

1981 BILL 27

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 27

THE PIPELINE AMENDMENT ACT, 1981

MR. PAHL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 27
Mr. Pahl

BILL 27

1981

THE PIPELINE AMENDMENT ACT, 1981

(Assented to _____, 1981)

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

1 *The Pipeline Act, 1975 is amended by this Act.*

2 *Section 1(1) is amended*

(a) *by adding the following after clause 1:*

1.1 "controlled area" means a strip of land on each side of a pipeline within the distance or distances from the pipeline prescribed in the regulations and, without limitation, includes land that comprises the right of way held for the construction of a pipeline or for or incidental to the operation of a pipeline under

(i) a lease, easement, consent or other agreement,

(ii) a right of entry order as defined in *The Surface Rights Act*, or

(iii) a certificate of approval obtained for the purposes of a pipeline under *The Expropriation Act* before January 1, 1977;

(b) *by adding the following after clause 8:*

8.1 "ground disturbance" means any work, operation or activity that results in a disturbance of the earth including, without limitation, excavating, digging, trenching, plowing, drilling, tunnelling, augering, backfilling, blasting, topsoil stripping, land levelling, peat removing, quarrying, clearing and grading, but does not include,

Explanatory Notes

1 This Bill will amend chapter 30 of the Statutes of Alberta, 1975 (Second Session).

2 New definitions.

(i) except as otherwise provided in subclause (ii), a disturbance of the earth to a depth of less than 30 centimetres that does not result in a reduction of the earth cover over the pipeline to a depth that is less than the cover provided when the pipeline was installed,

(ii) cultivation to a depth of less than 45 centimetres below the surface of the ground, or

(iii) any work, operation or activity that is designated in the regulations not to be a ground disturbance;

3 *Section 3(1) is amended*

(a) *by adding the following after clause 3:*

3.1 authorizing the Board to require the upgrading of pipelines, portions of pipelines, types of pipelines or portions of types of pipelines and respecting standards for such upgrading;

3.2 authorizing the Board to exempt a permittee or licensee of a pipeline from the requirement of upgrading the pipeline or a portion of the pipeline or from a standard of upgrading specified in the regulations;

3.3 prescribing the distance or distances from a pipeline or category of pipeline that establishes the boundary of the controlled area for that pipeline or category of pipeline;

3.4 designating any work, operation or activity that is not a ground disturbance;

3.5 respecting matters preparatory to or in connection with any ground disturbance;

3.6 prescribing the distance from the area of a ground disturbance within which the duties and responsibilities prescribed in section 31.1 apply;

3.7 respecting approvals required under section 42.1;

(b) *by adding the following after clause 7:*

7.1 prescribing measures to be taken to identify and locate a pipeline and protect the pipeline from any ground disturbance or proposed ground disturbance;

(c) *by adding the following after clause 10:*

10.1 respecting the submission to the Board and the permittee or licensee, as the case may be, whose pipeline may be affected by a ground disturbance of any information relating to the ground disturbance that the Board may require;

3 New regulations powers.

4 Section 5 is amended by adding the following after clause (b):

(b.1) the observance of safe and efficient methods in any work, operations or activities when a ground disturbance in a controlled area is being undertaken;

5 Section 6 is amended

(a) in subsection (1)

(i) by adding the following after clause (a):

(a.1) is entitled to access to any controlled area;

(ii) in clause (b) by striking out “or installation” and substituting “, installation or controlled area”;

(iii) by repealing clause (c) and substituting the following:

(c) may make inspections, investigations or tests

(i) of pipelines, and

(ii) in controlled areas, and

(iv) in clause (d) by adding “or the undertaking of a ground disturbance” after “pipelines”;

(b) in subsection (3) by striking out “or installation” and substituting “, installation or ground disturbance”.

6 Sections 29 and 30 are repealed and the following is substituted:

29(1) Where it appears to the Board or its authorized representative that in the construction or operation of a pipeline or in the undertaking of a ground disturbance there has been or is a contravention of this Act, the regulations, a permit or licence or an order or direction of the Board, or that a method or practice employed or any equipment or installation at a pipeline or in a controlled area is improper, hazardous, inadequate or defective,

(a) the Board or its representative may order that the

4 Section 5 presently reads in part:

5 The Board, when required by the Lieutenant Governor in Council shall, or upon its own motion may, inquire into, examine and investigate any matter relating to

(b) the observance of safe and efficient practices in the construction and operation of pipelines;

5 Section 6 presently reads in part:

6(1) At any reasonable time, a member of the Board or any person authorized by the Board

(a) is entitled to access to pipelines and routes of proposed pipelines, and to all buildings, installations, structures and land incidental thereto,

(b) may enter upon any land which he must cross to reach a pipeline or installation,

(c) may make inspections, investigations or tests of pipelines, and

(d) may inspect all books, records and documents pertaining to construction, operation and maintenance of pipelines.

(3) Any person who is the holder of a permit or licence under Part 4, or any person in charge of a pipeline or installation, or any contractor or employee of such persons shall permit or assist any member of the Board or any person authorized by the Board in the exercise of the powers conferred by subsection (1).

6 The revised sections 29 to 30 extend the operation of those sections to the conduct of ground disturbances.

Sections 29 to 30 presently read:

29(1) Where it appears to the Board or its authorized representative that in the construction or operation of a pipeline there has been or is a contravention of, or failure to comply with, any provision of this Act, the regulations, a permit or licence or an order or direction of the Board or that a method or practice employed or any equipment or installations at a pipeline is improper, hazardous, inadequate or defective,

(a) the Board or its representative may order that approved methods or equipment be adopted or that remedial measures be taken before

construction or operation of the pipeline, or the ground disturbance, shall be suspended and shall not be resumed until

(i) the contravention ceases or this Act or the regulation, permit, licence or order or direction of the Board is complied with,

(ii) approved methods or practices are employed or adopted,

(iii) remedial measures are taken, or

(iv) proper, safe and adequate equipment is used;

(b) the Board or its representative may order that the construction or operation of the pipeline or the ground disturbance be suspended until further order, or

(c) the Board may call an inquiry.

(2) Where a representative of the Board makes an order under subsection (1)(a) or (b), he shall, as soon as possible, report to the Board and so advise in writing the permittee, licensee, if any, or person responsible for the ground disturbance, setting out the reasons for his actions.

30(1) Where an order is made under section 29(1)(a) for the suspension of the construction or operation of a pipeline or of a ground disturbance within a controlled area, the person to whom the order is directed may request an inquiry and, if he does so, the Board shall hold an inquiry within 5 clear days, exclusive of holidays, after the date of receipt of the request.

(2) Where the construction or operation of a pipeline, or a ground disturbance within a controlled area, is suspended under section 29(1)(b), the Board shall hold an inquiry to investigate the circumstances leading to the suspension within 5 clear days, exclusive of holidays, after the suspension.

7 *Section 31(1) is repealed and the following is substituted:*

31(1) Within 15 days after the conclusion of an inquiry pursuant to section 29 or 30, the Board may

(a) allow the construction or operation of the pipeline, or the ground disturbance within a controlled area, to continue or resume subject to any conditions that the Board may prescribe,

(b) order the continued suspension of the construction or operation of the pipeline, or the ground disturbance within a controlled area, until the Board makes an order to the contrary, or

the construction or operation of the pipeline may proceed, or

(b) the Board or its representative may order that the construction or operation of the pipeline be suspended, or

(c) the Board may call an inquiry.

(2) Where a representative of the Board makes an order under subsection (1), clause (a) or (b), he shall, as soon as possible, report to the Board and advise in writing the permittee or licensee, if any, setting out the reasons for his action.

30(1) Where the construction or operation of a pipeline is suspended pursuant to section 29, subsection (1), clause (b), the Board, within five days of the suspension, exclusive of holidays, shall hold an inquiry to investigate the circumstances leading to the suspension.

(2) Where the adoption of approved methods or equipment or the taking of remedial measures is ordered pursuant to section 29, subsection (1), clause (a) and the construction or operation of the pipeline is suspended pending conformity with the order, the permittee or licensee may request an inquiry and if he does so, the Board shall hold an inquiry within five days, exclusive of holidays, of the date of receipt of the request.

7 Section 31 presently reads:

31(1) Within 15 days of the conclusion of an inquiry pursuant to section 29 or 30, the Board may

(a) allow the construction or operation of the pipeline to continue or resume subject to such conditions as the Board may prescribe, or

(b) order the continued suspension of the construction or operation of the pipeline until such time as the Board orders to the contrary, or

(c) cancel or suspend the permit or licence for the pipeline.

(2) Upon the cancellation or suspension of a permit or licence by the

(c) in the case of the construction or operation of a pipeline, cancel or suspend the permit or licence for the pipeline.

8 *The following is added before section 32:*

31.1(1) A person proposing to undertake or undertaking a ground disturbance shall, before commencing any work, operation or activity,

(a) take all precautions reasonably necessary

(i) to ascertain whether or not a pipeline exists within

(A) the area in which he proposes to undertake or undertakes the ground disturbance, and

(B) the distance, prescribed in the regulations, from the area referred to in paragraph (A),

(ii) to determine who is the permittee or licensee of a pipeline in existence within the area or distance referred to in clause (a)(i), and

(b) notify the permittee or licensee referred to in clause (a)(ii) of the nature of the proposed ground disturbance and the proposed schedule for the undertaking of that ground disturbance in accordance with the regulations.

(2) A permittee and a licensee shall, on the request of a person proposing to undertake or undertaking a ground disturbance, provide to that person any information respecting a pipeline in existence within the area or distance referred to in subsection (1)(a)(i) that is contained in the records of the permittee or licensee and is required by that person for the purpose of complying with subsection (1) and the regulations.

(3) A permittee or licensee of a pipeline that may be or is affected by a ground disturbance shall provide to the person proposing to undertake or undertaking the ground disturbance any assistance that the person may reasonably require to enable him to comply with this Act and the regulations.

9 *Section 34 is amended*

(a) *in subsection (1) by striking out “or” at the end of clause (a), adding “or” at the end of clause (b) and adding the following after clause (b):*

Board, no construction shall be carried out and no oil, gas, water or other substance shall be transmitted in the pipeline until the permit or licence has been reinstated or a new permit or licence has been issued by the Board except such as the Board authorizes to maintain the facilities in a state whereby operations can be carried out in accordance with the Act.

8 Ground disturbances.

9 Section 34 presently reads:

34(1) Where in its opinion it would be in the public interest to do so, the Board may, upon such terms and conditions as it considers proper, direct a permittee or licensee

(a) to alter or relocate any part of his pipeline, or

(c) to erect permanent fencing or provide any other protective measures within the controlled area that the Board considers necessary.

(b) by repealing subsection (2) and substituting the following:

(2) Where the Board directs the alteration or relocation of a pipeline, the installation of additional or other equipment on a pipeline, the erection of fences or the provision of other protective measures within the controlled area, it may order by whom and to whom payment of the cost of the work and material, or either, shall be made.

10 Section 36 is amended

(a) by adding the following after subsection (1):

(1.1) Where contact is made with a pipeline during any ground disturbance, resulting in a puncture of or crack in the pipeline or in a scratch, gouge, flattening or dent on the surface of the pipeline, or in damage to its protective coating,

(a) the particular ground disturbance that resulted in the contact with the pipeline shall be immediately stopped and the person responsible for the ground disturbance shall immediately advise the permittee or licensee of the pipeline of the location where the contact occurred and the kind of damage that resulted from the contact, and

(b) the permittee or licensee of the pipeline shall immediately notify the Board of the location where the contact occurred and the kind of damage that resulted from the contact.

(1.2) Where a particular ground disturbance has been stopped pursuant to subsection (1.1) it shall not be recommenced without the approval of the permittee or licensee of a pipeline with which contact was made or, if approval cannot be reasonably obtained from the permittee or licensee, without the approval of the Board.

(b) by repealing subsection (2) and substituting the following:

(2) When a leak or break in a pipeline or damage to a pipeline that resulted from a contact described in subsection (1.1) has been repaired, the Board may require the submission of reports in writing, in accordance with the regulations.

(b) to install additional or other equipment on his pipeline.

(2) Where the Board directs the alteration or relocation of part of a pipeline or the installation of additional or other equipment on a pipeline, it may order by whom and to whom payment for the actual cost of the alteration or relocation or any portion thereof shall be made.

(3) If a dispute arises as to the amount to be paid pursuant to an order under subsection (2), it shall be referred to the Board and the Board's decision shall be final.

10 Section 36 presently reads:

36(1) Where a leak or break occurs in a pipeline, the permittee or licensee shall immediately cause the Board to be informed of the location of the leak or break.

(2) When a leak or break in a pipeline has been repaired, the permittee or licensee shall make a report in writing to the Board in accordance with the regulations.

(3) When a pipeline that is transmitting oil breaks on Crown land or in a forested area, the licensee shall immediately report the location of the break and the approximate quantity of oil that has escaped, to an employee or officer of the Department of Energy and Natural Resources.

(4) The provisions of this section extend to a pipeline for which there is in force a certificate or an order exempting the pipeline from a certificate made or issued by the National Energy Board under the National Energy Board Act (Canada) and to the person constructing or operating the pipeline as though that person was the permittee or licensee, as the case may be, of the pipeline.

11 *The following is added after section 42:*

42.1 No ground disturbance shall be undertaken in the right of way for a pipeline without the approval of the permittee or licensee of the pipeline in accordance with the regulations or, if approval cannot be reasonably obtained from the permittee or licensee, without the approval of the Board.

12 *Section 53 is amended by repealing subsections (1) and (2) and substituting the following:*

53(1) Subject to subsection (2), every person who is guilty of an offence under this Act is liable on summary conviction,

- (a) if a corporation, to a fine not more than \$10 000, or
- (b) if an individual, to a fine not more than \$5000.

(2) Every person who is found guilty of an offence under this Act that is a continuing offence is liable

- (a) if a corporation, to a fine of not more than \$10 000 for the first day on which the offence occurs and not more than \$5000 for each subsequent day during which the offence continues, or
- (b) if an individual, to a fine of not more than \$5000 for the first day on which the offence occurs and not more than \$2500 for each subsequent day during which the offence continues.

In accordance with section 4(1) of The Interpretation Act, 1980, this Bill comes into force on the date it receives Royal Assent.

11 Ground disturbance approvals.

12 Section 53 presently reads:

53(1) Subject to subsection (2), every person who is guilty of an offence under this Act is liable on summary conviction,

(a) if a corporation, to a fine of not less than \$300 and not more than \$1,000, or

(b) if a person other than a corporation, to a fine of not less than \$50 and not more than \$500 and in default of payment to a term of imprisonment not exceeding six months.

(2) Every person who is found guilty of an offence under this Act that is a continuing offence is liable on summary conviction,

(a) if a corporation to a fine of not less than \$300 and not more than \$1,000 for the first day upon which the offence occurs and of not less than \$100 and not more than \$500 for each subsequent day during which the offence continues, or

(b) if a person other than a corporation, to a fine of not less than \$50 and not more than \$500 for the first day upon which the offence occurs and of not less than \$25 and not more than \$250 for each subsequent day during which the offence continues.

(3) A person other than a corporation who defaults in payment of a fine imposed for a continuing offence is liable to imprisonment for a term not exceeding six months.