

1977 BILL 46

Third Session, 18th Legislature, 26 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 46

THE BANFF CENTRE ACT

MR. KIDD

First Reading

Second Reading

Third Reading

Bill 46
Mr. Kidd

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1977

THE BANFF CENTRE ACT

(Assented to _____, 1977)

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

1. In this Act,

- (a) "Banff Centre" means the Banff Centre for the Fine and Performing Arts;
- (b) "board" means The Governors of the Banff Centre for the Fine and Performing Arts;
- (c) "director" means the director of the Banff Centre appointed under section 19;
- (d) "federal Minister" means the Minister of the Crown in right of Canada charged with the administration of the *National Parks Act* (Canada);
- (e) "Minister" means the Minister of Advanced Education and Manpower.

2. *The Regulations Act* does not apply to any order, regulation, rule, by-law or resolution made, approved or passed under the authority of this Act.

3. The Banff School of Fine Arts is hereby continued under the name "The Banff Centre for the Fine and Performing Arts".

4. (1) There is hereby incorporated a board of governors for the Banff Centre with the name "The Governors of the Banff Centre for the Fine and Performing Arts".

(2) The board shall consist of

- (a) the director, and

Explanatory Notes

GENERAL. This Act will remove the Banff Centre from the trusteeship of the University of Calgary and make the institution independent and self-governing.

1. Definitions.

2. The Regulations Act does not apply.

3. Banff Centre established.

4. Incorporation and organization of Board of Governors.

- (b) eight members appointed by the Lieutenant Governor in Council one of whom shall be nominated by the federal Minister.
- (3) No person is eligible for appointment to the board unless he is a Canadian citizen or has been lawfully admitted to Canada for permanent residence.
- (4) The members appointed by the Lieutenant Governor in Council shall be appointed to hold office for terms of not more than three years.
- (5) A member appointed by the Lieutenant Governor in Council is eligible for re-appointment for a second term of not more than three years but not for a further term until the expiration of a period of three years after his second term has expired.
- (6) A member of the board, other than the director, continues to hold office after the expiry of his term of office until his successor is appointed.
- (7) Where a member of the board, other than the director, is absent without the permission of the board from three consecutive meetings of the board, his office thereupon becomes vacant.
- (8) Where a vacancy occurs on the board, the Lieutenant Governor in Council may appoint a person as a member of the board to serve the balance of the unexpired term of office of the former member.
- (9) Where a member is appointed to serve the balance of an unexpired term under subsection (8) that service is not considered a term for the purposes of subsection (5).
- (10) A member may resign by giving written notice of his resignation to the chairman.
- (11) The members of the board shall be paid by the board their reasonable travelling and other expenses while absent from their ordinary place of residence or employment and in the course of their duties as members of the board.

5. (1) The Lieutenant Governor in Council shall designate one of the members of the board other than the director to be chairman and that member shall hold office as chairman for a term of not more than three years and is eligible for re-appointment.

(2) The chairman continues to hold office after the expiry of his term until his successor is appointed.

5. Chairman.

(3) Where the chairman is absent at a meeting of the board, the members present may elect one of their number to preside at that meeting.

6. (1) The Provincial Auditor is the auditor of the board unless the Lieutenant Governor in Council appoints some other person as the board's auditor or authorizes the board to appoint an accountant or a firm of accountants as its auditor.

(2) The auditor of the board shall audit the accounts and financial transactions of the board at least once a year and shall report thereon to the board.

7. (1) The board shall, after the end of each fiscal year of the board, prepare a report showing the revenues and expenditures during the preceding fiscal year, together with a full and complete statement of assets, liabilities, reserve funds and investments of the board, and an audited balance sheet of its financial transactions during that period, together with such other information as the Minister may require.

(2) The board's annual report shall be transmitted to the Minister forthwith after its completion.

(3) The fiscal year of the board shall be determined by the Minister.

8. Subject to sections 10 and 17, the board is responsible for the management and control of the Banff Centre and of the property, revenues, business and affairs thereof.

9. The board may pass by-laws regulating the exercise of its powers and the calling and conduct of its meetings, including the determination of the quorum necessary for the transaction of its business.

10. (1) The board shall on or before the date prescribed by the Minister present its annual proposals for capital expenditures and its annual operating budget for the approval of the Minister.

(2) The board shall not incur any liability or make any expenditure for the purchase of land or the erection of buildings or for any other purpose

(a) unless the liability or expenditure can be provided for out of the annual income of the year or out of other money available for that purpose, or

(b) unless the liability or expenditure is approved by the Minister.

6. Audit.

7. Annual report and fiscal year.

8. Powers of the board.

9. By-laws.

10. Approval of certain expenditures by the Minister.

(3) The Minister shall from time to time review, approve, amend or disapprove requests of the board with respect to expenditures for

- (a) new buildings,
- (b) major alterations or additions to existing buildings,
- (c) the leasing of buildings,
- (d) major alterations to leased buildings,
- (e) the acquisition of land,
- (f) the furnishing and equipping of buildings whether owned or leased,
- (g) landscaping, paving and the provision of utilities services, and
- (h) other facilities of a capital nature.

(4) The board may with the approval of the Minister prescribe the rates of tuition fees to be paid by students enrolled at the Banff Centre.

11. (1) The board may borrow from any bank or treasury branch or from any other person such sum of money as required to meet the expenses of the board, until such time as the revenues for the current year are available.

(2) Any borrowings made pursuant to subsection (1) shall be repaid out of and are a first charge upon the revenues of the current year, and may be secured by a promissory note or note given on behalf of the board in such manner as the board may arrange.

(3) Subject to the approval of the Minister, the board may for the purposes of the Banff Centre borrow by way of temporary loans from any bank or treasury branch or from any other person such sums of money and upon such terms as the board determines by way of an overdraft or line of credit or by the pledging as security for such temporary loans of notes, bonds, debentures or other securities of the board pending the sale thereof or in lieu of selling them, or in such other manner as the board determines.

(4) Any cheques, promissory notes or other instruments that may be necessary or desirable in connection with the borrowing of money and the obtaining of advances by way of a temporary loan under subsection (3) may be executed in such manner as the board determines.

11. Borrowing Powers.

12. (1) Subject to the approval of the Lieutenant Governor in Council, the board, for the purposes of the Banff Centre, may from time to time borrow such sums of money as the board may require and may from time to time issue notes, bonds, debentures or other securities which

- (a) shall bear interest at such rate or rates as may be determined by the board,
- (b) shall be in such denomination or denominations as may be determined by the board,
- (c) shall be payable as to principal and interest
 - (i) in such currency or currencies of such country or countries,
 - (ii) at such place or places,
 - (iii) at such time or times, and
 - (iv) in such manner,as may be determined by the board,
- (d) may be made redeemable in whole or in part in advance of maturity
 - (i) at such time or times,
 - (ii) on such terms, and
 - (iii) at such price or prices, either with or without premium,as may be determined by the board, and
- (e) may be issued in such amounts as will realize the net sum required by the board for the purposes of the Banff Centre.

(2) Where the authorizing resolution of the board made under subsection (1) contains a recital or declaration that the amount of the notes, bonds, debentures or other securities authorized by the resolution is necessary to realize the net sum required for the purposes of the Banff Centre, the recital or declaration is conclusive proof of the facts stated therein.

(3) Subject to the approval of the Lieutenant Governor in Council, the board may sell or otherwise dispose of any notes, bonds, debentures or other securities on such terms and conditions as it considers advisable, either at the par value thereof or at less or more than the par value thereof, and may charge, pledge, hypothecate, deposit or deal with any such securities as collateral security.

2. Debenture borrowing.

(4) Any notes, bonds, debentures or other securities and the coupons, if any, attached thereto, shall be in such form and shall be executed in such manner and by such persons as may be determined by the board.

(5) In section 11 and this section, "purposes of the Banff Centre" includes

- (a) acquiring any real property;
- (b) erecting, repairing, adding to, furnishing or equipping any building;
- (c) the repayment or refunding from time to time of the whole or any part of any borrowings made by the board;
- (d) the payment of any other liability or indebtedness of the board;
- (e) the carrying out of any of the powers and duties of the board.

13. (1) The principal and interest of any borrowings by or notes, bonds, debentures and other securities issued by the board may be guaranteed by the Government of Alberta.

(2) The guarantee, in such form and manner as the Lieutenant Governor in Council may approve, may be endorsed upon any notes, bonds, debentures or other securities issued by the board and may be signed on behalf of the Government of Alberta by the Provincial Treasurer, the Deputy Provincial Treasurer or by such other person as the Provincial Treasurer may designate.

(3) The signature of the Provincial Treasurer, the Deputy Provincial Treasurer or the person designated by the Provincial Treasurer, upon the guarantee is conclusive proof that the relevant provisions of this Act have been complied with.

(4) Where in respect of any notes, bonds, debentures or other securities issued by the board it becomes necessary or desirable under the terms of any guarantee given on behalf of the Government of Alberta to make payment under the guarantee, such payment may be made upon the order of the Lieutenant Governor in Council

- (a) out of the General Revenue Fund, without further appropriation, or
- (b) from the proceeds of any loan made under *The Financial Administration Act* or the sale of securities owned by the Government.

13. Provincial guarantee of debentures.

14. (1) The seal of the board on any notes, bonds, debentures or other securities of the board and the signatures of

- (a) any person authorized by the board to execute the notes, bonds, debentures or other securities or any coupon attached thereto, or
- (b) the Provincial Treasurer, the Deputy Provincial Treasurer or the person designated by the Provincial Treasurer to sign a guarantee that is endorsed on the notes, bonds, debentures or other securities,

may be engraved, lithographed, printed or otherwise reproduced on the notes, bonds, debentures or other securities of the board or on the guarantee endorsed thereon, as the case may be.

(2) The reproduced signature of any person referred to in subsection (1) is for all purposes deemed to be the signature of that person and is binding on the board and the Government of Alberta notwithstanding that the person whose signature is reproduced did not hold office at the date of the notes, bonds, debentures or other securities or at the date of delivery thereof.

15. Subject to the approval of the Lieutenant Governor in Council, the board may provide for the creation, management and application of sinking funds or other means of securing the repayment of any loan raised or notes, bonds, debentures or other securities issued by the board, including the redemption by call of any such securities issued subject to redemption in advance of maturity.

16. The funds of the board not immediately required for its purposes and the proceeds of all property that comes into the hands of the board, subject to the terms of any trust or trusts affecting them, may be invested by the board in any investment authorized under section 5 of *The Trustee Act*.

17. The Minister may

- (a) require the board to submit to him such reports and other information as he requires, and
- (b) regulate or prohibit
 - (i) the extension, expansion or establishment of any service, facility or program of study by the board so as to reduce or avoid an undesirable or unnecessary duplication of a similar service, facility or program of study already provided elsewhere, and
 - (ii) the establishment of a new school or faculty by the board.

14. Signatures on debentures.

15. Sinking funds.

16. Investments.

17. Powers of the Minister.

18. The Minister may in writing delegate to any person or body of persons any of the powers, duties and functions conferred or imposed on him by this Act.

19. (1) The board shall appoint a director who shall have such powers, duties and functions as may be conferred or imposed on him by the board and shall receive a salary at the rate prescribed by the board.

(2) The director, unless otherwise agreed by the board, shall hold office during the pleasure of the board.

20. (1) The board

(a) may appoint such officers and employees as the board considers necessary, and

(b) shall fix the salaries or remuneration of the employees and define their duties.

(2) The appointment of an employee of the board is during the pleasure of the board, unless otherwise agreed by the employee and the board.

21. (1) In this section and in section 23, "council" means the Council of The Banff School of Fine Arts and Centre for Continuing Education.

(2) Upon the commencement of this section,

(a) the rights, property, liabilities and obligations of the Banff Foundation, the council and The Governors of The University of Calgary in respect of the Banff School of Fine Arts become the rights, property, liabilities and obligations of the board;

(b) the persons employed by the council immediately prior to the commencement of this section become employees of the board with the same rates of salary and on the same terms of employment;

(c) any reference in any certificate of title, lease, contract, instrument or other document to the Banff Foundation, the council or The Governors of The University of Calgary to the extent that it relates to the rights, property, liabilities, obligations or employees mentioned in clauses (a) and (b) respectively, shall be deemed to be a reference to the board;

(d) any reference in any contract, instrument or other document to a specified officer of the Banff Foundation, the council or The Governors of The University of

18. Delegation by Minister.

19. Director.

20. Officers and employees.

21. Transitional. Assets, liabilities and employees of the Banff School of Fine Arts and the Banff Foundation.

Calgary, to the extent that it is related to the rights, property, liabilities, obligations or employees mentioned in clauses (a) and (b) respectively, shall be deemed to be a reference to the director, unless the by-laws of the board provide otherwise;

- (e) the persons holding office as members of the council become the board of governors for the Banff Centre for the time being until the first board is appointed under section 4.

(3) Subsection (2), clause (e) does not apply where the Lieutenant Governor in Council appoints the first board of governors for the Banff Centre under section 4 before the commencement of this section.

(4) The arrangements in existence at the commencement of this section between the council and The Governors of The University of Calgary respecting pensions, health plans and insurance for certain officers and employees of the council shall remain in effect and be continued unless and until the board makes similar or other arrangements.

22. The Lieutenant Governor in Council may make any order he considers necessary for the purpose of facilitating any transfer or other transitional matter involved in the operation of section 21 or for the purpose of remedying any hardship or difficulty arising from the operation of that section.

23. Legal proceedings commenced or that could have been commenced by or against the council at the commencement of this section may be continued or commenced by or against the board.

24. Notwithstanding the provisions of any other Act, wherever the names "The Banff Foundation" or "Banff School of Fine Arts" or any words apparently intended to refer to The Banff Foundation or the Banff School of Fine Arts appear as devisee or beneficiary in any will, that will shall be read, construed and enforced as if the board were the devisee or beneficiary named therein.

25. *The Universities Act is amended*

- (a) *as to section 4 by striking out subsection (1) and by substituting the following subsection:*

4. (1) The provincial universities heretofore established under the names "The University of Alberta" and "The University of Calgary" are hereby continued.

22. Remedial Orders.

23. Transitional. Legal Proceedings.

24. Consequential. Wills which refer to the Banff School of Fine Arts.

25. Consequential. Amends chapter 378 of the Revised Statutes of Alberta 1970. Sections 4, subsection (1) and section 57, subsection (3) of The Universities Act presently read as follows:

4. (1) The Provincial university heretofore established under the name of the University of Alberta is hereby continued as a Provincial university with the name "The University of Alberta" but, except as provided in section 57, it shall not include the Provincial university facilities, operations and functions at Calgary or

(b) *as to section 57, subsection (3), by striking out the words “, apply or apportion the property to the Provincial university operations at Edmonton, Calgary, Banff or elsewhere” and by substituting the words “and The Board of Governors of the Banff Centre for the Fine and Performing Arts, apply or apportion the property to the Provincial university operations at Edmonton, Calgary or elsewhere or to the operations of the Banff Centre for the Fine and Performing Arts”, and*

(c) *by striking out sections 77, 78 and 80.*

26. *The Banff Foundation Act* is repealed.

27. This Act comes into force on a date to be fixed by Proclamation.

Banff which, subject to section 77, are hereby constituted a separate Provincial university with the name "The University of Calgary".

57. (3) The Governors of The University of Alberta shall administer the trust property in accordance with the terms and intent of the trusts upon which the property was given, granted, devised or bequeathed and shall, after consultation with The Governors of The University of Calgary, apply or apportion the property to the Provincial university operations at Edmonton, Calgary, Banff or elsewhere as The Governors of The University of Alberta, subject to the terms and intent of the trust, considers proper.

Removes sections 77, 78 and 80 of The Universities Act which presently govern the Banff School of Fine Arts.

26. Consequential. Repeals chapter 22 of the Statutes of Alberta, 1947.