

1971 Bill 61

Fourth Session, 16th Legislature, 20 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 61

The Energy Resources Conservation Act

THE HONOURABLE MR. PATRICK

First Reading

Second Reading

Third Reading

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BILL 61

1971

THE ENERGY RESOURCES CONSERVATION ACT

(Assented to _____, 1971)

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

1. In this Act,
 1. "Board" means the Energy Resources Conservation Board;
 2. "Chairman" means the chairman of the Board;
 3. "Committee" means the Energy Committee;
 4. "energy resource" means any natural resource within Alberta that can be used as a source of any form of energy.

Explanatory Notes

This Bill will reconstitute the Oil and Gas Conservation Board as the "Energy Resources Conservation Board" with an increase in membership from 3 to 5. In addition to carrying on all of the present functions of the Oil and Gas Conservation Board, it will assume those of the Alberta Power Commission: see the Bill for The Hydro and Electric Energy Act.

The new Board will also assume responsibility for the administration of The Pipe Line Act and The Coal Mines Regulation Act presently administered by the Pipe Lines Division and Mines Division, respectively, of the Department of Mines and Minerals.

The Bill will thus bring under one administrative authority all aspects of the energy resources of Alberta, including the conservation and regulation of energy resources such as oil, gas, coal, water and electricity, the transmission of energy resources, and safety practices in the energy resources industries.

The Bill also establishes the "Energy Committee" consisting of the Premier and senior government officials, which will exercise co-ordinating and advisory functions in government policy and administration in the field of energy resources.

I. Definitions.

PART 1

PURPOSES OF ACT

2. The purposes of this Act are

- (a) to provide for the appraisal of the reserves and productive capacity of energy resources and energy in Alberta,
- (b) to provide for the appraisal of the requirements for energy resources and energy in Alberta and of markets outside Alberta for Alberta energy resources or energy,
- (c) to effect the conservation of, and to prevent the waste of, the energy resources of Alberta,
- (d) to control pollution and ensure environment conservation in the exploration for, processing, development and transportation of energy resources and energy,
- (e) to secure the observance of safe and efficient practices in the exploration for, processing, development and transportation of the energy resources of Alberta,
- (f) to provide for the recording and timely and useful dissemination of information regarding the energy resources of Alberta, and
- (g) to provide agencies from which the Lieutenant Governor in Council may receive information, advice and recommendations regarding energy resources and energy.

2. Purposes of the Act.

PART 2

ORGANIZATION, CONSTITUTION AND FINANCING OF BOARD

3. The Oil and Gas Conservation Board is hereby continued as a body politic and corporate under the name of the "Energy Resources Conservation Board".

4. (1) The Board shall consist of not more than five members appointed by the Lieutenant Governor in Council, one of whom shall be designated as Chairman, not more than two of whom may be designated as Vice Chairman and the remainder of whom shall be designated as Board Members.

(2) In the event of any vacancy occurring in the membership of the Board, the Lieutenant Governor in Council may appoint a member, and in case the office of Chairman or a Vice Chairman becomes vacant, the Lieutenant Governor in Council may designate any member to fill the vacancy.

(3) Each of the members of the Board holds office during good behaviour for a term of five years from the date of his appointment and thereafter during the pleasure of the Lieutenant Governor in Council.

(4) Notwithstanding anything contained in this section, any member of the Board may be removed from office by the Lieutenant Governor in Council at any time during the five-year term referred to in subsection (3) upon the address of the Legislative Assembly.

(5) Each member of the Board shall receive such remuneration as may be fixed from time to time by the Lieutenant Governor in Council and the remuneration shall be paid by the Board.

5. (1) No member of the Board appointed under section 4 shall have a monetary interest of any description, directly or indirectly, in any oil, gas, oil sands, coal or hydro energy property or in any business engaged in any phase of the oil, gas, crude bitumen, coal or electric energy industries or engaged in any phase of the business of generation, transmission, distribution or sale of energy in any form.

(2) No person continuously employed by the Board shall, directly or indirectly, have a monetary interest of a kind described in subsection (1) other than

(a) shares of a corporation that are regularly quoted and dealt in on a recognized stock exchange, and

3. Continuation of Oil and Gas Conservation Board as the Energy Resources Conservation Board.

4. Composition of Board and tenure of members.

5. Prohibitions as to interests of Board members.

- (b) any shares, bonds, debentures, debenture stock or other securities of a corporation that are exempted from the operation of this subsection by order of the Lieutenant Governor in Council.

6. (1) The Lieutenant Governor in Council may from time to time nominate one or more persons from among whom acting members of the Board may be selected.

(2) When in his opinion it is necessary or desirable for the proper and expeditious performance of the Board's duties, the Chairman may name a person nominated under subsection (1) as an acting member for a period of time, during any circumstance or for the purpose of any matter before the Board.

(3) An acting member has, during the period, under the circumstances or for the purpose for which he is named an acting member, all the powers of and may perform all duties of a member of the Board.

(4) Section 4, subsection (1) does not prevent the enlargement of the Board to more than five members by the naming of one or more acting members in accordance with this section, but the Board shall not be enlarged pursuant to this section so that there are more than seven members during any period of time.

7. Where a hearing, inquiry or investigation is held by the Board, and a member or members of the Board is or are for any reason unable to attend on any day or date, the other member or members has or have power to continue the hearing, inquiry or investigation as fully and effectively as if the member or members unable to attend were present.

8. Subject to the approval of the Lieutenant Governor in Council, the Board may from time to time appoint one or more persons having special technical or other knowledge

- (a) to sit with the Board to hear and consider any matter before it, or
- (b) to inquire into and report to the Board in respect of any matter before it.

9. (1) The Board or the Chairman may authorize any member of the Board to report to the Board upon any question or matter arising in connection with the business of the Board.

6. Acting Board members.

7. Absent members.

8. Engaging services of experts.

9. Special report by a Board member.

(2) A member authorized pursuant to this section to report to the Board upon a question has and may exercise all the powers of the Board for the purpose of taking evidence or acquiring the necessary information for the purpose of his report.

Office and Business Practices of the Board

10. The head office of the Board shall be at the City of Calgary.

11. (1) Meetings of the Board shall be held at the call of the Chairman at such place or places and upon such notice as to the Chairman seems proper.

(2) The chairman shall call a meeting of the Board immediately upon being requested in writing to do so by three members of the Board.

(3) Three members of the Board constitute a quorum.

12. (1) The Chairman

(a) is the executive officer of the Board, and

(b) has full power to act for, and in the name of, the Board in the execution, performance and carrying out of any act, matter or thing that is within the power of the Board, subject only to such express directions or decisions as are given or made by a resolution of the Board.

(2) Subject to section 13, the Chairman, a Vice Chairman or a Board Member shall sign all orders, directions or other documents issued by authority of the Board.

(3) At any time during which the office of Chairman is vacant or the Chairman is absent from the head office of the Board or is incapacitated for any reason from executing his functions as Chairman, or upon the direction of the Chairman, a Vice Chairman has and shall exercise or perform all the powers, duties and functions that are by this Act conferred or imposed upon the Chairman.

(4) At any time during which the offices of the Vice Chairmen are vacant or the Vice Chairmen are absent from the head office of the Board or are incapacitated for any reason from executing their functions as Vice Chairmen, or upon the direction of the Chairman, a Board Member has and may exercise and perform all the powers, duties and functions that are by this Act conferred or imposed upon a Vice Chairman.

13. The Board may delegate any of the powers or duties conferred or imposed upon it by this Act or by any other Act to designated officials of the Board, unless such Act prohibits such delegation.

10. Head office.

11. Meetings.

12. Chairman and Vice Chairman.

13. Delegation of powers of officers.

14. (1) An order, direction or other document purporting to be issued by authority of the Board, when signed by the Chairman, a Vice Chairman or Board Members, shall be admitted in evidence to prove the contents thereof without any proof of the signature or of the authority of the Chairman, a Vice Chairman or Board Member, as the case may be, to sign the document or of his appointment.

(2) A copy of an order, direction or other document purporting to be issued by authority of the Board, when certified as a true copy by the Board's solicitor, shall be admitted in evidence to prove the order, direction or other document and its contents without any proof of the authority of the member by whom the order, direction or document purports to be signed and without any proof of the signature or of the authority of the solicitor or of his appointment.

15. The Board, in the performance of the duties and functions imposed upon it by this Act and by any other Act, may do all things that are necessary for or incidental to the performance of any such duty or function.

16. (1) the Board may

- (a) employ such technical or professional persons and such other officers, clerks or employees as the Board considers necessary for the proper and convenient transaction of its business,
- (b) prescribe the duties, conditions of employment and remuneration of persons employed by it,
- (c) appoint from time to time persons having special technical or other knowledge of any matter before the Board to inquire into and report to the Board in respect of the matter in question, any of which persons may or may not be employees of the Board, and
- (d) appoint examiners, from its staff or otherwise, for the purpose of conducting hearings, inquiries and other investigations and reporting thereon to the Board.

(2) Subject to section 34, where any Act or regulation provides that the Board shall hear an application or other matter, the hearing may, if the Board so directs, be held by examiners appointed under subsection (1), clause (d). and when examiners have heard an application which is contested or denied, the Board shall send each person who has appeared at the hearing as an applicant or intervener a copy of the examiners' report to the Board.

14. Proof of Board orders.

15. Ancillary powers.

16. Personnel.

Finance

17. The fiscal year of the Board is the period commencing on the first day of April in one year and ending on the last day of March in the following year.

18. (1) All salaries, expenses and expenditures incurred by the Board in the performance of its duties

- (a) if incurred by the Board in performance of its duties pursuant to The Oil and Gas Conservation Act, The Gas Resources Preservation Act and The Turner Valley Unit Operations Act, shall be charged against moneys provided in accordance with The Oil and Gas Conservation Act, or
- (b) if incurred otherwise, shall be charged against moneys provided in accordance with subsections (2) and (3).

(2) In each fiscal year, funds equivalent to the estimated net expenditures to be incurred in the year by the Board, otherwise than in performance of its duties under The Oil and Gas Conservation Act, The Gas Resources Preservation Act and The Turner Valley Unit Operations Act, shall be provided from moneys appropriated by the Legislature for that purpose, and if the appropriation is insufficient, from the General Revenue Fund.

(3) The Provincial Treasurer shall advance to the Board the funds provided by appropriation and referred to in subsection (2) in instalments as soon as conveniently may be after the first days of April and January, each instalment to be in such amount as the Provincial Treasurer in consultation with the Board may decide.

(4) The Board shall decide what part of its total expenditure is reasonably attributable to the performance of the duties referred to in subsection (1), clause (a), and its decision is conclusive.

(5) In preparing its estimate of net expenditures to be incurred otherwise than in performance of its duties pursuant to The Oil and Gas Conservation Act, The Gas Resources Preservation Act and The Turner Valley Unit Operations Act, for any fiscal year, the Board shall have regard to its estimate of any deficit or surplus existing at the end of each fiscal year from funds for such expenditures received from the Government in previous years.

17. Fiscal year.

18. Board funds and expenditures.

PART 3
ENERGY COMMITTEE

19. (1) There is hereby established a committee called the "Energy Committee" consisting of

- (a) the President of the Executive Council,
- (b) the Deputy Minister of the Environment,
- (c) the Deputy Minister of Industry and Tourism,
- (d) the Deputy Minister of Lands and Forests,
- (e) the Deputy Minister of Mines and Minerals,
- (f) the Chairman of the Energy Resources Conservation Board,
- (g) The Chairman of the Public Utilities Board, and
- (h) if the vice chairman appointed pursuant to subsection (2) is not otherwise a member of the Committee, the vice chairman.

(2) The President of the Executive Council is the chairman of the Committee and may appoint a person referred to in subsection (1) or any other person to be vice chairman and to act as such upon his direction.

20. (1) The Energy Committee may decide the manner in which its meetings shall be conducted and any other matters pertaining to the conduct of any inquiry or study it may make and the conduct of its business and affairs.

(2) The Committee shall meet at the call of its chairman and at least once each year.

(3) The chairman of the Committee shall call a meeting of the Committee as soon as may be upon being requested in writing to do so by two other members of the Committee.

(4) A majority of the members of the Energy Committee constitutes a quorum.

21. The Energy Committee

- (a) shall use its best efforts to bring about a continuing liaison between all government departments and agencies concerned with the administration of Alberta's energy resources or energy, and
- (b) shall advise the Lieutenant Governor in Council on policy matters concerned with the administration of Alberta's energy resources or energy and affecting more than one government department or agency.

22. At the request of the Energy Committee, expenses incurred for any inquiry or study made by or on behalf of it pursuant to this Part shall be paid out of the General Revenue Fund of the Province.

19. Establishment of "Energy Committee".

20. Proceedings of Energy Committee.

21. Duties of Energy Committee.

22. Expenses of Energy Committee.

PART 4
POWERS AND DUTIES OF THE BOARD

23. The Board, with the approval of the Lieutenant Governor in Council, may take such action and may make such orders and directions as the Board considers necessary to effect the purposes of this Act and as are not otherwise specifically authorized by this Act.

24. (1) The Board may, and at the request of the Lieutenant Governor in Council shall, at such places, at such times and in such manner as it considers advisable

- (a) make inquiries and investigations and prepare studies and reports on any matter within the purview of any Act administered by it relating to energy resources and energy, and
- (b) recommend to the Lieutenant Governor in Council such measures as it considers necessary or advisable in the public interest related to the exploration for, production, development, conservation, control, transportation, transmission, use and marketing of energy resources and energy.

(2) The Board may recommend to the Lieutenant Governor in Council the making of such arrangements as it considers desirable for co-operation with governmental or other agencies in or outside Alberta in respect of matters relating to energy resources and energy.

23. General powers of the Board.

24. Inquiries and recommendations by Board.

PART 5
BOARD RECORDS

- 25.** (1) The Board shall keep at its office
- (a) minutes of the business transacted at its meetings, and
 - (b) full and complete accounts and records of all the financial business of the Board.

(2) All such minutes, accounts and records are admissible in evidence by the production thereof by any member of the Board or by any employee thereof who is authorized by the Board to produce them.

26. (1) When, upon the written authority of the Board, photographs have been taken of any papers, books, files, plans or documents on record with the Board or of any minutes, accounts or records of the Board that relate to transactions that have been concluded more than two years previously, if the films of the photographs have been duly certified under the signature of a member of the Board or an employee duly authorized for the purpose by the Board, the papers, books, files, plans, minutes, accounts, records or other documents may be destroyed forthwith under the direction and supervision of the member or employee of the Board.

(2) A print from any such photographic film and a certificate under the signature of a member of the Board or an employee duly authorized for the purpose by the Board, certifying that the print is a print from the film and that the film was duly certified as a film of an original document in compliance with subsection (1), shall be admitted in evidence in all proceedings in which the original document of which the print is a photograph would be evidence.

(3) Nothing in this section precludes the destruction from time to time in accordance with the instructions of the Board of any routine reports, returns or copies of routine communications that are considered no longer of service, without the making of any photograph or other copy of such reports, returns or communications.

27. A copy of any record, document, plan, book, paper, minute or account belonging to or deposited with the Board and attested under the signature of a member of the Board or an employee duly authorized for the purpose by the Board shall be admitted in evidence in all proceedings in which the original record, document, plan, book, paper, minute or account would be evidence.

25. Members, accounts and records.

26. Microfilming of records.

27. Copies of records as evidence.

PART 6

PROCEEDINGS BEFORE THE BOARD

28. Where any Act authorizes the Board to examine, inquire into, hear or determine any matter or question, subject to sections 41 and 42, every action, decision and order of the Board with respect to such matter or question is final and conclusive and is not open to question or review in any court.

29. (1) Unless it is otherwise expressly provided by this Act to the contrary, any order or direction that the Board is authorized to make may be made upon its own motion or initiative, and without the giving of any notice, and without holding any hearing.

(2) Notwithstanding subsection (1), where it appears to the Board that its decision upon an application may directly and adversely affect the rights of any person, the Board shall give the person

- (a) notice of the application,
- (b) a reasonable opportunity of learning the facts bearing on the application and presented to the Board by the applicant and other parties to the application,
- (c) a reasonable opportunity to furnish evidence relevant to the application or in contradiction or explanation of the facts or allegations in the application,
- (d) where the person will not have a fair opportunity to contradict or explain the facts or allegations in the application without cross-examination of the person presenting the application, an opportunity of cross-examination in the presence of the Board or its examiners, and
- (e) an adequate opportunity of making representations by way of argument to the Board or its examiners.

(3) Where by subsection (2) a person is entitled to make representations to the Board or its examiners, the Board or examiners is not by subsection (2) required to afford an opportunity to the person

- (a) to make oral representations, or
- (b) to be represented by counsel,

if the Board or examiners affords the person an opportunity to make representations adequately in writing, unless the statutory provision authorizing the Board's consideration and redetermination.

28. Board decisions final.

29. Hearings.

30. (1) The Board may make rules of practice governing its procedure and hearings pursuant to any Act that the Board administers, but the rules shall not be inconsistent with such Act.

(2) The Board in the conduct of its hearings is not bound by the rules of law concerning evidence applicable to judicial proceedings.

31. If the Board is charged with the conduct of any hearing, inquiry or other investigation by or pursuant to any other Act, it has for the purpose of conducting such inquiry, hearing or other investigation all of the powers granted to it by this Act for the purpose of conducting an inquiry, hearing or other investigation, and each witness at any such inquiry, hearing or other investigation pursuant to any other Act shall have the protection given a witness by this Act.

32. (1) The Board may provide in any order or direction that the order or direction or any portion or provision thereof is to come into force

- (a) at a future fixed time, or
- (b) upon the happening of any contingency, event or condition specified in the order or direction, or
- (c) upon the performance to the satisfaction of the Board or of any person named by it of any terms that the Board imposes upon any party interested.

(2) The Board may direct that the whole or any portion of the order or direction is to have force for a limited time or until the happening of any specified event.

(3) When any work, act, matter or thing is by an order or direction of the Board required to be done, performed or completed within a specified time, the Board, if it thinks proper to do so, may extend the time specified.

33. An order of the Board need not show upon its face that any proceeding or notice was had or taken, or that any circumstances existed necessary to give it jurisdiction to make the order.

34. (1) When a hearing, inquiry or investigation is conducted by examiners appointed by the Board for that purpose, the applicant or an intervener who has filed a submission in accordance with the Board's rules of practice may at any time file with the examiner or examiners an application to the Board to have the hearing, inquiry or investigation conducted by the Board.

30. Rules of practice.

31. Powers of Board on hearing.

32. Coming into force of order.

33. Content of order.

34. Application for Board hearing.

(2) Upon the filing of such application, the examiner or examiners shall adjourn the hearing, inquiry or investigation.

(3) If the Board after considering the application is satisfied that the hearing, inquiry or investigation should be conducted by the Board, the Board shall proceed to conduct it and the proceedings before the examiner or examiners are of no effect.

(4) If the Board refuses the application, the examiner or examiners shall proceed with the hearing, inquiry or investigation on such date as the Board may designate.

Notices

35. (1) Any notice with regard to matters before or to come before the Board that is required or authorized to be given in writing

- (a) by the Board, may be signed by any member of the Board or the solicitor of the Board, or
- (b) by any person appointed by the Board, may be signed by such person, or
- (c) by any other person, may be signed by such person or his duly authorized agent or solicitor.

(2) In contentious matters, the Board shall give or may require to be given such notice, of not less than 10 days, of an application to or a hearing by the Board as the Board considers necessary, and such notice may be given by mail, newspaper publication or such other means as the Board considers proper.

36. When the Board publishes a notice in connection with any application, hearing, inquiry or investigation by the Board, whether under this Act or otherwise, it may order that the cost of advertising be paid in whole or in part by any party to the hearing, inquiry or investigation.

Evidence

37. For the purpose of any hearing, investigation or inquiry pursuant to this Act, the Board and any member thereof and any other person authorized by the Board to conduct a hearing, or to make an inquiry or investigation, has all the powers of a commissioner appointed under The Public Inquiries Act.

38. (1) No person shall be excused from testifying or from producing any book, document or paper in an investigation or inquiry by or upon a hearing before the Board, when ordered to do so by the Board, upon the ground that the testimony, book, document or paper might tend to criminate him or subject him to penalty or forfeiture.

35. Notices.

36. Costs of advertising hearing.

37. Board's powers on inquiries.

38. Protection as to incriminating evidence.

(2) Where a person objects to answering a question or producing any documentary evidence on the ground that it might tend to criminate him or subject him to penalty or forfeiture, the Board shall give him the protection afforded by section 5 of The Canada Evidence Act and by section 7 of The Alberta Evidence Act.

39. (1) In case of failure or refusal on the part of any person to comply with a notice to attend issued by the Board, or to produce any book, document or paper when ordered to do so by the Board, a judge, on the application of the Board, may issue a bench warrant requiring the attendance of the witness before the Board, or the production by him of the book, document or paper.

(2) In case of refusal of a witness to give evidence or answer as to any matter regarding which he is questioned before the Board, or to produce any book, document or paper when ordered to do so by the Board, a judge, on the application of the Board, may commit the witness for contempt.

Rehearings and Appeals

40. The Board may review, rescind, change, alter or vary any order or direction made by it, or may rehear any application before deciding it.

41. (1) Any person affected by an order or direction made by the Board without the holding of a hearing may, within 30 days after the date upon which the order or direction was made, apply to the Board for a hearing.

(2) Any person affected by an order or direction made by the Board after a hearing and to whom notice of the hearing was not directly given may, within 30 days after the date upon which the order or direction was made, apply to the Board to vary, amend or rescind it.

(3) An application under this section shall set forth the matters complained against and the reasons for the complaint.

(4) Upon making an application under this section, the applicant may request that the order or direction referred to in the application be suspended until the application is heard, and the Board may suspend the order or direction upon such terms and conditions as it prescribes or may refuse the request.

(5) When an application is made under this section, the Board shall, after not less than 10 days' notice to all persons affected by the order or direction, hold a public hearing of the application, and may confirm, vary or rescind the order or direction, as to the Board seems just.

39. Compelling attendance of witnesses and production of documents.

40. Review, alteration, etc., of Board orders.

41. Hearing to review order made previously without a hearing.

42. (1) Subject to subsection (2), upon a question of jurisdiction or upon a question of law, an appeal lies from the Board to the Appellate Division of the Supreme Court of Alberta.

(2) Leave to appeal shall be obtained from a judge of the Appellate Division upon application made within one month after the making of the order, decision or direction sought to be appealed from, or within such further time as the judge under special circumstances may allow, and upon notice to the parties affected by the appeal or the respective solicitors by whom the parties were represented before the Board, and to the Board, and upon hearing such of them as appear and desire to be heard, and the costs of the application are in the discretion of the judge.

(3) An order or direction of the Board takes effect at the time prescribed by the order or direction, and its operation is not suspended by any appeal to the Appellate Division, or by any further appeal, but the Board itself may if it thinks fit suspend the operation of its order, when appealed from, until the decision of the Appellate Division is rendered, or the time for appeal to the Supreme Court of Canada has expired, or any appeal is abandoned.

(4) Within 30 days after leave has been obtained, the Board shall forward to the Registrar the transcript and record of the hearing and its findings and reasons for the order or direction.

(5) Upon receipt of the transcript, record, findings and reasons from the Board and of the security, the Registrar shall set the appeal down for hearing at the next sittings that will commence at least two weeks after the appeal is so set down, and the party appealing, 10 days after the appeal has been set down, shall give to the parties affected by the appeal or the respective solicitors by whom such persons were represented before the Board, and to the Board, notice in writing that the appeal has been so set down for hearing, and the appeal shall be heard by the Appellate Division as speedily as practicable.

(6) On the hearing of the appeal, no evidence other than the evidence that was submitted to the Board upon the making of the order appealed from shall be admitted, and the Appellate Division shall proceed either to confirm, vary or vacate the order appealed from and in the latter event shall refer the matter back to the Board for further consideration and redetermination.

42. Appeal to Appellate Division.

(7) On the hearing of the appeal, the Court may draw all such inferences as are not inconsistent with the facts expressly found by the Board and as are necessary for determining the question of jurisdiction or of law, as the case may be, and shall certify its opinion to the Board.

(8) The Board is entitled to be heard by counsel or otherwise upon the argument of any appeal.

(9) The Appellate Division may fix the costs and fees to be taxed, allowed and paid upon the appeal and may make rules of practice respecting appeals under this Act, and until such rules are made the rules and practice applicable to appeals from a judge to the Appellate Division apply.

(10) Neither the Board nor any member of the Board is in any case liable to costs by reason or in respect of an appeal or application.

(11) If the order or direction is set aside or a variation is directed, the matter shall be reconsidered and re-determined by the Board, and the Board shall vary or rescind its order in accordance with the judgment of the Appellate Division of the Supreme Court of Canada.

43. Subject to section 42, no proceedings of or before the Board may be restrained by injunction, prohibition or other process or proceedings in any court nor are they removable by certiorari or otherwise into any court.

43. Exclusion of prerogative writs.

PART 7

PROVISIONS OF GENERAL APPLICATION

Incidental Powers of the Board

44. No action or proceeding may be brought against the Board or any member of the Board or any officer, assessor or employee of the Board in respect of any act or thing done purportedly in pursuance of this Act, or any Act that the Board administers, the regulations under any of those Acts or an order or direction of the Board.

45. (1) For the purpose of carrying out the duties and exercising the powers imposed or conferred upon it by or pursuant to this or any other Act, the Board may avail itself of the services of any officer or other employee of any board, commission or department of the Government.

(2) Each officer or employee of any board, commission or department of the Government shall give to the Board such service, assistance and information as he is able to give and the Board requires, subject to the approval of the board, commission or the Minister in charge of the administration of the department in which the officer or employee is employed.

46. Any sum of money collected by the Board

(a) pursuant to a provision of an Act that the Board administers, or

(b) on account of fees or taxes,
and any fine imposed pursuant to an Act that the Board administers are the property of the Board.

47. The Board may recover any moneys payable to it pursuant to any provision of this or any other Act by an action in debt.

48. Where the Board has more than one remedy for the enforcement of any order or for the payment of any money payable to it, the Board may resort to any or all such remedies from time to time as it thinks proper, either concurrently or successively, until such time as the order has been complied with or the money payable thereunder together with all costs and expenses has been paid and satisfied.

44. No personal action against Board members or employees.

45. Services of Government departments and agencies.

46. Disposition of taxes and penalties.

47. Board's action for recovery.

48. Enforcement of remedies.

Consequential Amendments

49. Wherever a reference is made to the Petroleum and Natural Gas Conservation Board or to the Oil and Gas Conservation Board in any Act, regulation, order or direction or in any contract, agreement or other instrument in force in Alberta, the reference shall be deemed to be the Energy Resources Conservation Board.

50. (1) *The Alberta Gas Trunk Line Company Act is amended*

- (a) *as to section 13, subsection (1), clause (i), by striking out the words "section 19" and by substituting the words "section 20",*
- (b) *as to section 30c, subsection (1) by striking out the words "Oil and Gas Conservation Board established under The Oil and Gas Conservation Act, 1969" and by substituting the words "Energy Resources Conservation Board constituted under The Energy Resources Conservation Act",*
- (c) *as to section 30c, by striking out subsection (2),*
- (d) *as to section 31, subsection (1), by striking out the numeral "1967".*

(2) *The City of Medicine Hat Gas Purchase Act is amended as to section 2, clause (b) by striking out the words "Oil and Gas Conservation Board" and by substituting the words "Energy Resources Conservation Board".*

(3) *The Electric Power and Pipe Line Assessment Act is amended as to section 5, subsection (6), clause (a) and section 20, clause (e) by striking out the words "Oil and Gas Conservation Board" wherever they occur and by substituting the words "Energy Resources Conservation Board".*

(4) *The Gas Resources Preservation Act is amended*

- (a) *as to section 2 by striking out clause (a) and by substituting the following:*
 - (a) *"Board" means the Energy Resources Conservation Board constituted under The Energy Resources Conservation Act;*
- (b) *as to section 16*
 - (i) *by striking out subsection (1),*
 - (ii) *by striking out the words "The Oil and Gas Conservation Act" where they occur in subsection (2) and by substituting the words "The Energy Resources Conservation Act".*

49. References to former Board names.

50. (1) Amends chapter 37 of the Statutes of Alberta, 1954.

(2) Amends chapter 49 of the Statutes of Alberta, 1959.

(3) Amends chapter 119 of the Revised Statutes of Alberta 1970.

(4) Amends chapter 157 of the Revised Statutes of Alberta 1970.

(5) The Gas Utilities Act is amended

- (a) as to section 2, clause (f), subclause (iv) by striking out the words "Oil and Gas Conservation Board" and by substituting the words "Energy Resources Conservation Board",*
- (b) as to section 6, subsection (1) by striking out the words "Oil and Gas Conservation Board" wherever they occur and by substituting the words "Energy Resources Conservation Board",*
- (c) as to sections 50, 51 and 52 by striking out the words "Oil and Gas Conservation Board" wherever they occur and by substituting the words "Energy Resources Conservation Board",*
- (d) as to section 51, subsection (1) by adding after the words "of the other board" the words "under this Act or The Oil and Gas Conservation Act".*

(6) The Mines and Minerals Act is amended as to the following sections by striking out the words "Oil and Gas Conservation Board" wherever they occur and by substituting the words "Energy Resources Conservation Board":

- (a) section 53, subsections (1) and (2),*
- (b) section 149, subsection (3), clause (a),*
- (c) section 154, subsection (4),*
- (d) section 156, subsection (2), clause (a),*
- (e) section 171, subsection (2), clause (b), and*
- (f) section 193, subsection (1).*

(7) The Oil and Gas Conservation Act is amended

- (a) as to section 2, subsection (1) by striking out clause 5 and by substituting the following:*

5. "Board" means the Energy Resources Conservation Board under The Energy Resources Conservation Act;

- (b) by striking out sections 6 to 17, section 22, subsection (1), clause 41, sections 102 to 104, section 108, subsection (2), sections 109 to 116, 118 to 125, 126, 127 and 135 to 137,*
- (c) as to section 18 by adding the following subsection after subsection (3):*

(4) In this section and sections 19 and 67 "net expenditure" or "net expenditures" means net expenditures incurred by the Board in performance of its duties pursuant to this Act, The Gas Resources Preservation Act and The Turner Valley Unit Operations Act.

(5) Amends chapter 158 of the Revised Statutes of Alberta 1970.

(6) Amends chapter 238 of the Revised Statutes of Alberta 1970.

(7) Amends chapter 267 of the Revised Statutes of Alberta 1970.

- (d) *as to section 21, subsection (1), clause (e) by striking out the words "Oil and Gas Conservation Board" and by substituting the words "Energy Resources Conservation Board",*
- (e) *as to section 67 by striking out the words "to be incurred by the Board under this Act",*
- (f) *by adding the following section after section 133:*

133.1 (1) Where oil escapes from a well, battery or pipe line or from an unidentified source and it appears to the Board that such oil may not otherwise be contained and cleaned up forthwith, the Board may

- (a) direct the licensee or pipe line operator, or such licensees or pipe line operators who appear to the Board could be responsible for a well, battery or pipe line from which oil escaped, to take steps it considers necessary to contain and clean up oil which has escaped and to prevent further escape of oil, or
- (b) enter upon the area where oil has spilled and conduct such operations as it considers necessary to contain and clean up oil which has escaped and to prevent further escape of oil.

(2) Where the Board enters upon an area pursuant to subsection (1), clause (b),

- (a) every person responsible for the escape of oil, every licensee or pipe line operator who appears to the Board could be responsible for a well, battery or pipe line from which oil escaped and every officer and employee of such person, licensee or operator shall, until the operations to be conducted by the Board are completed, obey the orders concerning such operations given by the Board or such person or persons as it places in charge of such operations;
- (b) the Board may recover, deal with and dispose of spilled oil as if it were the property of the Board, and if any such oil is sold, apply the proceeds to pay the costs and expenses of the operations conducted by the Board;
- (c) the Board may engage such persons as it deems desirable to conduct any of the operations on its behalf.

(3) Where any operations are conducted pursuant to this section

(a) by a licensee, operator or other person under subsection (1), clause (a) and the licensee, operator or person requests the Board to do so, or

(b) by or on behalf of the Board under subsection (1), clause (b),

the Board shall determine the costs and expenses of such operations and direct by whom and to what extent they are to be paid.

(4) If the costs and expenses determined by the Board under subsection (3) are not fully paid from the sale of oil recovered or by the persons directed by the Board to pay them, and the Board directs that the balance of the costs and expenses or any part of it is to be paid by the licensee of a well, then the provisions of section 132 regarding the use of the deposit and regarding the further liability of the licensee with respect to the costs referred to in that section apply *mutatis mutandis* to the use of such deposit and to the further liability of the licensee to defray the balance of the costs and expenses that are incurred pursuant to this section.

(5) No action or proceeding may be brought against a person named in a direction issued pursuant to subsection (1), clause (a) in respect of any act or thing done in pursuance of the direction.

(8) *The Pipe Line Act is amended as to section 8 and section 9, subsection (1) by striking out the words "Oil and Gas Conservation Board" wherever they occur and by substituting the words "Energy Resources Conservation Board".*

(9) *The Public Service Act is amended as to section 3, subsection (4) by striking out clause (c) and by substituting the following:*

(c) the Energy Resources Conservation Board, or

(10) *The Public Service Pension Act is amended as to section 37, clause (a) by striking out subclause (iv) and by substituting the following:*

(iv) the Energy Resources Conservation Board.

(11) *The Public Utilities Board Act is amended as to section 2, clause (j), subclause (iv) by striking out the words "Oil and Gas Conservation Board" and by substituting the words "Energy Resources Conservation Board".*

(8) Amends chapter 275 of the Revised Statutes of Alberta 1970.

(9) Amends chapter 298 of the Revised Statutes of Alberta 1970.

(10) Amends chapter 299 of the Revised Statutes of Alberta 1970.

(11) Amends chapter 302 of the Revised Statutes of Alberta 1970.

(12) *The Turner Valley Unit Operations Act is amended*
(a) *as to section 2 by striking out clause (a) and by substituting the following:*

(a) "Board" means the Energy Resources Conservation Board constituted under The Energy Resources Conservation Act;

(b) *by striking out section 8.*

51. (1) *The Pipe Line Act is amended*

(a) *as to section 2,*

(i) *by renumbering clause 1 as clause 1.1 and by adding the following clause before renumbered clause 1.1:*

1. "Board" means the Energy Resources Conservation Board under The Energy Resources Conservation Act;

(ii) *by striking out clause 15,*

(b) *as to the following sections by striking out the word "Minister" wherever it occurs and by substituting the word "Board":*

(i) section 3,

(ii) section 7, subsection (1),

(iii) section 10,

(iv) section 11, subsection (3),

(v) section 12, subsection (3),

(vi) section 18, subsection (2),

(vii) section 19,

(viii) section 20,

(ix) section 21,

(x) section 25,

(xi) section 26, subsection (1),

(xii) section 35,

(xiii) section 43, and

(xiv) section 45, clause (b),

(c) *as to the following sections by striking out the word "Department" and by substituting the word "Board":*

(i) section 6, subsection (1),

(ii) section 11, subsection (1),

(iii) section 12, subsection (1),

(iv) section 13, subsection (2),

(v) section 17, subsection (1), and

(vi) section 18, subsection (1),

(d) *by striking out section 8,*

(e) *by striking out section 9, and by substituting the following:*

9. (1) In considering an application, the Board may have regard to the advice of the Gas Utilities Board with respect to any matter that it referred to the Gas Utilities Board.

(2) The Board may make such changes and alterations in the plan and specifications of a gas line, oil line or secondary line as it considers expedient.

(12) Amends chapter 375 of the Revised Statutes of Alberta 1970.

51. (1) Amends chapter 275 of the Revised Statutes of Alberta 1970. This section comes into force on proclamation and will result in the transfer of the administration of The Pipe Line Act from the Department of Mines and Minerals to the Board.

- (f) *as to section 18, subsection (2), clause (a) by striking out the words "the departmental copy" and by substituting the words "the Board's copy",*
- (g) *as to section 21, subsection (2) by striking out the word "he" and by substituting the word "it",*
- (h) *as to section 35, subsection (1)*
 - (i) *by striking out the words "he deems" and by substituting the words "it considers"*
 - (ii) *by striking out the words "Minister's opinion" and by substituting the words "Board's opinion",*
- (i) *as to section 35, subsection (2) by striking out the word "he" wherever it occurs and by substituting the word "it",*
- (j) *as to section 45 by striking out the words "Lieutenant Governor in Council" and by substituting the word "Board",*
- (k) *by striking out section 46, subsection (1) and by substituting the following subsections:*

46. (1) The Lieutenant Governor in Council may from time to time make regulations

- (a) governing matters preparatory to or in connection with the construction or operation of pipe lines, and
 - (b) to meet any special case that may arise and for which no provision is made in this Act.
- (1.1) The Board may establish a tariff of fees
- (a) pertaining to applications, permits and licences, and
 - (b) pertaining to any service supplied by the Board in connection with sketches, plans, permits and licences.

- (l) *as to Forms A and C in the Schedule by striking out the words "Department of Mines and Minerals, Edmonton, Alberta" and by substituting the words "Energy Resources Conservation Board".*

(2) *The Gas Utilities Act is amended by adding the following section after section 51:*

51.1 (1) The Energy Resources Conservation Board may refer an application under Part 2 of The Pipe Line Act for a permit for a pipe line for the transmission of gas to the Gas Utilities Board for its advice on any matter in connection with the proposed pipe line.

(2) Upon a reference pursuant to subsection (1), the Gas Utilities Board may hold a hearing with regard to any or all of the matters referred to it.

52. (1) *The Coal Mines Regulation Act is amended*

- (a) *by striking out the word "Department" wherever it occurs in the Act and by substituting the word*

(2) Amends chapter 158 of the Revised Statutes of Alberta 1970.

52. (1) Amends chapter 52 of the Revised Statutes of Alberta 1970. This section comes into force on proclamation and would result in the transfer of the administration of The Coal Mines Regulation Act from the Department of Mines and Minerals to the Board.

- (b) *by striking out the word "Minister" wherever it occurs in the Act, except in section 87, subsection (1) and by substituting the word "Board",*
- (c) *as to section 2*
 - (i) *by striking out clause 6 and by substituting the following:*

6. "Board" means the Energy Resources Conservation Board constituted under The Energy Resources Conservation Act;
 - (ii) *by adding the following clause after clause 7:*

7.1 "Central Board" means a Central Board of Examiners appointed under this Act;
 - (iii) *by striking out clauses 11 and 27.*
- (d) *section 4 is struck out and the following is substituted:*

4. The Board may

- (a) **appoint a Director of Mines, an assistant director of mines, district inspectors or assistant district inspectors, all of whom shall be holders of first class certificates,**
- (b) **appoint an electrical inspector who shall be the holder of a first class mine electrician's certificate, and**
- (c) **define the district within which a district inspector or an assistant district inspector is to act.**
- (e) *as to sections 10 to 13, section 75, subsection (2), section 78, subsection (1), clause (a) and section 79, clause (a) by striking out the word "Board" wherever it occurs and by substituting the words "Central Board",*
- (f) *as to section 80, subsection (3), section 82, subsection (1) and section 85 by striking out the words "in his discretion" wherever they occur and by substituting the words "in its discretion",*
- (g) *as to section 81, subsection (8), section 407, subsection (3) and section 408, subsection (8) by striking out the words "he thinks fit" wherever they occur and by substituting the words "it thinks fit",*
- (h) *as to section 85 by striking out the words "he may" and by substituting the words "it may",*
- (i) *as to section 87, subsection (1) by adding after the word "Minister" the words "of Mines and Minerals",*
- (j) *as to section 398 by striking out subsection (1) and by substituting the following:*

398. (1) A notice or document required by this Act or the regulations to be served on or sent to the Board or the Director may be

- (a) delivered personally, or
- (b) sent by prepaid registered letter addressed
 - (i) if to the Board, to its office in Calgary, or
 - (ii) if to the Director, to him at his office in Edmonton.

(2) The Coroners Act is amended as to section 17, subsections (4) and (6) by striking out the words "Minister of Mines and Minerals" wherever they occur and by substituting the words "Energy Resources Conservation Board".

(3) The Oil and Gas Conservation Act is amended by striking out clause 13 of section 2, subsection (1) and by substituting the following:

13. "Director of Mines" means the Director of Mines appointed by the Board;

(4) The Pipe Line Act is amended

- (a) as to section 2, by striking out clause 1.1,*
- (b) as to section 30, subsection (1) by striking out the words "of the Department",*

(5) The Quarries Regulation Act is amended

- (a) as to section 2*
 - (i) by striking out clause (a) and by substituting the following clauses:*
 - (a) "Board" means the Energy Resources Conservation Board under The Energy Resources Conservation Act;*
 - (a1) "Director of Mines" means the Director of Mines appointed by the Board;*
 - (ii) by striking out clause (d),*
- (b) as to section 2, clause (b), subclause (iii) and section 6, subsection (3) by striking out the word "Minister" wherever it occurs and by substituting the word "Board",*
- (c) as to section 5, subsection (1) by striking out the words "Subject to the provisions of The Public Service Act, the Minister" and by substituting the words "The Board",*
- (d) by striking out section 13 and by substituting the following:*

(2) Amends chapter 69 of the Revised Statutes of Alberta 1970.

(3) Amends chapter 267 of the Revised Statutes of Alberta 1970.

(4) Amends chapter 275 of the Revised Statutes of Alberta 1970.

(5) Amends chapter 305 of the Revised Statutes of Alberta 1970.

13. (1) If representation is made to the Board that the holder of a permit issued pursuant to section 6 has failed to comply with this Act or the regulations or a notice given by an inspector, the Board may cause such inquiry to be made into the representation as in its opinion is proper.

(2) The Board may cancel or suspend a permit held by a person who on such inquiry is found to have failed to comply with this Act or the regulations or a notice given by an inspector.

(3) The Board may, if it is shown to it to be just to do so, reinstate on such terms and conditions as it thinks fit a permit that has been cancelled or suspended.

53. (1) This Act, except sections 51 and 52, comes into force on June 1, 1971.

(2) Sections 51 and 52 come into force on a date or dates to be fixed by Proclamation.