

1975 Bill 67
(Second Session)

First Session, 18th Legislature, 24 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 67

THE AGRICULTURAL SERVICE BOARD AMENDMENT ACT, 1975

HON. MR. DALLAS SCHMIDT

First Reading

Second Reading

Third Reading

Printed by the Queen's Printer for the Province of Alberta, EDMONTON

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(Second Session)

THE AGRICULTURAL SERVICE BOARD AMENDMENT ACT, 1975

(Assented to _____, 1975)

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

1. *The Agricultural Service Board Act is hereby amended.*
2. *Section 4 is struck out and the following is substituted therefor:*
 4. (1) The Minister of Municipal Affairs by order may establish
 - (a) a board for one or more improvement districts or special areas, or
 - (b) one or more boards for an improvement district or special area.
 - (2) A board established under subsection (1) is a corporation consisting of the persons who are members of the board from time to time.
 - (3) In the order establishing the board the Minister of Municipal Affairs shall
 - (a) prescribe the number of members of the board, and
 - (b) where more than one board is established for an improvement district or special area, prescribe the area within the improvement district or special area in which the board has jurisdiction.
 - (4) A board established under this section shall consist of not less than five members or more than seven members.
 - (5) The Minister of Municipal Affairs shall appoint the members of a board established under this section.
 - (6) Subject to subsection (7), the members of a board shall hold office for a term of three years commencing on the first day of January following their appointment to the board.

Explanatory Notes

1. This Bill will amend chapter 7 of the Revised Statutes of Alberta 1970.

2. Section 4 presently reads:

4. (1) The Minister of Municipal Affairs may, for one or more improvement districts or special areas, constitute an agricultural service board which shall be composed of not less than three and not more than seven members who hold office for a period of one year.

(2) The Minister of Municipal Affairs shall as early in the year as possible appoint the members of the board.

(3) Of the members appointed to the board

- (a) one shall be an officer of the Department of Municipal Affairs,
- (b) one shall be an officer of the Department who shall be nominated by the Minister, and
- (c) the remaining member or members, as the case may be, shall be rate-payers of one or more of the improvement districts or special areas, as the case may be, with respect to which the board is constituted.

(7) Where a vacancy occurs in the office of a member before that member's term expires, the Minister of Municipal Affairs may appoint a person as a member of the board for the unexpired portion of that term.

(8) A majority of the members of a board holding office shall constitute a quorum at a meeting of the board.

(9) A person is not eligible to be a member of a board unless

- (a) he resides in the area for which the board is appointed, and
- (b) his name appears on the assessment roll in respect of land that
 - (i) is located in the area for which the board is appointed, and
 - (ii) is liable to assessment and taxation.

(10) In order to assist a board

- (a) the Minister of Municipal Affairs may designate an officer of the Department of Municipal Affairs, and
- (b) the Minister may designate an officer of the Department of Agriculture,

who are entitled to attend and participate in the meetings of the board but not to vote on any matter before the board.

(11) Where a person is designated under subsection (10), clause (a), that person shall act as the secretary to the board.

(12) The Minister of Municipal Affairs may, from taxes levied within the area for which the board is appointed, provide funds to the board in order to enable the board to carry out its functions.

3. Section 7 is amended by striking out subsection (2) and by substituting therefor the following:

(2) In the case of a board established under section 4, the members of the board shall elect from among themselves a chairman and a vice-chairman of the board.

4. Section 17 is amended by adding after subsection (3) the following:

(4) Where a person

- (a) has been sent a notice under this section, and
- (b) fails to attend the hearing referred to in the notice, the hearing may proceed in that person's absence.

3. Section 7 presently reads:

7. (1) In the case of a board constituted for a municipal district the council shall name the chairman of the board who shall be one of the members representing the council on the board, and the council shall provide a secretary.

(2) In the case of a board constituted for an improvement district or special area, the Minister of Municipal Affairs shall name the chairman of the board and the secretary shall be a member of the board representing the Department of Municipal Affairs.

4. Section 17 presently reads:

17. (1) Before making a declaration under section 16, subsection (2) or a by-law or order under section 19, subsection (2), the council or the Minister of Municipal Affairs, as the case may be, shall fix a date for a hearing to consider the report or recommendation of the board.

(2) A notice of the hearing shall be sent by registered mail at least fifteen days prior to the date of the hearing to all persons shown by the records of the land titles office to have an interest in the land, at the latest address of such persons on file at the land titles office.

(3) The notice shall state the time and place of the hearing and shall state that all persons having an interest in the land may appear and be heard at the hearing either in person or by an agent.

5. Section 19 is amended by striking out subsection (4) and by substituting therefor the following:

- (4) The Registrar of Land Titles shall
 - (a) make a memorandum of the notice upon the certificate of title of the land affected by the order, and
 - (b) forward notice of that memorandum by registered mail to all registered owners, caveators and mortgagees of that land at the addresses appearing on the register.

6. The following sections are added after section 19:

19.1 The Minister of Municipal Affairs, a council or a board shall not perform any work on the land pursuant to a declaration or order made or by-laws passed under section 16 or 19, as the case may be, until not less than 30 days have transpired from the date that a certified copy of the declaration, order or by-law has been served

- (a) upon the registered owner of the land
 - (i) by means of personal service, or
 - (ii) by sending it by registered mail to his latest address on file at the land titles office,and
- (b) upon all other persons shown on the records of the land titles office to have an interest in land
 - (i) by means of personal service, or
 - (ii) by sending it by registered mail to those persons at their latest address on file at the land titles office.

19.2 (1) Any person affected by

- (a) a declaration made under section 16, or
 - (b) an order made or by-law passed under section 19,
- may, by way of an originating notice, appeal the declaration, order or by-law to the District Court.

(2) An appeal under subsection (1) may be brought at any time during which the declaration, order or by-law is in force.

(3) Upon an appeal being commenced under this section, the Minister of Municipal Affairs, a council or a board shall not begin any work or continue with any work on the land pursuant to the declaration, order or by-law, as the case may be, until the judgment confirming that declaration, order or by-law has become final by reason of lapse of time or of having been confirmed by the highest court to which an appeal may be taken.

5. Section 19 (4) presently reads:

(4) The Registrar of Land Titles shall make a memorandum of the notice upon the certificate of title of the land affected by the order.

6. Service of documents (section 19.1) and right of appeal (section 19.2).

(4) Where

- (a) an appeal of a declaration, order or by-law is commenced 30 days after that declaration, order or by-law has been served under section 19.1, and
- (b) work has been performed upon the land pursuant to the declaration, order or by-law,

the cost of that work shall be borne by the person commencing the appeal and, if that person is the registered owner of the land or is the person who is in possession or occupation of the land, the amount of those costs remaining unpaid shall be

- (c) added to the taxes against the land, and
- (d) deemed to be taxes for the purpose of proceedings for recovery under *The Tax Recovery Act*.

7. *Section 20 is amended by adding after subsection (2) the following:*

(3) Where an order made or by-law passed under section 19, subsection (2) is not rescinded under subsection (1), it shall lapse on the first day of March in the third year following the year in which the order was made or the by-law was passed.

8. *The following section is added after section 20:*

20.1 (1) Notwithstanding section 16 or 19, where the Minister of Municipal Affairs or the council is of the opinion that land in a municipality included in the area with respect to which a board has been appointed

- (a) is impoverished or in the process of becoming impoverished through
 - (i) weed infestation, or
 - (ii) wind or water erosion, or
 - (iii) any other cause that has seriously affected or that may seriously affect the productivity of the land or the welfare of the owner or occupant of the land,

and

- (b) has become a menace to the community or may become a menace to the community unless immediate remedial action is taken,

the Minister of Municipal Affairs or the council may apply to the District Court by way of an originating notice for an order permitting the board to

- (c) enter upon the land described in the order, and
- (d) take such necessary remedial action as the Court considers proper,

in order to ensure that the land does not remain or become a menace to the community.

7. Section 20 presently reads:

20. (1) Where in the opinion of the board the land has been rehabilitated and reclaimed sufficiently to justify its return to the person who but for the by-law or order mentioned in section 19, subsection (2) would be entitled thereto, the council or the Minister of Municipal Affairs, as the case may be, on the recommendation of the board

(a) shall rescind the by-law or order, and

(b) shall forthwith forward to the proper Registrar of Land Titles a notice in Form B in the Schedule.

(2) The Registrar of Land Titles shall

(a) cancel the memorandum previously noted upon the certificate of title in so far as it effects the land described in the notice, and

(b) forward notice of such cancellation by registered mail to all registered owners, caveators and mortgagees of the land at their addresses appearing on the register.

8. Order of the court permitting remedial action.

(2) An application under subsection (1) may be made upon two days' notice to the registered owner of the land and any other person who is in possession or occupation of the land or, where the Court is satisfied that it is in the public interest to do so, the application may be made ex parte.

(3) Where an order is made pursuant to an ex parte application, any person affected by that order may, upon two days' notice to the Minister of Municipal Affairs or the council, as the case may be, apply to the Court to have the order varied or set aside and upon hearing the matter the court may refuse the application or vary or set aside the order upon such terms and conditions as the Court considers proper.

(4) An order made under this section lapses 30 days from the date that the order is made.

(5) The cost of carrying out remedial action on the land pursuant to an order under this section shall be

- (a) added to the taxes against the land, and
- (b) deemed to be taxes for the purpose of proceedings for recovery under *The Tax Recovery Act*.

9. The following section is added after section 23:

24. Where a person refuses to comply with the provisions of an order made or by-law passed under section 19, the Minister or council, as the case may be, may apply to the District Court by way of originating notice for an order

- (a) requiring that person to comply with the provisions of that order or by-law, and
- (b) restraining that person from interfering with or obstructing any person from carrying out any duties or functions under that order or by-law.

10. A person who is a member of a board at the time this Act comes into force shall continue to be a member of that board for a term expiring on the first day of January, 1978.

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

9. Self-explanatory.

10. Transitional provision.