

This Act is current to February 3, 2021

See the [Tables of Legislative Changes](#) for this Act's legislative history, including any changes not in force.

LOCAL GOVERNMENT ACT

[RSBC 2015] CHAPTER 1

Deposited with Clerk of the Legislative Assembly on December 16, 2015

Part 10 — Regional Districts: Service Structure and Establishing Bylaws

Division 1 — General Service Powers

Division 2 — Referendums and Petitions for Services

Division 3 — Establishing Bylaws for Services

Establishing bylaws required for most services

338 (1) Subject to this section, in order to operate a service, the board must first adopt an establishing bylaw for the service in accordance with this Division.

(2) As exceptions, a bylaw under this section is not required to establish the following:

- (a) general administration, other than electoral area administration;
- (b) electoral area administration;
- (c) the undertaking of feasibility studies in relation to proposed services;
- (d) a service under section 4 (1) [*regional district declared regional hospital district*] of the [Hospital District Act](#);
- (e) the undertaking of a referendum under section 336 [*referendums regarding services*];
- (f) a local community commission under section 243;
- (g) a service that
 - (i) is a service for which authority is expressly provided by a provision of this Act that is not a former Part 24 provision, and
 - (ii) is not a regulatory service;

- (h)the giving of grants to an applicant for a business promotion scheme under section 215 [*business improvement areas*] of the *Community Charter* in relation to a mountain resort;
- (i)if the regional district board is authorized to appoint an approving officer under section 77.1 [*appointment of regional district and islands trust approving officers*] of the *Land Title Act*, services related to the approving officer.

Required content for establishing bylaws

339 (1)An establishing bylaw for a service must do the following:

- (a)describe the service;
- (b)define the boundaries of the service area;
- (c)identify all municipalities and electoral areas that include participating areas for the service;
- (d)indicate the method of cost recovery for the service, in accordance with section 378 [*options for cost recovery*];
- (e)set the maximum amount that may be requisitioned for the service by
 - (i)specifying a maximum amount,
 - (ii)specifying a property value tax rate that, when applied to the net taxable value of land and improvements in the service area, will yield the maximum amount, or
 - (iii)specifying both a maximum amount and a property value tax rate as referred to in subparagraphs (i) and (ii), in which case the maximum amount is whichever is greater at the applicable time.

(2)As exceptions, the requirement of subsection (1) (e) does not apply to an establishing bylaw for the following:

- (a)a regulatory service;
- (b)coordination, research and analytical services relating to the development of the regional district;
- (c)social planning services;
- (d)the promotion of economic development;
- (e)programs in preparation for emergencies;
- (f)emergency communication systems;
- (g)regional parks and regional trails;
- (h)services related to heritage conservation;

- (i) participation in a regional library district under Part 3 [*Regional Library Districts*] of the *Library Act*;
- (j) a service referred to in section 338 (2) (a) to (d) [*general administration, electoral area administration, feasibility studies and regional hospital district services*].

(3) If an establishing bylaw covers more than one service, it must separately indicate the matters under subsection (1) for each service.

(4) If the board adopts an establishing bylaw for a service referred to in section 338 (2) (a) [*general administration*], the establishing bylaw must identify all municipalities and all electoral areas in the regional district as participating areas for the service, and the service area is the entire regional district.

Special options for establishing bylaws

340 (1) An establishing bylaw for a service may do one or more of the following:

- (a) set out the method of apportionment of costs among the participating areas, if this is to be different from the method established by section 380 (2) (a) [*general apportionment rule*];
- (b) in relation to resolutions and bylaws respecting the administration and operation of the service, establish the method for determining the number of votes to which a director is entitled if this is to be different from that otherwise established by section 209 (1) (b) [*number of votes per director in respect of administration and operation of services*];
- (c) if the administration and operation of the service is to be delegated to a body established by the board, provide for appointments to the body and establish voting rules for the body in relation to the service;
- (d) provide a time period for the purposes of section 357 (1) (a) [*minimum participation time before service review can be initiated*] that is less than the period established by that provision;
- (e) provide an alternative review process that is different than the service review process established by Division 6 [*Dispute Resolution in Relation to Services*];
- (f) establish terms and conditions for withdrawal from the service;
- (g) include any other provisions respecting the establishment and operation of the service that the board considers appropriate.

(2) As a restriction on subsection (1) (b), each director for a participating area must be entitled to at least one vote.

(3) If a proposed establishing bylaw includes provisions referred to in subsection (1) (f), each participant must consent to the provisions before the bylaw is submitted for participating area approval under section 342.

Special rules in relation to continuation of older services

341 (1) In this section:

"continued service" means a service provided by a regional district immediately before the transition date;

"previous continuation authority" means the authority to provide services under section 775 (3) to (8) of the *Local Government Act*, R.S.B.C. 1996, c. 323, as that section read immediately before the transition date;

"transition date" means August 30, 2000, being the date on which section 774.2 of the *Local Government Act*, R.S.B.C. 1996, c. 323, came into force.

(2) Subject to this section, a regional district continues to have the power to provide a continued service as follows:

(a) if, immediately before the transition date,

(i) the service is one that was authorized under the previous continuation authority, and

(ii) no bylaw that was deemed under the previous continuation authority to be an establishing bylaw has been adopted in relation to the service,

the service may be continued in accordance with the previous continuation authority and, for these purposes, that authority is deemed not to have been repealed;

(b) if the service

(i) is one referred to in section 339 (2) (b) or (c) [*development services and social planning services*], or

(ii) is another service for which an establishing bylaw was not required before the transition date,

the service may be continued without an establishing bylaw.

(3) If a board exercises a power to provide a continued service under subsection (2), it may

(a) adopt a bylaw in accordance with subsection (5) to convert the service to one exercised under the authority of an establishing bylaw, and

(b)by the same bylaw, amend the power to the extent that it could if the power were in fact exercised under the authority of an establishing bylaw.

(4)A board must adopt a bylaw under subsection (3) in relation to a continued service if changes are made to any of the following:

- (a)the service area;
- (b)the municipalities, electoral areas or treaty first nations participating in the service;
- (c)the method of cost recovery;
- (d)the apportionment of costs in relation to the service.

(5)A bylaw under subsection (3) must

- (a)meet the requirements of section 339 [*required content*] for an establishing bylaw, and
- (b)be adopted in accordance with section 349 [*amendment or repeal of establishing bylaw*] as if it were a bylaw amending an establishing bylaw.

(6)A bylaw under subsection (3) is deemed to be an establishing bylaw for the service in respect of which it is adopted.

Division 4 — Approval of Establishing Bylaws

Approval of establishing bylaws

342 (1)An establishing bylaw has no effect unless, before its adoption, it receives

- (a)the approval of the inspector, and
- (b)participating area approval in accordance with this section.

(2)Participating area approval under this section may be obtained as follows:

- (a)in any case, by assent of the electors in accordance with section 344 [*approval by voting*];
- (b)if permitted under section 345 (1) [*approval by alternative approval process*], approval given in accordance with that section;
- (c)if permitted under section 346 [*consent on behalf of municipal participating area*] for a proposed municipal participating area, consent given in accordance with that section;
- (d)if permitted under section 347 (1) [*consent on behalf of electoral area*] for a proposed electoral participating area, consent given in accordance with that section.

(3)Unless authorized under subsection (4), participating area approval must be obtained separately for each participating area in the proposed service area.

(4) If approval is to be obtained under subsection (2) (a) or (b), the board may, by resolution adopted by at least 2/3 of the votes cast, provide that the participating area approval is to be obtained for the entire proposed service area.

(5) As an exception, subsections (1) to (4) do not apply to an establishing bylaw for a service referred to in section 338 (2) (a), (b) or (d) [*services for which establishing bylaw not required — general administration, electoral area administration and regional hospital district services*] and, instead, section 349 [*amendment or repeal of establishing bylaws*] applies to the bylaw as if it were a bylaw amending an establishing bylaw.

Responsibility for obtaining approval

343 (1) If participating area approval is to be obtained for the entire service area,

- (a) the board may choose the method,
- (b) in the case of approval by alternative approval process, the board is responsible for obtaining the approval, and
- (c) in the case of approval by assent of the electors, at the option of the board,
 - (i) the board is responsible for conducting the voting throughout the proposed service area, or
 - (ii) the board and councils are responsible for conducting the voting in the same manner as under subsection (2), with the results of the voting in these areas added together.

(2) If participating area approval is to be obtained separately for each participating area,

- (a) subject to subsection (3), for a municipal participating area, the council may choose the method and is responsible for obtaining the approval, and
- (b) for an electoral participating area, the board may choose the method and is responsible for obtaining the approval.

(3) If, within 30 days after third reading of the establishing bylaw, a council

- (a) has notified the regional district that it is refusing to seek participating area approval, or
- (b) fails to give any notice to the regional district with respect to how participating area approval is to be obtained,

the board may adopt a resolution under section 342 (4) to have participating area approval obtained for the entire service area.

(4) Despite section 57 (1) [*costs of elections*], if a council is authorized to give consent on behalf of the electors in accordance with section 346 [*consent on behalf of municipal participating area*] but does not

exercise this authority, the municipality is responsible for the costs of obtaining the participating area approval.

Approval by assent of the electors

344 (1) Participating area approval through assent of the electors under Part 4 [*Assent Voting*] is obtained if,

- (a) in the case of approval under section 342 (3) [*each participating area separately*], for each proposed participating area, a majority of the votes counted as valid is in favour of the bylaw, or
- (b) in the case of approval under section 342 (4) [*entire service area*], a majority of votes counted as valid is in favour of the bylaw.

(2) In the case of approval under section 342 (4), for the purposes of determining who is entitled to vote under section 172, the voting area is deemed to be all the proposed participating areas.

Approval by alternative approval process

345 (1) Participating area approval may be obtained by alternative approval process if any of the following apply:

- (a) the maximum amount that may be requisitioned for the service is the amount equivalent to 50¢ for each \$1 000 of net taxable value of land and improvements included in the service area;
- (b) the bylaw relates to a service for
 - (i) the collection, conveyance, treatment or disposal of sewage,
 - (ii) the supply, treatment, conveyance, storage or distribution of water, or
 - (iii) the collection, removal or disposal of solid waste or recyclable material.

(2) In addition to the information required by section 86 (2) [*notice of process*] of the [Community Charter](#), the notice of an alternative approval process under this section must include

- (a) a copy of the bylaw, or
- (b) a synopsis of the bylaw that
 - (i) describes in general terms the intent of the bylaw,
 - (ii) describes the proposed service area, and
 - (iii) indicates the date, time and place for public inspection of copies of the bylaw.

Consent on behalf of municipal participating area

346 If a proposed participating area is all of a municipality, the council may give participating area approval by

- (a) consenting on behalf of the electors to adoption of the proposed bylaw, and
- (b) notifying the board of its consent.

Consent on behalf of electoral participating area

347 (1) For a proposed electoral participating area, the board may authorize participating area approval to be given under this section

- (a) if the board receives a sufficient petition under section 337 [*petitions for electoral area services*], or
- (b) in the case of an establishing bylaw for a service referred to in section 339 (2) [*no requisition limit required*], if
 - (i) the participating area includes all of the electoral area, and
 - (ii) the service can be established without borrowing.

(2) Participating area approval under this section may be given by the electoral area director consenting in writing to adoption of the bylaw.

(3) If a director refuses to give consent under subsection (2), the board may, by a resolution adopted by at least 2/3 of the votes cast, dispense with the consent of the electoral area director and give participating area approval by consenting to adoption of the bylaw on behalf of the electors in the proposed participating area.

(4) If a board consents under subsection (3), the director for the participating area may, within 14 days after the resolution, appeal to the minister for a review, and the minister may, after that review, order

- (a) that the consent of the board under subsection (3) stands,
- (b) that participating area approval must be obtained under section 344 [*approval by assent of the electors*], or
- (c) that participating area approval must be obtained under section 345 [*approval by alternative approval process*].

Other procedural rules

348 (1) If a board proposes to borrow money for the start of a service, the establishing bylaw and the loan authorization bylaw must, for the purposes of obtaining participating area approval, be dealt with as if they were one bylaw.

(2) The regional district corporate officer must file with the inspector a copy of each establishing bylaw after it has been adopted.

Division 5 — Changes to Establishing Bylaws

Amendment or repeal of establishing bylaws

349 (1) Subject to an order under subsection (4) or (5), an establishing bylaw may be amended or repealed, at the option of the board,

(a) in accordance with the requirements applicable to the adoption of the bylaw that it amends or repeals, or

(b) with the consent of at least 2/3 of the participants.

(2) Sections 346 [*consent on behalf of municipal participating area*] and 347 (2) to (4) [*consent on behalf of electoral participating area*] apply to consent under subsection (1) (b) of this section.

(3) A bylaw amending or repealing an establishing bylaw has no effect unless it is approved by the inspector.

(4) The minister may order that a bylaw amending or repealing an establishing bylaw may be adopted only in accordance with the requirements applicable to the adoption of the bylaw that it repeals or amends.

(5) In addition to the requirement under subsection (1) or (4), as applicable, the minister may order that, before the bylaw is adopted, it must receive the approval of the electors

(a) in one or more specified participating areas, or in specified parts of one or more participating areas, or

(b) in the entire service area,

obtained in accordance with section 344 [*approval by assent of the electors*] or 345 [*approval by alternative approval process*], as specified by the minister.

(6) Section 137 (2) [*minister may waive requirement for elector assent or approval*] of the [Community Charter](#) does not apply to a bylaw amending or repealing an establishing bylaw.

(7) The regional district corporate officer must file with the inspector a bylaw amending or repealing an establishing bylaw after it has been adopted.