

No. 146

1st Session, 15th Legislature, Alberta
12 Elizabeth II

BILL 146

A Bill to amend The Irrigation Districts Act

HON. MR. STROM

Explanatory Note

1. The Irrigation Districts Act, R.S.A. 1955, chapter 162, amended.

2. 13a. Authority for the board to enter into agreements for land development projects for irrigation purposes.

13b. The district board will be able to designate adjacent lands as an "irrigable unit" and thus control dispositions of part of the land resulting in that land having no delivery point for water. At present, the result is that the "isolated" part is reclassified on the assessment roll as non-assessable and any extension of the irrigation works to that part is paid for by the board, i.e., by all water users in the district.

BILL

No. 146 of 1964

An Act to amend The Irrigation Districts Act

(Assented to _____, 1964)

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

1. *The Irrigation Districts Act* is hereby amended.

2. The following sections are added after section 13:

13a. (1) The board of a district may enter into an agreement with a water user providing for

- (a) the sloping, levelling and preparation of the water user's land for irrigation purposes and the construction of such drainage systems and water control structures as are necessary for the purpose of irrigating or draining the land,
- (b) the financing and carrying out of the work, and
- (c) the terms of repayment by the water user to the board.

(2) Where a water user defaults in the making of any payment to the board under an agreement made pursuant to subsection (1), the amount in default may be recovered in any manner that irrigation rates may be recovered and may be dealt with under Part IV as if it were arrears of rates.

(3) The indebtedness of a water user under an agreement made pursuant to subsection (1) is a charge against the land that is the subject of the agreement and the board may register a caveat pertaining to the agreement pursuant to *The Land Titles Act* against that land.

13b. (1) The board may by resolution designate as an "irrigable unit" any lands in the district consisting of two or more adjacent quarter sections or parts of quarter sections, where

- (a) the lands are registered in the name of the same owner, and
- (b) the whole or any part of the lands are shown on the last revised assessment roll of the district as "to be irrigated" and are or can be irrigated as a unit from the existing works of the board.

3. (a) Section 14 (7) presently reads:

“(7) If no settlement has been made between the claimant and the board before the first day of January following the making of the claim, the board shall immediately thereafter forward the claim to the Public Utilities Board, and thereupon the claim shall be deemed to be within its jurisdiction within the meaning of The Public Utilities Board Act.”.

(b) Section 14 (9), clause (a) presently reads:

“(9) If the Public Utilities Board is satisfied that the claimant has suffered loss owing to the seepage or overflow of water from a canal or ditch of the district board, the Public Utilities Board may order

(a) that the board pay to the claimant compensation for the damage to the surface of farming land sustained by the claimant between the first day of January and the first day of November of the year in respect of which the claim is made,
.....”.

Subsection (9) is amended in regard to the Public Utilities Board's powers as to compensation. The new clause (d) is the present clause (d) with the addition of the words “and in that case” and subclauses (i) to (iv).

(2) The board may file with the Registrar of Titles for the land registration district in which the land is situated a copy of the resolution designating the irrigable unit and shall notify the registered owner concerned of the resolution and the provisions of this section.

(3) The Registrar of Titles shall endorse upon every certificate of title to the land affected by the resolution a notice that the land is designated as or as part of an irrigable unit and that this section applies in respect of that land.

(4) After the filing of a copy of the resolution no instrument given by the registered owner or any other person owning any estate or interest in the land and purporting to transfer, sell, agree to sell, lease, sublease, mortgage, encumber or otherwise deal with a part only of the irrigable unit is valid or effective until the instrument is consented to by the board and a memorandum of the board's consent is endorsed on or annexed to the instrument.

(5) The consent of the board under subsection (4) may be made subject to such terms and conditions as the board may prescribe but in any case the consent shall be deemed to be subject to the following conditions, namely,

- (a) that the cost of extending the works of the board to any part of the irrigable unit or the cost of providing for the continued and uninterrupted irrigation or drainage of any part of the irrigable unit from the existing works of the board is to be borne by the person giving the instrument unless the board waives the condition or unless the parties to the instrument otherwise agree, and
- (b) that no change is to be made in the classification on the assessment roll of any land in the irrigable unit unless the board otherwise agrees.

3. Section 14 is amended

- (a) by striking out subsection (7) and by substituting the following:

(7) If the claim is not settled before the next succeeding first day of January or before the expiration of ninety days from the day the notice of the claim was delivered, whichever is later, the board shall refer the claim to the Public Utilities Board.

- (b) as to subsection (9)

- (i) by striking out all the words preceding clause (a) and clause (a) and by substituting the following:

(9) The Public Utilities Board may order

- (a) that the board pay to the claimant compensation in the amount fixed by the order for loss sustained by the claimant owing to

4. The present section 17 which deals with expropriation is being re-enacted as section 186 under Part VI which is entitled "Expropriation of Lands" (see clause 6 of this Bill). The new section 17 will permit a board to acquire canal rights of way, etc., by agreements granting an interest less than the fee simple title.

the surface of his farming land being detrimentally affected for agricultural purposes by the seepage or overflow of water from the canal or ditch of the board between the first day of January and the first day of November of the year in which the claim is made,

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

(d) that the board pay to the claimant and that the claimant accept such compensation as the Public Utilities Board deems adequate in full and final settlement of all claims for compensation for damage or loss both present and future under this section in respect of the whole or of any specified part or parts of a parcel or parcels of land and in that case

(i) the order shall specify the land in respect of which the compensation is payable,

(ii) the compensation is in lieu of any compensation that might otherwise be ordered under clause (a),

(iii) the compensation shall not exceed an amount that the Public Utilities Board considers what would be the market value of the land in respect of which the compensation is paid, if the seepage or overflow had not occurred, and

(iv) after the making of the order, no claim shall be made and no further compensation shall be paid under this section to that claimant or any other person for any damage sustained by reason of the seepage or overflow of water from a canal or ditch of the board in or on the land in respect of which the compensation is paid.

4. Section 17 is struck out and the following is substituted:

17. (1) Where by this Act a board is permitted or authorized to acquire land, the board may acquire any estate required by it in the land and may acquire any lesser interest by way of a profit, easement, right, privilege or benefit in, over or derived from the land.

5. The present section 20a revised to include in subsection (1) the reference to agreements under the new section 13a (see clause 2 of this Bill) and to include in subsection (2) the reference to the Crown in right of Alberta.

6. The new section 186 is section 17 re-enacted except for the words referring to Part VI, as it will now be in that Part.

7. Commencement of Act.

(2) An instrument granting any interest referred to in subsection (1) may be registered under *The Land Titles Act*.

5. Section 20*a* is struck out and the following is substituted:

20*a*. (1) The board may borrow money for

- (*a*) the construction and repair of works, and
- (*b*) the financing and carrying out of work under agreements made pursuant to section 13*a*,

in such amounts and on such terms as may be approved by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council may on behalf of the Crown in right of Alberta guarantee the repayment of all or of a portion of any money borrowed by a board under this section.

6. The following section is added after section 185:

186. The board may expropriate

- (*a*) any land wherever situated that is required in connection with the operation, maintenance or administration of the works or the affairs of the district or is required
 - (i) for the purpose of avoiding damage,
 - (ii) for the erection of necessary buildings, or
 - (iii) for any other purpose whatever,and
- (*b*) any land with respect to which a claim for damages through the construction, operation or maintenance of the irrigation or drainage works of the district has been made.

7. This Act comes into force on the first day of June, 1964.

No. 146

FIRST SESSION
FIFTEENTH LEGISLATURE
12 ELIZABETH II
1964

BILL

An Act to amend The Irrigation
Districts Act

Received and read the

First time

Second time

Third time

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