

2013 Bill 31

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 31

PROTECTING ALBERTA'S ENVIRONMENT ACT

THE MINISTER OF ENVIRONMENT
AND SUSTAINABLE RESOURCE DEVELOPMENT

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 31

2013

PROTECTING ALBERTA'S ENVIRONMENT ACT

(Assented to , 2013)

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

Definitions

1 In this Act,

- (a) “Agency” means the Alberta Environmental Monitoring, Evaluation and Reporting Agency established by this Act;
- (b) “board” means the board of directors of the Agency;
- (c) “director” means a director of the board of the Agency;
- (d) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act.

Establishment of Agency

2(1) A corporation to be known as the Alberta Environmental Monitoring, Evaluation and Reporting Agency is established.

(2) The Agency is not an agent of the Crown.

Agency purposes

3(1) The purposes of the Agency are

- (a) to obtain credible and relevant scientific data and other information regarding the condition of the environment in Alberta,
- (b) to ensure the data and other information are available and reported to the public in an open and transparent manner, and
- (c) any other purpose prescribed by the Lieutenant Governor in Council.

(2) In carrying out its purposes, the Agency shall

- (a) plan, co-ordinate and conduct environmental monitoring,
- (b) collect, store, manage, analyze and evaluate environmental monitoring data,
- (c) report on the status and trends related to the condition of the environment on the basis of the evaluation of the data collected,
- (d) make environmental monitoring data and related evaluations and assessments publicly available,
- (e) develop standards respecting environmental monitoring,
- (f) establish advisory committees or panels respecting environmental monitoring, and
- (g) carry out other activities determined by the Minister.

(3) The Agency may charge fees on a cost-recovery basis for requested services provided by the Agency in carrying out its purposes.

Reporting

4 At a frequency determined by the Agency in consultation with the Minister, the Agency shall report to the public on the condition of the environment in Alberta.

Board of directors

5(1) The Agency shall have a board of directors consisting of not fewer than 5 and not more than 10 directors appointed by the Lieutenant Governor in Council.

(2) A director may be appointed for a maximum term of 3 years.

(3) A director is eligible for reappointment for additional terms of not more than 3 years each, but in no case may a person serve as a director for more than 10 consecutive years.

(4) A break in service of less than 2 years shall be disregarded in determining the number of consecutive years under subsection (3).

(5) The Lieutenant Governor in Council shall designate one of the directors as Chair and another as Vice-chair.

- (6) A director ceases to hold office when
- (a) the director resigns, or
 - (b) the director's appointment expires or is terminated by the Lieutenant Governor in Council.
- (7) A director's resignation becomes effective when it is received by the Chair in writing or at the time specified in the resignation, whichever is later.
- (8) The Chair shall send a copy of a director's resignation to the Minister forthwith.
- (9) Notwithstanding subsections (3) and (6)(b), where a director's appointment expires, the director continues to hold office until
- (a) the director is reappointed,
 - (b) a successor is appointed, or
 - (c) 3 months has elapsed since the expiry,
- whichever occurs first.
- (10) The Lieutenant Governor in Council shall determine the remuneration and travelling expenses payable to directors and to members of committees established by the board.

Eligibility for appointment

- 6(1)** The following individuals are not eligible to be appointed as a director:
- (a) an employee as defined in the *Public Service Act*;
 - (b) an elected official;
 - (c) an individual who is less than 18 years of age;
 - (d) an individual who has the status of bankrupt in Canada or equivalent status in any other jurisdiction;
 - (e) an individual who, within the immediately preceding 5 years, has been convicted of an indictable offence or of an offence of a similar nature in another jurisdiction.

- (2) An individual is disqualified as a director if the individual
- (a) was, at the time of appointment, ineligible to become a director under subsection (1),
 - (b) becomes an individual referred to in subsection (1)(b) or (d), or
 - (c) is convicted of an offence referred to in subsection (1)(e).

Duties and functions of board

7(1) The board shall manage or supervise the management of the business and affairs of the Agency.

(2) The board may delegate, on terms and conditions the board considers advisable, to a director, a committee of the board, the Chief Executive Officer, any officer or employee of the Agency or any other person any of the board's powers, duties and functions except

- (a) the power to appoint the Chief Executive Officer under section 10,
- (b) the power to make bylaws under section 21,
- (c) the power to approve business plans as referred to in section 22, and
- (d) the power to approve annual reports as referred to in section 23.

Fiscal year

8 The fiscal year of the Agency is April 1 to the following March 31.

Auditor

9 The Auditor General is the auditor of the Agency.

Chief Executive Officer

10(1) Subject to the Minister's approval, the board may appoint a Chief Executive Officer and, if a Chief Executive Officer is

appointed, shall determine the Chief Executive Officer's powers, duties and functions.

(2) If a Chief Executive Officer is appointed, the board shall determine the compensation to be paid to the Chief Executive Officer.

(3) The Chief Executive Officer may, on terms and conditions the Chief Executive Officer considers advisable, delegate to any employee of the Agency or any other person any of the Chief Executive Officer's powers or duties.

Powers of Agency

11(1) The Agency has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

(2) The Agency may, if authorized by a resolution of the board, borrow money

- (a) by credit card, overdraft or unsecured line of credit, if the money is required for operating purposes in the ordinary course of the Agency's business, or
- (b) by other means or for other purposes, with the prior written approval of the Minister.

(3) The Agency shall not acquire shares as defined in section 42(1)(a) of the *Financial Administration Act* unless the shares are acquired in the incorporation or acquisition of a subsidiary corporation under section 17.

(4) The Agency shall not enter into a partnership.

(5) The Agency shall not make loans or give guarantees.

Regulations

12 The Lieutenant Governor in Council may make regulations

- (a) clarifying or expanding the powers, duties and functions of the Agency;
- (b) imposing limits on the powers, duties and functions of the Agency.

Employees

13 The Agency may engage employees for the purpose of carrying on the business of the Agency and may determine their conditions of employment.

Government employees

14 If the Minister considers it necessary, the Minister may provide to the Agency at no cost to the Agency the services of employees of the Government under the Minister's administration to carry out the work of the Agency.

Non-application of Public Service Act

15 The *Public Service Act* does not apply to

- (a) the Agency, or
- (b) the directors, Chief Executive Officer or employees of the Agency.

Acquisition of real property

16(1) The Agency, with prior written notification to the Minister, may acquire or hold real property that is required for operating purposes in the ordinary course of the Agency's business and may dispose of real property.

(2) Subsection (1) does not apply to real property donated or bequeathed to the Agency, but the Agency must notify the Minister as soon as is practicable after accepting a donation or bequest of real property.

Subsidiaries

17 The Agency must obtain the approval of the Minister

- (a) to incorporate a subsidiary corporation,
- (b) to acquire a subsidiary corporation either directly or indirectly, or
- (c) to dissolve, liquidate, wind up or dispose of a subsidiary corporation

prior to seeking Lieutenant Governor in Council approval under section 80 of the *Financial Administration Act*.

Science Advisory Panel

18(1) The Agency shall appoint a Science Advisory Panel, consisting of not more than 8 members.

(2) The Science Advisory Panel shall periodically review the scientific basis and the components of the Agency's monitoring, evaluation and reporting activities and shall advise the Agency regarding the scientific integrity of environmental monitoring in Alberta.

(3) The Agency shall set the remuneration and expenses payable to the members of the Science Advisory Panel.

Advisory committees and panels

19 The Agency may from time to time

- (a) establish any advisory committee or panel that the Agency considers necessary in connection with any matter pertaining to the purposes of the Agency,
- (b) appoint to an advisory committee or panel persons who are not directors,
- (c) prescribe the duties of an advisory committee or panel, and
- (d) set the expenses payable to the members of an advisory committee or panel.

Indemnification

20(1) The Agency may indemnify

- (a) a present or former director or officer of the Agency,
- (b) a person who acts or acted at the request of the Agency, or acts or acted as a director or officer of another corporation at the request of the Agency,
- (c) an employee or former employee of the Agency,

- (d) the heirs and legal representatives of a person referred to in clause (a), (b) or (c), and
- (e) an employee of the Government who carries out work of the Agency,

against costs, charges and expenses, including any amount paid to settle an action or satisfy a judgment, reasonably incurred by that person with respect to a civil, criminal or administrative action or proceeding to which that person is made a party by reason of holding such a position, if that person acted honestly, in good faith and with a view to the best interests of the Agency and, in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, if that person had reasonable grounds for believing that the conduct that is the subject of the action or proceeding was lawful.

(2) The Agency shall not provide an indemnity referred to in subsection (1) unless the indemnity

- (a) is in writing, and
- (b) is authorized by a resolution of its board.

(3) The Agency may provide indemnities in writing of the type that the Crown may provide under section 71(1)(a), (b) or (d) of the *Financial Administration Act*.

(4) The Agency may not provide indemnities except in accordance with this section.

Bylaws and code of conduct

21(1) The board may make bylaws respecting

- (a) the business and affairs of the Agency, and
- (b) the calling and conduct of meetings of the board and of committees of the board and the conduct of the board and of committees of the board generally.

(2) The board shall, forthwith after a bylaw is made or amended, provide a copy of the bylaw or amendment to the Minister.

(3) The board shall, by bylaw, establish a code of conduct, including conflict of interest guidelines, to apply to directors, officers and employees of the Agency.

(4) A copy of the code of conduct must be made available to the public.

(5) The *Regulations Act* does not apply to bylaws made under this section.

Business plan

22(1) The Agency shall annually prepare, in a form and at a time determined by the Minister, a multi-year business plan, which must include

- (a) the budget for the fiscal years to which the plan relates,
- (b) the proposed goals, objectives and targets for the fiscal years to which the plan relates,
- (c) the proposed methods for measuring its performance in respect of the proposed goals, objectives and targets, and
- (d) any additional information requested by the Minister.

(2) The business plan must be approved by the board and, after approval, must be submitted to the Minister.

Annual report

23(1) The Agency shall, after the end of each fiscal year, prepare a report, which must be approved by the board, summarizing its transactions and affairs during the preceding year and containing audited financial statements and any additional information requested by the Minister in writing.

(2) The Agency shall, not later than 120 days after the end of the fiscal year, submit to the Minister the annual report prepared under subsection (1).

(3) The Agency shall make the annual report available to the public.

Access to information

24 The Agency is authorized to collect personal information in the course of performing duties and functions and exercising powers under this Act, and this section constitutes an authorization

for the purposes of section 33 of the *Freedom of Information and Protection of Privacy Act*.

Liability

25 No action for damages may be commenced against a director, Chief Executive Officer or Agency employee for anything done or omitted to be done by that individual in good faith while carrying out duties or exercising powers under this or any other enactment.

Review

26 The Minister shall review the mandate and operation of the Agency at least every 5 years and shall report the results of the review to the Executive Council.

Amends RSA 2000 cF-12

27 The *Financial Administration Act* is amended in section 2(5) by adding the following after clause (h):

- (h.1) the Alberta Environmental Monitoring, Evaluation and Reporting Agency,

Coming into force

28 This Act comes into force on Proclamation.

Explanatory Notes

27 Amends chapter F-12 of the Revised Statutes of Alberta 2000. Section 2(5) presently reads in part:

(5) This Act, except this section and sections 1, 5, 6, 7, 13(3), 77, 80 and 81, does not apply to the following:

(f.1) a research and innovation corporation established under section 7 of the Alberta Research and Innovation Act,

(h) a provincial health board under the Regional Health Authorities Act,

(i) a mental health hospital board under the Mental Health Act, or

28 Coming into force.

