

1994 BILL 218

Second Session, 23rd Legislature, 43 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 218

WATER RESOURCES AMENDMENT ACT, 1994

MR. VASSEUR

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 218
Mr. Vasseur

BILL 218

1994

WATER RESOURCES AMENDMENT ACT, 1994

(Assented to , 1994)

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

1 The Water Resources Act is amended by this Act.

2 Section 1 is amended by:

(a) adding the following after clause (b):

(b.1) "conserve" means to manage with the objective of the protection of essential physical, chemical and biological characteristics against degradation or loss and "conservation" has the corresponding meaning;

(b) adding the following after clause (t):

(t.1) "recreational use" means any sport or activity involving physical exertion, engaged in for the purpose of recreation or leisure, and includes practice, instruction, leadership or guiding services in such sport or activity;

3 The following is added after section 1:

1.1 The purpose of this Act is ensure long-term conservation of both non-saline ground water and surface water in perpetuity for the benefit of the people of Alberta and the natural environment.

Explanatory Notes

- 1** Amends Chapter W-5 of the Statutes of Alberta.

4 In the following provisions "Minister" is struck out wherever it occurs and "Controller of Water Resources" is substituted:

section 11;
section 14;
section 15(2), (3), (6) and (8);
section 16;
section 17;
section 18;
section 27.

5 Section 15(1) is amended by striking out "file with the Minister" and substituting "file with the Controller of Water Resources".

6 The following is added after section 15:

15.1 In reviewing an application for a licence under section 11(1), the Controller of Water Resources, or any other person authorized by the Minister under section 24, shall consider

- (a) the need to conserve water to meet the long-term needs of all Albertans and the natural environment, and**
- (b) in the case of surface water,**
 - (i) the volume and timing of water flows needed to protect and maintain a healthy ecosystem, and**
 - (ii) the need to preserve the aesthetic qualities of the watercourse, and**
 - (iii) the need to preserve the recreational uses of the water.**

15.2(1) No new licence or permit shall be issued for the use of potable ground water for oilfield injection.

(2) In addition to any other conditions which the Controller of Water Resources may impose, when a licence under section 11(1) or an exploration permit under section 15(2) with respect to the diversion and use of ground water for the purpose of oilfield injection expires, any renewal or extension thereof shall be subject to this section.

- 4 Applications for licences or permits to be filed with and approved by the Controller of Water Resources instead of the Minister.

- 5 Section 15(1) presently reads:

15(1) An applicant for a licence or permit referred to in section 11(1) shall file with the Minister an application in writing in the form and containing the particulars that the Minister may from time to time prescribe and shall set out the nature of the proposed diversion or works and the purpose thereof.

(3) An application for a licence to divert and use ground water for industrial purposes shall be subject to subsections (5) and (6).

(4) The Controller of Water Resources may grant an extension of an existing licence or permit for the use of potable water for oilfield injection for a period of up to one year, to a maximum of four extensions, provided that an extension so granted shall not permit the withdrawal of a greater volume of water than was permitted under the expired licence.

(5) The maximum amount of water diverted shall be 50% of the Controller of Water Resources' estimate of the long term yield of a given aquifer in the immediate vicinity, to be enforced by limiting drawdown, as measured 150 metres from the water source well, to 35% during the first year of the operation and no more than 50% over the term of the licence.

(6) The applicant shall establish and make available for inspection by the Controller of Water Resources, monitoring stations to afford immediate and accurate information on the performance of the aquifer.

(7) The applicant shall submit to the Controller of Water Resources a plan to phase out the use of potable ground water by the date upon which the licence or permit sought expires.

(8) In applying this section, the Controller of Water Resources shall consult with and follow the advice of the Water Conservation Technical Advisory Committee on the phase out of the use of potable water for oilfield injection.

7 The following is added after section 18:

18.1 Notwithstanding sections 11 and 18, where an application involves a mandatory activity and is subject to the environmental assessment process pursuant to Part 2 of the *Environmental Protection and Enhancement Act*, the Controller of Water Resources shall, in making a decision under sections 11 or 18, consider any applicable environmental impact assessment report and any applicable written decision of the Natural Resources Conservation Board in respect of the subject-matter of the application.

8 Section 24 is amended by striking out "the Minister," wherever it occurs.

9 Section 59 is repealed and the following substituted:

59 A person who wilfully obstructs an inspector in the execution of his duty is guilty of an offence and liable

(a) in the case of an individual, to a fine of not more than \$50 000, or

(b) in the case of a corporation, to a fine of not more than \$500 000.

10 Section 60 is repealed and the following substituted:

60 A person who refuses or neglects to obey or carry out any order given to him by the Controller of Water Resources or the Minister or by authority of the Minister under the authority of this Act is guilty of an offence and liable

(a) in the case of an individual, to a fine of not more than \$50 000, or

(b) in the case of a corporation, to a fine of not more than \$500 000.

11 Section 61 is amended by striking out "\$1000" wherever it occurs and substituting "\$50 000".

8 Section 24 presently reads:

24(1) A permit, exploration permit, interim licence or licence may be issued by the Minister, the Controller of Water Resources or any other person authorized by the Minister in writing to do so.

(2) An extension of the term of a permit, exploration permit, interim licence or licence may be granted by the Minister, the Controller of Water Resources or any other person authorized by the Minister in writing to do so.

9 Section 59 presently reads:

59 A person who wilfully obstructs an inspector in the execution of his duty is guilty of an offence and liable to a fine not exceeding \$1000 or to imprisonment for a term not exceeding 3 months, or to both fine and imprisonment.

10 Section 60 presently reads:

60 A person who refuses or neglects to obey or carry out any order given to him by, or by authority of, the Minister under the authority of this Act is guilty of an offence and liable to a fine not exceeding \$1000 for each offence or to imprisonment for a term of not more than 3 months, or to both fine and imprisonment.

11 Section 61 presently reads:

61(1) A person who interrupts, molests or hinders in his work an engineer or Alberta land surveyor engaged in making surveys or taking levels, or in other operations in connection with any work authorized under this Act, is guilty of an offence and liable to a fine not exceeding \$1000 or to imprisonment for a term not exceeding 3 months, or to both fine and imprisonment.

12 Section 62 is repealed and the following substituted:

62 A person who commits an offence under this Act or the regulations for which no penalty is expressly provided is guilty of an offence and liable

(a) in the case of an individual, to a fine of not more than \$100 000 or to imprisonment for a period of not more than 2 years, or to both a fine and imprisonment, or

(b) in the case of a corporation, to a fine of not more than \$1 000 000.

13 Section 63 is amended by striking out all the words after "liable" and substituting:

(a) in the case of an individual, to a fine of not more than \$50 000, or

(b) in the case of a corporation, to a fine of not more than \$500 000.

14 The following is added after section 63:

63.1 Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable to the punishment provided for the offence, whether or not the corporation has been prosecuted for or convicted of the offence.

63.2 No person shall be convicted of an offence under this Act if that person establishes on balance of probabilities that he took all reasonable steps to prevent its commission.

15 The following is added after section 64:

(2) A person who knowingly and wilfully defaces, alters or removes any mark, survey monument, bench mark or water gauge placed by an engineer or Alberta land surveyor engaged in making surveys or levels, or in other operations in connection with any work authorized by this Act, is guilty of an offence and liable to a fine not exceeding \$1000 or to imprisonment for a term not exceeding 3 months, or to both fine and imprisonment.

12 Section 62 presently reads:

62 A person who commits an offence under this Act or the regulations for which no penalty is expressly provided is guilty of an offence and liable

- (a) in the case of an individual, to a fine of not more than \$2000, and in default of payment to a term of imprisonment not exceeding 6 months, or*
- (b) in the case of a corporation, to a fine of not more than \$10 000.*

13 Section 63 presently reads:

63 A licensee under obligation to supply water conveyed by his works who discriminates between the users of the water regarding its price, or who in case of a deficiency in the whole amount agreed to be supplied, discriminates between the users of the water regarding the proportionate quantity to be furnished to each user, is guilty of an offence and liable to a fine not exceeding \$1000 or to imprisonment for a term not exceeding 3 months, or to both fine and imprisonment.

64.1(1) The Lieutenant Governor in Council shall establish a Water Conservation Technical Advisory Committee.

(2) The Water Resources Commission shall appoint 5 persons as members of the Committee including:

a hydrogeologist,
an agriculturalist, and
a biologist

none of whom shall be "employees" within the meaning of the *Public Service Employee Relations Act*.

(3) Members of the Committee shall be appointed for a term of 4 years.

(4) No member shall be appointed for more than 2 consecutive terms.

64.2(1) The Water Conservation Technical Advisory Committee shall report to and advise the Water Resources Commission on any one or more of the following matters:

- (a)** the application of this Act and the regulations and any code or body of rules related thereto;
- (b)** the measures which could be taken to ensure that groundwater supplies are not drawn down faster than they are being recharged;
- (c)** a review of technical measures to increase the efficiency of water use or reduce water use;
- (d)** policies for protecting instream needs, including the protection of biodiversity and the aesthetic values of water;
- (e)** any other matter referred to the Committee by the Minister, the Controller of Water Resources or the Water Resources Commission with respect to any matter pertaining to this Act and the regulations and the administration thereof.

(2) The Committee shall meet not less than 4 times annually and shall report its meetings to the Water Resources Commission.

(3) The Water Resources Commission shall accept the recommendations of the Committee.

(4) The members of the Committee shall be remunerated on the same basis as members of the Water Resources Commission.

(5) The Committee shall, as soon as practicable after the end of each fiscal year, prepare a report summarizing its transactions and affairs during the preceding fiscal year.

(6) The Committee shall, as soon as an annual report is prepared under subsection (5), forward it to the Minister who shall lay a copy of it before the Legislative Assembly if it is then sitting, and if it is not then sitting, within 15 days after the commencement of the next ensuing sitting.

16 Section 19 is repealed.

17 The Environmental Protection and Enhancement Act is amended by renumbering section 37 as section 37(1) and adding the following after subsection (1):

(2) Notwithstanding subsection (1), the following are mandatory activities for the purposes of this Part:

(a) the diversion of more than 10 000 000 cubic metres of water from any river, lake or reservoir per year, and

(b) the extraction of more than 50 000 cubic metres of non-saline groundwater per year.

16 Section 19 presently reads:

19 The Minister may, if he considers it expedient and fit and proper to do so, waive the requirement for giving public notice of the filing of the application and plans, as required by section 16, and of the proof of publication of the notice as required by section 18.

17 Amends chapter E-13.3 of the Statutes of Alberta.

18 The Water Resources Commission Act is amended:

(a) in section 1(b) by adding "including water conservation" after "management of water resources";

(b) in section 5 by adding the following after subsection (3):

(3) The Commission shall provide facilities for the Water Conservation Technical Advisory Committee established under the *Water Resources Act*.

(c) in section 6 by adding the following after clause (1)(c):

(c.1) to promote water conservation in Alberta;

(d) in section 6 by adding the following after subsection (1):

(1.1) In carrying out its functions under subsection (1), the Commission shall be bound by the recommendations of Water Conservation Technical Advisory Committee established under the *Water Resources Act*.

18 Amends chapter W-5.1 of the Statutes of Alberta.

(a) Section 1(b) presently reads:

(b) "water resources" includes water storage, drainage, and irrigation and any other matters incidental to the management of water resources.

(c) Section 6 presently reads in part:

6(1) The functions of the Commission are

(a) to assess and review long-term water resources planning by the Government of Alberta in relation to agricultural, economic, community and environmental factors in Alberta;

(b) to undertake evaluations of specific short-term and long-term projects affecting the water resources of Alberta and to advise the Lieutenant Governor in Council accordingly;

(c) to monitor intergovernmental negotiations affecting the water resources of Alberta and to make recommendations as to the public interest of Alberta in that regard;