

1975 Bill 12
(Second Session)

First Session, 18th Legislature, 24 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 12

THE DEPARTMENT OF TRANSPORTATION ACT

THE MINISTER OF TRANSPORTATION

First Reading

Second Reading

Third Reading

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1975

(Second Session)

THE DEPARTMENT OF TRANSPORTATION ACT

(Assented to _____, 1975)

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

1. In this Act,

- (a) "highway" or "road"
 - (i) means land used or surveyed for use as a public highway or road, and
 - (ii) includes a bridge forming part of a public highway or road and any structure incidental to the public highway or road or bridge;
- (b) "Minister" means the Minister of Transportation.

2. There shall be a department of the public service of the Province called the Department of Transportation over which shall preside the member of the Executive Council appointed by the Lieutenant Governor under the Great Seal of the Province as Minister of Transportation.

3. (1) The Lieutenant Governor in Council may establish the offices of not more than three Deputy Ministers for the Department and shall designate the name for each office so established.

(2) In accordance with *The Public Service Act* there may be appointed

- (a) the Deputy Ministers whose offices are established under subsection (1), and
- (b) such other employees as are required to conduct the business of the Department.

4. (1) The Minister may from time to time engage the services of experts or persons having special technical or other knowledge to advise him or to inquire into and report to him on matters under the Minister's administration.

Explanatory Notes

1. Definitions.

2. Department of Transportation established.

3. Personnel.

4. Engagement of consultants.

(2) A person whose services are engaged under this section may be paid such remuneration and expenses as the Minister may prescribe.

5. (1) The Minister may establish such boards, committees or councils as he considers necessary or desirable to act in an advisory or administrative capacity in connection with any of the policies, programs, services or other matters under his administration.

(2) The Minister may, with respect to any board, committee or council established under this section,

- (a) appoint or provide for the manner of appointment of its members,
- (b) prescribe the term of office of any member,
- (c) designate a chairman, vice-chairman and secretary, and
- (d) authorize, fix and provide for the payment of remuneration and expenses to its members.

(3) A board, committee or council established pursuant to this section may make rules of procedure, subject to the approval thereof by the Minister, governing the calling of its meetings and the conduct of business at its meetings.

(4) A board, committee or council established pursuant to this section may exercise such powers and shall perform such duties and functions as the Minister may confer or impose upon it.

6. Unless the administration thereof is assigned or transferred to some other Minister by an Act or by an order of the Lieutenant Governor in Council, the Minister of Transportation has the administration of all highways the title to which is vested in the Crown in right of Alberta and all real property held, used or occupied for airports, airstrips or railways.

7. (1) The Minister may make grants if

- (a) he is authorized to do so by regulations under this section, and
- (b) moneys are appropriated by the Legislature for that purpose or the grant is authorized to be paid pursuant to a special warrant.

(2) The Lieutenant Governor in Council may make regulations

- (a) authorizing the Minister to make grants;
- (b) prescribing the purposes for which the grants may be made;

5. Advisory boards, etc.

6. Administration of highways, railways and airports.

7. Grants.

- (c) governing applications for grants;
- (d) prescribing the persons or organizations or classes of persons or organizations eligible for grants;
- (e) specifying the conditions required to be met by any applicant for a grant to render that person eligible for the grant;
- (f) prescribing the conditions upon which a grant is made and requiring the repayment thereof to the Government if the conditions are not met;
- (g) providing for the payment of any grant in a lump sum or by installments and prescribing the time or times at which the grant or the installments may be paid;
- (h) limiting the amount of any grant or class of grant that may be made;
- (i) authorizing the Minister to delegate in writing to any employee of the Government any duty, power or function respecting the payment of any grant;
- (j) requiring any person receiving a grant to account for the way in which the grant is spent in whole or in part;
- (k) authorizing the Minister to enter into an agreement with respect to any matter relating to the payment of a grant.

(3) Any regulation made under subsection (2) may be specific or general in its application.

8. (1) The Lieutenant Governor in Council may make regulations providing for the guarantees by the Government of the repayment of principal and interest or principal or interest in respect of loans made for the purpose of undertaking or developing projects directly beneficial to the development of transportation within Alberta.

(2) A guarantee of a loan pursuant to regulations under this section

- (a) shall be in a form approved by the Provincial Treasurer, and
- (b) may be executed on behalf of the Government by the Provincial Treasurer, the Deputy Provincial Treasurer or by any other person designated by the Provincial Treasurer,

and the signature on the guarantee by any person referred to in clause (b) is conclusive proof that the relevant provisions of the regulations have been complied with.

8. Guarantees.

9. The Minister may in writing

- (a) delegate to any employee of the Department any power, duty or function required to carry out any agreement entered into by or on behalf of the Minister, other than the power to make regulations;
- (b) authorize any employee of the Department to enter into an agreement on behalf of the Minister.

10. (1) The Minister shall establish and administer a stock advance fund for the Department.

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

(3) The net amount of the advances at any time shall not exceed \$35,000,000.

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

(2) Where land, machinery, vehicles, equipment, stock or material is purchased out of the stock advance fund for use by one or more departments, branches or services, and the value thereof is charged to and retained by the stock advance fund, the Minister may charge a fair rent for its use to the department, branch or service by or for which it is used.

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

(4) The amount of

- (a) each charge made by the Minister under subsections (1) and (2), and
- (b) the proceeds of a sale or disposition made under subsection (3),

shall be credited in reduction of the amount of the advances made by the Provincial Treasurer to the stock advance fund.

12. (1) The Minister may sell, lease or otherwise dispose of any public land under his administration.

(2) Where any machinery, vehicles, equipment, stock or material not acquired by purchase out of the stock advance

9. Delegation of powers.

10. Stock advance fund.

11. Changes for equipment, etc.

12. Disposal of land, etc.

fund is no longer required, the Minister may sell, lease or otherwise dispose of it on such terms and conditions as he considers proper and the proceeds, if any, of the sale or disposition form part of the General Revenue Fund.

(3) When practicable, property mentioned in this section shall be sold, leased or otherwise disposed of by tender or by public auction.

(4) A lease or disposition of a mine or mineral shall be made pursuant to *The Mines and Minerals Act*.

13. (1) On or before June 15 in each year the Minister shall cause to be prepared and submitted to the Provincial Auditor for certification the operating account and the balance sheet covering operations of the stock advance fund for the immediately preceding fiscal year.

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

(3) The Lieutenant Governor in Council by order may transfer to the General Revenue Fund a profit arising from the operations for the year as shown by the statements certified by the Provincial Auditor.

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

14. (1) There may be established a Transportation Safety Branch (hereinafter called "the Safety Branch") in the Department.

(2) One of the purposes of the Safety Branch is

(a) to investigate every aspect of motor vehicle accidents with a view to compiling comparative statistics on the causes of accidents, and

(b) to make recommendations, based on the investigations of the Safety Branch, for increased road safety.

(3) To fulfil its purpose the employee in charge of the Safety Branch may, in writing, with respect to any accident, require from any insurance company carrying on business in Alberta, any or all of the following :

(a) copies of statements made by any person in connection with the accident ;

(b) copies of reports made by insurance company investigators into the cause of the accident and the conclusion of the insurance company on the liability of the persons involved ;

13. Annual statements to Provincial Auditor.

14. Transportation Safety Branch.

(c) details of any money paid by an insurance company in respect of property damage.

(4) The employee in charge of the Safety Branch, or a person authorized by him, may interview

- (a) the drivers involved in the accident,
- (b) any witnesses to the accident, and
- (c) any other person who may be able to give information (whether directly relevant or not) which will assist in determining the reasons for the accident,

and with the consent of the person interviewed take statements in writing.

(5) Any person authorized to conduct interviews under subsection (4) shall carry with him an identification card issued to him by the employee in charge of the Safety Branch and shall produce it for the inspection of any person who requests to see it.

(6) In the interests of obtaining full and true information concerning an accident, any file, document or paper kept by any person in the Safety Branch that deals with the accident, including all matters incidental thereto, and that has come into existence through anything done under or pursuant to this section

- (a) shall not be disclosed to any person who has not taken the oath pursuant to subsection (10), or
- (b) shall not be used in any court proceedings, or
- (c) shall not be used for any other purpose except the purposes stated in subsection (2).

(7) No person who has taken the oath under subsection (10) shall disclose or be compelled to disclose any information obtained by him in the course of the performance of any duties under this section.

(8) In order to inform the Minister or the public of the nature and cause of accidents, the Safety Branch may publish reports, statistics or other information but no

- (a) report, or
- (b) statistics, or
- (c) other published information,

shall contain particulars which would enable any person to identify the publication as being particulars relating to any particular person or accident unless the previous consent in writing of the person (or if more than one, all of them) has been obtained for release of the information.

(9) Publication of reports under subsection (8) is not a contravention of subsection (6) or (7).

(10) Every employee or any other person employed in or in connection with the Safety Branch, before commencing his duties, shall take the following oath of secrecy :

“I do solemnly swear that I will not, without due authority, disclose or make known any matter or thing that comes to my knowledge by reason of any employment in or by the Transportation Safety Branch.”

(11) Any person or employee engaged in the work of the Safety Branch who contravenes this section is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 or in default of payment to imprisonment for 90 days.

(12) No cause of action lies against any person by reason of the disclosure, for the purposes of this section, of any document or information to a person who has taken an oath pursuant to subsection (10).

(13) Notwithstanding anything in this section, no person shall be compelled to disclose any information if the disclosure will prejudice that person.

15. (1) In this section, “employee” means

- (a) the employee in charge of the Safety Branch established pursuant to section 14, and
- (b) any person authorized in writing by the employee in charge of the Safety Branch to act on his behalf.

(2) Where any motor vehicle is directly or indirectly involved in an accident, the employee may

- (a) request a peace officer to remove or cause to be removed the motor vehicle from the place where the accident occurred, and
- (b) specify to the peace officer the place to which he requires the motor vehicle to be taken,

for the purpose of testing and inspecting the vehicle.

(3) Where

- (a) a motor vehicle is towed and stored at a place agreed upon by both the owner and the employee, the owner shall pay the costs of towing and storage;
- (b) a motor vehicle is towed and stored at a place not agreed to by both the owner and the employee, the Crown shall pay the costs of towing and storage;
- (c) a motor vehicle is towed without the consent of the owner but stored at a place to which he consents, the Crown shall pay the costs of towing and the owner shall pay the costs of storage;

15. Testing and inspection of motor vehicles in accident.

(d) a motor vehicle is towed with the consent of the owner, but is stored at a place without his consent, the owner shall pay the costs of towing and the Crown shall pay the costs of storage.

(4) Upon completion of the inspection and testing, if the owner of the motor vehicle wishes to have repairs carried out at a place other than a place at which the motor vehicle was inspected and tested, the Crown shall pay the reasonable costs of towing to the place specified by the owner.

(5) The employee is entitled to retain the motor vehicle he tests and inspects for 21 days from the date of the accident, but after 21 days he shall upon request of the owner release it to him.

(6) The Minister shall compensate a person who does not have the use of his motor vehicle as a result of the investigation and testing in such amount as he considers just, unless the motor vehicle is irreparable.

(7) Notwithstanding that a motor vehicle has been taken for testing and inspection, the owner or any person authorized by him may enter the premises where it is kept during normal working hours and inspect the motor vehicle.

16. The Minister may authorize persons to conduct surveys on any highway under his direction, control and management and during the course of conducting such a survey the person so authorized may stop motor vehicles for the purpose of questioning the occupants with respect to the survey.

17. The design, construction, alteration, repair and maintenance of a highway, airport, airstrip or railway, for which the Minister is responsible may be done either

- (a) by employees of the Department, or
- (b) by any other persons under contract or commission, where the Minister is of the opinion that
 - (i) from the nature of the work, it can be executed more expeditiously or economically in that manner, or
 - (ii) it is desirable or expedient to do so.

18. (1) The Minister may

- (a) purchase land for an airstrip or airport or the site of any structure incidental thereto, or
- (b) construct, operate and maintain airstrips or airports, or
- (c) control traffic on and regulate the use of airstrips and airports.

16. Stopping of motor vehicles for surveys.

17. Construction, maintenance and repair.

18. Airstrips and airports.

(2) There is no obligation on the Minister to construct or maintain any airport or airstrip for public use.

19. (1) The Minister may enter into a cost-sharing agreement with any person for the construction of any airstrip or other project related to transportation on public lands.

(2) The Minister may require any person desiring to use an airstrip for commercial or industrial purposes to enter into an agreement with the Minister relating to the sharing of the costs of improvements to and maintenance of the airstrip.

20. The member of the Executive Council who, immediately prior to the commencement of this Act, holds office as, and is designated by the Lieutenant Governor as, the Minister of Transportation becomes the Minister of Transportation under this Act without the necessity of a further designation by the Lieutenant Governor, the issue of a new commission or the swearing of another oath of office.

21. A reference to the Minister of Highways or the Minister of Highways and Transport, or to the Deputy Minister of Highways or the Deputy Minister of Highways and Transport, or to the Department of Highways or the Department of Highways and Transport in any statutory provision not amended by this Act or in any order, regulation, rule, by-law, certificate of title, agreement or other instrument shall be deemed to be a reference to the Minister of Transportation, a Deputy Minister for the Department of Transportation designated by the Minister of Transportation or the Department of Transportation, as the case may be.

22. *The words "the Minister of Highways and Transport" are struck out wherever they appear in the following enactments and the words "the Minister of Transportation" are substituted therefor:*

The Drainage Districts Act, section 2, clause 15, subclause (ii), paragraph (B) and clause 17, subclause (ii);

The Hydro and Electric Energy Act, section 1, subsection 1, clause 4, subclause (ii);

The Improvement Districts Act, section 30;

The Land Titles Act, section 31, subsection (5);

The Mines and Minerals Act, section 108, subsection (1);

The Municipal Government Act, section 170, subsection (1), section 174.1, subsection (1), section 175, subsections (1) and (8), section 175.1, subsection (1), clause (b), section 176, subsection

19. Cost-sharing.

20. Transitional provision.

21. References to the Minister, Deputy Minister or Department under a former name will be deemed to be references to them by their new names.

22. Consequential amendments.

(2), clause (b), section 177, subsection (2) and section 189, subsection (1);

The Planning Act, section 33, subsection (4);

The Public Highways Development Act, section 2, clause (1);

The Public Service Vehicles Act, section 2, clause 12;

The Surveys Act, section 2, clause (e);

The Water, Gas, Electric and Telephone Companies Act, section 2, clause (b).

23. *The words "Deputy Minister of Highways and Transport" are struck out wherever they appear in the following enactments and the words "a Deputy Minister for the Department of Transportation designated by the Minister of Transportation" are substituted therefor:*

The Department of the Environment Act, section 10, subsection (1), clause (d);

The Public Highways Development Act, section 9, subsection (1), clause (a).

24. *The words "the Department of Highways and Transport" are struck out wherever they appear in the following enactments and the words "the Department of Transportation" are substituted therefor:*

The Department of the Environment Act, section 11, subsection (2), clause (e);

The Public Highways Development Act, section 2, clause (g);

The Surveys Act, section 2, clause (b) and section 89, subsection (2).

25. *The Alberta Resources Railway Corporation Act is amended as to section 4, subsection (1), clause (a) by striking out the words "the Minister of Industry and Commerce" and by substituting therefor the following words "the Minister of Transportation".*

26. *The Forests Act, 1971 is amended*

(a) *as to section 3 by striking out the words "all inspectors of the Inspection Service Branch of the Department of Highways and Transport" and by substituting therefor the words "all service officers of the Department of Transportation",*

(b) *by adding the following section after section 9:*

9.1 The Minister may construct and maintain forest recreation areas.

(c) *by striking out Part 3, and*

(d) *by striking out section 48.*

23. Consequential amendments.

24. Consequential amendments.

25. Consequential amendment.

26. Consequential amendments.

27. *The Municipal Government Act is amended as to section 170, subsection (1) by striking out the words "The Department of Highways and Transport Act" and by substituting therefor the words "The Department of Transportation Act".*

28. *The Off-highway Vehicle Act is amended as to section 23, clause (j) by striking out the words "the Department of Highways and Transport" and by substituting therefor the words "the Department of Transportation or the Motor Vehicles Branch of the Department of the Solicitor General".*

29. *The Public Highways Development Act is amended by adding the following heading and sections after section 21:*

Forestry Roads

21.1 (1) The Minister may

- (a) by order designate any road or proposed road as a forestry road;
- (b) purchase land for a forestry road or proposed forestry road.

(2) Forestry roads are subject to the direction, management and control of the Minister.

(3) Every road which was designated as a forestry road by the Minister of Lands and Forests prior to the commencement of this section shall for all purposes be deemed to have been designated as a forestry road by the Minister of Transportation under this section.

21.2 (1) The Minister may enter into a cost-sharing agreement with any person for the construction of any forestry road on public land.

(2) The Minister may require any person desiring to use a forestry road for commercial or industrial purposes to enter into an agreement with the Minister relating to the sharing of the costs of improvements and maintenance of the forestry road.

21.3 (1) The Minister may require the owner or operator of any commercial or industrial enterprise which requires the use of a forestry road to deposit with the Minister security in an amount prescribed by the regulations for the repair of damage that may result to the road.

(2) Where a vehicle engaged in any commercial or industrial enterprise in passing over a forestry road damages the road, the Minister may

27. Consequential amendment.

28. Section 23, clause (j) presently reads:

23. The Lieutenant Governor in Council may make regulations

(j) permitting any person to inspect or take copies of or extracts from any writing, paper or document filed with or kept by the Department of Highways and Transport pursuant to this Act or the regulations, and requiring the payment of and setting the amount of fees therefor;

29. Consequential amendments reflecting the transfer of administration of forestry roads from the former Department of Lands and Forests to the Department of Transportation.

- (a) order the owner or operator of the enterprise or the owner or operator of the vehicle to restore the forestry road to a condition acceptable to the Minister,
- (b) in default of restoration, order payment of the cost of restoration and may declare all the security or such part of the security as is equivalent to the cost of restoration, to be forfeited to the Crown, and
- (c) if the security is insufficient, recover the balance of the amount from the owner or operator of the enterprise or the owner or operator of the vehicle as a debt owing to the Crown.

21.4 Where a forestry road is utilized by vehicles serving more than one commercial or industrial enterprise,

- (a) the Minister may assess the owner or operator of each enterprise a damage and maintenance charge in any amount that to the Minister, after hearing and considering any representations of the owner or operator, appears just, and
- (b) the amount assessed shall be paid to the Minister on demand and may be recovered as a debt owing to the Crown.

21.5 Any person using a forestry road in contravention of any regulation or any order of the Minister

- (a) shall pay to the Minister on demand such amount as is equivalent to the cost of restoration if damage has been caused to the road by that use, which amount is recoverable as a debt owing to the Crown, and
- (b) is guilty of an offence and liable on summary conviction to a fine of not more than \$500 and in default of payment to imprisonment for not more than six months.

30. The Trans-Canada Highways Act is amended as to section 4 by striking out the words "Minister of Highways" and by substituting therefor the words "Minister of Transportation".

31. The Department of Highways and Transport Act is hereby repealed.

32. This Act comes into force on the day upon which it is assented to.

30. Consequential amendment.

31. This Bill will repeal chapter 98 of the Revised Statutes of Alberta 1970.