

No. 68

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2nd Session, 13th Legislature, Alberta  
4 Elizabeth II, 1956

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## **BILL 68**

A Bill to amend The Water Resources Act

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HON. MR. HALMRAST

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EDMONTON, ALBERTA  
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1956

## **Explanatory Note**

**General.** This Bill amends The Water Resources Act to remove therefrom the present provisions authorizing expropriation by licensees coming under this Act where lands are required for the purposes of the undertakings of the licensee. By way of substitution provisions similar to the provisions proposed at this session for The Water, Gas, Electric and Telephone Companies Act are being placed in this Act. The provisions will authorize a licensee under this Act to apply to the Minister of Agriculture for approval of its proposed routes and sites. Upon receiving that approval the licensee will either obtain the lands by contract or by expropriation. If by way of expropriation, the licensee will be required to apply to the Board of Public Utility Commissioners who will award compensation and make the necessary orders as to interests affected, damage involved and lands to be affected. The proceedings of the Board and the enforcement of orders will be governed by The Public Utilities Act.

**2.** The term "lands" used in this Act is nowhere defined therein. As the following clauses of this Bill will provide a procedure respecting expropriation of lands and interest in lands, it is considered advisable to define the term. This amendment is made retroactive to the date The Water Resources Act came into force.

**3.** Subsections (2), (2a) and (2b) of section 72 read at present as follows:

"(2) In any case in which a licensee desires or proposes to expropriate any land or any interest therein for the purpose of his undertaking, he shall first make application to the Minister for his permission or consent to expropriate the lands or interest therein specified in the application and the Minister may issue an order authorizing the licensee to expropriate such land or interest in land as the Minister by order may designate and may prescribe the terms and conditions of or to be applicable to any such interest in land.

"(2a) Sections 4a, 10a, 11a and sections 27 to 30 of The Water, Gas, Electric and Telephone Companies Act, in so far as they are reasonably applicable and not inconsistent with this Act, apply *mutatis mutandis* to licensees and their works and undertaking.

"(2b) The order of the Minister may prescribe the terms and conditions of, or to pertain to, any interest in land to be so expropriated and the order shall be filed in the proper Land Titles Office along with the description or plan referred to in section 27 of The Water, Gas, Electric and Telephone Companies Act and shall be deemed to be and constitute a part of the said description or plan, as the case may be, for all the purposes of the said Act and of this Act."

**4.** Replaces subsections (2), (2a) and (2b) of section 72 with new sections. The new sections 72a to 72h set out expropriation procedure for licensees under this Act. The procedure is similar to the procedures now followed in the case of expropriation by an oil or gas pipe line.

# BILL

No. 68 of 1956

An Act to amend The Water Resources Act

(Assented to \_\_\_\_\_, 1956)

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

## PART I

**1.** *The Water Resources Act*, being chapter 65 of the Revised Statutes of Alberta, 1942, is hereby amended.

**2.** (1) Section 2 is amended by adding immediately after clause (k) the following:

“(kk) “lands” means lands within the meaning of *The Land Titles Act*;”.

(2) Subsection (1) shall be deemed to have been in force at all times on and after the first day of April, 1931.

**3.** Section 72 is amended by striking out subsections (2), (2a) and (2b).

**4.** The following sections are added immediately after section 72:

“**72a.** A licensee may, without previous consent or any permit therefor, enter into and upon any lands lying

“(a) in the intended route of a right of way for his undertaking or any part thereof, or

“(b) in the intended site of his undertaking,  
and make surveys, examinations or other necessary arrangements on the lands for fixing the route of the intended right



of way or site, and set out and ascertain such parts of the lands as are deemed necessary and proper for the right of way or site.

**“72b.** (1) Where a licensee desires or proposes to acquire any lands or any interest therein for a right of way or for a site for the purposes of his undertaking, he shall first make application to the Minister for approval of the intended route of the right of way or intended site, as the case may be.

“(2) The licensee shall forward with his application for approval of the intended route or site such plans and other information as the Minister may from time to time prescribe.

“(3) Upon considering the application the Minister shall have regard to all the circumstances that appear to him to be relevant and in particular, but not so as to limit the generality of the foregoing, shall have regard to

“(a) the recommendations, if any, of the Director of Water Resources or The Alberta Power Commission, as the case may require,

“(b) the objection of an interested party,

“(c) any public interest that in the opinion of the Minister might be affected by the granting or refusal of his approval, and

“(d) the needs and general good of the residents of the Province as a whole.

“(4) The decision of the Minister as to whether a person is or is not an interested party within the meaning of clause (b) of subsection (3) is final.

**“72c.** The Minister may grant a certificate of his approval of the intended route or site, and extent thereof, or may refuse his approval, or the Minister may approve the intended route or site subject to such changes in the plan, details or extent thereof as he deems advisable in the public interest, and the decision of the Minister thereon is final and not subject to review in any court or other tribunal.

**“72d.** (1) Upon receiving a certificate of approval from the Minister, the licensee may take and expropriate for the purposes of a right of way or site, as the case may be, so much of the lands or interest therein as may be approved by the Minister for the route or site.

“(2) The manner in which and the terms upon which a licensee may exercise the right to take and expropriate any lands or any interest in lands

“(a) shall be in accordance with the terms of any agreement effected between the licensee and the owner of any such lands or interest therein, and

“(b) in the absence of any such agreement shall be as set forth in sections 72e to 72h.



**“72e.** (1) The licensee shall apply to the Board of Public Utility Commissioners for an order setting forth the terms upon which the licensee may take and expropriate lands, or any interest therein, situate in the approved route of the right of way or on the approved site.

“(2) Upon receipt of the application, the Board shall fix the date for the hearing of the application, notify the applicant of the date fixed, and require the applicant to give such notice by personal service, advertisement or in such other manner to such persons as the Board may direct.

“(3) The Board shall proceed to hear and determine the application and, upon conclusion of the hearing, or as soon as conveniently may be, the Board shall dispose of the application and may make an order declaring

- “(a) the lands or interest in lands, required by the licensee for the purpose of the approved route of the right of way and the approved site or either, as the case may be, and without derogating from the generality of the foregoing, the right of ingress and egress to and from the right of way or site,
- “(b) the exact location of such lands,
- “(c) the nature of the interest acquired by the licensee in such lands,
- “(d) the name and address of any person having any right, title or interest in the lands,
- “(e) the amount of money payable by the licensee to any person for the expropriation of the lands or any interest therein,
- “(f) the amount of money payable to any person for incidental damages caused by or arising out of the construction of any works, and
- “(g) the costs of and incidental to the application and by whom payable.

**“72f.** (1) At any time during which an application is pending before the Board under section 72e, if an application is made by the licensee, either *ex parte* or upon such notice as the Board in its discretion may direct, the Board, upon being satisfied of the necessity for the immediate exercise of all or any of the rights that are the subject matter of the application, may, upon the applicant making a deposit with the Board of such amount as the Board estimates to be sufficient to secure the payment by the licensee of such sums as might become payable ultimately to such persons as might have any right, title or interest in any such lands by reason of or on account of the exercise of all or any of the rights of the licensee, order that the applicant licensee be at liberty forthwith to exercise, in such manner and subject to such conditions as the Board deems fit and proper in the circumstances, such rights as are specified in the order.

**5.** Corrects an ambiguity in subsection (1) of section 81, clauses (a) and (d), and includes drainage districts within the listings of municipalities empowered to enter into an agreement with the Province in respect of the matters set out in clauses (a) to (e) of subsection (1). Subsections (2) and (4) are amended for conformity. Subsection (1) presently reads as follows:

"81. (1) Notwithstanding any other Act, the Minister, with the approval of the Lieutenant Governor in Council, and any one or more cities, towns, villages, municipal districts or counties, upon the passing of a by-law approving the terms, may enter into an agreement providing for works or undertakings in the nature of

"(a) a drainage and irrigation project,

"(b) a water power project,

"(c) a water supply project,

"(d) a river and flood control project,

"(e) a water supply development project,

within or without the city, town, village, municipal district or county."



“(2) The amount deposited by the applicant shall stand as charged with and be available for the payment of all such sums as the Board may order to be paid in respect of all or any of the rights that are the subject matter of the application, together with the costs of and incidental to the application.

“(3) In determining the amount of a deposit under this section, the Board shall be deemed not to limit or determine the amount that it may ultimately order to be paid in respect of all or any of the rights that are the subject matter of the application.

“**72g.** (1) Upon the making of any order by the Board pursuant to this Part and upon the Board certifying in writing that the licensee has paid all the sums of money payable pursuant to the order or, in the alternative, that the licensee has deposited with the Board a sum sufficient to pay all sums payable under the order, the licensee may exercise every right to take and expropriate the lands, or interest therein, described in the order and conferred upon him by this Act.

“(2) Upon the making of an order of the Board pursuant to section 72e and upon the Board certifying in writing that the licensee has paid all the sums of money payable pursuant to the order, the licensee may file in the land titles office for the land registration district within which the lands are situate the order of the Board, including any plan of survey of the lands referred to in such order and upon such filing in the land titles office the lands or interest therein vest in the licensee.

“**72h.** The provisions of Part I of *The Public Utilities Act* relating to proceedings of the Board and the enforcement of its orders apply to proceedings and orders of the Board under this Part in so far as the same do not conflict with the provisions of this Part.

“**72i.** In sections 72a to 72g “licensee” includes an applicant for a license under this Act.”.

**5. Section 81 is amended**

(a) as to subsection (1)

(i) by adding immediately after the word “villages,” the words “drainage districts,”

(ii) by striking out clause (a) and by substituting the following:

“(a) a drainage project or irrigation project or a drainage and irrigation project,”

(iii) by striking out clause (d) and by substituting the following:

“(d) a river project or flood control project or a river and flood control project,”

(iv) by adding immediately after the word “village,” the words “drainage district,”

(b) as to subsection (2), clause (c) by adding immediately after the word “village,” the words “drainage district,”

(c) as to subsection (4) by adding immediately after the word “village,” the words “drainage district,”



## PART II

**6.** *The Water Resources Act*, being chapter 362 of the Revised Statutes of Alberta, 1955, is hereby amended.

**7.** (1) Section 2 is amended by adding immediately after clause (k) the following:

“(kk) “lands” means lands within the meaning of *The Land Titles Act*,”.

(2) Subsection (1) shall be deemed to have been in force at all times on and after the first day of April, 1931.

**8.** Section 84 is amended

- (a) by striking out subsections (3), (4) and (5),
- (b) by renumbering subsection (6) as subsection (3).

**9.** The following sections are added immediately after section 84:

“**84a.** A licensee may, without previous consent or any permit therefor, enter into and upon any lands lying

“(a) in the intended route of a right of way for his undertaking or any part thereof, or

“(b) in the intended site of any part of his undertaking, and make surveys, examinations or other necessary arrangements on the lands for fixing the route of the intended right of way or site, and set out and ascertain such parts of the lands as are deemed necessary and proper for the right of way or site.

“**84b.** (1) Where a licensee desires or proposes to acquire any lands or any interest therein for a right of way or for a site for the purposes of his undertaking, he shall first make application to the Minister for approval of the intended route of the right of way or intended site, as the case may be.

“(2) The licensee shall forward with his application for approval of the intended route or site such plans and other information as the Minister may from time to time prescribe.

“(3) Upon considering the application the Minister shall have regard to all the circumstances that appear to him to be relevant and in particular, but not so as to limit the generality of the foregoing, shall have regard to

- “(a) the recommendations, if any, of the Director of Water Resources or The Alberta Power Commission, as the case may require,
- “(b) the objection of an interested party,
- “(c) any public interest that in the opinion of the Minister might be affected by the granting or refusal of his approval, and
- “(d) the needs and general good of the residents of the Province as a whole.



“(4) The decision of the Minister as to whether a person is or is not an interested party within the meaning of clause (b) of subsection (3) is final.

“84c. The Minister may grant a certificate of his approval to the intended route or site, and extent thereof, or may refuse his approval, or the Minister may approve the intended route or site subject to such changes in the plan, details or extent thereof as he deems advisable in the public interest, and the decision of the Minister thereon is final and not subject to review in any court or other tribunal.

“84d. (1) Upon receiving a certificate of approval from the Minister, the licensee may take and expropriate for the purposes of a right of way or site, as the case may be, so much of the lands or interest therein as may be approved by the Minister for the route or site.

“(2) The manner in which and the terms upon which a licensee may exercise the right to take and expropriate any lands or any interest in lands

“(a) shall be in accordance with the terms of any agreement effected between the licensee and the owner of any such lands or interest therein, and

“(b) in the absence of any such agreement shall be as set forth in sections 84e to 84h.

“84e. (1) The licensee shall apply to the Board of Public Utility Commissioners for an order setting forth the terms upon which the licensee may take and expropriate lands, or any interest therein, situate in the approved route of the right of way or on the approved site.

“(2) Upon receipt of the application, the Board shall fix the date for the hearing of the application, notify the applicant of the date fixed, and require the applicant to give such notice by personal service, advertisement or in such other manner to such persons as the Board may direct.

“(3) The Board shall proceed to hear and determine the application, and upon conclusion of the hearing, or as soon as conveniently may be, the Board shall dispose of the application and may make an order declaring

“(a) the lands or interest in lands, required by the licensee for the purpose of the approved route of the right of way and the approved site or either, as the case may be, and without derogating from the generality of the foregoing, the right of ingress and egress to and from the right of way or site,

“(b) the exact location of such lands,

“(c) the nature of the interest acquired by the licensee in such land,

“(d) the name and address of any person having any right, title or interest in the lands,

“(e) the amount of money payable by the licensee to any person for the expropriation of the lands or any interest therein,



- “(f) the amount of money payable to any person for incidental damages caused by or arising out of the construction of any works, and
- “(g) the costs of and incidental to the application and by whom payable.

“84f. (1) At any time during which an application is pending before the Board under section 84e, if an application is made by the licensee, either *ex parte* or upon such notice as the Board in its discretion may direct, the Board, upon being satisfied of the necessity for the immediate exercise of all or any of the rights that are the subject matter of the application, may, upon the applicant making a deposit with the Board of such amount as the Board estimates to be sufficient to secure the payment by the licensee of such sums as might become payable ultimately to such persons as might have any right, title or interest in any such lands by reason of or on account of the exercise of all or any of the rights of the licensee, order that the applicant licensee be at liberty forthwith to exercise in such manner and subject to such conditions as the Board deems fit and proper in the circumstances, such rights as are specified in the order.

“(2) The amount deposited by the applicant shall stand as charged with and be available for the payment of all such sums as the Board may order to be paid in respect of all or any of the rights that are the subject matter of the application, together with the costs of and incidental to the application.

“(3) In determining the amount of a deposit under this section, the Board shall be deemed not to limit or determine the amount that it may ultimately order to be paid in respect of all or any of the rights that are the subject matter of the application.

“84g. (1) Upon the making of any order by the Board pursuant to this Part and upon the Board certifying in writing that the licensee has paid all the sums of money payable pursuant to the order, or in the alternative, that the licensee has deposited with the Board a sum sufficient to pay all sums payable under the order, the licensee may exercise every right to take and expropriate the lands, or interest therein, described in the order and conferred upon him by this Act.

“(2) Upon the making of an order of the Board pursuant to section 84e and upon the Board certifying in writing that the licensee has paid all the sums of money payable pursuant to the order, the licensee may file in the land titles office for the land registration district within which the lands are situate the order of the Board, including any plan of survey of the lands referred to in such order and upon such filing in the land titles office the lands or interest therein vest in the licensee.

“84h. The provisions of Part I of *The Public Utilities Act* relating to proceedings of the Board and the enforcement of





its orders apply to proceedings and orders of the Board under this Part in so far as the same do not conflict with the provisions of this Part.

**"84i.** In sections 84*a* to 84*g* "licensee" includes an applicant for a licence under this Act."

**10.** Section 93 is amended

- (a) as to subsection (1)
  - (i) by adding immediately after the word "villages," the words "drainage districts,"
  - (ii) by striking out clause (a) and by substituting the following:
    - "(a) a drainage project or irrigation project or a drainage and irrigation project,"
  - (iii) by striking out clause (d) and by substituting the following:
    - "(d) a river project or flood control project or a river and flood control project,"
  - (iv) by adding immediately after the word "village," the words "drainage district,"
- (b) as to subsection (2), clause (c) by adding immediately after the word "village," the words "drainage district,"
- (c) as to subsection (4) by adding immediately after the word "village," the words "drainage district,"

**11.** Part I and this section come into force on the day this Act is assented to, and Part II, except this section, comes into force and Part I is repealed on the day the Revised Statutes of Alberta, 1955, come into force.

SECOND SESSION  
THIRTEENTH LEGISLATURE  
4 ELIZABETH II  
1956

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**BILL**

An Act to amend The Water  
Resources Act

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. HALMRAST

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