

1981 BILL 75

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 75

**AGRICULTURAL SERVICE BOARD
AMENDMENT ACT, 1981**

MR. HYLAND

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 75
Mr. Hyland

BILL 75

1981

AGRICULTURAL SERVICE BOARD 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 Agricultural Service Board Act is amended by this Act.*

2 *Section 3 is amended*

(a) *in subsection (2) by striking out "The council" and substituting "If a board is constituted under this section, the council";*

(b) *by adding the following after subsection (6):*

(7) A vacancy in the board does not impair the right of the remaining members to act as long as a majority of the members remains.

(8) In the event of a vacancy in the board the council may appoint a person to fill that vacancy.

3 *Section 11 is amended*

(a) *by repealing subsection (1) and substituting the following:*

(1) A county council may constitute an agricultural committee consisting of not less than 5 members of the council who hold office on the committee for a period of 1 year.

(1.1) If an agricultural committee is constituted under this section, the county council in each year as early as practicable shall appoint the members of the agricultural committee.

Explanatory Notes

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

2 Section 3(1), (2) and (6) presently read:

3(1) The council of a municipal district may constitute an advisory board to be known as "The Agricultural Service Board" consisting of three or five members who hold office for a period of one year.

(2) The council shall in each year as early as practicable appoint the members of the board.

(6) A person who is a member of a board ceases to be a member of the board if, without being authorized by a resolution of the board to do so, he absents himself from three consecutive regular meetings of the board.

3 Section 11(1), (2) and (3) presently read:

11(1) At its first meeting in each year a county council shall appoint an agricultural committee which shall consist of not less than three members of the council.

(2) An agricultural committee at its first meeting in each year shall elect a chairman from among its number.

(3) An agricultural committee has and shall exercise on behalf of the county council all the duties and powers that are conferred upon or exercised by a council, under this or any other Act, with respect to agricultural matters, except the powers

(a) to borrow money,

(b) in subsection (2) by striking out “in each year” and substituting “following the appointment of the members”;

(c) by adding the following after subsection (2):

(2.1) A vacancy in the committee does not impair the right of the remaining members to act as long as a majority of the members remains.

(2.2) In the event of a vacancy in the committee the council may appoint a person to fill that vacancy.

(2.3) If the council does not fill a vacancy in the committee and a majority of the members has not been appointed the council is deemed to be the committee.

4 Section 13(1)(c) is amended by

(a) striking out “advise and guide” and substituting “assist”;

(b) striking out “all”.

5 Section 16(1) is repealed and the following is substituted:

16(1) If the board finds from investigation and inquiry that

(a) wind or water erosion has impoverished or is in the process of impoverishing land,

(b) weeds have infested land to the point that crop production is seriously hindered and the infestation threatens neighbouring land, or

(c) the productivity of land has been or may be seriously affected by any other cause,

and the land is in an area in the municipality with respect to which the board has been appointed, the board or its agent shall report its findings to the council or to the Minister of Municipal Affairs, as the case may be.

6 Section 17(2) is repealed and the following is substituted:

(2) Notice of the hearing shall be served at least 15 days prior to the date of the hearing on all persons shown by the records of the land titles office to have an interest in the land.

(b) to pass a by-law,

(c) to do such other things as may by by-law be reserved from time to time to the county council, and

(d) to do such other things as may be specified from time to time by the Lieutenant Governor in Council.

4 Section 13(1)(c) presently reads:

13(1) In a county, the district agriculturist shall

(c) advise and guide the agricultural fieldman of the county in all technical matters in the discharge of his duties relating to agriculture.

5 Section 16(1) presently reads:

16(1) Where a board finds, from investigation and inquiry, that land in a municipality included in the area with respect to which the 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) may become a menace to the community,

the board shall report its findings to the council or to the Minister of Municipal Affairs, as the case may be.

6 Section 17(2) presently reads:

(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.

(2.1) Service under subsection (2) may be by personal service or by registered mail to the latest address of the person on file at the land titles office.

7 *Section 19(1)(a) is amended by striking out “owing to the condition of the land”.*

8 *Section 19.1 is amended*

(a) by renumbering it as 19.1(1);

(b) by striking out the words preceding clause (a) and substituting the following:

19.1(1) The Minister of Municipal Affairs, the council or the board, as the case may be, shall serve a certified copy of the declaration, order or by-law

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

(2) The Minister of Municipal Affairs, a council, or a board or an employee or agent of any of them shall not perform any work on the land pursuant to a declaration or order made or by-law passed under section 16 or 19, as the case may be, until more than 30 days after the date that the declaration, order or by-law has been served under subsection (1).

9 *Section 19.2 is amended by repealing subsections (2), (3) and (4) and substituting the following:*

(2) An appeal under subsection (1) may be commenced not more than 30 days after the service of the declaration, order or by-law under section 19.1(1) on the person bringing the appeal.

(3) If an appeal is commenced less than 30 days after the service of the declaration, order or by-law under section 19.1(1), no employee or agent of the Minister of Municipal Affairs, a council or a board shall begin work on the land pursuant to the declaration, order or by-law until a judgment confirming that decla-

7 Section 19(1)(a) presently reads:

19(1) Where the board

(a) is of the opinion that owing to the condition of the land a declaration that the land is subject to supervision under section 16 would be ineffective, or

it may recommend in writing to the council or Minister of Municipal Affairs, as the case may be, that the control of the land be taken from the owner and occupant and that an order of reclamation of the land be issued by the council or Minister of Municipal Affairs, as the case may be.

8 Section 19.1 presently reads:

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-law 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 the 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.

9 Section 19.2 presently reads:

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.

ration, order or by-law has become final by reason of the lapse of time or of its having been confirmed by the highest court to which the appeal may be taken.

(4) Notwithstanding subsection (2), if at any time during which an order or by-law is in force a person affected by the order or by-law has reason to believe that the land in question is not being managed by the Minister of Municipal Affairs, the council or the board or the employee or agent of any of them in a manner in keeping with good agricultural practice, that person may, by way of an originating notice, apply to the Court of Queen's Bench for an order

(a) rescinding the order or by-law, or

(b) directing the Minister of Municipal Affairs, council or board to manage the land in a manner in keeping with good agricultural practice

and the Court of Queen's Bench may make its order subject to such terms and conditions as it sees fit.

(5) If an application is made under subsection (4), the order or by-law remains in effect until

(a) an order of the Court of Queen's Bench respecting the order or by-law has become final by reason of the lapse of time or of its having been confirmed by the highest court to which the appeal may be taken, and

(b) the crops that are growing on the land at the time the order of the Court of Queen's Bench becomes final have been harvested.

(6) If

(a) an application for an order of the Court of Queen's Bench is made under subsection (4), and

(b) work has been performed on the land pursuant to the order or by-law,

the cost of that work shall be borne by the person commencing the application 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*.

10 Section 20(3) is repealed and the following is substituted:

(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.

(4) Where

(a) an appeal of a declaration, order or by-law is commenced 30 or more 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.

10 Section 20(3) presently reads:

(3) If an order made or by-law passed under section 19(2) is not rescinded under subsection (1), it shall lapse on the January 1 following 3 full crop years after the date on which

(a) the order was made or the by-law passed, or

(b) the order or by-law was confirmed by the highest court to which an appeal was taken.

11 Section 20.1 is repealed.

(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.

11 Section 20.1 presently reads:

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.

(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.

12(1) The County Act is amended by adding the following after section 17(1):

(1.1) The county council may appoint an agricultural committee under the Agricultural Service Board Act.

(2) The Municipal Government Act is amended by adding the following after section 43(2):

(3) The council may appoint an agricultural service board under the Agricultural Service Board Act.

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

(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.

12 Consequential amendments.