

2022 Bill 203

Third Session, 30th Legislature, 71 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 203

TECHNOLOGY INNOVATION AND ALBERTA VENTURE FUND ACT

MR. BILOUS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 203

2022

TECHNOLOGY INNOVATION AND ALBERTA VENTURE FUND ACT

(Assented to _____, 2022)

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

Definitions

1 In this Act,

- (a) “Alberta Enterprise Corporation” means the Alberta Enterprise Corporation established under the *Alberta Enterprise Corporation Act*;
- (b) “Alberta Technology Venture Capital Fund” means the Alberta Technology Venture Capital Fund established under the *Alberta Enterprise Corporation Act*;
- (c) “corporation” means a body corporate incorporated or continued under the *Business Corporations Act*, and not discontinued under that Act, that
 - (i) has an annual taxable income not exceeding the amount prescribed in the regulations, and
 - (ii) pays 50% or more of its wages and salaries to employees whose ordinary place of employment is a permanent establishment located in Alberta;
- (d) “Council” means the Council established under section 2;
- (e) “member” means a member of the Council appointed under section 6;

- (f) “Minister” means the Minister designated under section 16 of the *Government Organization Act* as the Minister responsible for this Act.

Council established

2 The Technology Innovation Advisory Council is established.

Objective of Council

3 The objective of the Council is to make recommendations to the Minister in respect of the following:

- (a) encouraging private investment in, and the development of, corporations doing business in the technology sector in Alberta;
- (b) attracting increased private investment capital to the technology sector in Alberta, including through the Alberta Enterprise Corporation;
- (c) ensuring that the impact of private investment capital is maximized to grow corporations in the technology sector, including through the Alberta Technology Venture Capital Fund;
- (d) developing Government policy based on key performance indicators to support and grow the technology sector in Alberta;
- (e) attracting and supporting technology accelerators to assist early-stage entrepreneurs in Alberta to access private investment capital;
- (f) supporting increased applied research in the technology sector in Alberta, particularly in the areas of artificial intelligence, technology manufacturing and energy resource technology;
- (g) encouraging the development of specialized technology competency centres in Alberta to provide advice and support to corporations to improve their competitiveness;
- (h) increasing the number of patents registered by corporations;
- (i) developing an environment that supports the growth of the technology sector in Alberta, including high-skilled employment opportunities;

- (j) ensuring workers in Alberta have the skills, training and education required by corporations in the technology sector for a globally competitive environment;
- (k) promoting a better understanding by Albertans of the importance of the technology industry in Alberta's economy;
- (l) encouraging increased cooperation and coordination between departments with respect to the Council's recommendations regarding the matters described in clauses (a) to (k).

Duties of Council

4(1) In making recommendations under section 3, the Council must do the following:

- (a) consult with partners, individuals, corporations, organizations, associations, post-secondary institutions, and professional and employee groups involved in the technology sector;
- (b) conduct research and compile information and data to identify opportunities and challenges experienced by corporations with respect to the technology sector in Alberta;
- (c) prepare and submit to the Minister an annual report containing
 - (i) recommendations made by the Council with respect to the matters described in section 3, and
 - (ii) a summary of any progress made in implementing the previous year's recommendations, if any.

(2) The Minister must, within 30 days of receiving a report under subsection (1)(c), make the report publicly available.

Powers of Council

5 In carrying out its duties under section 4, the Council may do any of the following:

- (a) request information or data from
 - (i) a department, public entity or office of the Government, or
 - (ii) a service provider, as prescribed by the regulations;

- (b) receive and hear submissions from individuals, groups or corporations relating to the objective of the Council;
- (c) undertake research and analysis on matters relevant to technology innovation, investment and development in Alberta;
- (d) publish any submission made to the Council in a report submitted to the Minister.

Appointment of members

6(1) Subject to subsection (2), the Lieutenant Governor in Council must appoint at least 7 members, but no more than 15 members, to the Council.

(2) An individual is eligible to be appointed as a member of the Council if they are, at the time of appointment, a resident of Alberta.

(3) The Lieutenant Governor in Council may reappoint a member to the Council for 1 additional 4-year term.

(4) The Lieutenant Governor in Council must designate a member as the chair of the Council.

(5) The chair designated under subsection (4) is responsible for ensuring that the Council fulfills its duties under this Act.

(6) The Minister must provide secretarial support to the Council to fulfill its duties under this Act.

Remuneration and expenses not payable

7 No remuneration or expenses are payable to the members of the Council.

Regulations

8 The Lieutenant Governor in Council may make regulations

- (a) prescribing the maximum amount of taxable income for the purpose of section 1(c)(i);
- (b) prescribing a service provider for the purpose of section 5(a)(ii);
- (c) defining any term used but not defined in this Act.

Related Amendments

Amends SA 2008 cA-17.5

9(1) The *Alberta Enterprise Corporation Act* is amended by this section.

(2) Section 1 is repealed and the following is substituted:

Part 1 Definitions

Definitions

1 In this Act,

- (a) “board” means the board continued under section 9;
- (b) “Corporation” means the Alberta Enterprise Corporation established under section 2;
- (c) “eligible Alberta business” means a taxable Canadian corporation or Canadian partnership doing business in a knowledge-based industry that
 - (i) pays 50% or more of its wages and salaries to employees whose ordinary place of employment is a permanent establishment of the corporation or partnership located in Alberta, and
 - (ii) at the time the Fund makes the investment in the taxable Canadian corporation or Canadian partnership
 - (A) has total gross assets, which includes the total gross assets of all related corporations and partnerships, not exceeding the amount prescribed by the regulations, and
 - (B) together with all related corporations and partnerships, does not have more than 500 employees, or a larger number of employees as otherwise prescribed in the regulations;
- (d) “Fund” means the Alberta Technology Venture Capital Fund established under section 18(1);
- (e) “investor” means a particular shareholder of the Fund;

Explanatory Notes

Related Amendments

9(1) Amends chapter A-17.5 of the Statutes of Alberta 2008.

(2) Section 1 presently reads:

1 In this Act,

- (a) “board” means the board of directors appointed under section 9;*
- (b) “Corporation” means the Alberta Enterprise Corporation established by section 2;*
- (c) “Minister” means the Minister determined under section 16 of the Government Organization Act as the Minister responsible for this Act.*

- (f) “knowledge-based industry” means a sector of economic activity concerned with products and services that are based on the innovative application of technology, including
 - (i) information technology,
 - (ii) communications technology,
 - (iii) life sciences technology,
 - (iv) energy technology,
 - (v) nanotechnology,
 - (vi) artificial intelligence,
 - (vii) environmental technology, and
 - (viii) a sector prescribed by the regulations;
- (g) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act.

(3) The following heading is added immediately before section 2:

**Part 2
Alberta Enterprise Corporation**

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

Corporate objects

3(1) The objects of the Corporation are

- (a) to promote the growth and development of knowledge-based industries in Alberta and the venture capital industry that is necessary to support them,
- (b) to make venture capital available to knowledge-based industries in accordance with this Part of the Act, and
- (c) to operate the Fund in accordance with Part 3 of this Act.

(3) Part 2 Alberta Enterprise Corporation.

(4) Section 3 presently reads:

3(1) For the purposes of this section, “knowledge-based industry” means a sector of economic activity concerned with products and services that are based on the innovative application of technology, and includes the following:

- (a) information technology,*
- (b) communications technology,*
- (c) life sciences technology,*
- (d) nanotechnology, and*
- (e) environmental technology,*

but does not include any sector excluded by the regulations.

(2) The objects of the Corporation are

(2) For the purposes of achieving its objects, and in accordance with section 42(5) of the *Financial Administration Act*, the Corporation may do the following:

- (a) subject to the regulations and any terms and conditions imposed under section 5(2)
 - (i) make investments, including purchasing shares, making loans of money and acquiring existing loans, and
 - (ii) engage in other activities related to the development of the venture capital industry referred to in subsection (1)(a);
- (b) undertake the activities required to meet the objects of the Fund as described in section 20.

(5) Section 5(2) is repealed and the following is substituted:

- (2) A transfer under subsection (1)
 - (a) is subject to any terms and conditions that the Minister considers advisable, including terms and conditions requiring the Corporation to pay returns earned on its investments made under this Part of the Act to the General Revenue Fund, and
 - (b) may not be used to make investments or purchase shares with respect to the Fund under Part 3 of this Act unless appropriated by the Legislature for that purpose.

(6) Section 6(2) is amended by adding “, except in accordance with Part 3 of this Act” immediately after “The Corporation shall not give guarantees”.

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

Indemnification

7(1) The Corporation may indemnify the following persons in accordance with subsection (2):

- (a) a present or former director or officer of the Corporation;
- (b) a person who acts or acted at the request of the Corporation, or as a director or officer of a corporation

- (a) to promote the development of knowledge-based industries and a venture capital industry in Alberta to support them, and*
 - (b) to make venture capital available to knowledge-based industries.*
- (3) Subject to the regulations and any terms and conditions imposed under section 5(2), the Corporation may, for the purposes of achieving its objects,*
- (a) make investments, including investments referred to in section 42(5) of the Financial Administration Act, and*
 - (b) engage in other activities related to the development of the venture capital industry referred to in subsection (2)(a).*

(5) Section 5(2) presently reads:

(2) A transfer under subsection (1) is subject to any terms and conditions that the Minister considers advisable, including terms and conditions requiring the Corporation to pay returns earned on its investments to the General Revenue Fund.

(6) Section 6(2) presently reads:

(2) The Corporation shall not give guarantees.

(7) Section 7 presently reads:

7(1) The Corporation may, subject to the regulations, indemnify

- (a) a present or former director or officer of the Corporation,*
- (b) a person who acts or acted at the request of the Corporation, or as a director or officer of a corporation of which the Corporation is or was, directly or indirectly, a shareholder or creditor,*
- (c) an employee or former employee of the Corporation, and*

of which the Corporation is or was, directly or indirectly, a shareholder or creditor;

- (c) an employee or former employee of the Corporation;
- (d) the heirs and legal representatives of a person referred to in clauses (a), (b) or (c).

(2) The Corporation may, subject to the regulations, indemnify a person described in subsection (1) against costs, charges and expenses, including any amount paid to settle an action or satisfy a judgment, reasonably incurred by that person as follows:

- (a) 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
 - (i) if that person acted honestly, in good faith and with a view to the best interests of the Corporation in respect of the activities of the Corporation described in this Part of the Act, or
 - (ii) if that person acted honestly, in good faith and with a view to the best interests of the Fund in respect of the activities of the Corporation described in Part 3 of this Act;
- (b) with respect to 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.

(8) Section 9 is amended by striking out subsection (1) and substituting the following:

Board of directors

9(1) The board of directors of the Corporation is continued.

(1.1) Subject to subsection (1.2), the Lieutenant Governor in Council must appoint not more than 7 directors to the board.

(1.2) The board may not include a person appointed to the Technology Innovation Advisory Council under the *Technology Innovation Advisory Council Act*.

- (d) *the heirs and legal representatives of a person referred to in clause (a), (b) or (c),*

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 Corporation, 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 Corporation shall not provide indemnities other than those*

- (a) *authorized by subsection (1), or*
(b) *provided in accordance with the regulations.*

- (8) Section 9(1) presently reads:

9(1) There shall be a board of directors consisting of not more than 7 members appointed by the Lieutenant Governor in Council.

(9) Section 12 is amended

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

- (a) must act honestly and in good faith and with a view to the best interests of the Corporation in respect of the activities of the Corporation described in this Part of the Act,
- (b) must act honestly and in good faith and with a view to the best interests of the Fund in respect of the activities of the Corporation described in Part 3 of this Act, and
- (c) must exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

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

(2) In considering whether the exercise of a power or performance of a duty is in the best interests of the Corporation or the Fund, as the case may be, a director or officer may have due regard to

- (a) the interests of the Crown, in the case of the activities of the Corporation described in this Part of the Act, and
- (b) the interests of investors, in the case of the activities of the Corporation described in Part 3 of this Act.

(10) Section 14 is amended

(a) in subsection (1) by adding “With respect to the activities of the Corporation described in this Part of the Act,” immediately before “The Minister may request from the Corporation”, and

(b) in subsection (2) by adding “With respect to the activities of the Corporation described in this Part of the Act,” immediately before “The Corporation shall allow the Minister”.

(9) Section 12 presently reads:

12(1) Every director and officer, in exercising powers and performing duties,

- (a) shall act honestly and in good faith and with a view to the best interests of the Corporation, and*
- (b) shall exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.*

(2) In considering whether the exercise of a power or the performance of a duty is in the best interests of the Corporation, a director or officer, as the case may be, may have due regard to the interests of the Crown.

(10) Section 14 presently reads in part:

14(1) The Minister may request from the Corporation any information, including personal information, that the Minister considers necessary and the Corporation shall disclose the information in the form and manner determined by the Minister.

(2) The Corporation shall allow the Minister or the Minister's representative to

- (a) inspect and make copies of all records, accounts, reports and other documents of the Corporation and, in the case of an electronic document, make or cause to be made a printout of the electronic document, and*

(b) otherwise review the operations of the Corporation.

(11) Section 15 is repealed.

(12) Section 16 is amended

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

- (a) prescribing a sector for the purpose of the definition of knowledge-based industry in section 1(f)(viii);
- (b) in clause (b) by adding “under this Part of the Act” immediately before “and terms and conditions of agreements entered into by the Corporation”,**
- (c) in clause (h) by adding “with respect to activities undertaken in accordance with this Part of the Act” immediately before “in addition to the purposes referred to in section 14”,**
- (d) in clause (i) by adding “, other than the Fund” immediately after “respecting the application of this Act and the regulations to any subsidiaries of the Corporation”,**
- (e) in clause (k) by adding “Part of the” immediately after “for the purposes of this”, and**
- (f) in clause (l) by adding “of this Part” immediately after “generally to carry out the intent and purposes”.**

(13) Section 18 is renumbered as section 26 and the following is added immediately before section 26:

**Part 3
Alberta Technology Venture Capital Fund**

Fund established

18(1) The Alberta Technology Venture Capital Fund is established.

(2) The Corporation must acquire, hold, manage and dispose of the assets in the Fund in accordance with this Part.

(11) Section 15 presently reads:

15(1) The Lieutenant Governor in Council may make regulations respecting the dissolution or the liquidation and dissolution of the Corporation, the manner in which the dissolution and any liquidation are to be carried out, and the winding up of the activities of the Corporation.

(2) A regulation made under subsection (1) must provide for the transfer of all assets and liabilities of the Corporation to the Crown.

(12) Section 16 presently reads in part:

16 The Lieutenant Governor in Council may make regulations

- (a) respecting sectors of economic activity that are excluded from the definition of knowledge-based industry for the purposes of section 3;*
- (b) respecting investment by the Corporation and terms and conditions of agreements entered into by the Corporation;*
- (h) authorizing the Minister to collect, use and disclose information, including personal information, for specified purposes in addition to the purposes referred to in section 14;*
- (i) respecting the application of this Act and the regulations to any subsidiaries of the Corporation;*
- (k) defining, for the purposes of this Act and the regulations, any word or expression that is used but not defined in this Act;*
- (l) generally to carry out the intent and purposes of this Act.*

(13) Part 3 Alberta Technology Venture Capital Fund; Fund established; Disapplication; Objects of the Fund; Powers; Restrictions; Fund policies; Annual report to investors; Regulations.

Disapplication

19(1) Subject to subsection (2), the *Business Corporations Act*, the *Investing in a Diversified Alberta Economy Act* and the *Securities Act* may be disapplied to the Fund, in whole or in part, as provided for in the regulations.

(2) Section 120 of the *Business Corporations Act* applies to the directors and officers of the Corporation with respect to this Part, except that a reference in that section to a contract or transaction with a corporation includes

- (a) a contract or transaction with the Corporation, and
- (b) a contract or transaction entered into on behalf of the Fund.

Objects of the Fund

20 The objects of the Fund are as follows, from highest to lowest priority:

- (a) to manage, on behalf of investors, a pooled investment fund with the intention of earning income from investments in eligible Alberta businesses;
- (b) to prioritize investments in eligible Alberta businesses that offer a high degree of job opportunity in relation to the capital invested;
- (c) to encourage research and development directed toward increased productivity in knowledge-based industries;
- (d) to assist eligible Alberta businesses to grow and scale up their business activities;
- (e) to promote a venture capital market in Alberta that can become self-sustaining by attracting additional venture capital investments.

Powers

21 In fulfilling the objects of the Fund, the Corporation may, in accordance with the regulations, do the following:

- (a) issue common shares in the Fund to investors, having no special rights or restrictions, at the times and to the persons and for the consideration that the Corporation determines necessary to raise equity capital;
- (b) invest money received from investors to

- (i) acquire, hold, exchange, lease, sell, assign or otherwise dispose of any interest in real or personal property,
- (ii) establish and maintain accounts in the Corporation's own name in one or more financial institutions,
- (iii) borrow and secure the payment of money in the manner that the Corporation considers necessary,
- (iv) procure the incorporation, dissolution, amalgamation or sale of subsidiaries,
- (v) purchase and hold any type of shares in, or otherwise invest in, an eligible Alberta business,
- (vi) dispose of any shares, assets or any other interest the Corporation owns on behalf of the Fund in an eligible Alberta business,
- (vii) enter into agreements including shareholders or partnership agreements,
- (viii) acquire and hold security for loans and other financial instruments,
- (ix) enforce security,
- (x) administer agreements under which financial assistance is provided,
- (xi) make in accordance with the regulations, guarantees on behalf of an eligible Alberta business,
- (xii) charge fees for services provided by the Corporation with respect to the operation of the Fund,
- (xiii) charge commissions and interest on and fees for loans and other financial instruments with respect to the operation of the Fund, or
- (xiv) generally, do any act or thing incidental or necessary for the exercise of the Corporation's powers, the performance of its functions or the conduct of its business under this Part;

- (c) redeem shares in the Fund from investors.

Restrictions

22 The Fund is not permitted to

- (a) make an investment under section 21(b) that is more than 10% of the total fair market value of the Fund's investment assets,
- (b) make an investment that is wholly outside of Alberta, or
- (c) make an investment in land unless the investment is incidental or ancillary to the business activities of an eligible Alberta business.

Fund policies

23 The Corporation must, in accordance with the objects of the Fund described in section 20 and the regulations, establish and update, as the case may be, the following policies of the Fund:

- (a) a financial reserve policy for meeting the cash flow requirements and guarantee obligations of the Fund and to monitor ongoing compliance with this Act;
- (b) a detailed investment policy and business plan for investments made under section 21(b);
- (c) subject to the regulations, a policy establishing the terms, conditions and risks associated with investors' purchase and redemption of shares in the Fund in accordance with sections 21(a) and (c);
- (d) any other policy prescribed by the regulations.

Annual report to investors

24 The Corporation must issue an annual report to investors with respect to the Fund that includes the following:

- (a) a description of the Fund's investment policy and business plan for the year being reported, and the extent to which the objects of the Fund described in section 20 have been met for that year;
- (b) a description of the Fund's investment policy and business plan for the current year;

- (c) the particulars of any compensation paid by the Fund to senior employees of the Corporation or to the board;
- (d) the particulars of any travel costs and other expenses incurred by senior employees of the Corporation and by the board;
- (e) a description of
 - (i) the Corporation's policies and practices regarding the use of its financial and other resources for non-income producing purposes,
 - (ii) the extent to which the resources were used with respect to the Fund, and
 - (iii) the purposes for which they were used;
- (f) a description of the risks associated with making an investment in the Fund;
- (g) a description of the Corporation's process for valuing its shares in the Fund;
- (h) a description of the board's policies regarding the Fund's reserves and the status of those reserves;
- (i) any other information prescribed by the regulations.

Regulations

25 The Lieutenant Governor in Council may make regulations

- (a) prescribing
 - (i) the amount of total gross assets for the purpose of section 1(c)(ii)(A), and
 - (ii) the maximum number of employees that is more than 500 for the purpose of section 1(c)(ii)(B);
- (b) respecting the standard of care required of persons providing investment management services under Part 3 of this Act;
- (c) respecting the establishment and maintenance of pooled investment funds by the Corporation;

- (d) disapplying the *Business Corporations Act*, the *Investing in a Diversified Alberta Economy Act* and the *Securities Act*, in whole or in part;
- (e) respecting the issuance of shares in the Fund for the purpose of section 21(a), including
 - (i) the amount of equity capital the Corporation may raise by issuing shares, and
 - (ii) the maximum number of shares that the Corporation is authorized to issue and the maximum aggregate consideration for which all shares may be issued;
- (f) respecting the Corporation borrowing money when authorized under section 21(b)(iii);
- (g) respecting the Corporation giving guarantees under section 21(b)(xi);
- (h) respecting the Corporation charging of fees, commissions and interest for the purpose of sections 21(b)(xii) and (xiii);
- (i) for the purpose of section 23(d)
 - (i) respecting the establishment and maintenance of
 - (A) a financial reserve policy,
 - (B) a detailed investment policy and business plan, and
 - (C) a policy governing the terms and conditions for the purchase and redemption of shares in the Fund, and
 - (ii) prescribing additional policies of the Corporation that must be established and updated periodically with respect to the Fund;
- (j) prescribing additional information that must be included in an annual report to investors for the purpose of section 24(i);
- (k) defining, for the purpose of Part 3 of this Act, any word or expression that is used but not defined in this Act;

- (l) respecting generally the operation of the Fund under Part 3 of this Act;
- (m) respecting any matter necessary or advisable for carrying out the purposes of Part 3 of this Act.

Coordinated Amendment

Coordinated Amendment

10 Immediately on the coming into force of this Act, the title of this Act is amended by striking out “*Technology Innovation and Alberta Venture Fund Act*” and substituting “*Technology Innovation Advisory Council Act*”.

Coming into Force

Coming into force

11 This Act comes into force on June 1, 2023.

Coordinated Amendment

10 Coordinated Amendment.

11 Coming into force.

