

LEGISLATIVE REVIEW SUMMARY

SPRING 2016 | 29TH LEGISLATURE, SECOND SESSION



Alberta **LAW**
FOUNDATION



THE CANADIAN
BAR ASSOCIATION
Alberta Branch

LEGISLATIVE REVIEW SUMMARY

SPRING 2016 | 29TH LEGISLATURE, SECOND SESSION

HIGHLIGHTS

The 2016 spring session resulted in the passage of the following Acts:

1. *Aboriginal Consultation Levy Repeal Act*, S.A. 2016, c. 3
2. *Alberta Research and Innovation Amendment Act*, S.A. 2016, c. 4
3. *An Act to End Predatory Lending*, S.A. 2016, c. E-9.5
4. *An Act to Ensure Independent Environmental Monitoring*, S.A. 2016, c. 7
5. *An Act to Implement a Supreme Court Ruling Governing Essential Services*, S.A. 2016, c. 10
6. *An Act to Modernize Enforcement of Provincial Offences*, S.A. 2016, c. 11
7. *Appropriation Act*, S.A. 2016, c. 5
8. *Climate Leadership Implementation Act*, S.A. 2016, c. 16
9. *Electoral Boundaries Commission Amendment Act*, S.A. 2016, c. 6
10. *Fair Trading Amendment Act*, S.A. 2016, c. 8
11. *Fiscal Statutes Amendment Act*, S.A. 2016, c. 3
12. *Health Professionals Amendment Act*, S.A. 2016, c. 9
13. *Miscellaneous Statutes Amendment Act*, S.A. 2016, c. 8
14. *Reform of Agencies, Boards and Commissions Compensation Act*, S.A. 2016, c R-8.5
15. *Securities Amendment Act*, S.A. 2016, c. 13
16. *Seniors' Homes Adaptation and Repair Act*, S.A. 2016, c. S-7.1
17. *Traffic Safety Amendment Act*, S.A. 2016, c. 14
18. *Veterinary Profession Amendment Act*, S.A. 2016, c. 15

AMENDED LEGISLATION

1. *Aboriginal Consultation Levy Act*, S.A. 2013, c. A-1.2
2. *Alberta Centennial Education Savings Plan Act*, S.A. 2004, c. A-14.7
3. *Alberta Corporate Tax Act*, R.S.A 2000, c. A-15
4. *Alberta Health Care Insurance Act*, R.S.A, 2000, c. A-20
5. *Alberta Personal Income Tax Act*, R.S.A 2000, c. A-30
6. *Alberta Public Agencies Governance Act*, S.A. 2009, c. A-31.5
7. *Alberta Research and Innovation Act*, S.A. 2009, c. A-31.7
8. *Business Corporations Act*, R.S.A. 2000, c. B-9
9. *Chartered Professional Accountants Act*, S.A. 2014, c. C-10.2
10. *Climate Change and Emissions Management Act*, S.A. 2003, c. C-16.7
11. *Condominium Property Act*, R.S.A. 2000, c. C-22
12. *Condominium Property Amendment Act*, S.A. 2012, c. 10
13. *Conflicts of Interest Act*, R.S.A. 2000, c. C-23
14. *Education Act*, S.A. 2012, c. E-0.3

15. *Electoral Boundaries Commission Act*, R.S.A. 2000, c. E-3
16. *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12
17. *Fair Trading Act*, R.S.A. 2000, c. F-2
18. *Financial Administration Act*, R.S.A. 2000, c. F-12
19. *Fiscal Planning and Transparency Act*, S.A. 2015, c. F-14.7
20. *Fuel Tax Act*, S.A. 2006, c. F-28.1
21. *Health Care Protection Act*, R.S.A. 2000, c. H-1
22. *Health Disciplines Act*, R.S.A. 2000, c. H-2
23. *Health Information Act*, R.S.A. 2000, c. H-5
24. *Health Professions Act*, R.S.A. 2000, c. H-7
25. *Historical Resources Act*, R.S.A. 2000, c. H-9
26. *Hospitals Act*, R.S.A. 2000, c. H-12
27. *Insurance Act*, R.S.A. 2000, c. I-3
28. *Interpretation Act*, R.S.A. 2000, c. I-8
29. *Labour Relations Code*, R.S.A. 2000, c. L-1
30. *Lobbyists Act*, S.A. 2007, c. L-20.5
31. *Mines and Minerals Act*, R.S.A. 2000, c. M-17
32. *Mobile Home Sites Tenancies Act*, R.S.A. 2000, c. M-20
33. *Personal Property Security Act*, R.S.A. 2000, c. P-7
34. *Provincial Court Act*, R.S.A. 2000, c. P-31
35. *Provincial Offences Procedure Act*, R.S.A. 2000, c. P-34
36. *Public Health Act*, R.S.A. 2000, c. P-37
37. *Public Service Employee Relations Act*, R.S.A. 2000, c. P-43
38. *Regulations Act*, R.S.A. 2000, c. R-14
39. *Residential Tenancies Act*, S.A. 2004, c. R-17.1
40. *Securities Act*, R.S.A. 2000, c. S-4
41. *Securities Amendment Act*, S.A. 2011, c. 7
42. *Statutes Amendment Act*, S.A. 2015, c. 12
43. *Traffic Safety Act*, R.S.A. 2000, c. T-6
44. *Veterinary Profession Act*, R.S.A. 2000, c. V-2
45. *Workers' Compensation Act*, R.S.A. 2000, c. W-15

.....

REPEALED LEGISLATION

1. *Alberta Centennial Education Savings Plan Act*, S.A. 2004, c. A-14.7
2. *Aboriginal Consultation Levy Act*, S.A. 2013, c. A-1.2
3. *Protecting Alberta's Environment Act*, S.A. 2013, c. P-26.8

DETAILED LISTING OF BILLS

Bill 4 - An Act to Implement a Supreme Court Ruling Governing Essential Services, S.A. 2016, c. 10

- Amended:**
- *Labour Relations Code*, R.S.A. 2005, c. L-1
 - *Public Service Employee Relations Act*, R.S.A. 2000, c. P-43

Summary: Following the decision of the Supreme Court of Canada in *Saskatchewan Federation of Labour v. Saskatchewan*, [2015] 1 SCR 245, 2015 SCC 4, on April 1, 2015, Justice D.R.G. Thomas of the Alberta Court of Queen's Bench declared sections 96(b) and (c) of the *Labour Relations Code* and section 70 of the *Public Service Employee Relations Act* are without force and effect as they violate the *Charter of Rights and Freedoms*. According to the judgment, the statutory provisions at issue were contrary to the Supreme Court's decision because they 'prohibit strikes by certain classes of workers by reference only to the identity of their employer and without regard to the extent their work is necessary to provide essential public services.' The affected sections of the legislation were suspended for a year and *An Act to Implement a Supreme Court Ruling Governing Essential Services* was enacted as a result.

In Force: May 27, 2016 (with exceptions)

Bill 5 - Seniors' Home Adaptation and Repair Act, S.A. 2016, c. S-7.1

Summary: The *Seniors' Home Adaptation and Repair Act* introduces new rules which allows the Ministry of Seniors and Housing to provide loans, with interest, to homeowner seniors who are registered on title, among other requirements, and require loans for reasonably necessary home repairs, renovations and adaptations to their residences.

A loan under this *Act* becomes due and payable on demand by the province and is a charge on the eligible property. The demand may be made once the eligible or last homeowner dies, the property is sold or transferred, or as prescribed under the regulations.

Low-income homeowner seniors who do not qualify for loans under the *Act* could be eligible for grants for essential repairs.

Pursuant to the *Act*, suppliers of goods and services to consumers for repair, renovation or adaptation, must make reasonable efforts to advise consumers of the existence of the loan provisions and the right to cancel a contract within 45 days of the contract, if the homeowner senior submits an application for a loan under the *Act*.

Unless the homeowner senior waives the rights to cancel the contract, s/he may cancel by any means including registered mail, personal service, orally, courier or fax, at no cost or penalty if s/he subsequently makes an application for the loan and the loan is not approved.

In Force: On proclamation

Bill 6 - Securities Amendment Act, S.A. 2016, c. 13

- Amended:**
- *Securities Act*, R.S.A 2000, c. S-4
 - *Securities Amendment Act*, S.A. 2011, c. 7

Summary: Among other things, the *Securities Amendment Act* updates the definitions of "derivative," "reporting issuer" and "security," and places matters such as compelling witnesses, payment of fees, expenses and allowance outside the *Alberta Rules of Court* and into the regulations.

The *Securities Amendment Act* authorizes a justice of the peace to issue search warrants instead of a judge of the Court of Queen's Bench and amends provisions which address halt trade orders.

The *Securities Amendment Act* also updates civil liability provisions and the provisions dealing with exchanges, clearing agencies, credit rating organizations and trade repositories.

In Force: May 27, 2016 (with exceptions)

Bill 7 - Electoral Boundaries Commission Amendment Act, S.A. 2016, c. 6

Amended: • *Electoral Boundaries Commission Act*, R.S.A 2000, c. E-3

Summary: The *Electoral Boundaries Commission Amendment Act* authorizes the appointment of an Electoral Boundaries Commission (the "Commission") on or before October 31, 2016. It also clarifies the Commission's authority to consider recent information respecting populations not collected on a province-wide basis along with the federal decennial census of population or any more recent province-wide census.

In Force: May 27, 2016 (with exceptions)

Bill 8 - Fair Trading Amendment Act, S.A. 2016, c. 8

Amended: • *Fair Trading Act*, R.S.A 2000, c. F-2

Summary: The *Fair Trading Amendment Act* expands the Minister's oversight of regulatory boards established pursuant to the regulations.

In Force: May 27, 2016

Bill 9 - An Act to Modernize Enforcement of Provincial Offences, S.A. 2016, c. 11

Amended: • *Provincial Offences Procedure Act*, R.S.A 2000, c. P-34
• *Traffic Safety Act*, R.S.A. 2000, c. T-6

Summary: *An Act to Modernize Enforcement of Provincial Offences*, among other things, amends the *Provincial Offences Procedure Act* to allow a justice, in the sentencing process for minor offences, to consider the ability of the offender to pay a fine. The *Act* also allows justices to refuse to impose minimum imprisonment terms in lieu of fines if the public interest would not be served. The *Act* replaces the requirement that the Complaint part of a violation ticket must be sworn before a Commissioner for Oaths with a provision that it is now to be so sworn.

In Force: On proclamation

Bill 10 - Fiscal Status Amendment Act, S.A. 2016, c. 17

Repealed: • *Alberta Centennial Education Savings Plan Act*, S.A. 2004, c. A-14.7

Amended: • *Alberta Centennial Education Savings Plan Act*, S.A. 2004, c. A-14.7
• *Alberta Corporate Tax Act*, R.S.A 2000, c. A-15
• *Alberta Personal Income Tax Act*, R.S.A 2000, c. A-30
• *Education Act*, S.A. 2012, c. E-0.3
• *Financial Administration Act*, R.S.A 2000, c. F-12
• *Fiscal Planning and Transparency Act*, S.A. 2015, c. F-14.7
• *Fuel Tax Act*, S.A. 2006, c. F-28.1

LEGISLATIVE SUMMARY

Summary: The *Fiscal Statutes Amendment Act* amends the legislation listed above. Some of those amendments include:

- The removal of the 15% debt cap in the *Fiscal Planning and Transparency Act*;
- Authorizing the Centennial Education Savings Plan's closure under the *Alberta Centennial Education Savings Plan Act*;
- Exempting the government from the *Financial Administration Act* requirement to table any loan agreement when it involves loans to individuals of less than \$500,000.00;
- Providing that the calculation of corporate taxable income will now parallel the federal calculation under the *Alberta Corporate Tax Act*; and
- Providing for the decrease of the dividend tax credit rate for non-eligible dividends under the *Alberta Personal Income Tax Act*.

In Force: June 13, 2016 (with exceptions)

Bill 11 - Alberta Research and Innovation Amendment Act, S.A. 2016, c. 4

Amended: • *Alberta Research and Innovation Act*, S.A. 2009, c. A-31.7

Summary: The *Alberta Research and Innovation Amendment Act* dissolved four corporations under Alberta Innovates:

- (a) Alberta Innovates - Bio Solutions;
- (b) Alberta Innovates - Health Solutions;
- (c) Alberta Innovates - Energy and Environment Solutions; and
- (d) Alberta Innovates - Technology Futures

The *Act* replaces the Alberta Research and Innovation Authority with the Alberta Research and Innovation Advisory Committee and makes all consequential amendments.

In Force: On proclamation

Bill 12 - Aboriginal Consultation Levy Repeal Act, S.A. 2016, c. 3

Repealed: • *Aboriginal Consultation Levy Act*, S.A. 2013, c. A-1.2

Summary: The *Aboriginal Consultation Levy Repeal Act* repeals the *Aboriginal Consultation Levy Act* which was never proclaimed.

In Force: May 27, 2016

Bill 13 - Veterinary Profession Amendment Act, S.A. 2016, c. 15

Amended: • *Veterinary Profession Amendment Act*, R.S.A 2000, c. V-2

Summary: The *Veterinary Profession Act* allows veterinary technologists to become full voting members of the Alberta Veterinary Medical Association with the attendant rights and responsibilities attached to membership.

In Force: On proclamation

Bill 14 - Health Professionals Amendment Act, S.A. 2016, c. 9

- Amended:**
- *Alberta Health Care Insurance Act*, R.S.A 2000, c. A-20
 - *Health Disciplines Act*, R.S.A 2000, c. H-2
 - *Health Information Act*, R.S.A 2000, c. H-5
 - *Health Professions Act*, R.S.A 2000, c. H-7
 - *Hospitals Act*, R.S.A 2000, c. H-12
 - *Interpretation Act*, R.S.A 2000, c. I-8
 - *Public Health Act*, R.S.A 2000, c. P-37
 - *Workers' Compensation Act*, R.S.A 2000, c. W-15

Summary: The *Health Professionals Amendment Act* involves legislative housekeeping arising from adding two professions, physician assistants and diagnostic medical sonographers, to the *Act*.

In Force: May 27, 2016

Bill 15 - An Act to End Predatory Lending, S.A. 2016, c. E-9.5

- Amended:**
- *Fair Trading Act*, R.S.A. 2000, c. F-2

Summary: *An Act to End Predatory Lending* deals with payday loans and among other things:

- Reduces borrowing fees;
- Introduces mandatory installment repayment plans;
- Required payday lenders to refer borrowers to financial literacy resources;
- Includes all fees in calculating cost of borrowing; and
- Prohibits payday lenders from:
 - Directly soliciting potential customers;
 - Charging fees to cash cheques for payday loans;
 - Negotiating cheques made out to a person other than the lender;
 - Processing the loan installment payment before its due date;
 - Contacting anyone other than the borrower for the purposes of forcing the payment of the loan;
 - Publishing or threatening to publish notice of the failure to pay by the borrower;
 - Contacting the borrower in person or by phone before 7:00am or after 10:00pm; and
 - Soliciting, negotiating or concluding an agreement for another form of credit with a borrower while there is an unpaid payday loan.

In Force: Various dates

Bill 16 - Traffic Safety Amendment Act, S.A. 2016, c. 14

- Amended:**
- *Traffic Safety Act*, R.S.A. 2000, c. T-6

Summary: The *Traffic Safety Amendment Act* introduces the following amendments, amongst others:

- Drivers who produce invalid or expired financial responsibility cards, such as the proof of insurance/pink cards, be exempt from ticketing if they also produce a subsisting financial responsibility card;
- Corrects errors in drafting instruction to remove obsolete provisions and to achieve legislative consistency; and
- Allows the government the regulate transportation network companies.

The *Act* also introduced general housekeeping amendments.

In Force: May 27, 2016 (with exceptions)

LEGISLATIVE SUMMARY

Bill 17 - Appropriation Act, S.A. 2016, c. 5

Summary: The *Appropriation Act* allows the offices of the Legislative Assembly and the Public Services of Alberta to pay their bills (not otherwise provided for) in the fiscal year ending March 31, 2017.

In Force: May 27, 2016

Bill 18 - An Act to Ensure Independent Environmental Monitoring, S.A. 2016, c. 7

Repealed: • *Protecting Alberta's Environment Act*, S.A. 2013, c. P-26.8

Amended: • *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12
• *Financial Administration Act*, R.S.A. 2000, c. F-12

Summary: *An Act to Ensure Independent Environmental Monitoring* repeals the *Protecting Alberta's Environment Act*, as well as s. 15 of the *Environmental Protection and Enhancement Act*, and replaces this with provisions which, amongst other things, change the monitoring and reporting structure, enables the Minister to appoint a Chief Scientist and establishes a Science Advisory Panel. The Minister is also required to establish an advisory panel to provide advice to the Chief Scientist and the Minister regarding incorporation of traditional ecological knowledge into the environmental science program. The advising panel is to be the same as the Indigenous Wisdom Advisory Panel appointed under the repealed *Protecting Alberta's Environment Act*.

The new *Act* also dissolves the Alberta Environmental Monitoring, Evaluation and Reporting Agency.

In Force: June 30, 2016

Bill 19 - Reform of Agencies, Boards and Commissions Compensation Act, S.A. 2016, c. R-8.5

Amended: • *Alberta Public Agencies Governance Act*, S.A. 2009, c. A-31.5

Summary: The *Reform of Agencies, Boards and Commissions Compensation Act* addresses executive compensation levels for public agencies, boards and commissions which are subject to the *Alberta Public Agencies Governance Act*. The *Act* grants the Minister the power to request that a public agency provide information considered appropriate related to compensation provided to or in respect of the public agencies, officers, employees and members.

In addition, the Lieutenant Governor in Council has the power under the *Act* to make regulations that establish one or more compensation frameworks. Such frameworks may limit the compensation and the elements of that compensation. Once the Lieutenant Governor in Council has made the regulation establishing one or more compensation frameworks, the *Act* outlines how to address existing designated executives, i.e. the Chief Executive Officer or any other officer or employee of the public agency and member, all of whose positions are designated as executive positions by the regulations.

The *Act* also provides the process of dealing with persons who were designated members before a new compensation framework takes effect.

The schedule to the *Act* lists the names of the public agencies.

If a public agency or the Crown makes an overpayment to a designated executive or designated member, that amount will be considered a debt due to the public agency or to the Crown from the designated executive or designated member. The public agency or Crown may recover the overpayment by any remedy or procedure available to it by law to enforce the payment of the debt, including the deduction of the overpayment from any compensation payable to that executive or member. In turn, the Minister may consider the overpayment by the public agency a debt due to

to the Crown if the public agency does not make a timely payment for the amount of the overpayment to the Crown upon request in the time specified.

Amongst other things, the *Act* provides that the enactment or application of this *Act* or changes to the compensation payable to an executive will not be considered constructive dismissal or breach of contract; or create a cause of action either in law or equity against the Crown, the Minister, or the public agency, their appointees, employees, agents or members; it will not entitle a person to compensation for any loss or damages including loss of expected earnings or denial or reduction of compensation which might have been payable to the person prior to the enactment or application of this *Act*. Further, a non-employee does not become an employee of the Crown by application of this *Act*.

In Force: May 27, 2016

Bill 20 - *Climate Leadership Implementation Act, S.A. 2016, c. 16 / Energy Efficiency Alberta Act, S.A. 2016, c. E-97*

- Amended:**
- *Alberta Corporate Tax Act, R.S.A. 2000, c. A-15*
 - *Alberta Personal Income Tax Act, R.S.A. 2000, c. A-30*
 - *Climate Change and Emissions Management Act, S.A. 2003, c. C-16.7*
 - *Fuel Tax Act, S.A. 2006, c. F-28.1*

Summary: The *Climate Leadership Implementation Act* combines two pieces of legislation.

Under the *Climate Leadership Implementation Act*, all fuel consumption will be subject to a carbon levy to be effected through a series of payment and remittance obligations throughout the fuel supply chain. There are some exemptions from the carbon levy. The *Climate Leadership Implementation Act* creates mechanisms for the assessment of the levy and the enforcement of payment. Directors can be held jointly or severally liable for payment if their corporation fails to remit the required carbon levy.

The *Energy Efficiency Alberta Act* establishes Energy Efficiency Alberta, which is a new Crown corporation with a mandate to raise awareness among energy consumers, design and deliver programs related to energy conservation and small scale renewable energy systems, and to promote the development of an energy efficiency services industry. Energy Efficiency Alberta will consult with stakeholders and citizens to encourage a reduction in energy use and to raise awareness of the consequences of energy consumption.

The *Act* reduces the small business tax rate under the *Alberta Corporate Tax Act*, while amendments to the *Alberta Personal Income Tax Act* will provide for the eligibility and calculation methods pertaining to the Alberta Climate Leadership Adjustment Rebate.

Amendments to the *Climate Change and Emissions Management Act* broaden the use and purpose of the Climate Change and Emissions Management Fund.

In Force: January 1, 2017

Bill 23 - *Miscellaneous Statutes Amendment Act, S.A. 2016, c. 18*

- Amended:**
- *Business Corporations Act, R.S.A. 2000, c. B-9*
 - *Chartered Professional Accountants Act, S.A. 2014, c. C-10.2*
 - *Condominium Property Act, R.S.A. 2000, c. C-22*
 - *Condominium Property Amendment Act, S.A. 2012, c. 10*
 - *Conflicts of Interest Act, R.S.A. 2000, c. C-23*
 - *Fair Trading Act, R.S.A. 2000, c. F-2*
 - *Health Care Protection Act, R.S.A. 2000, c. H-1*
 - *Health Information Act, R.S.A. 2000, c. H-5*

LEGISLATIVE SUMMARY

- Amended:
(cont'd)**
- *Historical Resources Act*, R.S.A. 2000, c. H-9
 - *Insurance Act*, R.S.A. 2000, c. I-3
 - *Lobbyists Act*, S.A. 2007, c. L-20.5
 - *Mines and Minerals Act*, R.S.A. 2000, c. M-17
 - *Mobile Home Sites Tenancies Act*, R.S.A. 2000, c. M-20
 - *Personal Property Security Act*, R.S.A. 2000, c. P-7
 - *Provincial Court Act*, R.S.A. 2000, c. P-31
 - *Regulations Act*, R.S.A. 2000, c. R-14
 - *Residential Tenancies Act*, S.A. 2004, c. R-17.1
 - *Statutes Amendment Act*, S.A. 2015, c. 12

Summary: The *Miscellaneous Statutes Amendment Act* introduces various amendments to the foregoing legislation. Practitioners are encouraged to review the *Act* to confirm how the amendments affect their areas of practice.

In Force: June 13, 2016

LEGISLATIVE REVIEW COMMITTEE

Kevin P. Feehan, QC
Legislative Officer
C. R. Head – Secretary



Edmonton Committee

Frank P.K. Friesacher
Renee Gagnon
Darin J. Hannaford
Christopher R. Head
Nancy Jacobsen
Mathieu J. LaFleche
Leanne R. Monsma
Omolara Oladipo
Matt Riskin
Melissa D. Timbres
Ian L. Wachowicz
Angela E. Weaver
Kenneth M. Whitelaw
Matthew Woodley
Peter S. Wong
Chris Zelyas



Calgary Committee

Susan V.R. Billington, QC
Scott H.D. Bower
Melissa N. Burkett
Suchetna Channan
Jordan R.M. Deering
Francis (Frank) Durnford
Tara Toby Eines
Dennis A. McDermott, QC
Clifford J. Shaw, QC
Tracey D. Stock
Jeffrey N. Thom, QC