



Legislative Assembly of Alberta

The 27th Legislature
First Session

Standing Committee
on
Resources and Environment

Thursday, October 9, 2008
8:33 a.m.

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Standing Committee on Resources and Environment

Prins, Ray, Lacombe-Ponoka (PC), Chair
Swann, Dr. David, Calgary-Mountain View (L), Deputy Chair

Berger, Evan, Livingstone-Macleod (PC)
Bhardwaj, Naresh, Edmonton-Ellerslie (PC) *
Boutilier, Guy C., Fort McMurray-Wood Buffalo (PC)
Drysdale, Wayne, Grande Prairie-Wapiti (PC)
Griffiths, Doug, Battle River-Wainwright (PC)
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* substitution for Diana McQueen

Bill 23 Sponsor

Mitzel, Len, Cypress-Medicine Hat (PC)

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Jo-An Christiansen	Legislative Co-ordinator, Agriculture Information Division
Paul Laflamme	Branch Head, Pest Management Branch

Department of Justice and Attorney General Participant

Peter Pagano	Chief Legislative Counsel
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8:33 a.m.

Thursday, October 9, 2008

[Mr. Prins in the chair]

The Chair: Good morning, everyone. I'd like to call the Standing Committee on Resources and Environment to order right now. What I'll do is ask everyone to introduce themselves, starting with the ones on the telephone, please.

Dr. Swann: Good morning. David Swann in Calgary, Calgary-Mountain View.

The Chair: I know we had Guy there a while ago.

Mr. Boutilier: I'm still here, Ray. Guy Boutilier, Fort McMurray-Wood Buffalo.

The Chair: Thank you.

Mr. Bhardwaj: Naresh Bhardwaj, Edmonton-Ellerslie, today here for Diana McQueen.

Mr. Griffiths: Doug Griffiths, MLA, Battle River-Wainwright.

Dr. Massolin: Good morning. Philip Massolin, committee research co-ordinator, Legislative Assembly Office.

Ms Staley: Diana Staley, research officer, Legislative Assembly Office.

Ms LeBlanc: Stephanie LeBlanc, legal research officer, Legislative Assembly Office.

Ms Sales: Tracey Sales, communications consultant with the Legislative Assembly Office also.

Mr. Reynolds: Rob Reynolds, Senior Parliamentary Counsel.

Mr. Pagano: Peter Pagano, Chief Legislative Counsel.

Ms Christiansen: Jo-An Christiansen, legislative co-ordinator, Agriculture and Rural Development.

Mr. Laflamme: Paul Laflamme, head, pest surveillance branch, Agriculture and Rural Development.

Mr. Mitzel: Len Mitzel, MLA, Cypress-Medicine Hat.

Mr. Berger: Evan Berger, Livingstone-Macleod.

Mr. Drysdale: Wayne Drysdale, Grande Prairie-Wapiti.

Mr. Oberle: Frank Oberle, Peace River.

Mrs. Sawchuk: Karen Sawchuk, committee clerk.

The Chair: I'm Ray Prins, Lacombe-Ponoka.

Thank you very much. We'll move directly into the agenda. The next item is Approval of Agenda. I have a couple of extra items for Other Business, so we'll deal with them when we get there. If I could have a motion as a revised agenda. Thank you. All in favour? That's carried.

Then we'll go directly into the review of the report that we have

before us. I think Diana Staley has prepared this report. I'm wondering if Diana or Phil or somebody would like to launch into it and explain what your report is about.

Dr. Massolin: Yes. I can take that on, Mr. Chair. I mean, I think it's pretty standard in terms of what it includes. The meat of it, really, comes in section 3 in terms of recommendations, and I think Parliamentary Counsel will have something to say about the recommendations. But you'll also see that the report includes a list of presenters both in terms of the written submissions and the oral submissions. So unless there are any questions on that, perhaps we can ask Parliamentary Counsel to . . .

The Chair: Yes. I think they would like to comment on the first section. If there are any other questions, we can entertain them. If not, then we'll just defer to Rob or Peter to explain what they might want to talk about on recommendation 1 there.

Mr. Reynolds: Well, thank you very much, Mr. Chair. At the last meeting of the committee there was recommendation 1, which essentially says that section 21(5) of the bill be removed. Section 21(5) deals with notice with respect to the charges incurred for removing the weeds.

Sorry. They're just handing out a research memo that Stephanie LeBlanc did. Perhaps she'd like to talk about it. Then I'll take it back and introduce Peter Pagano.

The Chair: Okay. We got ahead of ourselves here. Then I'll just defer back to Stephanie, and she can explain her part of it first.

Ms LeBlanc: Sure. Right now you're being handed out a memo that I completed that discusses one of the committee's recommendations at the October 1 meeting, which was to remove section 21(5) of the bill. When that section 21(5) is removed, the result is that a local authority has all three options – (a), (b), and (c) – rather than just (c), which is “by bringing an action in debt.” The reason we took a second look at this is because one of the reasons for making this recommendation was that a taxpayer would have an appeal under the Municipal Government Act, and in taking a look at that, we found that that probably isn't the case and that an appeal wouldn't be available.

The memo in the first part just sets out the provisions of the Municipal Government Act and the matters that are appealable. On the second page you'll see that in (a) through (j).

The second part of the memo deals with how it's dealt with in other jurisdictions. You'll see that Ontario specifically has a provision in its Weed Control Act that states that “a person may apply to the council for the cancellation, reduction or refund of an amount levied . . . with respect to orders for weed control,” and it states that it is “in the same manner as for taxes” under either the Municipal Act, 2001, or the City of Toronto Act, 2006.

There are three other jurisdictions that we looked at, two we're still waiting for responses from. In Saskatchewan there was no appeal available for these types of costs that are added to the municipal tax roll.

Mr. Reynolds: Thank you.

Mr. Chair, I was getting ahead of myself there. Certainly, Stephanie has explained it extraordinarily well. I believe that at the last committee meeting there was an indication that – Stephanie said that there was already a procedure that existed under the Municipal Government Act, so there is no need to have 21(5), which raised the

question about 21(3), which deals with providing a notice to the chief administrative officer at all. The point is, as Stephanie said, that there isn't really a procedure that we've been able to discover under the Municipal Government Act.

At the last meeting the officials from the Department of Agriculture and Rural Development indicated that it had been the drafters' choice to put this provision in. So I took the liberty of inviting Peter Pagano, who is the Chief Legislative Counsel, the government's chief drafter, to perhaps explain this section or the rationale behind it.

8:40

The Chair: Thank you very much.

I guess I have one quick question before you go there. We have this list from (a) to (j) of things that can be appealed under the Municipal Government Act. What you're saying, then, is that a levy for an uncollected tax notice or a charge against the Weed Control Act is not one of the items on this list – is that correct? – and if that's maybe where we want to go.

Mr. Pagano: That's my understanding, that our Municipal Government Act really deals with appeals from assessment and doesn't deal with these kinds of fees that are imposed.

I read through the transcripts and understand the rationale for taking it out despite the fact that, maybe, there's nothing in the MGA to deal with it. Having to go to court to deal with potentially not a large expense is a big expense as it is.

If you'll permit, we have, maybe, a recommendation of how to deal with this situation. Currently, this bill already has an appeal procedure for other types of notices. What we would suggest that the committee consider is rewriting section 21, that in effect the person could make an objection or, for that matter, when the notice for the recovery of the debt is issued to them, they could appeal that to that appeal body that was set up under section 19. If the person doesn't appeal within the 30-day time period or whatever the time period is going to be for appeal, or they lose the appeal, at that point, then, the city could put it on their tax roll or get a judgment filed, a certificate and get a judgment for it.

In effect, this new act already has some mechanism for appeals, and that probably would be, maybe, even a less formal one than going to an appeal process under the Municipal Government Act. So this was a suggestion that I talked to the department about, and they thought it would be workable and I think would deal with the issue that the committee had on having to go to court on a possibly small amount of money. For that matter, to go to court for maybe a big amount of money is still a big expense.

The Chair: Right. Okay. Thank you.

Frank, did you have a comment?

Mr. Oberle: I believe it's answered. I think I'm okay. We're going to rewrite 21(5), then, to allow for an appeal rather than to force a municipality to take a landowner to court.

Mr. Pagano: Yeah. Probably there would be extensive changes to section 21, but that would be the effect of it. There would be still the notice; the debt would be issued; the person would be given an opportunity to appeal. If they don't appeal, then the municipality can just put it on the tax roll or, for that matter, just issue a certificate without having to go to court.

Mr. Oberle: Okay.

The Chair: Thank you very much.

Any other comments?

First of all, I would like to welcome another member. Maybe you could introduce yourself for the record, please.

Mr. Mason: Thanks, Mr. Chairman. Brian Mason, Edmonton-Highlands-Norwood.

The Chair: Thank you.

Any other comments on this discussion here?

Do you have any of this in writing, Peter, the suggestions that you've just made?

Mr. Pagano: I didn't bring them with me. I was working up a draft, and we hadn't quite finalized it, but I could send you something later today.

The Chair: Okay.

Mr. Pagano: It would require some adjustments to section 19 also, which I think is the appeal provision, to allow them to hear those types of appeals. So there will be a little rewording of section 19 plus more or less, probably, almost a rewrite of section 21, but it wouldn't be any longer than it is now.

The Chair: Thank you. Any other comments on that? Everybody is satisfied with the outcome of this decision, then? I see some nods. I don't hear anything.

I think we'll just carry on to the next sections of the recommendations of the report. We've dealt with number 1. Number 2 deals with the word "active" in section 25(3). Any comments on that?

Mr. Pagano: On the second one we agreed that probably some term needs to be used, whether it's "active" or some other term. Certainly, "active" would work. I was involved last year with recommended wording for some of the recommendations. I'm wondering whether you might want to, instead of actually indicating what the word should be, just indicate that the provision needs to be amended to ensure that we're talking about notices that are still current, active, or whatever the term might be. But from discussing with the person who just drafted the bill, certainly active would work.

The Chair: Are there any other comments on this section?

Seeing none, we'll go on to number 3. I believe that's just a recommendation to notify other ministries of the activities going on on land that's maintained in public use. I think that's okay. Any comments?

Number 4, the words "growing and spreading." Does that meet everybody's approval? Go ahead, Frank.

Mr. Oberle: Mr. Chair, if I might, I know why we made this recommendation, and I agree with it. I just take very slight exception to the wording of this recommendation. It says that we recommend that the words "growing and spreading" be removed because they are unnecessary and by deleting them the intent of the subsection would be unchanged. I think the recommendation was made for a stronger reason than that. They're ambiguous. They invite interpretation, and by deleting them, the intent of the subsection would be strengthened and clarified.

The Chair: I see kind of a consensus happening here. I believe

maybe that word “unchanged” should be removed and “strengthened” or “clarified” be put in.

Dr. Massolin: Strengthened and clarified. Yeah, we can certainly add that. Thank you.

Mr. Oberle: Thank you.

The Chair: Thank you.

We’ll move on to number 5, that in section 18 the words “or any person directed by the inspector” be added so that it would read:

An inspector or any person directed by the inspector may take any action that the inspector determines is necessary to fulfill a requirement of a notice given under this Part that has not complied with when . . .

So if that’s okay.

Mr. Pagano: Certainly, putting in the words doesn’t hurt anything – I believe the existing act has some similar wording – but the power here is much broader where it allows them to take any action, which, obviously, would include the hiring of someone to do the work. I don’t think anyone expects that the inspectors are going to do all of this work. I don’t think that the words are absolutely necessary to put in, but on the other side, it’s not going to hurt anything to have those words put in there.

8:50

The Chair: I think it enables the municipalities to do their work more easily, so I think this is probably good. Any other comments on it?

If there are no further comments, that means that we’ve kind of gone through these recommendations and have a consensus as to the change that we would need on the first one. The others are okay, and in number 4 we’re going to change the last couple of words. I would say that we’re probably ready for a motion.

Are you willing to make a motion, Frank?

Mr. Oberle: Mr. Chair, if I might, I would move that the Standing Committee on Resources and Environment recommend that Bill 23, the Weed Control Act, proceed and include the recommendations approved by the committee at the October 9, 2008, meeting and further recommend that the chair and deputy chair be authorized to work with committee staff to incorporate and improve any changes made by the committee at the October 9 meeting.

The Chair: Everyone has heard the motion. Any comments or discussion?

Mr. Reynolds: Mr. Chair, just a point of clarification. The recommendations we have a consensus on, just as long as everyone is agreed, but there was no vote on the recommendations.

The Chair: Okay. I thought we had a bit of a consensus.

Mr. Reynolds: We had a consensus.

The Chair: We don’t have clear wording yet for the first section, so we’re waiting for that clear wording from legal counsel. I think this motion would authorize the chair and deputy chair to sign off on the final wording.

Mr. Reynolds: Yes. I just wanted to make sure everyone . . .

The Chair: Understands that.

Mr. Reynolds: Yes.

The Chair: Okay. So that’s what we’re voting on. That will be the implication of this motion: that we’re not going to have another meeting to ratify what we’ve just said, that once this is passed, then it will be left in the hands of the chair and the deputy chair.

Mr. Oberle: Mr. Chair, in clarifying that motion, I thought we had consensus on intent, and I’m leaving it to yourself, the deputy chair, and the staff to provide the wording to that effect.

The Chair: Any further comments?

All in favour of the motion? Opposed? On the phone as well, agreed?

Mr. Boutilier: Agreed.

The Chair: Thank you. Then I take that as unanimously carried. Thank you.

We’ll move on to Other Business. At one of our first meetings members did ask if other issues could be brought forward for discussion by the committee once it had completed the review of Bill 23. It was agreed that we would consider these other issues or the way to bring other issues to the table after we completed this review. I’d suggest that members in this process submit their other ideas to the clerk in writing. We have a bit of a template here that Karen has prepared so that we can identify the issues. Possibly we could consider issues at our next meeting, if it’s called. I’ll first open that to questions. Does anybody have any questions about this template?

Dr. Swann: Mr. Chairman, do we have a copy of that template?

The Chair: We have them here at the table. We’ll get them to you as soon as we can, Dave.

Dr. Swann: Thank you.

The Chair: It will be e-mailed to you within seconds.

Dr. Swann: Thank you.

The Chair: Any questions on this template as you see it?

So we’ll just wait for people to fill that in or send it back to the clerk before the next meeting.

Mr. Boutilier: Mr. Chairman, do you have a deadline of when you’d like to get that back?

The Chair: By the end of October, I guess. You’ll be getting it by e-mail, too, Guy.

Mr. Boutilier: Thanks, Ray.

The Chair: There is another issue that I’ll come to, and that is the communication about what we’ve just done here. I’m going to turn that over to Tracey. Maybe you can tell us what you’d like to know.

Ms Sales: Okay. Thank you, Mr. Chair. As mentioned in the original communications plan that was accepted by the committee,

if you're all in agreement, I can work with the chair and the deputy chair and produce a final news release to be released at the appropriate time.

As well, once the report has been tabled in the House, we can post the report online on the committee website if the committee is in agreement.

The Chair: Having heard that proposal, are there any comments or questions?

Mr. Oberle: I don't recall this being done in the past, but upon completion of the work of this committee, is a letter sent to each of the people that presented to the committee?

The Chair: I'm not sure what's happened in other committees. This is our first review.

Mr. Oberle: I just wonder if it wouldn't be appropriate to write a letter thanking them for their input and sending them a copy of the report.

The Chair: Okay. I'll defer to Karen.

Mrs. Sawchuk: Thanks, Mr. Chair. We have in the past notified whoever presented, whoever made a submission to the committee. We've notified them, generally by e-mail, to let them know that the

committee has completed its report and that it'll be posted on the external committee website once it's tabled.

The Chair: So we have consensus, then, to continue with that practice and allow Tracey to lead us in that? Thank you very much.

Mr. Reynolds: Mr. Chair, just to clarify, of course, the news release wouldn't come out until the report is tabled in the Assembly.

The Chair: That's correct. First of all, we're waiting for the final draft, and that will probably take a week or two to finish. We want to be finished by the end of October, which is only about three weeks away. Once the chair and the deputy chair have signed off on the final report and recommendations, then it will probably go to the House at about the same time, and then we'll allow Tracey to do the news release. Does that make sense? Okay.

The date of the next meeting. It'll be at the call of the chair, when we have some more information, I suppose, and we'll be polling all members to find out what an appropriate time would be.

I would now ask for a motion to adjourn.

Mr. Boutilier: Happy Thanksgiving from Fort McMurray.

The Chair: Thank you very much. We'll see you in a day or two.

[The committee adjourned at 8:57 a.m.]

