

2014 Bill 202

Second Session, 28th Legislature, 63 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 202

INDEPENDENT BUDGET OFFICER ACT

MRS. FORSYTH

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 202

2014

INDEPENDENT BUDGET OFFICER ACT

(Assented to _____, 2014)

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

Definitions

1 In this Act,

- (a) “Crown-controlled organization” means Crown-controlled organization as defined in the *Financial Administration Act*;
- (b) “department” means department as defined in the *Financial Administration Act*;
- (c) “deputy head” means deputy head as defined in the *Financial Administration Act*;
- (d) “Minister” means Minister as defined in the *Government Organization Act*;
- (e) “record” means record as defined in the *Freedom of Information and Protection of Privacy Act*;
- (f) “Standing Committee” means the Standing Committee on Legislative Offices.

Part 1 Independent Budget Officer

Independent Budget Officer

2 There is hereby established the position of Independent Budget Officer, the holder of which is an officer of the Legislature.

Mandate

- 3** The mandate of the Independent Budget Officer is to
- (a) provide independent analysis to the Legislative Assembly about the state of Alberta's finances, including the budget and quarterly updates, and the trends in the provincial and national economies;
 - (b) when requested to do so by a committee of the Legislative Assembly, undertake research for that committee into Alberta's finances and economy;
 - (c) when requested to do so by a committee of the Legislative Assembly that is mandated to consider the estimates of the government, undertake research for that committee into those estimates; and
 - (d) when requested to do so by a member of the Legislative Assembly or a committee of the Legislative Assembly, estimate the financial cost of any proposal that relates to a matter over which the Legislative Assembly has jurisdiction.

Part 2 Appointment of the Independent Budget Officer

Appointment of Independent Budget Officer

4(1) The Lieutenant Governor in Council, on the recommendation of the Legislative Assembly, shall appoint an Independent Budget Officer to carry out the duties and functions set out in this Act.

(2) The Independent Budget Officer must not be a current or former member of the Legislative Assembly.

Term of office

5(1) Except as provided in section 6, the Independent Budget Officer shall hold office for a term of 5 years.

- (2) A person appointed as Independent Budget Officer under section 4(1) is eligible for reappointment for one additional term of 5 years.

Resignation, removal or suspension of Independent Budget Officer

- (1) The Independent Budget Officer may resign at any time by notifying the Speaker of the Legislative Assembly or, if there is no Speaker or the Speaker is absent from Alberta, by notifying the Clerk of the Legislative Assembly.
- (2) The Lieutenant Governor in Council must remove the Independent Budget Officer from office or suspend the Independent Budget Officer for cause or incapacity on the recommendation of the Legislative Assembly.
- (3) If the Legislative Assembly is not sitting, the Lieutenant Governor in Council may suspend the Independent Budget Officer for cause or incapacity on the recommendation of the Standing Committee.

Acting Independent Budget Officer

- (1) The Independent Budget Officer may appoint an employee of the Office of the Independent Budget Officer as Acting Independent Budget Officer.
- (2) If there is neither an Independent Budget Officer nor an Acting Independent Budget Officer, the Lieutenant Governor in Council may appoint a person as Acting Independent Budget Officer to hold office until an Acting Independent Budget Officer is appointed under subsection (1).
- (3) In the event of the absence or inability of the Independent Budget Officer to act or when there is a vacancy in the office of the Independent Budget Officer, the Acting Independent Budget Officer has all the powers and shall perform the duties of the Independent Budget Officer.
- (4) The Acting Independent Budget Officer holds office until
- (a) a person is appointed as Independent Budget Officer under section 4(1),
 - (b) the suspension of the Independent Budget Officer ends, or

- (c) the Independent Budget Officer returns to office after a temporary absence.

Remuneration and expenses

8 The Independent Budget Officer must be remunerated as determined by the Standing Committee, and it must review that remuneration at least once a year.

Oath

9(1) Before beginning the duties and functions of office, the Independent Budget Officer must take an oath to faithfully and impartially perform the duties and functions of the office and not to disclose any information received by the Office of the Independent Budget Officer under this Act, except as provided in this or any other enactment.

(2) The oath must be administered by the Speaker of the Legislative Assembly or the Clerk of the Legislative Assembly.

Part 3 Administration and Management of the Office of the Independent Budget Officer

Office of the Independent Budget Officer

10(1) There may be a part of the public service of Alberta called the Office of the Independent Budget Officer, consisting of the Independent Budget Officer and those persons employed pursuant to the *Public Service Act* that are necessary to assist the Independent Budget Officer in carrying out the Independent Budget Officer's duties and functions under this or any other enactment.

(2) The Independent Budget Officer may engage the services of any persons necessary to assist the Independent Budget Officer in carrying out the Independent Budget Officer's duties and functions.

(3) On the recommendation of the Independent Budget Officer, the Standing Committee may order that

- (a) any regulation, order or directive made under the *Financial Administration Act*, or
- (b) any regulation, order, directive, rule, procedure, direction, allocation, designation or other decision under the *Public Service Act*,

does not apply to, or is varied in respect of, the Office of the Independent Budget Officer or any particular employee or class of employees in that Office.

(4) An order made under subsection (3)(a) operates despite section 2 of the *Financial Administration Act*.

(5) The *Regulations Act* does not apply to orders made under subsection (3).

(6) The chair of the Standing Committee must lay a copy of each order made under subsection (3) before the Legislative Assembly if it is sitting or, if it is not then sitting, within 15 days after the start of the next sitting.

(7) Every person employed or engaged under subsections (1) or (2) must, before beginning to perform their duties under this Act, take an oath, to be administered by the Independent Budget Officer, not to disclose any information received by that person under this Act, except as provided in this or any other enactment.

Delegation by Independent Budget Officer

11(1) The Independent Budget Officer may delegate to any person any power, duty or function of the Independent Budget Officer under this Act except the power

(a) to delegate under this section, and

(b) to make a report under this Act.

(2) A delegation under subsection (1) must be in writing and may contain any conditions or restrictions the Independent Budget Officer considers appropriate.

Part 4 Access to Information and Disclosure

Access to financial and economic data

12(1) Subject to subsections (2) and (3), every department and every Crown-controlled organization shall, on request, give the Independent Budget Officer, free of charge and in a timely manner, any financial, economic or other information that is in the custody or under the control of the department or Crown-controlled organization and that the Independent Budget Officer believes to be necessary to perform his or her duties under this Act.

(2) A department or Crown-controlled organization shall not give the Independent Budget Officer a record described in section 22(1) of the *Freedom of Information and Protection of Privacy Act*, unless the circumstances described in section 22(2)(a), (b) or (c) of that Act exist.

(3) A department or Crown-controlled organization shall ensure that the following information is not disclosed to the Independent Budget Officer when the department or Crown-controlled organization provides any information under subsection (1):

- (a) personal information within the meaning of the *Freedom of Information and Protection of Privacy Act*, or
- (b) individually identifying personal health information within the meaning of the *Health Information Act*.

(4) The Independent Budget Officer shall provide a report to the chair of the Standing Committee if the Independent Budget Officer is of the opinion that a department or Crown-controlled organization has failed to comply with a request under subsection (1).

(5) The chair of the Standing Committee shall immediately lay a copy of a report made pursuant to subsection (4) before the Legislative Assembly if it is sitting or, if it is not then sitting, shall deposit the report with the Speaker of the Legislative Assembly, who shall immediately distribute copies to the office of each member of the Legislative Assembly.

(6) The Independent Budget Officer shall make available to the public in a reasonable manner, including posting on the Office's public website, any report made pursuant to subsection (4) after it has been laid before the Legislative Assembly or delivered to the members of the Legislative Assembly.

(7) A disclosure to the Independent Budget Officer under subsection (1) does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege.

Annual report

13 The Independent Budget Officer shall report annually, on or before July 31 of each year, on the work of his or her office and shall

- (a) deliver the report to the Speaker of the Legislative Assembly, who shall immediately lay a copy of the report

before the Legislative Assembly or, if it is not then sitting, shall immediately distribute copies to the office of each member of the Legislative Assembly, and

- (b) make the report available to the public in a reasonable manner, including posting on the Office's public website, after the report has been laid before the Legislative Assembly or delivered to the members of the Legislative Assembly.

Other reports

14 The Independent Budget Officer may make any other reports as he or she considers appropriate and may provide such reports to the public or to any person he or she considers appropriate, but before providing the report, the Independent Budget Officer shall deliver a copy to the Minister of any department or to the head of any Crown-controlled organization to which the report is relevant.

Disclosure of information

15 The Independent Budget Officer is permitted to disclose information that he or she is given under section 12 but only if

- (a) the disclosure is essential for the performance of the Independent Budget Officer's mandate;
- (b) the Independent Budget Officer did not obtain the information solely from a record described in section 16 of the *Freedom of Information and Protection of Privacy Act*;
- (c) the Executive Council has consented to the disclosure of any information obtained by the Independent Budget Officer solely from a record described in section 21 or section 25(1) of the *Freedom of Information and Protection of Privacy Act*; and
- (d) consent has been given to disclose any information that is subject to solicitor-client privilege, litigation privilege or settlement privilege, by the holder of that privilege.

Part 5

Administrative and General Provisions

Financing of operations

16(1) The Independent Budget Officer must submit to the Standing Committee in respect of each fiscal year an estimate of the public money that will be required to be provided by the Legislature to defray the several charges and expenses of the Office of the Independent Budget Officer in that fiscal year.

(2) The Standing Committee must review each estimate submitted pursuant to subsection (1) and, on the completion of the review, the chair of the Standing Committee must transmit the estimate to the Minister of Finance for presentation to the Legislative Assembly.

(3) If at any time that the Legislative Assembly is not in session the Standing Committee or, if there is no Standing Committee, the Minister of Finance

- (a) reports that the Independent Budget Officer has certified that, in the public interest, an expenditure of public money is urgently required in respect of any matter pertaining to the Office of the Independent Budget Officer, and
- (b) reports that either
 - (i) there is no supply vote under which an expenditure with respect to that matter may be made, or
 - (ii) there is a supply vote under which an expenditure with respect to that matter may be made but the authority available under the supply vote is insufficient,

the Lieutenant Governor in Council may order a special warrant to be prepared to be signed by the Lieutenant Governor authorizing the expenditure of the amount estimated to be required.

(4) When the Legislative Assembly is adjourned for a period of more than 14 days, then, for the purposes of subsection (3), the Legislative Assembly is deemed not to be in session during the period of the adjournment.

(5) When a special warrant is prepared and signed under subsection (3) on the basis of a report referred to in subsection (3)(b)(i), the authority to spend the amount of money specified in the special warrant for the purpose specified in the special warrant

is deemed to be a supply vote for the purposes of the *Financial Administration Act* for the fiscal year in which the special warrant is signed.

(6) When a special warrant is prepared and signed under subsection (3) on the basis of a report referred to in subsection (3)(b)(ii), the authority to spend the amount of money specified in the special warrant is, for the purposes of the *Financial Administration Act*, added to and deemed to be part of the supply vote to which the report relates.

(7) When a special warrant has been prepared and signed pursuant to this section, the amounts authorized by it are deemed to be included in, and not in addition to, the amounts authorized by the Act, not being an Act for interim supply, enacted next after it for granting to Her Majesty sums of money to defray certain expenditures of the public service of Alberta.

Limitation of liability

17 No proceedings lie against the Independent Budget Officer or any person employed or retained by the Independent Budget Officer for anything he or she may do or report or say in the course of the exercise or the intended exercise of his or her functions under this Act unless it is shown that he or she acted in bad faith.

Regulations

18 The Lieutenant Governor in Council may make regulations

- (a) prescribing other functions of the Independent Budget Officer;
- (b) defining any word or expression used but not defined in this Act; and
- (c) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary for carrying out the intent of the Act.

Review of the Act

19 A committee of the Legislative Assembly must begin a comprehensive review of this Act within 5 years after this Act comes into force and must submit to the Legislative Assembly, within one year after beginning the review, a report that includes any amendments recommended by the committee.

Record of Debate

[illegible]