



ANALYSIS

<p>Title</p> <p>1. Short Title</p> <p>2. Section 4 of principal Act (as to constitution of Board) amended</p> <p>3. Members of Board and election thereof</p> <p>4. Coming into office of members</p> <p>5. Vacancies</p> <p>6. How vacancies filled</p> <p>7. Committees</p>	<p>8. Quorum of Board</p> <p>9. Voting powers of members</p> <p>10. Qualification of electors</p> <p>11. Power to investigate possible water catchment areas, etc.</p> <p>12. Board may contract with Auckland City Council and contributing authorities for supply of water</p> <p>13. Special provisions as to contracts under this Act</p>
---	---

1956, No. 11—*Local*

An Act to amend the North Shore Drainage Act 1951

[26 October 1956]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the North Shore Drainage Amendment Act 1956, and shall be read together with and deemed part of the North Shore Drainage Act 1951 (hereinafter referred to as the principal Act).

2. Section 4 of principal Act (as to constitution of Board) amended—Section four of the principal Act is hereby amended by inserting in subsection two, after the words “the Health Act 1920”, the words “the Local Elections and Polls Act 1953, the Waters Pollution Act 1953”.

3. Members of Board and election thereof—(1) Sections five and six of the principal Act are hereby repealed, and the following section substituted:

“5. (1) The Board shall consist of twelve persons, and each of the following local districts, namely, the Boroughs of Birkenhead, Devonport, East Coast Bays, Northcote, and Takapuna, and the County of Waitemata, shall be represented on the Board by two members who shall be elected in the manner hereinafter provided.

“(2) In each of the said five boroughs referred to in the last preceding subsection, and in that part of the Waitemata County which shall from time to time form part of and be included within the North Shore Drainage District, the electors shall for their local district, or part of their local district, as the case may be, on the third Saturday in November in the year nineteen hundred and fifty-six, and on the same day in every third year thereafter elect one person (being an elector) to be a member of the Board.

“(3) Every such election shall be held in the manner prescribed by the Local Elections and Polls Act 1953, the provisions of which Act shall, subject to this Act, apply accordingly.

“(4) With respect to every election of a member by the electors of any local district or part thereof the following provisions shall apply:

“(a) Every such election shall be conducted within the local district by the Returning Officer of the contributing authority:

“(b) The roll of electors for the local district, or, in the case of a county, the rolls of electors of the ridings situated wholly or partly within the North Shore Drainage District, shall be the roll or rolls of electors for the election:

“Provided that where only part of any riding of a county is situated within the North Shore Drainage District it shall be the duty of the Clerk of the county to indicate on the roll of electors for that riding, by appropriate words, abbreviations, or marks, the names of the persons entitled to vote at the election:

“(c) In the application to the Board of the Local Elections and Polls Act 1953 as aforesaid, every reference in Part II and in section eighty-nine thereof to the local authority shall be construed as a reference to the contributing authority:

“(d) If on the day appointed for the election no person is duly elected, the contributing authority may appoint some qualified person to be a member representing the local district or part thereof, as the case may require, and the person so appointed shall hold office in all respects as if he had been duly elected in conformity with this Act.

“(5) Every public notice given and every other thing done before the commencement of this section, pursuant to the Local Elections and Polls Act 1953, for the purposes of the first election of a member by the electors of any local district or part thereof is hereby validated and declared to have been lawfully given or done, and every such public notice shall have effect according to its tenor.

“(6) In the month of January in the year nineteen hundred and fifty-seven, and in the month of January in every third year thereafter, each of the following local authorities, namely, the Birkenhead Borough Council, the Devonport Borough Council, the East Coast Bays Borough Council, the Northcote Borough Council, the Takapuna Borough Council, and the Waitemata County Council, shall hold a meeting and, at such meeting, shall elect one of its members to be a member of the Board.

“(7) On the petition of the Board, or of the local authority of any new local district which may be constituted at any time after the passing of the North Shore Drainage Amendment Act 1956 (whether by the union into one local district of two or more adjoining local districts, or parts thereof, or by the merger of any local district or part thereof in any other local district, or otherwise howsoever) and the area of which or part of the area of which is situated within the North Shore Drainage District, the Governor-General may by Order in Council at any time or from time to time include that new local district, or part of that new local district, as the case may be, within the North Shore Drainage District; and the Governor-General may by the same or any subsequent Order in Council declare that the number of members of the Board shall be increased by two persons for every such new local district or part of such new local district which shall have been included within the North Shore Drainage District as aforesaid. One of those two members shall be elected in the manner prescribed by and in accordance with the provisions of subsections two, three, and four of this section; and the other member shall be elected in the manner prescribed by and in accordance with the provisions of subsection six of this section:

“Provided that, notwithstanding anything to the contrary expressed or implied in the foregoing provisions of this section, the first election of the members representing any such new local district, or part of such new local district, as the case may be, shall be held, in the case of the member to be elected in the manner prescribed by subsections two, three, and four of this section, in accordance with the provisions of section forty-eight of the Local Elections and Polls Act 1953 (relating to extraordinary vacancies), the provisions of which section shall, with the necessary modifications, apply to any such election as aforesaid as if the date of the publication in the *Gazette* of the said Order in Council were the occurrence of an extraordinary vacancy within the meaning of the said section; and in the case of the member to be elected in the manner prescribed by subsection six of this section, not less than thirty-five nor more than forty-two clear days from the date of the publication in the *Gazette* of the said Order in Council.

“(8) On the petition of the Board, or of the local authority of any new local district which may be constituted at any time after the passing of the North Shore Drainage Amendment Act 1956 (whether by the union into one local district of two or more adjoining local districts, or parts thereof, or by the merger of any local district or part thereof in any other local district, or otherwise howsoever) and the area of which or part of the area of which is situated within the North Shore Drainage District, the Governor-General may at any time appoint a person or persons to be a Commission of Inquiry under the Commissions of Inquiry Act 1908 to inquire into and report on the inclusion of that new local district, or part of that new local district, as the case may be, within the North Shore Drainage District and also to inquire into and report on all matters incidental thereto:

“Provided that instead of appointing any such person or persons to be a Commission of Inquiry in the manner and for the purposes aforesaid, the Governor-General may direct the Local Government Commission constituted under the Local Government Commission Act 1953 so to inquire into and report on the inclusion of that new local district, or part of that new local district, as the case may be, within the North Shore Drainage District and also to inquire into and report on all matters incidental thereto.

“(9) Upon the union into one local district of two or more adjoining local districts, or parts thereof, or upon the merger of any local district or part thereof in any other local district,

or upon the abolition of any local district, then, and in any such event, those members on the Board who represent the local districts or parts thereof which have become united, or those members on the Board who represent the local district or part thereof which has become merged in any other local district, or those members on the Board who represent the local district which has been abolished, as the case may be, shall continue in office until the next triennial general election of members of the Board to be held in accordance with the provisions of subsections two, three, four, and six of this section after such union, merger, or abolition shall have come into effect.”

(2) Sections five and six of the North Shore Drainage Amendment Act 1954 are hereby consequentially repealed.

4. Coming into office of members—Section seven of the principal Act is hereby repealed, and the following section substituted:

“7. (1) Every member of the Board elected under section five of this Act at the first election of the Board held after the coming into force of this section shall come into office on the first day of the month following that in which those members of the Board who are to be elected in the manner prescribed by and in accordance with the provisions of subsection six of section five of this Act are elected; and, unless his office sooner becomes vacant, shall continue in office until the members elected at the next election come into office in the manner and at the times hereinafter provided.

“(2) Every member of the Board elected by a local authority, under subsection six of section five of this Act, at any election other than such first election as aforesaid shall come into office on the first day of the month following that in which he is so elected; and, unless his office sooner becomes vacant, he shall continue in office until his successor comes into office.

“(3) Those persons who are the members of the Board at the time of the coming into force of this section shall continue to be members thereof until the date referred to in subsection one of this section, or until they cease to be members of the Board in accordance with the provisions of section eight of this Act, as amended by section seven of the North Shore Drainage Amendment Act 1954.

“(4) Every member elected to fill any extraordinary vacancy occurring in the office of a member elected by a local

authority shall come into office on the day following that on which he is elected and shall hold office only for the residue of the term for which his predecessor was elected.

“(5) Every member of the Board going out of office shall, unless otherwise ineligible, be eligible for re-election.”

5. Vacancies—Section eight of the principal Act, as amended by section seven of the North Shore Drainage Amendment Act 1954, is hereby amended by adding to subsection one the following paragraph:

“(g) Ceases to be an elector or ceases to possess a qualification as an elector of the local district, or part of the local district, as the case may be, by the electors of which he was elected:

“Provided that in any such case he shall continue in office until his successor is elected.”

6. How vacancies filled—Section nine of the principal Act is hereby repealed, and the following section substituted:

“9. Any extraordinary vacancy occurring in the Board for any local district or part of a local district at any time before the times fixed by section five of this Act for the next election of members of the Board shall be filled in the manner following, that is to say:

“(a) An extraordinary vacancy caused by the death, resignation, or other disqualification of a member elected in the manner prescribed by and in accordance with the provisions of subsections two, three, and four of section five of this Act shall be filled by the election (to be held in the manner prescribed by the Local Elections and Polls Act 1953, the provisions of which Act shall, subject to this Act, apply accordingly) in the local district or part of the local district represented by the member whose seat has been vacated of a person, being an elector of that local district, or part of that local district, as the case may be, upon a day to be appointed under and in the manner prescribed by section forty-eight of the Local Elections and Polls Act 1953 relating to extraordinary vacancies:

“Provided that in the event of such an extraordinary vacancy occurring within twelve months of the date fixed for the next triennial election of members of the local authority of the local district or part of the local district, as the case may be,

Rep. 10

No. 3.

represented by the member whose seat has been vacated as aforesaid, that local authority may by resolution determine—

“(i) That the vacancy shall be filled in the manner prescribed by the provisions in that behalf of the Local Elections and Polls Act 1953; or

“(ii) That the vacancy shall be filled by the appointment by that local authority of a person qualified to be elected a member of the Board, and any person so appointed shall for all purposes be deemed to have been elected to fill the vacancy:

“Provided also that, where any such vacancy occurs within six months of the date fixed for the next triennial general election of members of the local authority of the local district or part of the local district, as the case may be, represented by the member whose seat has been vacated as aforesaid, that local authority may by resolution determine that the vacancy shall not be filled:

“(b) An extraordinary vacancy caused by the death, resignation, or other disqualification of a member elected in the manner prescribed by and in accordance with the provisions of subsection six of section five of this Act shall be filled by the local authority represented by the member whose seat has been vacated, and such local authority shall, as soon as practicable after such extraordinary vacancy shall have occurred, hold a meeting and elect another of its members to fill such extraordinary vacancy as aforesaid.”

7. Committees—Section fourteen of the principal Act is hereby amended by inserting in subsection five, after the word “elected”, the words “in accordance with the provisions of section five of this Act”.

8. Quorum of Board—(1) Section sixteen of the principal Act, as amended by section eight of the North Shore Drainage Amendment Act 1954, is hereby further amended by omitting from subsection one the word “six”, and substituting the word “seven”.

(2) Section eight of the North Shore Drainage Amendment Act 1954 is hereby repealed.

9. Voting powers of members—Section seventeen of the principal Act is hereby repealed, and the following section substituted:

“17. (1) All acts of the Board and all questions before the Board may be done and decided at a meeting of the Board by a majority of such members of the Board as are present and vote at such meeting either on the voices or on a show of hands:

“Provided that, notwithstanding anything to the contrary in the foregoing provisions of this section, any member of the Board who is personally present at a meeting of the Board may demand that a poll shall be taken on any question or proposal before the Board, and thereupon the procedure shall be as follows:

“(a) The poll shall be conducted by the Secretary of the Board, who shall act as scrutineer, and the votes of members shall be recorded in writing either for or against the question or proposal, as the case may be, in the manner hereinafter provided:

“(b) The two representatives on the Board of each local district or part of a local district, as the case may be, shall together be entitled to such number of votes as shall be the equivalent of the proportion which the amount of the assessment made in any one year upon that local district, or that part of a local district, as the case may be, under and pursuant to the provisions of section fifty-five and paragraph (d) of subsection one of section fifty-six of this Act, at any time before the first day of August immediately preceding the date of the meeting at which any such poll is taken as aforesaid, bears to the aggregate amount of the assessments made under and pursuant to those provisions on all the contributing authorities in that same year:

“(c) Notwithstanding anything to the contrary expressed or implied in section two of this Act, as amended by section three of the North Shore Drainage Amendment Act 1954, the expression “population” as used in section fifty-six of this Act shall, for the purposes of calculating the proportion referred to in the last preceding paragraph, mean the estimate of population last certified to the Board by the Government Statistician in accordance with the provisions of subsection three of section two of this

Act at any time before the first day of August immediately preceding the date of the meeting at which any such poll is taken as aforesaid:

“(d) Notwithstanding anything to the contrary expressed or implied in section two of this Act, as amended by section three of the North Shore Drainage Amendment Act 1954, the expression “rateable capital value” as used in section fifty-six of this Act shall, for the purposes of calculating the proportion referred to in paragraph (b) of this proviso mean the capital value last certified to the Board by the Valuer-General in accordance with the provisions of subsection four of section two of this Act at any time before the first day of August immediately preceding the date of the meeting at which any such poll is taken as aforesaid:

“(e) On each occasion when the two representatives on the Board of any local district or part of any local district, as the case may be, are both personally present together at a meeting of the Board at which any such poll is taken as aforesaid, each such representative shall be entitled to half the number of votes allotted to such two representatives as mentioned in paragraph (b) of this proviso, and may exercise and record his said votes in such manner and direction as he thinks fit either for or against the question or proposal then before the Board and irrespective of the manner or direction in which the other representative chooses to exercise and record his said votes:

“(f) On each occasion when only one of the two representatives on the Board of any local district or part of any local district, as the case may be, is personally present at a meeting of the Board at which any such poll is taken as aforesaid, that representative shall himself be entitled to exercise and may record the total number of votes allotted to such two representatives as mentioned in paragraph (b) of this proviso in such manner and direction as he alone thinks fit either for or against the question or proposal then before the Board.

“(2) All acts of any committee of the Board and all questions before any committee of the Board may be done and decided respectively at a meeting of the committee by the majority of such members of the committee as are present and

vote at such meeting either on the voices or on a show of hands.

“(3) The Chairman of any meeting of the Board or of any committee thereof shall have a deliberative vote, and in case of an equal division of votes the Chairman shall have a second or casting vote which may be exercised and recorded in addition to and notwithstanding the number of votes which he may have already recorded in his capacity as a representative on the Board of a local district or part of a local district, as the case may be, under either paragraph (e) or paragraph (f) of the proviso to subsection one of this section at any meeting of the Board at which a poll shall have been taken as aforesaid.”

10. Qualification of electors—(1) Where an election by the electors of any local district or of part of any local district is to be held or taken, every person shall be qualified to be enrolled as an elector who, if such local district or such part of a local district, as the case may be, were a borough, would be qualified to be enrolled as an elector of the borough.

(2) Each elector shall have one vote and no more.

11. Power to investigate possible water catchment areas, etc.—(1) In addition to the powers conferred upon it by the principal Act and the North Shore Drainage Amendment Act 1954, the Board is hereby empowered to and may at any time and from time to time exercise all or any of the following powers, namely:

(a) The Board may by resolution authorise that such detailed investigations, whether technical or otherwise, and such researches and experiments and such preliminary plans and estimates as the Board thinks fit be made, entered upon, carried out, and prepared for the purpose of determining the existence of any suitable sources of water supply and water catchment areas, either within or outside the district, and the extent (if any) to which it may be possible and practicable to utilise and develop the same, after taking into consideration the technical and economic possibilities thereof, for the conservation, preservation, and distribution of water for all the requirements of the district or any part thereof, including domestic and industrial requirements, sewerage flushing, and the maintenance of a suitable pressure and supply for fire extinguishing and otherwise:

(b) The Board may engage or retain at such remuneration as it thinks fit the services of such consulting engineers, technicians, and other experts as, in the opinion of the Board, may be necessary in order to enable the investigations, researches and experiments, preliminary plans, and estimates referred to in the last preceding paragraph to be made, entered upon, carried out, and prepared as aforesaid:

(c) The Board may cause to be prepared a report, with recommendations, as to the result of any such investigations, researches, and experiments as shall have been made, entered upon, and carried out pursuant to any resolution passed in exercise of the power in that behalf conferred by paragraph (a) of this subsection; and such report shall indicate in particular and shall set forth and comprise, *inter alia*—

(i) The location of and detailed information relating to any suitable sources of water supply and water catchment areas which are available either within or outside the district and the extent (if any) to which it is considered possible and practicable to utilise and develop the same for all or any of the purposes aforesaid:

(ii) Preliminary maps and plans relating to the use and development of and preliminary estimates as to the cost of developing any such sources of water supply and catchment areas, including the provision and construction of such storage dams, weirs, tunnels, aqueducts, pipe lines, canals, reservoirs, filtration plants and water treatment works, pumping stations, gravitation, rising, and reticulation mains, distributory works, and other works as, in the opinion of the Board, may be required for water supply purposes:

(iii) A recommendation as to the particular scheme or schemes of water supply considered to be practicable and suitable for the district or any part thereof in connection with the use and development of any such sources of water supply and water catchment areas for all or any of the purposes aforesaid.

(2) The costs of any such investigations, researches, experiments, preliminary plans, and estimates, including all engineering, technical, and legal fees, shall be paid in the first instance by the Board and shall be charged and assessed by it to the

contributing authorities in the proportion of the mean percentage of the rateable capital value and population of their respective local districts or portions thereof, as the case may be.

(3) Any such report and recommendations prepared and made in accordance with the provisions of subsection one of this section shall be submitted to and considered by the Board, and copies thereof shall be submitted to and for the approval of all the contributing authorities, the Auckland City Council, the Minister of Health, and the Minister of Works.

(4) Upon receipt of a request from any of the contributing authorities or from the Auckland City Council or from the Minister of Health or the Minister of Works, the Board shall submit explanations regarding any of the matters contained and any of the proposals or recommendations made in the said report which, in the opinion of any of the contributing authorities or of the Auckland City Council or of either of the said Ministers, may require to be further elucidated.

(5) Nothing in this section shall be deemed to empower the Board to approve or adopt any scheme or schemes of water supply for the district or any part thereof or to construct any works in connection with the use or development of any such sources of water supply or water catchment areas for any of the purposes aforesaid.

12. Board may contract with Auckland City Council and contributing authorities for supply of water—(1) The Board is hereby empowered to and may at any time and from time to time enter into a contract or contracts with the Auckland City Council (which in this and the next succeeding section of this Act is hereinafter referred to as the Council) for the supply by the Council to the Board of a supply of water sufficient for all the requirements of the district or any part thereof, including domestic and industrial requirements, sewerage flushing, and fire fighting requirements and otherwise throughout a period to be specified in any such contract.

(2) The Board is also hereby empowered to and may at any time and from time to time enter into a contract or contracts with any contributing authority for the supply by the Board to that contributing authority of a supply of water sufficient for all the requirements of the local district of that contributing authority or that part of the local district of that contributing authority which for the time being is comprised within the North Shore Drainage District, as the case may be, including domestic and industrial requirements, sewerage

flushing, and fire fighting requirements and otherwise throughout a period to be specified in any such contract.

(3) Any such contract may be for such period and may contain such terms and provisions, not inconsistent with the provisions of the principal Act or of this Act, as may be mutually agreed upon by the parties to the contract.

(4) The Council and the Board may from time to time raise a special loan under the Local Bodies' Loans Act 1926 for the purpose of carrying out any works required to enable the Council or the Board, as the case may be, to perform its obligations under any contract entered into pursuant to the provisions of this section.

(5) Nothing expressed or implied in the foregoing provisions of this section shall be deemed to prevent or to restrict in any way any contributing authority from itself entering at any time and from time to time into such contract or contracts with the Council for the supply by the Council to that contributing authority for such period or periods and upon such terms and conditions as may be mutually agreed upon by the parties to any such contract or contracts of a supply of water sufficient for all or part, as the case may be, of the requirements of the local district or part of the local district of that contributing authority, including domestic and industrial requirements, sewerage flushing, fire fighting requirements and otherwise.

13. Special provisions as to contracts under this Act—The obligation of the Council, or of the Board, or of any contributing authority to perform any contract entered into pursuant to the provisions of the last preceding section shall not be limited by the fact that neither the Council, nor the Board, nor any such contributing authority is empowered by any Act other than this Act to enter into or perform the contract, and the Council, the Board, and any such contributing authority as aforesaid shall have power to enter into and perform every such contract in accordance with the provisions of this Act.
