

November 21, 2019

## Government of Alberta Proposes Changes to ICF and IDP Process

*Bill 25 introduces amendments to the Municipal Government Act intended to streamline the completion of ICFs and IDPs*

On November 19, 2019, the Government of Alberta introduced **Bill 25: Red Tape Reduction Implementation Act**. Bill 25 includes proposed changes to several acts, but most significant for RMA members are changes to the ICF and IDP processes, which are summarized below.

### ICF and IDP Changes in Bill 25

#### *Proposed Changes to ICF Process*

- The deadline for completing rural to urban ICFs **does not change**. Bill 25 amends s. 708.28 of the *Municipal Government Act* (MGA) to clarify that the completion deadline is April 1, 2020. The deadline for rural to rural ICFs remains April 1, 2021.
- Bill 25 softens requirements related to members within a growth management board (GMB) completing ICFs with one another. It modifies s. 708.28 of the MGA to specify that members of a GMB **may** complete ICFs with one another for services not addressed through the GMB process, and removes a clause empowering the Minister to mandate ICFs among GMB members.
- Municipalities are no longer required to identify all services they deliver within the ICF. Amendments to s. 708.29 of the MGA will require services to be listed that the municipalities agree benefit more than one municipality that is a party to the ICF.
- An amendment to s. 708.29(2) of the MGA removes the list of services that must be discussed and included in an ICF (transportation, water / wastewater, solid waste, emergency services, and recreation). The revised section requires municipalities to instead identify services that have a mutual benefit and warrant discussion related to intermunicipal collaboration.
- Bill 25 would add s. 708.291 to the MGA, which would allow a municipality to seek a court order if another municipality does not abide by the agreement or the dispute resolution mechanism outlined in the framework. Note that this applies to completed, active ICFs.
- Through an amendment to s. 708.33, municipalities would not be required to adopt an ICF through matching bylaws. The amendment allows for the adoption of a “bylaw or resolution that contains the framework”. The section is also amended to no longer require the ICF to be submitted to the Minister, but rather that the municipalities notify the Minister of the ICF completion.

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## *Proposed Changes to IDP Process*

- Bill 25 replaces the current wording of s. 631 of the MGA to allow municipalities who mutually agree that an IDP is not necessary to not complete one. However, any municipality may revoke its agreement to not have an IDP at any time. In this case, the municipalities would be required to complete an IDP within one year unless the Minister overrules this with an exemption.
- Bill 25 does not change the issues required to be addressed through an IDP but does propose an addition to s. 631 that allows municipalities to omit one or more of the required issues from their IDP if the matter is dealt with through an ICF under s. 17.2 of the MGA.
- If two municipalities cannot agree on an IDP prior to April 1, 2020, the matter will be referred to the Municipal Government Board. This separates IDPs from the arbitration process previously applied to the overall ICF process, in which IDPs were a component. Disagreements on IDPs will no longer be subject to the ICF third-party arbitration requirements in s. 708 of the MGA.
- Bill 25 repeals s. 708.3 of the MGA, which required that for an ICF to be recognized as complete, an IDP must also be recognized as complete.

## *Proposed Changes to Arbitration Process*

- Bill 25 repeals the current 708.35 of the MGA and replaces it with a new version of 708.35. The old 708.35 addresses the arbitration process by referencing the *Intermunicipal Collaboration Framework Regulation*, which lays out arbitration commitments that do not universally align with the *Arbitration Act*. The new s. 708.35 replaces the reference to the regulation (and would likely allow for the regulation to be repealed) by specifying that the *Arbitration Act* applies to arbitrations under the section, with a few exceptions:
  - In any inconsistency between the *Arbitration Act* and MGA s. 708.35, the MGA section prevails.
  - The entire *Arbitration Act* applies to ICF arbitrations, except for s. 3. Section 3 allows the parties to vary or exclude aspects of the *Arbitration Act* for specific arbitrations. Basically, the MGA is stating that the entire *Arbitration Act* must be followed, and the parties are not empowered to amend or exclude.
  - If the Minister chooses the arbitrator, the parties may not use the *Arbitration Act* to remove the arbitrator, but instead must apply to the Minister to remove the arbitrator.
- Bill 25 repeals s. 708.36 of the MGA and replaces it with a new s. 708.36. The old s. 708.36 required an arbitrator to “create a framework”, implying that all aspects of the framework, even those already agreed upon by the municipalities, may be subject to arbitration. The new s. 708.36 states that the arbitrator “must make an award that resolves the issues in dispute among the municipalities”, which narrows the scope of the arbitrator’s power.

- Bill 25 repeals MGA s. 708.37, which requires a municipality to provide a report to the arbitrator with their views of why the ICF process was unsuccessful and arbitration is required.
- Bill 25 amends MGA s. 708.38 to no longer make it mandatory for an arbitrator to consider certain aspects of the ICF process, such as the contents of other ICFs involving the municipalities, costs, environmental concerns, etc.
- Bill 25 repeals MGA ss. 708.44, 708.45 and 708.46, which establish requirements for a binding resolution process to be included within an ICF. This is now included in s. 708.29(3.1) with less rigid requirements.

## Other Proposed Changes in Bill 25

In addition to the changes to the ICF and IDP processes, Bill 25 also makes other changes to the MGA, as well as other legislation. Other proposed Bill 25 changes are summarized below.

### *Other MGA Changes*

- S. 197(6) is amended to no longer require the names of persons attending a closed meeting to be recorded.
- S. 208(1)(a)(i) is amended to allow council meeting minutes to include notes and comments.
- Bill 25 amends various MGA sections to reduce the requirement for certain clerks to first be appointed as designated officers.
- Ss. 165 and 166 are amended to allow a municipality 120 days, rather than 90 days, to hold a by-election.
- Bill 25 amends various MGA sections to allow for more use of electronic forms.
- Bill 25 replaces requirements for several annual bylaws with continuous bylaws, including those for creating assessment subclasses (s. 297), supplementary assessments for improvements (s. 313), supplementary taxes (s. 369(1)), business tax (s. 371), and supplementary business tax (s. 379).
- S. 670 is added to the MGA, which would require municipalities to develop joint use and planning agreements with school districts in their jurisdiction within three years of the section coming into force. The agreements must include a process for addressing matters related to planning, development and use of school sites on municipal reserves, disposal of school sites, servicing of school sites, use of school facilities, etc.

### *Non-MGA Changes*

- The *Safety Codes Act* is amended to repeal s. 65.1, which restricts the use of wood construction to buildings six storeys or less. This change is intended to align with expected future changes to the federal building and fire codes that will increase wood construction from six to 12 storeys.
- The *Forests Act* is amended to replace the requirement for an Order in Council approval of new forest management

agreements with a requirement for a Ministerial Order.

- The *Hydro and Electric Energy Act* is amended to simplify the approval process for a hydro development. Under the revisions to s. 9 of the Act, the Alberta Utilities Commission (AUC) is unilaterally empowered to approve a development application. The current version of s. 9 specifies that the AUC is responsible for conditionally approving the development, but upon conditional approval must forward a report the Lieutenant Governor in Council, who then develops a bill to authorize the AUC to approve construction of the development.

As Bill 25 has currently received first reading, the changes above are not yet finalized or implemented. RMA plans to work with AUMA and the Government of Alberta to provide information and best practices as to how municipalities currently developing ICFs and IDPs with neighbours can adapt and make use of the proposed changes to support a more streamlined and efficient process.

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