




2010

Municipal Franchise Agreements and Bill 203

June Mayors Caucus

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Current Situation: Franchise Agreements & Bill 203

Governed by Legislation

- Under Section 360 of the *Municipal Government Act*, municipalities have the authority to charge fees in lieu of charging property taxes for access to their lands to construct, maintain, and operate distribution systems.
- The *Municipal Government Act* also details requirements for how fees will be determined, right to purchase utility infrastructure, and how renewals of franchise agreements are managed.
- This legislation allows local municipalities to govern their own unique circumstances and manage how fees are set.
- Franchise fees are currently set and approved by municipal council as part of the budget process and advertised.

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Current Situation: Franchise Agreements & Bill 203

Governed by Legislation – Alberta Utilities Commission (AUC)

- Currently, most municipalities are using an AUC approved Franchise Agreement template developed by the AUMA.
- The approved template allows municipalities to charge a percentage of the distribution and transmission charges; it is **NOT** based on a percentage of the total bill.
- The percentage of fees that can be charged is capped at 20%.
- All changes in the percentage of fees charged are filed with the AUC.

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What Will Bill 203 Mean?

Bill 203 – Municipal Government (Local Access and Franchise Fees) Amendment Act, 2010 is a private member's bill, introduced by Kyle Fawcett, which would impose a single formula on municipalities for the calculation of franchise fees. Bill 203 would also mean changes to the way municipalities record the revenue collected from franchise fees (this revenue would have to be separated out). Finally, Bill 203 calls for notices of rate changes to be provided to the public 90 days in advance.

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What Impact Will Bill 203 have on Municipalities?

- Bill 203 will reduce municipal autonomy by amending the MGA and prescribing a single formula for calculating franchise fees.
- Bill 203 removes municipalities' ability to offset any increases in costs through franchise fee revenues which means that budget shortages would then have to be addressed through increases in property tax, user fees, or cuts to services and programs.
- The prescribed fee-formula may not work for all municipalities.
- Bill 203 will have a negative impact on the revenue of municipal governments.

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What is AUMA's Position?

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- AUMA does **NOT** support Bill 203.
- AUMA fully supports the intent of franchise agreements since these fees are used to support the building and maintenance of transportation systems within the municipality.
- AUMA believes that municipalities (municipal Associations) must be engaged when major legislative changes that will affect them are being considered.
- Supporters of Bill 203 claim that the Bill will mean greater transparency and accountability, but AUMA finds this problematic because the current system is transparent and the comparison of “franchise fees” between municipalities is not meaningful—municipalities across Alberta are diverse!

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Purpose of Franchise Fees

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- Supports the building and maintenance of transportation systems within the municipality.
- Pays for energy costs associated with municipal infrastructure used by citizens.
- An approved additional revenue source; currently municipalities only have property tax, grants, and user fees.
- Fees need to be compared to provincial government revenues.
- Promotes and supports economic development.

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Purpose of Franchise Fees

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- Allows for the use of right-of-ways for utility infrastructure.
- Details provisions for relocation of utility and municipal infrastructure.
- Details service level standards for outages, restoration, repairs, and maintenance.
- Provides a mechanism for reciprocal indemnification and liability for utility work performed.
- Provides a mechanism for specific reporting requirements relating to utility infrastructure.
- Enables additional services that may be required by a municipality.

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Franchise Agreement Background

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- AUMA's core guiding principles remain unchanged from those 10 years ago that originally led to the creation of FAs. These principles are:
 - Franchise Agreements (FAs) are the cornerstone of any franchisee-franchiser relationship.
 - FAs are a contract, that legally binds both parties to agreed upon terms.
 - Utility FAs are a solid business arrangement to specifically manage access to municipal right of ways, and specify the rights and obligations of each party.
- Over 80% of municipalities use the AUC approved Franchise Agreement developed by the AUMA.

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AUMA Template Update

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- Currently AUMA is negotiating a new Franchise Agreement template with FortisAlberta and ATCO Electric.
- AUMA is using the AUC approved Hinton Franchise Agreement as its template.
- The AUMA has no intention of changing the methodology for calculating franchise fees (D&T charges only).
- AUMA will use a consultative process with its members to obtain input on any proposed amendments.
- AUMA will obtain AUC approval when it has completed amending the new Franchise Agreement template.

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DRAFT Franchise Guiding Principles

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To assist in renegotiating an updated FA template, AUMA has developed the following draft guiding principles:

- Sufficient community reporting to meet current and anticipated Green House Gas (GHG) Emission reporting and planning requirements.
- Ensure reliable system operation in a cost effective manner.
- Explore new energy technologies in energy production, infrastructure.
- Ability to comply with current Federal and Provincial Acts and Regulations regarding energy.

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 Thank you

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**AUMA would like to know
how your municipality
responds to this issue.**

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