

2011 Bill 23

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Fourth Session, 27th Legislature, 60 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 23**

**LAND ASSEMBLY PROJECT AREA  
AMENDMENT ACT, 2011**

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THE MINISTER OF INFRASTRUCTURE

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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## BILL 23

2011

### LAND ASSEMBLY PROJECT AREA AMENDMENT ACT, 2011

(Assented to \_\_\_\_\_, 2011)

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

#### **Amends SA 2009 cL-2.5**

**1 The *Land Assembly Project Area Act* is amended by this Act.**

**2 The following is added before the enacting clause:**

#### **Preamble**

WHEREAS Alberta is projected to continue growing at a rapid rate;

WHEREAS the Government must plan for any required future large scale infrastructure projects, including transportation and utility corridor projects, similar to the Edmonton and Calgary transportation and utility corridors, and water management projects, such as dams and reservoirs;

WHEREAS it is in the public interest that from time to time certain areas of Alberta be designated for major infrastructure projects to ensure that the projects can be planned and constructed in an orderly manner;

WHEREAS public consultation should be conducted in advance of any major infrastructure projects; and

## **Explanatory Notes**

**1** Amends chapter L-2.5 of the Statutes of Alberta, 2009.

**2** Preamble.

WHEREAS it is desirable that land owners whose land will be required for major infrastructure projects are appropriately compensated for their lands and have recourse to the Land Compensation Board and the Courts;

**3 The enacting clause is amended by adding “THEREFORE” before “HER MAJESTY”.**

**4 Section 2 is amended**

**(a) by repealing subsection (1) and substituting the following:**

**Land Assembly Project Area**

**2(1)** Subject to section 3, if the Lieutenant Governor in Council is of the opinion that one or more areas of land are required for a public project and that

- (a) the land is intended to be acquired by the Crown over a period of time,
- (b) the projected completion date of the public project is anticipated to be later than,
  - (i) in the case of a project referred to in subsection (2)(a), 15 years from the date of the order, and
  - (ii) in the case of a project referred to in subsection (2)(b), 5 years from the date of the order,

and

- (c) the area or areas to be included in the proposed Project Area cover at least 1000 hectares of land,

the Lieutenant Governor in Council, on the recommendation of the Minister, may by order designate that area or those areas of land as a Land Assembly Project Area.

**(b) by adding the following after subsection (2):**

**(2.1)** A project is not a public project under subsection (2)(a) if it is a project solely for the transportation or transmission of

**3** Consequential to addition of preamble.

**4** Section 2 presently reads in part:

*2(1) Subject to section 3, if in the opinion of the Lieutenant Governor in Council one or more areas of land are required for a public project and the land is intended to be acquired by the Crown over a period of time, the Lieutenant Governor in Council, on the recommendation of the Minister, may by order designate that area or those areas of land as a Land Assembly Project Area.*

*(2) For the purpose of this Act and the regulations, a project is a public project if the project is*

- (a) a project related to the transportation of people or goods, which may also include as part of that project a corridor of land for pipelines, pipes or other conduits, poles, towers, wires, cables, conductors or other devices, including any ancillary structures, or*
- (b) a project related to the conservation or management of water.*

oil, gas or electricity or of a natural resource that can be used as a source of any form of energy, or of any combination of them.

**5 Sections 6 and 7 are repealed and the following is substituted:**

**Request to purchase by registered owner**

**6(1)** For greater certainty, when determining compensation payable to a registered owner under this section, the *Expropriation Act* applies, including the ability of the registered owner to elect, under section 29(3) of that Act, to have the Court of Queen's Bench determine the compensation payable.

**(2)** At any time, at the request of a registered owner of land within a Project Area, the land must be acquired by the Crown

(a) by purchase at any time the registered owner is willing to sell the land to the Crown, or

(b) by expropriation,

(i) when the registered owner wishes the Crown to acquire the land but agreement cannot be reached as to the compensation payable, or

(ii) when the registered owner requests that the land be expropriated or consents to expropriation.

**(3)** Notwithstanding subsection (2)(b)(i), compensation payable may be determined in accordance with any other process agreed on by the Crown and the registered owner.

**(4)** When the Crown is negotiating the purchase of land in a Project Area, or expropriating land in a Project Area under subsection (2), and the registered owner indicates that, in the event of a sale or transfer of land by expropriation, the registered owner wishes to retain possession or the right to possession of the land for the time being or until the land is required for or in connection with a public project, the Crown shall, before negotiating with any other person, negotiate with that registered owner in good faith for the leasing of the land to that registered owner when it is sold or transferred to the Crown.

**5** Section 6 presently reads:

*6(1) Subject to section 7, at any time, at the request of the registered owner of land within a Project Area, the Crown shall enter into an agreement with the registered owner to purchase the land at market value.*

*(2) Where under subsection (1) the registered owner agrees to sell the land and the Crown agrees to purchase the land but there is no agreement as to the market value of the land, the registered owner may apply to the Land Compensation Board or the Court of Queen's Bench or in accordance with any other process agreed on by the parties for a determination of the market value of the land as at the time the registered owner made the request under subsection (1) or as at such other time as the parties agree on.*

*(3) If the registered owner requests that the Land Compensation Board make the determination as to the market value of the land, for the purpose of making the determination, the Land Compensation Board has jurisdiction with respect to the determination of market value under this Act and may exercise the powers given to it pursuant to section 28 of the Expropriation Act.*

*(4) The registered owner referred to in subsection (3) or the Minister may, within 30 days after receiving notice of the determination of the Land Compensation Board, appeal the determination to the Court of Appeal, and section 37 of the Expropriation Act applies to the appeal.*

(5) When the land within a Project Area is required by the Crown for or in connection with the public project, the Crown may acquire the land by purchase or expropriation.

**6 Section 11(6) is repealed and the following is substituted:**

(6) If the person to whom an enforcement order is directed fails to comply with the enforcement order, the Minister may apply to the Court of Queen’s Bench for an order of the Court directing that person to comply with the enforcement order.

**7 Section 14 is amended**

(a) in subsection (1) by adding “, if any, or to the Court of Queen’s Bench” after “regulations”;

(b) in subsection (2)

(i) by adding “or the Court of Queen’s Bench, as the case may be,” after “but the appeal body”;

(ii) by adding “or the Court” after “where the appeal body”;

(c) in subsection (4)

(i) by adding “or the Court of Queen’s Bench, as the case may be,” after “The appeal body”;

(ii) by adding “or the Court” after “the appeal body”;

(d) in subsection (5) by adding “or the Court of Queen’s Bench, as the case may be,” after “the appeal body” wherever it occurs;

(e) by adding the following after subsection (5):

(6) The appeal body or the Court of Queen’s Bench, as the case may be, may, with respect to an appeal under this section, award costs as provided for under the *Alberta Rules of Court*.

**6** Section 11(6) presently reads:

*(6) An enforcement order may be filed with the clerk of the Court of Queen's Bench and, on being filed, is enforceable as if it were a judgment of the Court.*

**7** Section 14 presently reads:

*14(1) A person to whom an enforcement order is directed with respect to a matter under section 11(2)(a) or (b) may appeal the enforcement order to an appeal body referred to in or established under the regulations.*

*(2) A notice of appeal must be submitted not later than 7 days after receipt of a copy of the enforcement order, but the appeal body may, on application made before or after the expiry of that period, extend that period where the appeal body is of the opinion that there are sufficient grounds to do so.*

*(3) Subject to subsection (4), submitting a notice of appeal does not operate to stay the enforcement order.*

*(4) The appeal body may, on the application of a party to a proceeding before the appeal body, stay an enforcement order in respect of which a notice of appeal has been submitted.*

*(5) Where an application for a stay relates to the issuing of an enforcement order and is made by the person to whom the order is directed, the appeal body may, if it is of the opinion that an immediate and significant adverse effect may result if certain terms and conditions of the order are not carried out,*

*(a) order the Minister to take whatever action or measures the Minister considers to be necessary to carry out those terms and conditions and to determine the costs of doing so, and*

*(b) order the person to whom the order is directed to provide security in accordance with the regulations in the form and*

**8 Section 16(1) is amended by striking out “, is doing or is about to do” and substituting “or is doing”.**

**9 Section 17(1)(a) is amended by striking out “or to imprisonment for a period of not more than 2 years, or to both a fine and imprisonment”.**

*amount the appeal body considers necessary to cover the costs referred to in clause (a).*

**8** Section 16(1) presently reads:

*16(1) Where, on the application of the Minister, it appears to the Court of Queen's Bench that a person has done, is doing or is about to do any act or thing constituting or directed toward the commission of an offence under this Act, the Court may issue an injunction ordering any person named in the application*

*(a) to refrain from doing that act or thing, or*

*(b) to do any act or thing that it appears to the Court may prevent the commission of an offence under this Act or the regulations.*

**9** Section 17(1)(a) presently reads:

*17(1) A person who contravenes an enforcement order under section 11 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*

