

Bill No. 38 of 1951.

A BILL RESPECTING THE PUBLIC WORKS  
DEPARTMENT.

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NOTE.

This Bill enacts a new Act to be known as "*The Public Works Department Act, 1951*".

The present Department of Public Works is being divided into two new Departments, a Public Works Department and a Highways Department. The Public Works Department will be in charge of public buildings and public works other than highways or works specifically assigned to some other Department for administration, such as railways or telephones.

The Bill provides for the appointment of a Deputy Minister, Chief Engineer, Superintendent of Buildings, mechanical superintendent, official valuers and such other engineers, architects, officers, clerks and servants as may be required to carry on the business of the Department. The Lieutenant Governor in Council is empowered to declare any work to be a public work and under the control of the Department. The duties and powers of the Deputy Minister are outlined in the Bill.

The Lieutenant Governor in Council is empowered to designate any portion of the Province as a public works district. One or more district public works engineers may be appointed to each such district.

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 public works. However, the construction and repair of public works 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 municipal public works.

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 the court.

Penalties are prescribed for interfering with the construction of, or damaging or injuring public property or public works.

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

The present Public Works Department Act is repealed.

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 Highways 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. 38 of 1951.

An Act respecting the Public Works Department.

(Assented to \_\_\_\_\_, 1951.)

**H**IS 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 Public Works Department Act, 1951*". 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 Public Works Department; "Department"
  - (c) "Minister" means the Minister of Public Works; "Minister"
  - (d) "public works" means all public works other than those specifically assigned to some other Department for administration. "public works"

## Organization and Administration of the Department.

**3.** There shall be a department of the public service of the Province to be called the Public Works 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 Public Works for the time being shall preside. Creation of Public Works Department

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

- (a) be in charge of the construction, heating, lighting, furnishing, care, maintenance, repair and management of all public buildings and public works; be in charge of all public buildings and works
- (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. perform duties assigned to it

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 Chief Engineer;
- (c) a Superintendent of Buildings;
- (d) a mechanical superintendent;
- (e) one or more official valuers;
- (f) such other engineers, architects, 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 and  
management  
of lands for  
public works

**6.** (1) Subject to the provisions of *The Public Service Act, 1947*, the Department shall have the administration and management of all lands, the property of the Province, that are held, used or occupied for public works.

(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.

Lieutenant  
Governor  
in Council  
may declare  
property to  
be a public  
work

**7.** The Lieutenant Governor in Council, from time to time, may declare any land, building, chattel or any other property, real or personal, constructed, purchased or otherwise acquired at the public expense to be a public work and subject to the provisions of this Act, and it shall henceforth be vested in His Majesty and be under the control of the Department.

Duties of  
Deputy  
Minister

**8.** The Deputy Minister shall,—

- (a) prepare or cause to be prepared maps, plans, specifications and estimates for all public works 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 public work which is submitted to him;
- (c) examine, revise and approve the plans, specifications and estimates of other surveyors, engineers, architects and officers relating to a public work;
- (d) generally advise the Minister on all surveying, engineering and architectural questions affecting any public work;
- (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.

### Public Works Districts.

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

Order designating public works district

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

**10.** (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 engineers for any public works district, and may define their duties and fix their remuneration.

Lieutenant Governor in Council may appoint district engineers

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

### Contracts.

**11.** (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.

Minister may enter into contracts

(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.

**12.** (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 public works.

Tenders for construction or repair of public work

(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.

Rejection of lowest tender

(3) The construction and repair of public works 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.

Construction and repair of public works may be under direction of Department

**13.** (1) When a public work 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.

Security for performance of work

Requirements before commencing public work (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 14. The Minister may require any account sent in by any person employed by the Department or a party to a contract to the Department to be verified by oath, affirmation or statutory declaration.

Contract enures to benefit of Province 15. Every contract relating to a public work 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.

Agreements with municipalities to assist with construction of public works 16. (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 parks, public places, public swimming pools or other municipal public works which, in the opinion of the Minister and of the council of the municipality, are necessary or desirable.

(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.

Actions to enforce contract instituted by Attorney General 17. 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.

Certified copy of record prima facie proof 18. 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.

### Offences and Penalties.

**19.** 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 public work, 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 public work

**20.** (1) Any person who carelessly or wilfully breaks, cuts or fills up or otherwise injures or damages any public work 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.

Penalty for damaging public work

(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 public work.

Order to repair damage to public work

### Annual Report.

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

Minister to submit annual report to Lieutenant Governor in Council

(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.

Annual report,— to be laid before Legislative Assembly

to show working of Department

**22.** *The Public Works Department Act*, being chapter 16 of the Revised Statutes of Alberta, 1942, is hereby repealed.

Repeal

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

Coming into force

No. 38.

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FOURTH SESSION  
ELEVENTH LEGISLATURE  
15 GEORGE VI  
1951

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**BILL**

An Act respecting the Public Works  
Department.

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Received and read the

First time .....

Second time .....

Third time .....

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HON MR. MACMILLAN.