

1983 BILL 54

First Session, 20th Legislature, 32 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 54

FINANCIAL ADMINISTRATION
AMENDMENT ACT, 1983

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 54

1983

FINANCIAL ADMINISTRATION AMENDMENT ACT, 1983

(Assented to _____, 1983)

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

- 1 *The Financial Administration Act is amended by this Act.*
- 2 *Section 1(1) is amended by adding the following after clause (h):*
(h.1) "Loan Fund" means the Alberta Provincial Corporation Loan Fund established under section 60.1;
- 3 *Section 9 is amended by striking out "in Council".*

4 *Section 26 is amended*

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

(1.1) Notwithstanding subsection (1), if the Treasury Board considers it in the public interest to do so, or considers it advisable to do so in a case where injustice or great hardship to a person has resulted or is likely to result, it may order the remission of

(a) any royalty or any tax, fee or other sum, paid or payable to the Crown and imposed or authorized under an Act of the Legislature,

(b) any pecuniary penalty, fine or forfeiture imposed under a law in force in Alberta, notwithstanding that the whole or part of it is payable to the informer, prosecutor or other person, or

(c) any debt paid or payable to the Crown or a Provincial agency.

(1.2) Notwithstanding subsections (1) and (1.1), if the Provincial Treasurer considers it in the public interest to do so, or

Explanatory Notes

1 This Bill will amend chapter F-9 of the Revised Statutes of Alberta 1980.

2 New definition.

3 Section 9 presently reads:

9 There shall be a department of the Government called the Treasury Department over which shall preside the member of the Executive Council appointed by the Lieutenant Governor in Council under the Great Seal as Provincial Treasurer.

4 Section 26(2) and (4) presently read:

(2) A remission pursuant to subsection (1) may be authorized by a regulation or by a special order in a particular case and may be total or partial and unconditional or conditional, and the remission of a royalty or a tax, fee or other sum referred to in subsection (1)(a) may be ordered before or after liability for the royalty or the tax, fee or other sum arises.

(4) Subsection (1) does not apply with respect to a pecuniary penalty, fine or forfeiture

(a) imposed by or under the Legislative Assembly Act, the Election Act or the Election Finances and Contributions Disclosure Act, or

(b) recoverable in respect of an offence committed in connection with the election of a member of the Legislative Assembly.

considers it advisable to do so in a case where injustice or great hardship to a person has resulted or is likely to result, he may order the remission of any debt not exceeding \$2000 paid or payable to the Crown or a Provincial agency.

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

(2) A remission pursuant to subsection (1), (1.1) or (1.2) may be total or partial or unconditional or conditional.

(2.1) A remission pursuant to subsection (1) may be authorized by regulation in a particular case.

(2.2) A remission of a royalty or a tax, fee or other sum referred to in subsections (1)(a) and (1.1)(a) may be ordered before or after liability for the royalty or the tax, fee or other sum arises.

(c) in subsection (4) by striking out "Subsection (1) does" and substituting "Subsections (1) and (1.1) do".

5 Section 49(1) is amended by striking out "regulations" and substituting "orders".

6 The following is added after section 60:

60.1(1) There is hereby established a fund to be known as the Alberta Provincial Corporation Loan Fund.

(2) The Provincial Treasurer shall hold and administer the Loan Fund in accordance with this Act.

(3) The Provincial Treasurer shall establish and maintain a separate accounting record of the Loan Fund.

(4) The income of the Loan Fund accrues to and forms part of the Loan Fund.

7 Section 61(1) is repealed and the following is substituted:

61(1) The Lieutenant Governor in Council may, by order, authorize the Provincial Treasurer to borrow money on behalf of the Crown in the amounts set out in the order for the purposes of

(a) purchasing securities under section 62.1(2),

(b) making any other disbursements under this Act, or

(c) any combination of the purposes referred to in clauses (a) and (b).

5 Section 49(1) presently reads:

49(1) This Part does not apply to, and no regulations shall be made under section 52(2) so as to affect, any fund, account, money or investments held by a depositor in trust

(a) if there is an express trust or direction, whether in an Act or otherwise, for the investment of the money or funds so held in trust, or

(b) if the trust would, except for section 53, be breached if any of the money or funds were transferred to the Investment Fund.

6 Establishment of the Alberta Provincial Corporation Loan Fund.

7 Section 61(1) presently reads:

61(1) The Lieutenant Governor in Council may by order authorize the Provincial Treasurer on behalf of the Crown to borrow money in the amounts set out in the order for the purpose of making disbursements.

8 *The following is added after section 62:*

62.1(1) Money borrowed in accordance with section 61(1)(a) shall be deposited in the Loan Fund.

(2) The Lieutenant Governor in Council, by order and in respect of a Provincial corporation, may authorize the Provincial Treasurer to purchase securities of that Provincial corporation by using money from the Loan Fund on any terms and conditions that the order may contain.

(3) Any money paid to the Provincial Treasurer by a Provincial corporation in connection with securities purchased from that corporation pursuant to subsection (2) shall form part of the Loan Fund.

(4) Money forming part of the Loan Fund that is not immediately required for the purpose set out in subsection (2) or section 69 may be invested by the Provincial Treasurer in accordance with the investment powers set out in Part 5 with respect to the General Revenue Fund.

(5) The Provincial Treasurer may be designated as a depositor, on behalf of the Loan Fund, in the Consolidated Cash Investment Trust Fund.

9 *Section 64 is amended by renumbering it as section 64(1) and by adding the following after subsection (1):*

(2) The Provincial Treasurer may purchase and sell foreign currency for the purposes of sections 61 and 69 and he may purchase or sell that currency on a current or future delivery basis.

10 *Section 65(1) is amended by adding “issued in respect of money borrowed for the purpose referred to in section 61(1)(b)” after “unredeemed Government securities”.*

11 *Section 69(2) is repealed and the following is substituted:*

(2) Money required in connection with borrowings authorized pursuant to section 61(1)

(a) to provide a sinking fund or other means of ensuring repayment,

(b) to redeem or repay the principal amount of Government securities or to repay the principal amount of money borrowed other than by the issue of Government securities,

(c) to pay a premium in connection with the redemption of Government securities or the repayment of money,

(d) to pay the remuneration and compensation of registrars, transfer agents and fiscal agents whose services are engaged in connection with any matter related to Government securities,

8 Powers with respect to the Loan Fund.

9 Purchase and sale of foreign currency.

10 Section 65(1) presently reads:

65(1) The amount of the unredeemed Government securities less the amount of the sinking funds established for the retirement of Government securities and the interest accrued on those sinking funds shall at no time exceed \$2 200 000 000.

11 Section 69(2) presently reads:

(2) Money required

(a) to provide a sinking fund or other means of ensuring the repayment of Government securities,

(b) to redeem or repay the principal amount of Government securities,

(c) to pay a premium in connection with the redemption or repayment of Government securities,

(d) to pay the remuneration and compensation of registrars and fiscal agents whose services are engaged in connection with any matter related to Government securities,

(e) to pay the costs, expenses and charges incurred in the negotiation or raising of loans by the Government or in the issue, redemption, servicing, payment and management of loans and the Government securities issued in respect of those loans, and

(e) to pay the costs, expenses and charges incurred in the negotiation or raising of loans by the Government or in the issue, redemption, servicing, payment and management of loans and Government securities issued in respect of these loans, and

(f) to pay interest on the money borrowed,

shall be paid

(g) from the Loan Fund in respect of borrowings authorized pursuant to section 61(1)(a) to the extent that sufficient funds are available in the Loan Fund to meet the requirements,

(h) from the General Revenue Fund in respect of borrowings authorized pursuant to section 61(1)(a) to the extent that sufficient funds are not available in the Loan Fund to meet the requirements, and

(i) from the General Revenue Fund in respect of borrowings authorized pursuant to section 61(1)(b),

except where the payment is made from a sinking fund or by other means pursuant to subsection (1).

12 *The following is added after section 73:*

73.1(1) An association within the meaning of section 3 of the *Co-operative Marketing Associations and Rural Utilities Guarantee Act* that

(a) has had a loan guaranteed under section 3 of the *Co-operative Marketing Associations and Rural Utilities Guarantee Act*,

(b) has obtained a lien note in respect of the guaranteed loan in accordance with section 10 of the *Co-operative Marketing Associations and Rural Utilities Guarantee Act*, and

(c) has filed a notice of lien in respect of that lien note in the appropriate land titles office pursuant to section 12 of the *Co-operative Marketing Associations and Rural Utilities Guarantee Act*

may assign its interest in the lien note to the Crown in the event of a default by the maker in a payment due under the lien note.

(2) An assignment made under subsection (1) shall be filed in the appropriate land titles office.

(3) If an assignment of an interest in a lien note has been made under subsection (1) and filed under subsection (2), the Provincial Treasurer may pay the lender, within the meaning of section 3 of the *Co-operative Marketing Associations and Rural Utilities Guarantee Act*, the amount owing to the association under the lien note.

(4) A payment under subsection (3) shall be paid out of the General Revenue Fund.

*(f) to pay interest on money borrowed pursuant to section 61,
shall be paid out of the General Revenue Fund except where the payment
is made from a sinking fund or by other means pursuant to subsection (1).*

12 Payment by Crown of loans under the Co-operative Marketing Associations and Rural Utilities Guarantee Act.

13 *Section 74 is repealed and the following is substituted:*

74 No guarantee or indemnity, except a guarantee or indemnity given by an Act or authorized by an order of the Lieutenant Governor in Council pursuant to an Act, shall be given in respect of a person except with the approval of

- (a) the Provincial Treasurer, when the guarantee or indemnity, if given, would result in the total amount guaranteed or indemnified in respect of that person being less than \$500 000;
- (b) the Treasury Board, when
 - (i) the guarantee or indemnity, if given, would result in the total amount guaranteed or indemnified in respect of that person being \$500 000 or more but less than \$5 000 000, or
 - (ii) the Provincial Treasurer has declined to give his approval of a guarantee or indemnity under clause (a);
- (c) the Lieutenant Governor in Council, when the guarantee or indemnity, if given, would result in the total amount guaranteed or indemnified in respect of that person being \$5 000 000 or more.

14 *Section 91 is repealed and the following is substituted:*

91(1) In this section, “Crown debt” means

- (a) an existing or future debt due or becoming due by the Crown, or
- (b) a chose in action in respect of which there is a right of recovery enforceable by action against the Crown,

but does not include a negotiable instrument or salary or wages owing to a public employee, public official or personal service contractor.

(2) The Crown is not bound by an assignment of a Crown debt unless

- (a) it is an assignment binding on the Crown by reason of the regulations under this section, or
- (b) in the case of a particular assignment to which the regulations do not apply, the Provincial Treasurer consents to the assignment and the assignment becomes binding on the Crown under this section.

(3) The Provincial Treasurer may make regulations

- (a) respecting the circumstances under which and the terms and conditions on which the Crown is bound by an assignment of a Crown debt;

13 Section 74 presently reads:

74 No guarantee except a guarantee given by an Act or authorized by an order of the Lieutenant Governor in Council pursuant to an Act shall be given for the indebtedness of a debtor except with the approval of

(a) the Provincial Treasurer, when the guarantee, if given, would result in the total amount guaranteed in respect of that debtor being less than \$500 000,

(b) the Treasury Board, when

(i) the guarantee, if given, would result in the total amount guaranteed in respect of that debtor being \$500 000 or more but less than \$5 000 000, or

(ii) the Provincial Treasurer has declined to give his approval of a guarantee under clause (a), or

(c) the Lieutenant Governor in Council, when the guarantee, if given, would result in the total amount guaranteed in respect of that debtor being \$5 000 000 or more.

14 Section 91 presently reads:

91(1) Subject to subsection (2), the Crown is not bound by an assignment

(a) by a public employee, public official or personal service contractor of salary or wages owing to him, or

(b) of any other debt of the Crown.

(2) The Provincial Treasurer may, by consenting to a particular assignment, exempt that assignment from the operation of subsection (1) or may make regulations exempting a class of assignments from the operation of subsection (1).

(b) respecting the conditions to be met before an assignment of a Crown debt is binding on the Crown and respecting the time at which an assignment becomes binding on the Crown;

(c) respecting any other matter pertaining to assignments of Crown debts that are binding on the Crown by reason of regulations under clauses (a) and (b).

(4) The Provincial Treasurer may, in giving his consent to a particular assignment pursuant to subsection (2)(b),

(a) prescribe any terms and conditions to which the consent is subject, and

(b) prescribe the time at which the Crown becomes bound by the assignment.

(5) At the time an assignment of a Crown debt becomes binding on the Crown under this section, the assignment is effectual in law to pass and transfer

(a) the legal right to the Crown debt,

(b) all legal and other remedies in respect of the Crown debt, and

(c) the power to give a good discharge for the Crown debt without the concurrence of the assignor.

(6) An assignment of a Crown debt binding on the Crown in accordance with this section is subject to

(a) all conditions and restrictions in respect of the right of transfer that relate to the original Crown debt, and

(b) the right of the Crown to set off any claims it may have in respect of any indebtedness of the assignor existing before the payment by the Provincial Treasurer to the assignee of all or part of the Crown debt.

91.1(1) In this section, “corporation debt”, in relation to a Provincial corporation, means

(a) an existing or future debt due or becoming due by the Provincial corporation, or

(b) a chose in action in respect of which there is a right of recovery enforceable by action against the Provincial corporation,

but does not include a negotiable instrument or salary or wages owing to a public employee, public official or personal service contractor.

(2) A Provincial corporation is not bound by an assignment of a corporation debt unless

(a) it is an assignment binding on the Provincial corporation by reason of the regulations under this section, or

(b) in the case of a particular assignment to which the regulations do not apply, it consents to the assignment and the assignment becomes binding on it under this section.

(3) A Provincial corporation may make regulations

(a) respecting the circumstances under which and the terms and conditions on which it is bound by an assignment of a corporation debt;

(b) respecting the conditions to be met before an assignment of a corporation debt is binding on the Provincial corporation and respecting the time at which an assignment becomes binding on the Provincial corporation;

(c) respecting any other matter pertaining to assignments of corporation debts that are binding on the Provincial corporation by reason of regulations under clauses (a) and (b).

(4) A Provincial corporation may, in giving its consent to a particular assignment pursuant to subsection (2)(b),

(a) prescribe any terms and conditions to which the consent is subject, and

(b) prescribe the time at which the Provincial corporation becomes bound by the assignment.

(5) At the time an assignment of a corporation debt becomes binding on the Provincial corporation under this section, the assignment is effectual in law to pass and transfer

(a) the legal right to the corporation debt,

(b) all legal and other remedies in respect of the corporation debt, and

(c) the power to give a good discharge for the corporation debt without the concurrence of the assignor.

(6) An assignment of a corporation debt binding on a Provincial corporation in accordance with this section is subject to

(a) all conditions and restrictions in respect of the right of transfer that relate to the original corporation debt, and

(b) the right of the Provincial corporation to set off any claims it may have in respect of any indebtedness of the assignor existing before the payment by the Provincial corporation to the assignee of all or part of the corporation debt.

91.2(1) Subject to subsection (2), neither the Crown nor a Provincial corporation is bound by an assignment by a public employee, public official or personal service contractor of salary or wages owing to him.

(2) The Provincial Treasurer or a Provincial corporation may, by consenting to a particular assignment, exempt that assignment

from the operation of subsection (1) or may make regulations exempting a class of assignments from the operation of subsection (1).

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

