall include waterworks, natural and other gas works, electric light, heat or power works, steam heating works, and distributing works of every kind. R.S.O. 1927, c. 240, s. 1; 1929, c. 65, s. 2.</p> | <p>Interpretation. "Franchises."</p> <p>"Gas."</p> <p>"Highway."</p> <p>"Public utility."</p> |
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2. A municipal corporation shall not enter into or renew any contract for the supply of electrical power or energy to the corporation or to the inhabitants thereof, until a by-law setting forth the terms and conditions of such contract has been first submitted to, and has received the assent of the municipal electors in the manner provided by *The Municipal Act*. R.S.O. 1927, c. 240, s. 2.

3.—(1) A municipal corporation shall not grant to any individual, firm or company, nor shall any individual, firm or company acquire the right to use or occupy any of the highways of the municipality or to construct or operate any railway, street railway, or public utility in the municipality, or to supply to the corporation, or to the inhabitants of the municipality, or to any of them, gas, electric light, heat or power or steam unless or until a by-law setting forth the terms and conditions upon which and the period for which such right is to be granted has been assented to by the municipal electors, as provided by *The Municipal Act*, with respect to by-laws requiring the assent of the electors. R.S.O. 1927, c. 240, s. 3 (1); 1929, c. 65, s. 3.

(2) Where the trustees of a police village request the council of the township in which the village is situate to grant any

Assent to contracts for supply of electric power.
Rev. Stat., c. 266.

Assent to franchise.

In police villages.

such right with respect to the village, or where the board of trustees of a police village desire to grant such a right, it shall be a sufficient compliance with subsection 1 if the by-law receives the assent of the municipal electors of the village.

Renewals
and exten-
sions.

(3) This section shall apply to the renewal or extension of an existing franchise. R.S.O. 1927, c. 240, s. 3 (2, 3).

Consent of
council of
city over
200,000
when
required.

4. The council of a local municipality shall not grant any franchise upon any highway of the municipality within a radius of five miles of the boundary of any city without notice in writing to the council of such city, and if the council of the city, within four weeks after the receipt of such notice, gives a notice in writing to the council of such local municipality that it objects to the granting of the franchise the approval of the Ontario Municipal Board shall be obtained, and if the council of such city does not give such notice within such time, it shall be deemed to have no objection and the council of such local municipality may grant such franchise with the assent of the municipal electors of such local municipality as provided by section 3. R.S.O. 1927, c. 240, s. 4.

Extension
of certain
existing
works not
to be made
without
by-law.

5.—(1) Where a by-law granting a franchise or right in respect of any of the works or services mentioned in subsection 1 of section 3, which has not been assented to by the municipal electors as provided by that subsection, was passed before the 16th day of April, 1912, no extension of or addition to the works or services constructed, established or operated under the authority of such by-law as they existed and were in operation at that date shall be made except under the authority of a by-law hereafter passed with the assent of the municipal electors, as provided by subsection 1 or subsection 2 of section 3, and such consent shall be necessary, notwithstanding that such last mentioned by-law is expressly limited in its operation to a period not exceeding one year.

Exceptions
as to fran-
chises
granted
before 16th
March, 1909.

(2) Subsection 1 shall not apply to any franchise or right granted by or under the authority of any general or special Act of this Legislature before the 16th day of March, 1909, but no such franchise or right shall be renewed, nor shall the term thereof be extended by a municipal corporation except by by-law passed with the assent of the municipal electors as provided in section 3. R.S.O. 1927, c. 240, s. 5.

Exceptions

6. Subject to the provisions of section 2 and except as therein provided and except where otherwise expressly provided, this Act shall not apply to a by-law,—

- (a) granting the right of passing through the municipality for the purpose of continuing a line, work or system which is intended to be operated in or for the benefit of another municipality and is not used or operated in the municipality for any other purpose except that of supplying gas in a township to persons whose land abuts on a highway along or across which the same is carried or conveyed, or to persons whose land lies within such limits as the council by by-law passed from time to time determines should be supplied with any of such services; Works originating in another municipality.
- (b) conferring the right to construct, use and operate works required for the transmission of oil, gas or water not intended for sale or use in the municipality; Oil, gas and waterworks.
- (c) which is expressly limited in its operation to a period not exceeding one year and is approved by the Ontario Municipal Board; Limited to one year.
- (d) of a county or township which is approved by the Lieutenant-Governor in Council. R.S.O. 1927, c. 240, s. 6; 1929, c. 65, s. 4. Counties and townships.

7. Where a by-law to which clause *c* of section 6 applies is hereafter passed that clause shall not apply to any subsequent by-law in respect to the same works or any part of them or to an extension of or addition to them, although such subsequent by-law is expressly limited in its operation to a period not exceeding one year, and no such subsequent by-law shall have any force or effect unless it is assented to by the municipal electors as provided by subsection 1 of section 3. R.S.O. 1927, c. 240, s. 7. Extension of one year franchise from year to year prohibited.

8.—(1) Notwithstanding anything in this or any other general or special Act contained, no person shall without the approval of the Lieutenant-Governor in Council construct any works to supply or supply,— Approval for construction of gas works.

- (a) natural gas in any municipality in which such person was not on the 1st day of April, 1933, supplying gas; or
- (b) gas in any municipality in which such person was not on the 1st day of April, 1933, supplying gas and in which gas was then being supplied.

(2) No approval shall be given under this section by the Lieutenant-Governor in Council unless and until the Ontario Municipal Board certifies in writing to the Lieutenant-Gov- When approval to be withheld.

error that public convenience and necessity appear to require that such approval be given.

Jurisdiction
of Ontario
Municipal
Board.

(3) The Ontario Municipal Board shall have and may exercise jurisdiction and power necessary for the purposes of this section and to grant or refuse to grant any certificate of public convenience and necessity, but no such certificate shall be granted or refused until after the Board has held a public hearing to deal with the matter upon application made to it therefor, and of which hearing such notice shall be given to such persons and municipalities as the Board may deem to be interested or affected and otherwise as the Board may direct.

Appeal.

(4) With leave of a judge thereof, an appeal shall be upon any question of law or fact to the Court of Appeal from any decision of the Ontario Municipal Board granting or refusing to grant a certificate under this section; provided application for leave to appeal is made within fifteen days from the time when such decision is given.

Time for
issuing
certificate.

(5) The Ontario Municipal Board shall not issue any certificate under this section until after the expiration of fifteen days from the time its decision to grant the same is given or in the event of an appeal from such decision until after the time when such appeal is determined or leave to appeal is refused.

Judgment
of Court of
Appeal to
be final.

(6) Upon an appeal to the Court of Appeal its judgment thereon shall be final and not subject to further appeal therefrom, and the Ontario Municipal Board shall, if and as may be necessary, amend or vary its decision to conform to such judgment and grant or refuse to grant a certificate under this section accordingly.

Application
of provisions
and rules of
practice.
Rev. Stat.,
c. 60.

(7) Subject as hereinbefore provided *The Ontario Municipal Board Act* shall apply to any proceedings before the said Board under this section, and the rules of and practice in the Supreme Court shall apply to any appeal to the Court of Appeal under this section. 1933, c. 39, s. 2; 1937, c. 72, s. 40.