

Bill No. 36 of 1951.

A BILL RESPECTING THE DEPARTMENT OF
HIGHWAYS.

NOTE.

This Bill enacts a new Act to be known as "*The Highways Department Act*".

The present Public Works Department is being divided into two new Departments, one of which will administer highways and the other will administer public buildings and public works other than highways.

The Bill provides for the organization and administration of the Department. Provision is made for the appointment of a Deputy Minister, a Highway Commissioner, a Chief Engineer, official valuers and such other engineers, officers, clerks and servants as may be required to carry on the business of the Department. The Department is in charge of the construction, maintenance, repair and marking of main highways and of other highways to the extent set out in *The Public Highways Act*. The Bill sets out the duties of the Deputy Minister in detail.

The Lieutenant Governor in Council is empowered to designate any portion of the Province as a highways district. One or more district highway engineers may be appointed to each of these districts.

The Bill provides that the stock advance fund will be administered by the Department. The Provincial Treasurer is authorized to make advances from the General Revenue Fund to the stock advance fund of such sums as the Minister requires to pay for machinery, equipment, stock or material required by the Highways Department or the Public Works Department. The net amount of advances at any time cannot exceed three million seven hundred and fifty thousand dollars.

Where machinery, equipment, stock or material is purchased for delivery to a particular department, branch or service, the Minister may charge the value thereof to that department, branch or service. Similarly, where machinery or equipment is purchased and held by the stock advance fund for use by one or more departments, branches or services, the Minister may charge a fair rental for its use to the department, branch or service by or for which it is used. Machinery or equipment no longer required may be

sold. The amounts of the charges made by the Minister and the amounts realized from any sale are credited to the amount of the advances made by the Provincial Treasurer to the fund. Provision is made for annual accounts, statements and audits of the fund. The Lieutenant Governor in Council may transfer any profit shown by the fund to the General Revenue Fund of the Province.

The Minister is empowered to enter into contracts that are necessary or advisable in order to enable him to carry out his duties under this Act. Where it is practical or expedient, tenders are to be invited by public advertisement for the construction of highways. However, the construction and repair of highways may be undertaken by or under the direction of the Department or by order or commission in any case where it appears to be more expeditious or economical to do so.

Provision is made for security for the performance of contracts. No money can be paid under a contract until it is properly executed and the necessary security, if any, has been given. Where tenders are called for, the lowest tender cannot be rejected without the approval of the Lieutenant Governor in Council.

The Minister may require accounts submitted to the Department to be verified by oath or statutory declaration.

Provision is made for agreements with municipalities to assist them in the construction of highways.

All actions and proceedings for the enforcement of contracts are to be instituted in the name of the Province by the Attorney General. Provision is made that certified copies of documents in the Department attested under the signature of the Minister or the Deputy Minister shall be *prima facie* proof of the same and have the same legal effect as if the original were produced by the Minister in court.

Penalties are prescribed for interfering with the construction of or damaging or injuring any highway.

The Minister is required to make an annual report on the work of the Department for submission to the Legislative Assembly.

The Bill comes into force on a date to be fixed by proclamation of the Lieutenant Governor in Council. The Bill creating this Department and the Public Works Department can then be proclaimed as soon as it is possible to make the necessary administrative arrangements for the division of the present Department into the two new departments.

KENNETH A. MCKENZIE,
Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 36 of 1951.

An Act respecting the Department of Highways.

(Assented to _____, 1951.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

Short Title.

1. This Act may be cited as "*The Highways Department Act*". Short title

Interpretation.

- 2.** In this Act, unless the context otherwise requires,—
- (a) "Chief Engineer" means the Chief Engineer of the Department or the person performing his duties for the time being; Interpretation
"Chief Engineer"
 - (b) "Department" means the Highways Department; "Department"
 - (c) "highway" includes every common or public highway, road allowance, thoroughfare, public travelled road, trail or other way vested in the Province, and every bridge, culvert, drain, ditch or other accessory to a highway constructed or erected thereon, thereunder or adjacent thereto or used and enjoyed therewith and any part of a highway as hereby defined; "highway"
 - (d) "Minister" means the Minister of Highways. "Minister"

Organization and Administration of the Department.

3. There shall be a department of the public service of the Province to be called the Highways Department over which the member of the Executive Council appointed by the Lieutenant Governor under the seal of the Province to discharge the functions of the Minister of Highways for the time being shall preside. Creation of Highways Department

4. Subject to the provisions of *The Public Service Act, 1947*, the Department shall,— Department shall,—

- (a) be in charge of the construction, maintenance, repair and marking of main highways and of other highways to the extent set out in *The Public Highways Act*; be in charge of highways

perform
duties
assigned
to it

- (b) administer such Acts and perform such functions as may be assigned to it from time to time by Act of the Legislature or by order of the Lieutenant Governor in Council.

Lieutenant
Governor
in Council
may
appoint
employees

5. Subject to the provisions of *The Public Service Act, 1947*, the Lieutenant Governor in Council may appoint,—

- (a) a Deputy Minister;
(b) a Highway Commissioner;
(c) a Chief Engineer;
(d) one or more official valuers;
(e) such other engineers, officers, clerks and servants as may be required to carry on the business of the Department;

and may prescribe their duties and provide for their remuneration.

Administra-
tion of
lands for
highways

6. (1) Subject to the provisions of *The Public Service Act, 1947*, the Department shall administer all lands the property of the Province that are held, used or occupied as highways.

(2) The Department may dispose of such lands from time to time with the approval of the Lieutenant Governor in Council under the hand and official seal of the Minister.

Duties of
Deputy
Minister

7. The Deputy Minister shall,—

- (a) prepare or cause to be prepared maps, plans, specifications and estimates for all highways which are about to be constructed, altered or repaired as directed by the Minister;
(b) report for the information of the Minister on any question relating to any highway which is submitted to him;
(c) examine, revise and approve the plans, specifications and estimates of other surveyors, engineers and officers in respect of any highway;
(d) generally advise the Minister on all surveying and engineering questions affecting any highway;
(e) prepare reports and conduct under the direction of the Minister the correspondence of the Department;
(f) see that all contracts entered into by the Minister are properly drawn and executed and that all letters, reports and other documents are properly copied or filed, as the case may be; and
(g) generally do and perform all such acts and things pertaining to the business of the Department as he is directed to do or perform by the Minister.

Highways Districts.

Order
designating
highways
district

8. (1) The Lieutenant Governor in Council, from time to time, by order may designate any portion of the Province as a highways district.

(2) The order shall describe the boundaries of the district and shall be effective upon publication in *The Alberta Gazette* or on such later date as may be designated in the order.

9. (1) Subject to the provisions of *The Public Service Act, 1947*, the Lieutenant Governor in Council may appoint one or more qualified engineers as district highway engineers for any highways district and may define their duties and fix their remuneration.

Lieutenant Governor in Council may appoint district highway engineers

(2) Notice of each such appointment shall be published in *The Alberta Gazette*.

Stock Advance Fund.

10. (1) The Minister shall administer the stock advance fund.

Minister to administer stock advance fund

(2) The Provincial Treasurer, from time to time, upon the requisition of the Minister, may make advances from the General Revenue Fund to the stock advance fund of such sums as the Minister may require to pay for machinery, equipment, stock or material required by the Department or by the Public Works Department.

Advances from General Revenue Fund to stock advance fund

(3) The net amount of the advances at any time shall not exceed three million seven hundred and fifty thousand dollars.

Advances from stock advance fund limited

11. (1) Where the machinery, equipment, stock or material is purchased for and delivered to a particular department, branch or service, the Minister may charge the value thereof to that department, branch or service.

Charges for stock

(2) Where the machinery or equipment is purchased and held by the stock advance fund for use by one or more departments, branches or services, the Minister may charge a fair rental for its use to the department, branch or service by or for which it is used.

(3) Where machinery, equipment, stock or material held by the stock advance fund is no longer required, the Minister may sell or otherwise dispose of the same on such terms and conditions as the Minister deems proper.

Disposal of machinery and equipment no longer required

(4) The amount of each charge made by the Minister under subsections (1) and (2), and the proceeds of any sale or disposition made under subsection (3), shall be credited to the amount of the advances made by the Provincial Treasurer to the stock advance fund.

12. (1) The Minister, on or before the fifteenth day of June in each year, shall cause to be prepared and submitted to the Provincial Auditor for certification the operating account and the balance sheet covering all operations of the stock advance fund for the immediately preceding fiscal year.

Operating account and balance sheet

(2) The statements as certified by the Provincial Auditor shall be included in the public accounts for the year.

Transfer of profit to General Revenue Fund

(3) The Lieutenant Governor in Council by order may transfer any profit arising from the operations of the year as shown by the said statements to the General Revenue Fund of the Province.

Deficit in operations

(4) In case a deficit has occurred in operations for the fiscal year, the amount of the deficit may be deducted from the profit of any succeeding fiscal year or years before the profit is transferred to the General Revenue Fund.

Contracts.

Minister may enter into contracts

13. (1) The Minister may enter into any contract with any person or corporation that may be necessary or advisable in carrying out the provisions of this Act or any other Act.

(2) No deed, contract or writing shall be deemed to be binding on the Department or held to be the act of the Minister unless signed by him or the Deputy Minister.

Tenders for construction or repair of highways

14. (1) Where it appears practical or expedient to do so, the Minister shall invite tenders by public advertisement or by other public notice for the construction and repair of all highways.

Rejection of lowest tender

(2) In any case where, in the opinion of the Minister, it is not expedient to give the work to the lowest bidder, the Minister shall report the same to and obtain the authority of the Lieutenant Governor in Council prior to rejecting the lowest tender.

Construction and repair of highways may be under direction of Department

(3) The construction and repair of highways may be undertaken by or under the direction of officers of the Department, or by order or commission in any case where the Minister is of the opinion that from the nature of the work it can be more expeditiously and economically executed in that manner, or it is desirable or expedient to do so.

Security for performance of work

15. (1) When work on any highway is being carried out by contract the Minister shall, and in other cases the Minister may, require that security be given to His Majesty for the due performance of the work within the amount and time specified for its completion.

Requirements before commencing work on highways

(2) No sum of money shall be paid to the contractor nor shall any work be commenced on any contract until the contract has been signed by all the parties named therein, nor until the required security, if any, has been given.

Verification of accounts

16. The Minister may require any account sent in by any person employed by the Department or by any party to a contract with the Department to be verified by oath, affirmation or statutory declaration.

17. Every contract relating to work on any highway or to real or personal property under the control of the Department that has been entered into by the Minister or by any other duly authorized person shall enure to the benefit of the Province and may be enforced as if it had been entered into with the Province under the authority of this Act.

Contract enures to benefit of Province

18. (1) The Minister, with the approval of the Lieutenant Governor in Council, may enter into an agreement with any city, town, village or municipal district providing for the laying out, construction or improvement of any highway which, in the opinion of the Minister and of the council of the municipality, is necessary or desirable.

Agreements with municipalities to assist with construction of highway

(2) Any agreement entered into under the provisions of subsection (1) shall fix, —

- (a) the total cost of construction;
- (b) the period of construction;
- (c) the proportions of the cost to be provided by the Province and the municipality respectively; and
- (d) the terms upon which and the time or times when payments are to be made by the Province for the purpose aforesaid.

(3) The Minister is hereby authorized to carry out the terms of any agreement made under the provisions of subsections (1) and (2), and each city, town, village and municipal district is authorized to enter into and carry out any agreement so made.

Actions and Suits.

19. All actions, suits and other proceedings for the enforcement of a contract or for the recovery of damages for any tort or breach of contract or for the trial of any right in respect of property, real or personal, under the control of the Department shall be instituted in the name of the Province by the Attorney General.

Actions to enforce contract instituted by Attorney General

20. A certified copy of any record, document, plan, book or paper belonging to or deposited in the Department attested under the signature of the Minister or of the Deputy Minister shall be *prima facie* proof of the same and shall have the same legal effect as if the original were produced in the court or elsewhere by the Minister or the Deputy Minister.

Certified copy of record *prima facie* proof

Offences and Penalties.

21. Any person who interrupts, hinders or molests any person engaged under the authority of the Minister in removing an obstruction or in constructing, maintaining or repairing a highway, shall be guilty of an offence and liable on summary conviction to a penalty not exceeding one hundred dollars and costs or to imprisonment for a period not exceeding two months or to both.

Penalty for hindering construction of highway

Penalty for
damaging
highway

22. (1) Any person who carelessly or wilfully breaks, cuts or fills up or otherwise injures or damages any highway shall be guilty of an offence and liable on summary conviction to a penalty not exceeding one hundred dollars and costs and in default of payment to imprisonment for a period not exceeding ninety days.

Order to
repair
damage to
highway

(2) A court by which any person is convicted of an offence under subsection (1) may also order the offender to forthwith repair any damage to the highway.

Annual Report.

Minister to
submit
annual
report to
Lieutenant
Governor
in Council
Annual
report,—
to be laid
before
Legislative
Assembly

23. (1) The Minister shall make and submit to the Lieutenant Governor in Council an annual report on all the highways under the control of the Department.

(2) The report shall,—

(a) be laid before the Legislative Assembly within fifteen days after the commencement of the session next following the end of the year for which the report is made;

(b) contain such information as may be requisite to enable the Legislative Assembly to judge of the working of the Department.

to show
working of
Department

Coming
into force

24. This Act shall come into force on a date to be fixed by Proclamation of the Lieutenant Governor in Council.

No. 36.

FOURTH SESSION
ELEVENTH LEGISLATURE

15 GEORGE VI

1951

BILL

An Act respecting the Department of
Highways.

Received and read the

First time

Second time

Third time

HON. MR. MACMILLAN
