

1982 BILL 19

Fourth Session, 19th Legislature, 31 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 19

**OIL AND GAS CONSERVATION
AMENDMENT ACT, 1982**

THE MINISTER OF ENERGY AND
NATURAL RESOURCES

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 19

1982

OIL AND GAS CONSERVATION AMENDMENT ACT, 1982

(Assented to _____, 1982)

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

1 *The Oil and Gas Conservation Act is amended by this Act.*

2 *Section 5 is amended*

(a) *in subsection (1)(b) by striking out "a tax levied" and substituting "an administration fee imposed";*

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

(2) The Provincial Treasurer shall, as soon as possible after the commencement of each fiscal year, advance to the Board the funds provided by appropriation for that fiscal year and referred to in subsection (1)(a).

(c) *in subsection (3)*

(i) *by striking out "taxation under Part 11" and substituting "the imposition of an administration fee under Part 11";*

(ii) *by striking out "taxation but" and substituting "the administration fee so imposed but";*

(iii) *by striking out "57" and substituting "48";*

(d) *in subsection (4)*

(i) *by striking out "57" and substituting "48";*

(ii) *by adding ", Hydro and Electric Energy Act" after "Gas Resources Preservation Act".*

Explanatory Notes

1 This Bill will amend chapter O-5 of the Revised Statutes of Alberta 1980. The object of the Bill is to replace the system of assessment and taxation of oil and gas properties under Part 11 with a simpler system of levies on operators of wells and oil sands projects.

2 Section 5 presently reads:

5(1) In each fiscal year, funds equivalent to the estimated net expenditure of the Board in the year shall be provided

(a) to the extent of 50% from the money voted by the Legislature for that purpose and, if the vote is insufficient, from the General Revenue Fund, and

(b) to the extent of 50% from a tax levied by the Board under Part 11.

(2) The Provincial Treasurer shall advance to the Board the funds provided by a vote and referred to in subsection (1)(a), in instalments as soon as conveniently may be after the first days of April, July and January, each instalment to be in an amount that the Provincial Treasurer in consultation with the Board decides.

(3) Subject to subsections (1) and (2), the reference in subsection (1) and section 57 to proportions of the Board's estimated net expenditure to be received from the Government and from taxation under Part 11 is for the purpose only of determining the amounts to be so provided, and the Board is accountable for the actual money received from the Government and from taxation but not for the proportion which that money bears to the actual net expenditures.

(4) In this section and sections 6 and 57 "net expenditure" or "net expenditures" means net expenditures incurred by the Board in performance of its duties pursuant to this Act, the Gas Resources Preservation Act, the Turner Valley Unit Operations Act and the Pipeline Act.

3 *Section 6 is amended by striking out “taxation” and substituting “the imposition of taxes or fees”.*

4 *The following is added after section 14:*

14.1(1) The Board may, where a licensee requires a road to give him access to his well site, prescribe in a licence the location of the road and conditions relating to its construction.

(2) If an application is made under the *Surface Rights Act* for a right of entry order in respect of land necessary for a road the location of which has been prescribed under subsection (1), the Surface Rights Board shall, if it grants a right of entry order for that road, grant a right of entry to land in the same location as the location prescribed under subsection (1).

(3) The Board shall not, pursuant to subsection (1), prescribe the location of a road on lands under the administration of the Associate Minister of Public Lands and Wildlife, or conditions relating to its construction, unless it obtains the prior approval of the Associate Minister of Public Lands and Wildlife, which may be given with or without conditions.

(4) The Associate Minister may authorize an officer of the Department of Energy and Natural Resources to exercise the powers conferred on him under this section.

5 *Section 26 is amended by adding the following after subsection (3):*

(3.1) Notwithstanding subsection (2), the Minister of the Environment may direct that

- (a) an application, or
- (b) a type of application

for any approval of a scheme or an amendment of an approval specified by him be not referred to him.

(3.2) The Minister of the Environment may authorize an employee of his department to exercise the powers conferred on him by this section.

3 Section 6 presently reads:

6 In preparing its estimate of net expenditures for any fiscal year, the Board shall have regard to its estimate of any deficit or surplus existing at the end of each fiscal year from funds received from the Government and from taxation under Part 11 in previous years.

4 The proposed amendment will authorize the Board to determine the location of roads that give access to and egress from well sites.

5 Section 26 presently reads:

26(1) No scheme for

(a) enhanced recovery in any field or pool,

(b) the processing or underground storage of gas,

(c) the gathering, storage and disposal of water produced in conjunction with oil or gas,

(d) the storage or disposal of any fluid or other substance to an underground formation through a well,

(e) the concurrent production of an oil accumulation and its associated gas cap, or

(f) the production of gas occurring within or immediately adjoining oil sands,

shall be proceeded with unless the Board, by order, has approved the scheme on any terms and conditions that the Board prescribes.

6 *Part 11 is repealed and the following is substituted:*

PART 11

ADMINISTRATION FEES

46 In this Part,

- (a) “administration fee” means an amount imposed as an administration fee under this Part;
- (b) “oil sands project” means a scheme or operation that is the subject of an approval granted under section 31;
- (c) “operator” means, in relation to any well or oil sands project, the person who is the actual operator of the well or project;
- (d) “prescribed date” means, in relation to any year, the date prescribed by the regulations under section 48 as the prescribed date for that year for the purposes of this Part.

47 The Board may, for the purposes of this Part, make regulations

- (a) prescribing, in any manner the Board considers appropriate, classes of wells and of oil sands projects;
- (b) respecting the exemption of any well or oil sands project or any class of wells or oil sands projects from the imposition of an administration fee;
- (c) respecting the imposition and payment of an administration fee and of penalties for the late payment of the fees;
- (d) respecting appeals under section 51.

(2) Prior to the Board approving a scheme under subsection (1)(b) or (d), it shall refer the application to the Minister of the Environment for his approval with respect to the application as it affects matters of the environment.

(3) The Minister of the Environment may give his approval with or without conditions, but when conditions are imposed, the Board shall, if it approves the scheme, make its order subject to the same conditions imposed by the Minister of the Environment when he gave his approval.

(4) Notwithstanding subsection (3), the Board is not required to impose the conditions specified by the Minister of the Environment when the Lieutenant Governor in Council directs that the conditions are not to be imposed.

6 Levies for the operation of the Board.

48(1) After the commencement of each fiscal year of the Board, the Board shall in respect of that fiscal year make regulations

(a) prescribing

(i) the rates of the administration fee applicable to wells in each class of wells, and

(ii) the rates of the administration fee applicable to oil sands projects in each class of oil sands projects,

as those classes are prescribed by the regulations under section 47(a);

(b) prescribing a date in the calendar year during which the regulation is made as the prescribed date for that year for the purposes of this Part.

(2) The regulations made by the Board under subsection (1) in respect of any fiscal year shall prescribe the administration fee on a basis that will produce a sum sufficient to defray 50% of the estimated net expenditures in that fiscal year.

49 An administration fee prescribed with respect to a well or oil sands project in a fiscal year is payable to the Board by the person who was, on the prescribed date, the operator of the well or the oil sands project.

50(1) After the Board has made regulations under section 48 for a fiscal year, the Board shall give a notice in accordance with this section to each person who was, according to the records of the Board, an operator on the prescribed date of 1 or more wells or 1 or more oil sands projects.

(2) A notice under this section shall

(a) contain or be accompanied by a copy of the regulations made under sections 47 and 48,

(b) set out, in respect of each class of wells and oil sands projects, a brief description of the wells and oil sands projects of which the person to whom the notice is given was the operator on the prescribed date according to the records of the Board,

(c) set out the amount of the administration fee in respect of each well and oil sands project described in the notice, and

(d) contain a demand for the payment of the total amount of the administration fees.

(3) A notice under this section is sufficiently given if it is mailed to the person referred to in subsection (1) at his address in Alberta according to the records of the Board at the time of mailing.

(4) If a notice is given in accordance with subsections (1) to (3) but it is later determined in an appeal under section 51 or in an action under section 52 that the person to whom the notice was given was not the operator on the prescribed date of a well or oil sands project described in the notice, the Board may give a notice that complies with subsection (2) to the person, if any, who was determined in the appeal or in the action to have been the operator of the well or oil sands project on the prescribed date.

(5) If the Board determines, otherwise than as a result of an appeal under section 51, that a notice has been given under subsection (1) or (4) to any person in error or that the amount of the administration fee set out in the notice is incorrect, the Board may withdraw the notice and issue a corrected notice in its place.

51(1) A person to whom a notice is given under section 50 may appeal to the Board on any 1 or more of the following grounds:

(a) that he was not the operator on the prescribed date of any of the wells or oil sands projects described in the notice or of any particular wells or oil sands projects described in the notice;

(b) that the administration fee set out in the notice for 1 or more of the wells or oil sands projects is incorrect;

(c) any other ground provided for in the regulations.

(2) The Board shall hear and determine appeals under this section in accordance with the regulations.

52(1) Any administration fees and penalties owing to the Board under this Part may be recovered by the Board in an action in debt against the person liable to pay it.

(2) If a notice is given in accordance with section 50 and, in respect of any well or oil sands project described in the notice,

(a) no appeal is taken to the Board under this Part by the person to whom the notice is given within the time prescribed by the regulations, or

(b) having been taken, the appeal is not prosecuted with reasonable speed or is later discontinued or abandoned or is dismissed by the Board,

that person is, subject to subsection (3), estopped from denying that he was the operator of the well or oil sands project on the prescribed date in an action by the Board under this section for the recovery of the administration fee imposed in respect of that well or oil sands project.

(3) If the defendant in an action under this section had previously appealed to the Board under this Part on the ground that he was not, on the prescribed date, the operator of the well or oil sands project concerned and the Board after hearing evidence relating to that ground made a finding that he was the operator on the prescribed date, subsection (2) does not apply, but the burden is on the defendant to prove that he was not the operator of the well or oil sands project concerned on the prescribed date.

(4) The defendant in an action under subsection (1) may join as a co-defendant any person he claims was the operator on the prescribed date of the well or oil sands project concerned and, in that event, the court may, if it upholds the claim, give judgment against that co-defendant for the amount of the administration fees and penalties owing by that co-defendant.

53(1) If the Board finds

(a) as a result of an appeal under section 51 or an action under section 52 that it is unable to determine who was the operator of a well or oil sands project on the prescribed date, or

(b) that the operator liable for an administration fee in respect of a well or oil sands project is no longer in Alberta, has become bankrupt or insolvent or is no longer carrying on business in Alberta,

the liability for the payment of the administration fee shall be on the person who was the licensee of the well or the holder of the approval under section 31 for the project, as the case may be, on the prescribed date.

(2) If a person liable for the payment of an administration fee in respect of a well or oil sands project by reason of a finding of the Board under subsection (1) fails to pay the full amount of the administration fee within the time prescribed by the regulations for the purpose of this section and any penalty imposed for the late payment of that fee, the Board, after reasonable notice to the licensee or holder of the approval, may order that the well or oil sands project in respect of which the administration fee and the penalty are unpaid be shut down under the supervision of the representative of the Board until such time as the full amount of the fee and penalty is paid.

(3) If the licensee of a well or the holder of an approval for an oil sands project

(a) is given a notice under subsection (2),

(b) is not the person liable for the administration fee and the penalty, if any, and

(c) pays the full amount of the administration fee and penalty, if any, to the Board for the purpose of preventing the exercise of its powers under subsection (2),

the licensee or the holder of the approval, as the case may be, may, in an action in debt, recover the amount so paid to the Board from the person who was liable for its payment to the Board.

54 The Board may borrow from time to time on the security of the administration fees for the time being uncollected any sums that are required for the defrayal of the current expenditures of the Board.

55 The Lieutenant Governor in Council may authorize and empower the Provincial Treasurer to do either or both of the following:

(a) to guarantee on behalf of the Government the due payment of any money borrowed pursuant to section 54, together with the interest on the money borrowed, on any terms and conditions that may be prescribed by the Lieutenant Governor in Council;

(b) to advance to the Board from time to time out of the General Revenue Fund any sums that are considered advisable, on any security, at a rate of interest and on terms and conditions that may be prescribed by the Lieutenant Governor in Council.

56 This Part applies to the 1982-83 fiscal year of the Board and to subsequent fiscal years.

7 Section 82 is amended by striking out "any owner of oil and gas property under Part 11" and substituting "any person under Part 11".

8 The Energy Resources Conservation Act is amended by repealing section 48(b) and substituting the following:

(b) on account of fees, taxes or penalties,

7 Section 82 presently reads:

82 An agreement filed or an order made under this Part does not affect the duties and liabilities of any owner of oil and gas property under Part 11.

8 This section will amend chapter E-11 of the Revised Statutes of Alberta 1980. Section 48 presently reads:

48 Any sum of money collected by the Board

(a) pursuant to an Act that the Board administers, or

(b) on account of fees or taxes,

and any fine imposed pursuant to an Act that the Board administers are the property of the Board.

9 The Turner Valley Unit Operations Act is amended in section 19 by striking out “any owner of oil and gas property” and substituting “a unit operator”.

10 This Act, except section 4, shall be deemed to have come into force on April 1, 1982.

9 This section will amend chapter T-12 of the Revised Statutes of Alberta 1980. Section 19 presently reads:

19 An order made under this Act does not affect the duties and liabilities of any owner of oil and gas property under Part 11 of the Oil and Gas Conservation Act.