

1991 BILL 231

Third Session, 22nd Legislature, 40 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 231

"WHISTLE BLOWER'S" PROTECTION ACT

MR. McINNIS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 231
Mr. McInnis

BILL 231

1991

"WHISTLE BLOWER'S" PROTECTION ACT

(Assented to , 1991)

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

1 The purpose of this Act is to protect persons who report pollution or other statute violations, complain to the Ombudsman or report inappropriate government expenditures, or who contact Members of the Legislative Assembly.

2(1) The Legislative Assembly Act is amended by this section.

(2) Section 10(2) is amended by adding the following after clause (b):

(b.1) penalizing, disciplining, dismissing, coercing, intimidating or attempting to coerce or intimidate any person by reason of the person contacting or attempting to contact a Member;

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

(2) Section 13 is amended by adding the following after subsection (2):

(3) No person shall dismiss, discipline, penalize, coerce, intimidate or attempt to coerce or intimidate any complainant because the complainant has written to or otherwise contacted the Ombudsman.

4(1) The Employment Standards Code is amended by this section.

Explanatory Notes

1 The purpose of this Act is to protect persons who report pollution violations, complain to the Ombudsman, or who contact Members of the Legislative Assembly.

2 This section will amend chapter 1-10.1 of the Statutes of Alberta, 1983.

3 This section will amend chapter O-7 of the Revised Statutes of Alberta, 1980.

4 This section will amend chapter E 10.2 of the Statutes of Alberta, 1988.

Adds a new section dealing with the protection of workers who comply with the law or who refuse to act in violation of the law.

(2) *The following is added after section 116:*

116.1(1) No employer shall dismiss, discipline, penalize, coerce or intimidate or attempt to coerce or intimidate an employee

(a) because the employee has complied or may comply with any law, including, but not limited to any provision of or regulation under or any order, certificate, licence, permit, or direction pursuant to:

- (i) Hazardous Chemicals Act
- (ii) Oil and Gas Conservation Act
- (iii) Oil Sands Conservation Act
- (iv) Public Health Act
- (v) Special Waste Management Corporation Act
- (vi) Wilderness Areas, Ecological Reserves and Natural Areas Act
- (vii) Clean Air Act
- (viii) Clean Water Act
- (ix) Water Resources Act
- (x) Ombudsman Act
- (xi) Legislative Assembly Act
- (xii) Forests Act
- (xiii) Forest and Prairie Protection Act
- (xiv) Land Surface Conservation and Reclamation Act
- (xv) Mines and Minerals Act
- (xvi) Energy Resources Conservation Act
- (xvii) Public Utilities Board Act
- (xviii) Wildlife Act;

(b) because the employee has sought or may seek the enforcement of any such law or has given or may give information to the Department of Environment or the appropriate ministry or a Provincial officer, or because the employee has been or may be called upon to testify in a proceeding related thereto;

(c) because the employee refuses to do work or operate or cause to be operated any tool, appliance equipment, machinery or process when the employee has reasonable cause to believe that in doing so the employee would be participating in a violation of law, including but not limited to that described in clause (a).

(2) In a case described in subsection (1)(c),

(a) the employee who refused to carry out work shall

forthwith report the circumstances of the violation to his or her supervisor or employer;

(b) the supervisor or employer shall forthwith investigate the matter and ensure that any violation is remedied without delay or, alternatively, if in the opinion of the supervisor or employer the report is not valid he or she shall so inform the person who made the report;

(c) when the procedure under clause (b) does not resolve the matter, the supervisor or employer shall investigate the matter in the presence of the employee who made the report and in the presence of

(i) an employee representative of the health and safety committee,

(ii) a worker selected by a trade union representing the employee, or

(iii) when there is no health and safety committee or the employee is not represented by a trade union, any reasonably available worker selected by the employee;

(d) when the investigation under clause (c) does not resolve the matter, the employee may forthwith notify the Minister of the Environment in the appropriate case who shall appoint a person to investigate the matter without undue delay and the Minister shall thereafter issue whatever order the Minister considered necessary.

(3) Loss of pay shall be considered discipline under this Act and no employee shall lose pay for acting in compliance with an Act or a regulation or an order made by an officer of the Department of Environment, however, temporary assignment to alternative work shall not be considered discipline.

(4) An employee complaining of a contravention of this section or whose complaint has not been satisfactorily resolved pursuant to subsection (2) may forthwith notify an employment standards officer who shall investigate the matter without undue delay and issue whatever order the officer considers necessary.

(5) An officer who is authorized to inquire into the complaint shall make the inquiry forthwith and shall endeavour to effect a settlement of the matter complained of and shall report the results of the inquiry and endeavours to the parties affected.

(6) An officer who investigates a complaint may request that an employee of the Department of Environment participate in the investigation.

(7) An officer who is unable to effect a settlement of the matter complained of may issue an order which has the status and meaning of an order under the Employment Standards Code.

5(1) The Public Service Employee Relations Act is amended by this section.

(2) Section 70(3) is amended by adding the following after clause (g):

(h) dismiss, suspend, discipline, penalize, coerce or intimidate any employee

(i) by reason of the employee's having contacted or attempted to contact appropriate authorities regarding violations or possible violations of any regulation, order, certificate, license, permit or direction pursuant to any Act.

(ii) by reason of the employee's having contacted or attempted to contact the Auditor General, the Ombudsman or a manager of a government program regarding possible waste or inappropriate expenditure of taxpayers' funds, including lottery funds.

6 This Act comes into force on Proclamation.

5 This section will amend chapter P-33 of the Revised Statutes of Alberta, 1980.