

1991 BILL 201

Third Session, 22nd Legislature, 40 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 201

FINANCIAL ACCOUNTABILITY ACT

MR. HAWKESWORTH

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 201
Mr. Hawkesworth

BILL 201

1991

FINANCIAL ACCOUNTABILITY ACT

(Assented to _____, 1991)

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

1(1)- The Auditor General Act is amended by this section.

(2) Section 1(b) is amended by striking out the words, "and includes a corporation, more than 50% but less than 100% of whose issued voting shares are owned by the Crown or held in trust for the Crown or are partly owned by the Crown and partly held in trust for the Crown;".

(3) The following is added immediately after section 1:

1.1 The Lieutenant Governor in Council may make regulations prescribing the form and manner in which information is to be made public as required by this Act.

(4) Section 12 is repealed and the following substituted:

12 The Auditor General

(a) is the auditor of every department, regulated fund, revolving fund, Provincial agency and Crown-controlled organization, and

(b) may with the approval of the Select Standing Committee be appointed by any other organization or body as the auditor of that organization or body.

(5) Section 15 is amended by striking out the word "or" wherever it

Explanatory Notes

1 This section will amend Chapter A-49 of the Revised Statutes of Alberta, 1980 to extend the responsibility of the Auditor General with respect to Provincial agencies and Crown-controlled organizations and to increase public accountability.

occurs before the phrase "Provincial agency" and by adding after that phrase wherever it occurs the words "or Crown-controlled organization".

(6) Section 16 is amended by adding the phrase "or Provincial agency" after the phrase "Crown-controlled organization" wherever it occurs in subsections (1) and (2).

(7) The following is added immediately after section 16:

16.1 Upon completing an audit of the accounts of a Provincial agency, the Auditor General shall make public the audit report and financial statements of the agency no later than 30 days after completion of the audit.

(8) Section 19(2) (b) is amended

(a) by striking out the word "or" in subclause (ii);

(b) by adding the word "or" after the word "accounts" in subclause (iii); and

(c) by adding the following immediately after subclause (iii);

(iv) have been made without due regard for economy or efficiency,

2(1) *The Financial Administration Act is amended by this section.*

(2) Section 1 (1) (n) (ii) is amended by striking out the words "all of whose issued voting shares of every class" and substituting the words "of which more than 50% of the issued voting shares".

(3) Section 1 is amended by adding the following immediately after subsection (2):

(3) The Lieutenant Governor in Council may make regulations prescribing the form and manner in which information is to be made public as required by this Act.

(4) Section 1(1) is amended by adding the following definition immediately after clause (b.1):

(b.2) "Crown-controlled organization" means

(i) a corporation that is incorporated by or under an Act of the Legislature, other than a local or private Act, one or more but less than a majority of whose members or directors are appointed or designated, either by their

2 This section will amend Chapter F-9 of the Revised Statutes of Alberta, 1980 to increase controls over corporations partially owned by the Crown and to increase public accountability for reduced revenues resulting from special tax arrangements, guarantees and other forms of financial assistance.

personal names or by their names of office, by an Act of the Legislature or regulations under an Act of the Legislature, by an order of the Lieutenant Governor in Council or of a Minister of the Crown or by any combination thereof, or

(ii) an unincorporated board, commission, council or other body that is not a department or part of a department, one or more but less than a majority of whose members are appointed or designated, either by their personal names or by their names of office, by an Act of the Legislature or regulations under an Act of the Legislature, by an order of the Lieutenant Governor in Council or of a Minister of the Crown or by any combination thereof;

that is responsible for the administration of public money or assets owned by the Crown;

(5) The following definition is added to Part 8 immediately before section 77:

76.1 In this Part, "tax expenditure" means

(a) tax revenue foregone as a result of any act of the Legislative Assembly or decision by the Lieutenant Governor in Council or any Minister that allows for a special exemption or deduction from gross income or provides special credits, reduced tax rates or deferrals, and

(b) any cost which is reflected by way of reduced revenue in the public accounts of Alberta.

(6) Section 77 is amended

(a) by striking out the word "and" in clause (2) (c),

(b) by adding the following immediately after clause (2) (c):

(c.1) a list setting forth the type and dollar amount of every tax expenditure made in that fiscal year, and

and

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

(3) For greater certainty, and notwithstanding any other provision of this Act, the public accounts for each fiscal year shall include a full report

(a) summarizing the guarantees, indemnities, loans, grants, subsidies, payments and financial assistance of any kind made, given or authorized by the Lieutenant Governor in Council, any government department, any Crown-controlled organization or Provincial agency or the Crown in right of Alberta in any form (collectively referred to in this subsection as "the Crown") to any individual, partnership, corporation, association, joint venture, organization or other person (collectively referred to in this subsection as "the recipients") in that fiscal year,

(b) showing the amounts paid, advanced or pledged by the Crown in that fiscal year as a result of any of the transactions referred to in clause (a) or the happening of any contingency contemplated thereby, and

(c) showing the amounts, if any, recovered in that fiscal year by the Crown from any of the recipients.

(7) The following is added immediately after section 78:

78.1 The Provincial Treasurer shall make public the public accounts for the Province within 7 months after the end of the fiscal year to which the public accounts relate.

(8) The following is added to Part 10 immediately before section 86:

85.1 (1) The Provincial Treasurer shall prepare unaudited quarterly reports with respect to the Province's financial condition which shall include at least the following information:

(a) the aggregate expenses and revenues of each department, Crown-controlled organization and Provincial agency, and

(b) details of any significant unanticipated expenses or revenues incurred in the operations of any of those entities during the fiscal quarter to which the report relates.

(2) The Provincial Treasurer shall make public each quarterly report within 3 months after the end of the fiscal quarter to which the report relates.

3(1) The Treasury Branches Act is amended by this section.

(2) Section 1 is amended

³ This section will amend Chapter T-7 of the Revised Statutes of Alberta to transfer primary responsibility for the management and operation of Alberta Treasury Branches from the Minister and superintendent to a Board of Directors.

(a) by adding the following definition immediately before clause (a):

(aa) "Board" means the Board of Directors of the Treasury Branches;

(b) by striking out the words "with the Minister" in clause (a);

(c) by adding the following definition immediately after clause (a):

(a.1) "director" means a member of the Board of Directors;

(d) by adding the following definition immediately after clause (f):

(g) "Treasury Branches" means the Province of Alberta Treasury Branches.

(3) The following is added immediately after section 1:

1.1 The powers of the Minister with respect to the Treasury Branches shall be limited to those expressly provided by this Act.

1.2 (1) There is hereby established a Board of Directors to be responsible for the management of the Treasury Branches.

(2) The Board shall consist of not fewer than 9 persons appointed members of the Board by the Minister, including,

(a) 2 depositors,

(b) 1 chartered accountant,

(c) 2 representatives of the public at large,

(d) 1 representative of the Department of Economic Development,

(e) 1 person qualified in accordance with the regulations to act as an investment counsellor,

(f) The Superintendent of Treasury Branches; and

(g) One other senior manager of the Treasury Branches.

(2.1) The Superintendent shall serve as Chairperson for the Board.

(2.2) The other senior manager of the Treasury Branches shall serve as Vice-Chairperson.

(2.3) The Treasurer, in appointing each member to the Board, shall

(a) stipulate the term for the appointment or reappointment of that member,

(b) ensure that no single term exceeds four years, and

(c) stagger the terms to ensure continuity amongst the members of the Board.

(3) A member of the Board holds office for the term fixed in relation to that person by the Minister.

(4) The Lieutenant Governor in Council may prescribe the remuneration and expenses to be paid to members of the Board.

(5) Five members of the Board, including at least 1 member described in subsection (2) (a), shall constitute a quorum, and the concurrence of a majority of members present is necessary to any act of the Board.

(6) Subject to subsection (5), the Board may make rules respecting the calling of meetings and the conduct of its business.

(7) A person is not eligible to be appointed a director if that person:

(a) is not ordinarily resident in Alberta;

(b) has an outstanding indebtedness to the Treasury Branches in excess of \$15,000 or is a principal debtor with respect to an indebtedness in excess of \$10,000 guaranteed by the Treasury Branches;

(c) is the direct or indirect beneficial owner of an investment valued at more than \$15,000 or representing more than 10% of the equity in a corporation, partnership or other entity having an outstanding indebtedness to the Treasury Branches in excess of \$20,000, or which is a

principal debtor with respect to an indebtedness guaranteed investment by the Treasury Branches;

(d) is a spouse, parent, child or business associate of a person referred to in clause (b) or clause (c);

(e) has served as a director for 2 consecutive terms, the 2nd such term having ended within the previous 1 year, or for 4 consecutive years;

(f) is a bankrupt;

(g) is less than 18 years of age; or

(h) is deemed by a court of competent jurisdiction to be of unsound mind or mentally incompetent.

(8) A director ceases to be a director if that person

(a) becomes ineligible pursuant to subsection (7),

(b) dies or resigns,

(c) fails to attend three consecutive meetings of the Board unless so authorized by the Board prior to the conclusion of the third meeting from which the director is absent; or

(d) is adjudged by unanimous vote of the other directors to be unsuitable for office, which vote has been ratified by the Minister.

(9) The directors shall have all of the duties and liabilities imposed upon corporate directors by law but, in particular, when considering whether an act is in the best interests of the Treasury Branches, the directors shall have due regard for the interests of depositors, the interests of Alberta taxpayers in general, and the economic welfare and objectives of the Province.

(10) When a vacancy occurs on the Board, the Minister may appoint a person for the remainder of the unexpired term of office.

(11) A vacancy in the Board does not impair the right of the remaining directors to act; however, where by reason of unfilled vacancies the quorum requirement of subsection (6) is unable to be met for a period of 60 consecutive days, the remaining directors shall appoint 1 or more temporary

directors, each of which appointments shall be valid until that position is filled under subsection (10) or until the remainder of the term of that office expires, whichever first occurs.

(12) The Minister may, by notice in writing, require that the Board hold a meeting to consider the matters set out in the notice and provide to the Minister within a reasonable time after the meeting a copy of minutes documenting the discussions and decisions occurring at the meeting.

(13) Without limiting the generality of subsection (1), the Board

(a) may prescribe forms required for the purposes of the business and affairs of the Treasury Branches;

(b) may enter into an agreement or arrangement with any person providing for the appointment of that person as an agent of the Treasury Branches for the purposes of receiving deposits under this Act and for any other purpose specified under the agreement or arrangement, and providing for the remuneration to be paid to that person;

(c) may execute purchase and sale agreements, transfers, leases and other related documents, including any documents relating to the matters referred to in this subsection;

(d) may enter into agreements with banks and other financial institutions respecting deposits, the making and recovering of loans, realization on securities and other related matters;

(e) may receive loans from and establish lines of credit with any person where those loans and lines of credits are required for the efficient and orderly receipt and disbursement or disposition of money or other property comprising the Fund;

(f) may enter into agreements for the purpose of using clearing-house facilities;

(g) may, subject to this Act, do any act or enter into any agreement for and on behalf of the Treasury Branches that is necessary or convenient for the conduct of the normal business and affairs of the Treasury Branches;

(h) may delegate any of its powers and duties to any employees of the Treasury Branches.

(4) Section 2 is amended

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

(1) The Board may, on behalf of the Crown, establish and operate branches of the Treasury Department at any place in Alberta that it selects.

(b) in subsections (3) and (4), by striking out the word "Superintendent" wherever it occurs and substituting the word "Board".

(5) Section 3 is repealed and the following substituted:

3(1) In accordance with the Public Service Act, there may be appointed any employees required for the operation and supervision of the Treasury Branches.

3(2) A Superintendent shall be appointed to oversee the day to day operations of the Treasury Branches and perform those other duties delegated to him by the Board or prescribed by this legislation.

(6) Section 4 is amended

(a) in subsection (1), by striking out the phrase "The Minister" and substituting the phrase "A treasury branch";

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

(2) Subject to this Act, the Board may enter into contracts with any persons pertaining to the making of deposits with the Treasury Branches.

(c) in subsection (3) (a), by repealing subclause (i) and substituting the following:

(i) under which any sum deposited pursuant to that contract is to be dealt with by a treasury branch while so deposited with it, and

(d) in subsection (3) (b), by striking out the word "Minister" wherever it occurs and substituting the word "Board".

(7) Section 5 is repealed and the following substituted:

5 The repayment by a treasury branch of money deposited with it under this Act, and interest payable on that money, is guaranteed by the Crown in right of Alberta.

(8) Section 6 is amended

(a) by adding the phrase "with the approval of the Board" after the word "Minister" wherever it occurs,

(b) in subsection (2) (e), by striking out the words "may take security" and substituting the words "shall take adequate security", and

(c) by adding after subsection (3):

Notwithstanding any other provision, no loan, guarantee or combination thereof to any borrower or other person described in sections 1.2 (7) (c) and (d) shall exceed one percent of Treasury Branch assets.

(9) Sections 7 and 8 are amended by striking out the word "Minister" wherever it occurs and substituting the word "Board".

(10) Section 9 is amended as follows:

(a) in subsection (1), by striking out the word "Minister" and substituting the word "Board";

(b) in subsection (2), by striking out the phrase "the Minister" wherever it occurs and substituting the phrase "a treasury branch";

(c) in subsection (3);

(i) by repealing clause (a) and substituting the following:

(a) money payable to depositors in accordance with their contracts of deposit;

(ii) by adding the words "or the Board" after the word "Minister" in clause (f);

(d) by repealing subsection (5) and substituting the following:

(5) The Minister may at any time apply to the Board to transfer all or any portion of the surplus of the Treasury Branches Deposits Fund into the General Revenue Fund.

(11) Section 10 is amended as follows:

(a) in subsection (1), by striking out the word "Minister" and substituting the word "Board"; and

(b) in subsection (2),

(i) by striking out the word "Superintendent" and substituting the word "Board",

(ii) by adding the words "or the Board" after the word "Minister", and

(iii) by striking out the phrase "the treasury branches" and substituting the phrase "a treasury branch".

(12) Section 11 is amended by striking out the word "Minister" and substituting the word "Board".

(13) Section 14 is amended

(a) in subsections (1) and (2), by striking out the phrase "the Minister" wherever it occurs and substituting the phrase "the Board and the Minister";

(b) in subsections (3), (4), and (5), by striking out the word "Minister" wherever it occurs and substituting the word "Board";

(c) in subsection (4), by striking out the phrase "the Lieutenant Governor" and substituting the phrase "the Minister and the Lieutenant Governor".

(14) Section 16 is amended by striking out the phrase "The Minister may in each year pay from the Fund" and substituting the phrase "The Minister may in each year direct the Board to pay from the Fund".

(15) Section 17 is amended by adding the phrase "the Board", after the word "Minister" wherever it occurs.

(16) Sections 19 and 20 are amended by striking out the word "Minister" wherever it occurs and substituting the word "Board".

4(1) The Pension Fund Act is amended by this section.

(2) The following is added immediately after section 3:

3.1(1) There is hereby established the *Alberta Pension Fund Board*.

(2) The Board shall consist of not fewer than 5 persons appointed members of the Board by the Provincial Treasurer, being 1 authorized representative of each of the beneficiary groups constituted by the Acts referred to in section 5 (1) (a),

4 This section will amend chapter P-3.1 of the Statutes of Alberta, 1981 to provide for the monitoring of the investments of the Pension Fund by a Board representative of beneficiaries of various pension plans in the Province.

(c), (d), (e) and (f).

(3) A member of the Board holds office for the term fixed in relation to that person by the Lieutenant Governor in Council.

(4) The Lieutenant Governor in Council may prescribe the remuneration and expenses to be paid to members of the Board and other rules and regulations respecting the constitution of the Board, the filling of vacancies and like matters, subject to the express provisions of this Act.

(5) Three members of the Board shall constitute a quorum.

(6) Subject to subsection (5), the Board may make rules respecting the calling of meetings and the conduct of its business.

(7) The Board shall meet at least quarterly to review the investments of the Pension Fund and to act in an advisory capacity with respect to administration of the Pension Fund.

(8) The report and recommendations of the Board based upon its quarterly review shall be submitted to the Provincial Treasurer who shall respond in writing to the Board.

(9) The Board may receive inquiries from beneficiaries of the plans constituted by the Acts referred to in section 5 at such times and in such manner as the Board determines and may refer such inquiries to the Provincial Treasurer, who shall respond in writing to the Board.

(3) *The following is added immediately after section 7:*

7.1 The report of the Provincial Treasurer referred to in section 7 shall form part of the public accounts of the Province in each fiscal year.

5(1) *The Alberta Heritage Savings Trust Fund Act is amended by this section.*

(2) *Clause (b) of each of sections 6(3) and (6) is repealed and the following substituted:*

(b) in the absence of any such directions, shall be made only with the approval of the Investment Committee and upon the issuing of a special warrant signed by the Lieutenant Governor in Council authorizing the investment,

(3) *Section 6(4) (b) is repealed and the following substituted:*

5 This section will amend Chapter A-27 of the Revised Statutes of Alberta, 1980 to require the issuance of a special warrant by the Lieutenant Governor in Council in order to authorize certain investments of the Heritage Savings Trust Fund.

(b) in the absence of any such directions, shall be made, subject to subsection (4.1), only with the approval of the Investment Committee and upon the issuing of a special warrant signed by the Lieutenant Governor in Council authorizing the investment, and

(4) Section 6 (4.3) is amended by striking out the words "the Lieutenant Governor in Council may authorize the making of any investments estimated to be required" and substituting the following:

the Lieutenant Governor in Council may order the preparation of a special warrant to be signed by the Lieutenant Governor authorizing the making of any investments estimated to be required.

(5) Section 6(5) (b) is repealed and the following substituted:

(b) in the absence of any such directions, shall be made only with the approval of the Investment Committee and upon the issuing of a special warrant signed by the Lieutenant Governor in Council authorizing the investment, and

(6) The following is added immediately after section 14:

15 There shall be tabled with each provincial budget a report summarizing the investment strategy followed with respect to the Trust Fund during the fiscal period to which the budget relates.

6(1) The Interprovincial Lottery Act is amended by this section.

(2) Section 6 is amended by renumbering it as section 6(1) and by adding the following after subsection (1):

(2) Disbursements referred to in subsection (1) shall be made only if money is first appropriated from the Fund by the Legislative Assembly specifically for a purpose described in subsection (1).

(3) When at any time the Legislative Assembly is not in session and the Minister considers a disbursements pursuant to subsection (1) to be urgently required in the public interest, the Lieutenant Governor in Council may order the preparation of a special warrant to be signed by the Lieutenant Governor authorizing the disbursement.

(4) For the purposes of subsection (3), if the Legislative Assembly is adjourned for a period of greater than 14 days, the

6 This section will amend Chapter I-8 of the Revised Statutes of Alberta, 1980 to require the approval of the Legislative Assembly or the issuance of a special warrant by the Lieutenant Governor in Council to disbursements from lottery funds.

Assembly shall be deemed not to be in session during the period of adjournment.

7 This Act comes into force on Proclamation.