

1976 Bill 45

Second Session, 18th Legislature, 25 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 45

THE GROUND WATER CONTROL AMENDMENT ACT, 1976

MR. THOMPSON

First Reading

Second Reading

Third Reading

BILL 45

1976

THE GROUND WATER CONTROL AMENDMENT ACT, 1976

(Assented to _____, 1976)

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

1. *The Ground Water Control Act is hereby amended.*
2. *Section 2 is struck out and the following is substituted:*
 2. In this Act,
 - (a) "Controller" means the Controller of Water Resources;
 - (b) "Department" means the Department of the public service of Alberta over which the Minister presides;
 - (c) "driller" means
 - (i) a person who is engaged or authorized by the licensee to undertake, or
 - (ii) a licensee who personally undertakes, any drilling operation at a well or any operation preparatory or incidental to the drilling of a well or the reconditioning or abandonment of a well;
 - (d) "drilling" means the drilling, boring, driving or jetting of a well;
 - (e) "drilling machine" means a machine, together with attachments, that is designed to be used or is used to drill a well;
 - (f) "ground water" means all water that exists beneath the land surface;
 - (g) "licence" means a licence issued under this Act to drill wells;
 - (h) "licensee" means a person who is the holder of a licence;
 - (i) "Minister" means the member of the Executive Council charged with the administration of *The Water Resources Act*;

Explanatory Notes

1. This Bill will amend chapter 162 of the Revised Statutes of Alberta 1970.

2. Definitions. Section 2 presently reads:

2. In this Act,

- (a) "bore" means to bore, drill or dig into the ground;
- (b) "Department" means the Department of the Government over which the Minister presides;
- (c) "Director" means the Controller of Water Resources designated pursuant to The Water Resources Act;
- (d) "ground water" means all waters that exist beneath the land surface;
- (e) "Minister" means the Minister in charge of the administration of The Water Resources Act;
- (f) "operator" means a person who engages in boring operations at a well or undertakes any operation preparatory or incidental to the boring of a well or the reconditioning or abandonment of a well;
- (g) "owner" includes a person
 - (i) who is in possession of land, or
 - (ii) who has the right to the immediate possession of land, as a lessee, sub-lessee or purchaser under an agreement for sale or as a licensee;
- (h) "regulations" means the regulations made pursuant to this Act;
- (i) "well" means a shaft made by boring, drilling or digging into the ground, and
 - (i) by means of which ground water is obtained, or
 - (ii) which is made for the purpose of obtaining ground water.

- (j) "owner" means
 - (i) a person registered in a land titles office as the owner of an estate in fee simple or a life estate in land,
 - (ii) a purchaser of land whose interest as a purchaser is shown on the certificate of title to that land, and
 - (iii) a tenant or any other person who is in lawful possession or occupation of land;
- (k) "permit" means a permit issued under this Act to operate a drilling machine;
- (l) "well" means an orifice in the ground completed being drilled or being used
 - (i) for the production of ground water for any purpose referred to in *The Water Resources Act*, or
 - (ii) for the purpose of obtaining data on ground water, or
 - (iii) for recharging with water an underground formation from which ground water can be recovered.

3. Section 4 is struck out and the following sections are substituted

4. No person shall drill a well unless

- (a) he is the holder of a subsisting licence and drills the well with a drilling machine in respect of which a permit has been issued, or
- (b) he is the owner of the land on which the well is to be located and he drills the well with a drilling machine owned by him.

4.1 (1) The Controller may issue a licence to an applicant to drill wells.

(2) A licence is valid for a term of one year from its date of issue or such longer term as may be prescribed by the Controller on the licence.

(3) A licence may be renewed for further periods not exceeding one year each.

(4) A licence is subject to such terms and conditions as may be prescribed thereon pursuant to the regulations or, in the absence of regulations, by the Controller.

(5) A licence is not transferable.

4.2 (1) The Controller may issue a permit for each ground water well drilling machine owned by a licensee.

3. The new sections 4 to 4.5 incorporate requirements and procedures for annual licences to drill wells, and for permits for drilling equipment. Power is given to suspend or cancel licences. A procedure for the review of a refusal to issue licences or permits and for a suspension or cancellation of licences is provided. Section presently reads:

4. No person shall commence a well on lands of which he is not the owner unless he is the holder of a subsisting annual permit from the Director entitling him to bore a well thereon.

(2) A permit is valid for a term of one year from its date of issue or such longer term as may be prescribed by the Controller on the permit.

(3) A permit may be renewed for further periods not exceeding one year each.

(4) A permit is subject to such terms and conditions as may be prescribed thereon pursuant to the regulations or, in the absence of regulations, by the Controller.

(5) A permit is not transferable.

4.3 (1) A licensee shall produce his licence upon demand being made therefor at his normal place of business by a peace officer, the Controller or an authorized representative of the Controller.

(2) The holder of a permit shall keep the permit with the drilling machine to which it relates.

(3) The driller shall produce the permit for a drilling machine being used by him upon demand being made therefor at the well site by a peace officer, the Controller or an authorized representative of the Controller.

4.4 Where the Controller is of the opinion, based upon such evidence as he considers adequate, that a licensee is failing or has failed to comply with any term or condition of his licence, or is contravening or has contravened any provision of this Act or the regulations, he may, by order in writing served on the licensee, suspend or cancel the licence.

4.5 (1) Where the Controller has

(a) refused to issue a licence or permit to an applicant therefor, or

(b) suspended or cancelled a licence,

the applicant or the person whose licence has been suspended or cancelled may apply to the Minister for a review of the refusal or suspension or cancellation.

(2) Where the Minister receives a request for a review pursuant to subsection (1) he shall

(a) appoint one or more persons as a board of review,

(b) fix the rate of remuneration and provide for payment of travelling and other expenses to members of the board of review, and

(c) prescribe the time within which the board shall hold a hearing and render a decision.

(3) Upon concluding its hearing under subsection (2), the board of review may

- (a) in the case of a refusal to issue a licence or permit,
 - (i) uphold the refusal, or
 - (ii) direct the Controller to issue the licence or permit, and
- (b) in the case of a cancellation or suspension of a licence,
 - (i) revoke the suspension, or
 - (ii) vary the suspension to such period as they may direct, or
 - (iii) reinstate the licence.

4. Section 5 is struck out and the following section is substituted:

5. (1) The Controller, an authorized representative of the Controller or an employee of the Department may enter upon any land in Alberta and is entitled to access to all wells and all records, plant and equipment relating thereto.

(2) Every driller and owner of a well shall permit the Controller, an authorized representative of the Controller or an employee of the Department

- (a) to inspect the operations of a well,
- (b) to inspect the records of the operations and inspect the plant and equipment, and
- (c) to take samples or carry out any test or examination that is directed by that person.

5. Section 6 is amended

(a) by striking out subsection (1) and by substituting the following subsection:

6. (1) If at any time a flow of water from a well is not controlled, the Controller, an authorized representative of the Controller or an employee of the Department may enter upon the lands from which the water is flowing and conduct such operations to control the flow of water as appear to him to be necessary or expedient in the public interest.

(b) as to subsections (2) and (3) by striking out the word "Minister" and by substituting the word "Controller",

(c) by adding the following subsection after subsection (3):

(4) Notwithstanding subsections (2) and (3), the Minister may in his discretion pay all or part of the costs of or incidental to anything done under subsection (1).

4. These amendments substitute "Controller" for Director and separate the present section into two subsections for easier reading. Section 5 presently reads:

5. The Director or any agent or employee of the Director may enter upon any land in the Province, and has access to all wells, records, plant and equipment, and every operator and owner of a well shall permit the Director, his agent or employee

- (a) to inspect the operations of a well,
- (b) to inspect the records of the operations and inspect the plant and equipment, and
- (c) to take samples or carry out any test or examination that the Director, his agent or employee desires to make.

5. The section is amended to conform with the amendments in sections 5 and 8 and to enable the Government to pay for water well control in cases where the person who would otherwise be responsible does not have the means, or cannot be found. Section presently reads:

6. (1) If at any time a flow of water from a well is not controlled, the Director or his agents or employees, with the approval of the Minister, may enter upon the lands from which the water is flowing and conduct such operations to control the flow of water as appear to the Director to be necessary or expedient in the public interest.

(2) When any operations are conducted under subsection (1), the Minister may determine

- (a) the cost of the operations to control the flow of water,
- (b) the person or persons who are responsible for the flow of water, and
- (c) the person or persons who are liable for the costs of the operation to control the flow of water.

(3) The person or persons determined by the Minister to be responsible for the costs of the operations to control the flow of water shall pay the costs to the Minister and in default of payment the costs may be recovered in any court of competent jurisdiction.

6. Section 7 is amended by adding after the word "times" the words "and the driller during the drilling of a well".

7. Section 8 is struck out and the following section is substituted:

8. No action or proceeding lies against the Controller, his authorized representative or an employee of the Department for any matter or thing done by them in pursuance of or in purported pursuance of any of the provisions of this Act or the regulations.

8. Section 9 is struck out and the following section is substituted:

9. A person who contravenes a provision of this Act or of the regulations is guilty of an offence and liable on summary conviction

- (a) to a fine of not more than \$500, or
- (b) where the offence continues for more than one day, to a fine of not more than \$500 for each day that the offence continues.

9. Section 10 is struck out and the following section is substituted:

10. The Lieutenant Governor in Council may make regulations

- (a) respecting the methods of drilling wells and of determining and developing sources of ground water and the precautions and measures to be taken before a well is commenced and during the drilling and development of a well;
- (b) prescribing the qualifications for drillers and for applicants for licences or permits, the information to be included in the application, the procedure to be followed by applicants, and the terms and conditions to be prescribed on licences and permits;
- (c) requiring licensees to deposit with the Provincial Treasurer money or such other security as may be required to guarantee the proper drilling, controlling, completion, suspension or abandonment of wells and governing the return in whole or in part or the forfeiture of that money or other security;
- (d) requiring and governing the taking of samples, tests, analyses, surveys and logs and the submission of samples, test results, analyses, surveys, logs and other well data to the Controller;

6. This section broadens responsibility for a well to include the driller during drilling operations. Section 7 presently reads:

7. The owner of a well at all times shall take such precautions as are necessary for the safety of persons, livestock and other property and for the prevention of damage by reason of the presence or escape of water.

7. This amendment changes the reference to Director and amends the wording consistent with preceeding amendments. Section 8 presently reads:

8. No action or proceeding lies against the Director or his agents or employees for any matter or thing done by them in pursuance of or in purported pursuance of any of the provisions of this Act or the regulations.

8. Section 9 presently reads:

9. A person who violates a provision of this Act or of the regulations or an order of the Minister is guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars for each offence.

9. Regulatory powers are extended to provide better control over drilling and to obtain complete data on ground water wells. Section 10 presently reads:

10. The Lieutenant Governor in Council may make regulations

- (a) respecting the methods of boring wells and of determining and developing sources of ground water and the precautions and measures to be taken during boring and development operations of wells,
- (b) prescribing the procedure and the conditions under which an operator can obtain a permit, the fee to be paid and the information to be supplied by an applicant for a permit,
- (c) requiring the furnishing of reports, returns, geological and other information and specimens and samples,
- (d) requiring the provision of proper anchorage, casing and cementation of well casings,
- (e) prescribing the specifications of casing and other materials in wells,
- (f) requiring the reporting of dry or insufficiently productive wells,
- (g) prescribing the abandonment of wells and the methods and requirements to be observed in abandonment operations,
- (h) respecting the control and utilization of the flow of water from a well or other source of ground water, and
- (i) respecting
 - (i) any other matter incidental to the conservation, development and control of ground water, and
 - (ii) the boring and management of wells and production therefrom.

- (e) prescribing the records to be kept, the form thereof, the person by whom and the place at which they are to be kept, the length of time they are to be kept and requiring their submission to the Controller or providing for their inspection by him;
- (f) prescribing the reports to be made, the person required to make them, the person to whom they are to be made, the time for making them and their contents;
- (g) specifying which records, reports and information submitted to or required by the Controller under this Act or the regulations shall be confidential and the conditions under which their contents may be disclosed;
- (h) governing official well names and their registration;
- (i) requiring that written notification shall be sent to the Controller before the drilling of any well or class of well is commenced;
- (j) establishing a schedule of fees
 - (i) for applications under this Act or the regulations,
 - (ii) for any maps, reports, documents or other records in the custody of the Controller, and
 - (iii) for any other services provided by the Controller;
- (k) prescribing forms to be used under this Act or the regulations;
- (l) prescribing the casing, anchorage, equipment, materials and installations to be used in the drilling, completion, operation, reconditioning, and production of wells;
- (m) prohibiting drilling through water, oil, gas, coal or other minerals unless adequate measures are taken to confine the water, oil, gas or other mineral to its original stratum and to protect such stratum or any coal seam or other mineral deposit or any workings therein from infiltration, inundation, migration or injury, and prescribing the nature and extent of such measures;
- (n) governing the abandonment of wells and the methods and requirements to be observed in abandonment operations;
- (o) governing the control and utilization of the flow of water from a well or other source of ground water.

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