

2009 Bill 27

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Second Session, 27th Legislature, 58 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 27**

## **ALBERTA RESEARCH AND INNOVATION ACT**

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THE MINISTER OF ADVANCED EDUCATION AND TECHNOLOGY

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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## BILL 27

2009

### ALBERTA RESEARCH AND INNOVATION ACT

(Assented to , 2009)

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

**Definitions**

**1** In this Act,

- (a) “Authority” means the Alberta Research and Innovation Authority established by section 3;
- (b) “endowment Fund” means a Fund continued by section 11;
- (c) “Minister” means the Minister of Advanced Education and Technology;
- (d) “personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*;
- (e) “research and innovation corporation” means a corporation established under section 7(1).

**Purpose**

**2** The purpose of this Act is to promote and provide for the strategic and effective use of funding and other resources to meet the research and innovation priorities of the Government, including fostering the development and growth of new and existing industries.

**Alberta Research and Innovation Authority**

**3(1)** The Alberta Research and Innovation Authority is established.

**(2)** The purposes of the Authority are

- (a) to provide strategic advice and recommendations to the Minister on research and innovation matters relating to the purposes of this Act, and
- (b) to carry out other duties determined by the Minister.

(3) The Authority reports to the Minister through the Chair of the Authority and is responsible for submitting to the Minister, at the times and in the form determined by the Minister, reports and plans as requested by the Minister.

(4) The Authority may make bylaws governing the calling of its meetings and the conduct of its business at meetings.

(5) The Authority may establish committees, which may consist of persons who are not members of the Authority, to assist the Authority with carrying out its purposes.

#### **Membership**

**4(1)** The Authority shall consist of not more than 12 members appointed by the Lieutenant Governor in Council.

(2) A member holds office for a term not exceeding 5 years but may be reappointed for further terms not exceeding 5 years so long as the reappointment would not result in the person serving as a member for more than 10 consecutive years.

(3) A break in service of less than 2 years shall be disregarded in determining the number of consecutive years under subsection (2).

(4) The Lieutenant Governor in Council shall designate one of the members as Chair and one of the members as Vice-chair.

(5) A member ceases to hold office when

- (a) the member resigns,
- (b) the member's appointment expires,
- (c) the member's appointment is terminated by the Lieutenant Governor in Council, or
- (d) the member is disqualified under the regulations.

(6) A member's resignation becomes effective when it is received by the Chair in writing or at the time specified in the resignation, whichever is later.

(7) The Chair shall send a copy of a resignation to the Minister forthwith.

**(8)** Notwithstanding subsections (2) and (5)(b), where a member's appointment expires, the member continues to hold office until

- (a) the member is reappointed,
- (b) a successor is appointed, or
- (c) 3 months has elapsed since the expiry,

whichever occurs first.

**(9)** The Lieutenant Governor in Council may determine the remuneration and travelling, living and other expenses payable to members of the Authority and to members of committees established by the Authority.

#### **Alberta Research and Innovation Committee**

**5(1)** The Alberta Research and Innovation Committee is established consisting of the chairs of the research and innovation corporations and any other persons appointed by the Minister.

**(2)** The purpose of the Alberta Research and Innovation Committee is to provide advice and recommendations to the Minister respecting

- (a) the roles and responsibilities of research and innovation corporations,
- (b) the co-ordination and prioritization of activities and initiatives of the research and innovation corporations, and
- (c) other issues that may arise in relation to research and innovation matters, as required by the Minister.

**(3)** The Minister is the chair of the Alberta Research and Innovation Committee.

#### **Cross-Government Portfolio Advisory Committee**

**6(1)** The Cross-Government Portfolio Advisory Committee is established consisting of those members of the Executive Council whom the Lieutenant Governor in Council designates as having responsibilities for matters related to research and innovation.

**(2)** The purpose of the Cross-Government Portfolio Advisory Committee is to provide advice and recommendations to the Minister

- (a) on payments from the endowment Funds, and
- (b) on other funding matters determined by the Minister relating to the funding of research and innovation.

**(3)** The Minister is the chair of the Cross-Government Portfolio Advisory Committee.

**Establishment of research and innovation corporations**

**7(1)** The Lieutenant Governor in Council may, in accordance with the regulations under subsection (2), establish up to 4 research and innovation corporations to do either or both of the following:

- (a) to meet the research and innovation priorities of the Government in the following areas or in a combination of the areas:
  - (i) agriculture;
  - (ii) forestry;
  - (iii) energy;
  - (iv) the environment;
  - (v) health;
  - (vi) any other area determined under the regulations;
- (b) to foster the development and growth of new and existing industries through research and innovation.

**(2)** The Lieutenant Governor in Council may make regulations

- (a) respecting the establishment of a research and innovation corporation including, without limitation, regulations respecting the following:
  - (i) the name of the corporation;
  - (ii) the objects of the corporation;

- (iii) the capacity and powers of the corporation, including the power to borrow, invest, purchase shares and give indemnities;
  - (iv) the size and composition of the board of directors;
  - (v) eligibility for appointment to the board of directors;
  - (vi) the method of appointment and terms of office of members of the board of directors and the designation of a chair and vice-chair or election of officers;
  - (vii) the remuneration and expenses payable to members of the board of directors, including members of any committees established by the corporation or the board;
  - (viii) the roles and responsibilities of the board of directors;
  - (ix) the hiring and the remuneration of employees;
  - (x) the calling of meetings and rules of procedure for meetings;
  - (xi) a code of ethical conduct, including conflict of interest guidelines and any other guidelines and policies in respect of directors, officers and employees of the corporation;
  - (xii) the disqualification of members of the board of directors;
  - (xiii) the making of bylaws and the subject-matters that may be dealt with by bylaw;
- (b) respecting the entering into of joint venture or partnership arrangements by the corporation;
  - (c) respecting the establishment of subsidiaries by the corporation;
  - (d) respecting the preparation of records and accounts under section 9(1);

- (e) respecting the preparation and submitting of reports, plans and budgets;
  - (f) determining other areas for the purpose of section 7(1)(a)(vi);
  - (g) respecting any terms and conditions regarding the acceptance and use by the corporation of funds from sources other than an endowment Fund or the Government;
  - (h) respecting the dissolution or 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.
- (3)** A research and innovation corporation shall not make loans or give guarantees.
- (4)** The share capital of a research and innovation corporation consists of one share owned by the Crown.
- (5)** The fiscal year of a research and innovation corporation is April 1 to the following March 31.
- (6)** A research and innovation corporation is not an agent of the Crown.

**Duty of care**

- 8(1)** Every director, officer and employee of a research and innovation corporation shall comply with this Act, the regulations and the bylaws of the corporation.
- (2)** No provision in any contract, resolution or bylaw relieves any director, officer or employee of a research and innovation corporation from the duty to act in accordance with this Act, the regulations and the bylaws, or from liability for a breach of that duty.
- (3)** Every director and officer of a research and innovation corporation, 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.

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

### **Records and accounts**

**9(1)** Subject to the regulations, a research and innovation corporation shall prepare records and accounts.

(2) The Minister may request from a research and innovation corporation any information, including personal information, the Minister considers necessary, and the corporation shall disclose the information in the form and manner determined by the Minister.

(3) A research and innovation corporation shall allow the Minister or the Minister's representative to inspect and make copies of all records, accounts, reports and other documents of the corporation and, in the case of an electronic document, print the electronic document, and otherwise review the operations of the corporation.

(4) If the information disclosed under subsection (2) or contained in records, accounts, reports and other documents of the research and innovation corporation referred to in subsection (3) is personal information, the Minister may collect, use and disclose that personal information

(a) for the purposes of reviewing and monitoring the operations of the corporation,

(b) for the purposes of administering this Act and the regulations,

(c) for the purposes of ensuring the corporation is carrying out the objects of the corporation, and

(d) for any other purpose authorized by regulation.

(5) If the information disclosed under subsection (2) or contained in records, accounts, reports and other documents of the research and innovation corporation inspected, copied or printed under subsection (3) relates to labour relations, is a trade secret or is of a

commercial, financial, scientific or technical nature, the information is to be treated as having been provided in confidence.

#### **Directives**

**10** The Minister may issue directives that must be followed by a research and innovation corporation, the board of directors of the corporation, or both, in carrying out their powers, duties and functions under this Act.

#### **Endowment Funds**

**11(1)** The Alberta Heritage Foundation for Medical Research Endowment Fund and the Alberta Heritage Science and Engineering Research Endowment Fund are continued.

**(2)** The endowment Funds are to be used for the purposes of this Act, including,

- (a) in the case of the Alberta Heritage Foundation for Medical Research Endowment Fund, to support a balanced long-term program of research and innovation related to health and directed to the discovery of new knowledge and the application of that knowledge to improve health and the quality of health services in Alberta, and
- (b) in the case of the Alberta Heritage Science and Engineering Research Endowment Fund, to support a balanced long-term program of research and innovation directed to the discovery of new knowledge and the application of that knowledge to the commercialization of technology.

**(3)** The Minister of Finance and Enterprise shall hold and administer the endowment Funds and has the same powers of investment with respect to the endowment Funds that the Minister of Finance and Enterprise has with respect to the General Revenue Fund under the *Financial Administration Act*.

**(4)** The income of an endowment Fund derived from investments made under subsection (3) accrues to and forms part of the Fund.

**(5)** In addition to the money currently in the endowment Funds, the Funds may include money voted by the Legislature for the purposes of the Funds.

(6) The Minister of Finance and Enterprise shall, as soon as practicable after the end of each fiscal year of the Crown, prepare a report summarizing the transactions and affairs of the endowment Funds during the preceding fiscal year and shall lay a copy of it before the Legislative Assembly if it is then sitting, and if it is not then sitting, within 15 days after the commencement of the next sitting.

#### **Payments from an endowment Fund**

**12(1)** The Minister of Finance and Enterprise must, at the request of the Minister of Advanced Education and Technology made on reasonable notice, pay from the specified endowment Fund money that, in the opinion of the Minister of Advanced Education and Technology, is required to carry out the purposes of the Fund, which include the funding of the research and innovation corporations.

(2) Subject to subsection (4) and the regulations, the aggregate of amounts paid under subsection (1) from an endowment Fund in a fiscal year may not exceed 4.5% of the market value of the Fund.

(3) The market value for the purpose of subsection (2) is the average of the market values determined on March 31 of the preceding 3 fiscal years.

(4) If less than 4.5% of the market value of an endowment Fund is paid from a Fund in a fiscal year, the unused portion of the amount permitted to be paid in that fiscal year may be paid in any subsequent fiscal year.

#### **General regulations**

**13** The Lieutenant Governor in Council may make regulations

- (a) authorizing the Minister to collect, use and disclose information, including personal information, for specified purposes;
- (b) respecting the collection, use and disclosure for specified purposes of information, including personal information, among the Minister, the research and innovation corporations, the Authority and the advisory committees established by sections 5 and 6;
- (c) defining terms that are used but not defined in this Act;

- (d) respecting circumstances in which the percentage referred to in section 12(2) may be exceeded;
- (e) providing for any matter the Lieutenant Governor in Council considers advisable for carrying out the intent and purposes of this Act.

### **Transitional Provisions, Consequential Amendments, Repeal and Coming into Force**

#### **Dissolution and winding-up of existing entities**

**14(1)** In this section, “entity” means an entity referred to in subsection (2).

**(2)** The Lieutenant Governor in Council may dissolve the following entities:

- (a) the Alberta Agricultural Research Institute;
- (b) the Alberta Energy Research Institute;
- (c) the Alberta Forestry Research Institute;
- (d) the Alberta Heritage Foundation for Medical Research;
- (e) the Alberta Heritage Foundation for Science and Engineering Research;
- (f) the Alberta Information and Communications Technology Institute;
- (g) the Alberta Life Sciences Institute;
- (h) the Alberta Research Council Inc.;
- (i) the Alberta Science and Research Authority;
- (j) iCORE Inc.;
- (k) any subsidiary of an entity referred to in clauses (a) to (j).

**(3)** Where an entity is dissolved under subsection (2), the appointments of the members of the board of that entity are terminated.

(4) The Minister may, by order, with respect to an entity dissolved under subsection (2)

- (a) provide for the winding-up of the affairs of the entity;
- (b) provide for the transition of any of the powers, duties and functions previously carried out by the entity;
- (c) transfer the assets, if any, of the entity;
- (d) transfer the obligations and liabilities, if any, of the entity;
- (e) provide for the transfer of records of the entity, including records containing personal information, to a research and innovation corporation;
- (f) determine by or against whom any civil, criminal or administrative action or proceeding pending by or against the entity is to be continued;
- (g) determine in favour of or against whom any ruling, order or judgment in favour of or against the entity is to be enforced.

(5) An order under subsection (4) may contain any provisions the Minister considers necessary to protect the interests of creditors.

(6) The Minister may from time to time give any directions the Minister considers appropriate concerning the winding-up of an entity dissolved under subsection (2).

(7) An order under subsection (4) may be made retroactive to the extent set out in the order.

(8) The *Business Corporations Act* and the *Companies Act* do not apply with respect to the dissolution and winding-up of an entity referred to in subsection (2) that was established under the *Business Corporations Act* or the *Companies Act*.

(9) The *Regulations Act* does not apply to an order under this section.

#### **Severance and termination pay**

**15(1)** In this section and section 16,

- (a) “change in governance or restructuring” with respect to a dissolved entity includes
  - (i) the dissolution of the dissolved entity, and
  - (ii) a transfer of the responsibility for all or part of the operations of the dissolved entity to another entity;
- (b) “dissolved entity” means an entity dissolved under section 14.

**(2)** This section applies only in respect of employees who are not represented by a bargaining agent.

**(3)** Notwithstanding any other enactment or the terms of an employment contract, no employee of a dissolved entity is entitled to severance pay or termination pay or other compensation if the employee’s position is substantially the same after the change in governance or restructuring as it was before the change in governance or restructuring.

**(4)** Nothing in this section precludes an employer from voluntarily giving an employee or former employee severance pay or termination pay or other compensation.

#### **Transitional regulations**

**16(1)** The Lieutenant Governor in Council may make regulations

- (a) respecting the transition
  - (i) of any of the powers, duties and functions of a dissolved entity, and
  - (ii) of any other matters relating to the dissolution of the dissolved entities or the repeal of an Act referred to in section 18;
- (b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the dissolution of a dissolved entity or the repeal of an Act referred to in section 18.

**(2)** A regulation made under subsection (1) may be made retroactive to the extent set out in the regulation.

**(3)** A regulation made under subsection (1) is repealed on the earlier of

- (a) the coming into force of a regulation that repeals the regulation made under subsection (1), and
- (b) 2 years after the regulation comes into force.

(4) The repeal of a regulation under subsection (3) does not affect anything done, incurred or acquired under the authority of the regulation before the repeal of the regulation.

#### **Consequential amendments**

**17(1) The *Financial Administration Act* is amended in section 2(5)**

**(a) by adding the following after clause (f):**

(f.1) a research and innovation corporation established under section 7 of the *Alberta Research and Innovation Act*,

**(b) by repealing clause (g), by adding “or” at the end of clause (i) and by repealing clause (j).**

**(2) The *Fuel Tax Act* is amended in section 68(b) by striking out “the chief chemist or the deputy chief chemist of the gasoline and oil laboratory of the Alberta Science and Research Authority or any other” and substituting “any”.**

**(3) The *Health Professions Act* is amended by repealing section 146(2.1).**

**(4) The *Public Service Act* is amended by repealing section 24(5).**

## Explanatory Notes

**17(1)** Amends chapter F-12 of the Revised Statutes of Alberta 2000. Section 2(5) presently reads:

*(5) This Act, except this section and sections 1, 5, 6, 7, 13(3), 77, 80 and 81, does not apply to the following:*

- (a) the board of a university under the Post-secondary Learning Act,*
- (b) the initial governing authority of a university under the Post-secondary Learning Act,*
- (c) the board of a public college under the Post-secondary Learning Act,*
- (d) the initial governing authority of a public college under the Post-secondary Learning Act,*
- (e) the board of a technical institute under the Post-secondary Learning Act,*
- (f) the initial governing authority of a technical institute under the Post-secondary Learning Act,*
- (g) the Alberta Heritage Foundation for Medical Research,*
- (h) a provincial health board under the Regional Health Authorities Act,*
- (i) a mental health hospital board under the Mental Health Act,*
- (j) the Alberta Heritage Foundation for Science and Engineering Research,*
- (k) the Alberta Cancer Board, or*



(l) *a corporation that is a subsidiary of a corporation referred to in clauses (a) to (k) or that is controlled by a corporation referred to in clauses (a) to (k) directly or indirectly through one or more intermediary corporations.*

(2) Amends chapter F-28.1 of the Statutes of Alberta, 2006.  
Section 68(b) presently reads:

68 *In a prosecution for an offence under this Act or the regulations,*

(b) *a certificate of the chief chemist or the deputy chief chemist of the gasoline and oil laboratory of the Alberta Science and Research Authority or any other person designated or appointed by the Minister stating the results of the examination of any substance referred to in the certificate and stating one or more of the following:*

(i) *that the substance is or is not a fuel or a blend stock,*

(ii) *if the substance is a fuel, the type of fuel,*

(iii) *if the substance is a fuel, that the fuel is or is not marked fuel,*

(iv) *that the substance does or does not contain a colouring matter or identifying substance authorized to be used under the regulations,*

(3) Amends chapter H-7 of the Revised Statutes of Alberta 2000.  
Consequential to the repeal of the Alberta Heritage Foundation for Medical Research Act. Section 146(2.1) presently reads:

(2.1) *The Alberta Heritage Foundation for Medical Research Act is amended in section 2(1)(a) by striking out “College of Physicians and Surgeons of the Province of Alberta” and substituting “College of Physicians and Surgeons of Alberta”.*

(4) Amends chapter P-42 of the Revised Statutes of Alberta 2000.  
Section 24(5) presently reads:

(5) *In this section, “employee” includes an employee of the Research Council of Alberta.*

**Repeals**

**18** The following are repealed on Proclamation:

- (a) the *Alberta Heritage Foundation for Medical Research Act*, RSA 2000 cA-21;
- (b) the *Alberta Heritage Foundation for Science and Engineering Research Act*, RSA 2000 cA-22;
- (c) the *Alberta Science and Research Authority Act*, RSA 2000 cA-33.

**Coming into force**

**19** This Act comes into force on Proclamation.

**18** Repeals.

**19** Coming into force.





