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COLUMBIA BASIN TRUST ACT

[RSBC 1996] CHAPTER 53

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Preamble

WHEREAS the desires of the people of the Columbia Basin were not adequately considered in the original negotiations of the Columbia River Treaty;

AND WHEREAS the government desires to include the people of the Columbia Basin in decisions that affect their lives and determine their future;

AND WHEREAS the government intends to work with the people of the Columbia Basin to ensure that

benefits derived from the Columbia River Treaty help to create a prosperous economy with a healthy, renewed natural environment;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Part 1 — Interpretation

Definitions

1 In this Act:

"corporation" means the Columbia Basin Trust continued by section 2;

"director" means a member of the board of directors of the corporation;

"government corporation" has the same meaning as in the *Financial Administration Act*;

"nominating bodies" means

- (a) the regional districts referred to in section 5 (1), and
- (b) the tribal council;

"public servant" means a person employed by or under contract to

- (a) the government,
- (b) a municipal or regional district government, or
- (c) any entity controlled or created by one or more of those governments;

"qualified individual" means an individual who is resident in the region;

"region" means that area of British Columbia comprising

- (a) the Regional District of Central Kootenay,
- (b) that portion of the Fraser-Fort George Regional District commencing at the southwest corner of Lot 7383, Cariboo Land District; then easterly along the southerly boundary of Lot 7383 and the northerly boundary of Lot 3103, Kamloops Division of Yale Land District, to the northeast corner of Lot 3103; then due East to the westerly boundary of the watershed of the Canoe River; then southerly along said boundary to the southerly boundary of the watershed of Foster Creek; then easterly along said boundary to Canoe River and continuing easterly across Canoe River to and along the southerly boundary of the watershed of Baker Creek to the easterly boundary of British Columbia; then northwesterly along that boundary and continuing along the line of the summit of the Rocky Mountains to the southerly boundary of the watershed of the Fraser River; then northwesterly along that southerly boundary to the southerly boundary of the watershed of Swift Creek; then in a westerly direction along that watershed boundary to the easterly and southerly boundaries of the watershed of the McLennan River, being also the northerly boundary of the watershed of the Canoe River; then westerly southerly, and easterly along the watershed boundary of the Canoe River to a point lying due West of the southwest corner of Lot 7383, Cariboo Land District; then East to that corner, being the point of commencement, and includes all those lands

lying within the municipal boundaries of the Village of Valemount,

(c) that part of the Columbia Shuswap Regional District comprised of Electoral Area A, Electoral Area B, the Town of Golden and the City of Revelstoke,

(d) that part of the Kootenay Boundary Regional District comprised of Electoral Area A, Electoral Area B, the City of Trail, the City of Rossland, the Village of Warfield, the Village of Fruitvale and the Village of Montrose, and

(e) the East Kootenay Regional District,

or such other part of British Columbia that the Lieutenant Governor in Council may, after consultation with the corporation, prescribe;

"regional allocation" means any money paid by the government to the corporation for the corporation's purposes under this Act;

"tribal council" means the Ktunaxa-Kinbasket Tribal Council.

Part 2 — Columbia Basin Trust

Corporation continued

2 (1) The corporation known as the Columbia Basin Trust is continued consisting of a board of directors appointed under section 5.

(2) The corporation has the power and capacity of a natural person of full capacity.

(3) The fiscal year of the corporation is the period of 12 months beginning on April 1 in each year and ending on March 31 in the next succeeding year.

(4) The corporation may have a corporate seal which may be engraved, lithographed, printed or otherwise mechanically reproduced.

(5) The corporation is not an agent of the government.

Capital of the corporation

3 (1) The capital of the corporation is one share with a par value of \$10.

(2) The share in the corporation must be issued to and registered in the name of the Minister of Finance and must be held by that minister on behalf of the government.

Purpose of the corporation

4 (1) The purpose of the corporation is to invest, spend and otherwise manage the regional allocation and the corporation's other assets, including any assets that may be transferred to it, for the ongoing economic, environmental and social benefit of the region including, without limitation, for

(a) the social well being of the residents of the region,

(b) the preservation, protection and enhancement of the environment of the region,

(c) the economic development of the region, and

(d) any other prescribed purposes.

(2) Nothing in subsection (1) relieves any level of government from any obligations it

might have with respect to the region.

Directors

5 (1) The Lieutenant Governor in Council is to appoint, as the board of directors of the corporation, 12 qualified individuals of whom

- (a) one is to be appointed from the nominees provided under section 6 by the board of the Regional District of Central Kootenay,
- (b) one is to be appointed from the nominees provided under section 6 by the board of the Fraser-Fort George Regional District,
- (c) one is to be appointed from the nominees provided under section 6 by the board of the Columbia Shuswap Regional District,
- (d) one is to be appointed from the nominees provided under section 6 by the board of the Kootenay Boundary Regional District,
- (e) one is to be appointed from the nominees provided under section 6 by the board of the East Kootenay Regional District, and
- (f) one is to be appointed from the nominees provided under section 6 by the tribal council.

(2) Despite subsection (1), the Lieutenant Governor in Council may decline to appoint any of the nominees provided by a nominating body and, in that event,

- (a) the minister must notify the nominating body of the Lieutenant Governor in Council's decision, and
- (b) the nominating body is, within 60 days after that notification, to provide to the Lieutenant Governor in Council a list of at least one and not more than 4 nominees who are qualified individuals.

(3) If a nominating body does not comply with subsection (2) (b), or if the Lieutenant Governor in Council declines to appoint any of the nominees provided by the nominating body under that subsection, the Lieutenant Governor in Council is to appoint a qualified individual as director, and that director is deemed to be appointed from nominees of that nominating body provided under section 6.

(4) No act or proceeding of the directors is invalid merely because the composition of the board does not accord with subsection (1).

Appointment of directors

6 (1) Each of the nominating bodies is, at least 60 days before the expiry of the term of office of the director appointed from its nominees, to provide to the Lieutenant Governor in Council a list of at least one and not more than 4 nominees who are qualified individuals.

(2) A nominating body may nominate an existing director for successive terms of office.

(3) If a nominating body does not comply with subsection (1), the Lieutenant Governor in Council is to appoint a qualified individual to hold office as director after the expiry of the term of office of the director appointed from the nominees of that nominating body, and the director appointed by the Lieutenant Governor in Council under this subsection is deemed to be appointed from nominees provided by that nominating body under this section.

Removal of directors

7 The Lieutenant Governor in Council may remove any director after receiving a written request to do so from

- (a) the minister, or
- (b) the board of directors.

Replacement of directors

8 (1) If a director who was appointed from the nominees of a nominating body dies, resigns or is removed, the nominating body must, within 60 days, provide to the Lieutenant Governor in Council a list of at least one and not more than 4 nominees who are qualified individuals and the Lieutenant Governor in Council is to appoint as the replacement director, one of the nominees from the submitted list.

(2) Despite subsection (1), the Lieutenant Governor in Council may decline to appoint any of the nominees provided by a nominating body and, in that event,

- (a) the minister must notify the nominating body of the Lieutenant Governor in Council's decision, and
- (b) the nominating body is, within 60 days after that notification, to provide to the Lieutenant Governor in Council a list of at least 2 and not more than 4 nominees who are qualified individuals.

(3) If a nominating body does not comply with subsection (1) or (2) (b), as the case may be, or if the Lieutenant Governor in Council declines to appoint any of the nominees provided by the nominating body under subsection (1) or (2) (b), as the case may be, the Lieutenant Governor in Council is to appoint a qualified individual as the replacement director, and that director is deemed to be appointed from nominees of that nominating body provided under section 6.

(4) Subject to section 8.1, a replacement director appointed under this section holds office until the end of the term of office of the replaced director.

Term of office of directors

8.1 A director appointed by the Lieutenant Governor in Council under this Act is appointed for the term of office and on the terms and conditions the Lieutenant Governor in Council considers appropriate, and the Lieutenant Governor in Council may select a different term of office and different terms and conditions for each director appointed under this Act.

Powers of directors

9 (1) The directors are to manage the affairs of the corporation or supervise the management of those affairs and may

- (a) exercise the powers conferred on them under this Act,
- (b) exercise the powers of the corporation on behalf of the corporation, and
- (c) delegate the exercise or performance of any power or duty conferred or imposed on them to the chief executive officer or employee of the corporation.

(2) Subject to section 10, the directors may pass the resolutions they consider necessary or advisable for the management of the affairs of the corporation and for the exercise of

their powers or performance of their duties including, without limitation, resolutions in respect of the procedure to be followed at meetings of directors.

(3) A resolution of the directors is passed if

- (a) the majority of the directors present at a meeting of directors at which a quorum is present vote in favour of the resolution, or
- (b) the resolution is approved by the required number of directors by telex, telegraph, facsimile transmission, telephone or any other similar means of communication and that approval is confirmed in writing or other graphic communication.

(4) The directors must appoint one of the directors as the chair of the board.

Meetings and quorum

10 (1) The directors must meet at least 6 times a year and at least one of those meetings in each year must be open to the public.

(2) The directors must give reasonable notice to the residents of the region of every meeting that is to be open to the public.

(3) A majority of the directors holding office constitutes a quorum at meetings of directors.

(4) The directors must prepare and maintain records containing minutes of meetings and resolutions of the directors and any committee appointed by the directors.

Directors' remuneration

11 The corporation may pay to a director remuneration in accordance with directives of Treasury Board.

Officers and employees

12 (1) The directors must appoint an individual as the chief executive officer of the corporation.

(2) The chief executive officer must carry out those functions and perform those duties that are specified in the resolutions of the corporation.

(3) The chief executive officer, to the extent authorized by the directors, may appoint officers and hire employees necessary to carry on the business and operations of the corporation and may define their duties and determine their remuneration.

(4) The *Public Service Act*, the *Public Service Benefit Plan Act*, the *Public Sector Pension Plans Act* and the *Public Service Labour Relations Act* do not apply to the corporation or to a director, officer or employee of the corporation.

Repealed

13 [Repealed 2003-87-4.]

Borrowing powers

14 (1) Subject to the approval of the Lieutenant Governor in Council and the Minister of Finance, the corporation, for the purpose of carrying out any power, right, function or duty conferred or imposed on it under this or any other Act, may borrow money from the

government and may issue securities in the form and on terms and conditions determined by the Minister of Finance at or before the time the securities are issued.

(2) [Repealed 2003-87-5.]

Columbia Basin Management Plan

15 (1) Within 2 years of the appointment of the first directors of the corporation, the directors must prepare a long term Columbia Basin Management Plan setting out the corporation's objectives, priorities and programs in relation to the matters referred to in section 4 (1).

(2) Subject to subsection (3), the directors may amend the plan from time to time.

(3) Before effecting any major amendments to the plan, the directors must solicit input on the proposed amendments from residents of the region in the manner and to the extent the directors consider appropriate.

(4) to (11) [Repealed 2003-87-6.]

Part 3

Repealed

16–25 [Repealed 2003-87-7.]

Part 4 — Reporting

Financial administration

26 The corporation must establish and maintain an accounting system satisfactory to the Minister of Finance.

Audit

27 (1) Unless the Auditor General is appointed in accordance with the *Auditor General Act* as the auditor of the corporation, the corporation must appoint an auditor to audit the accounts of the corporation.

(2) The accounts of the corporation must, at least once in every year, be audited and reported on by the auditor to the minister and to the corporation and the costs of the audit must be paid by the corporation.

(3) The most recent report of the auditor under subsection (2) must be provided to the next meeting of directors that is open to the public under section 10 (1) and the auditor must attend at that meeting and respond to questions asked at that meeting in respect of the report.

Repealed

28 [Repealed 2003-87-9.]

Part 5 — General

Application of other Acts

29 (1) Except as is provided in subsection (2), the *Business Corporations Act* does not apply to the corporation but the Lieutenant Governor in Council may, by regulation, declare that all or part of the *Business Corporations Act* does apply.

(2) Sections 31 and 194 (1) and (2) and Division 5 of Part 5 of the *Business Corporations Act* apply to the corporation as if it were a company within the meaning of that Act.

(3) [Repealed 2003-70-110.]

Offence Act

30 Section 5 of the *Offence Act* does not apply to this Act or to the regulations.

Power to make regulations

31 (1) The Lieutenant Governor in Council may make regulations as referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may, with the agreement of the corporation, make regulations altering the area included within the definition of the "region".

(3) Without limiting subsection (1), if, in the region, a power generation, transmission or distribution facility is constructed in whole or in part by or on behalf of, or is owned in whole or in part by, the corporation or a subsidiary of the corporation, the Lieutenant Governor in Council may, by regulation, exempt land and improvements included in that facility from all or any part of the taxes

- (a) to which the land and improvements are or may be subject under any Act, and
- (b) from which the land and improvements would be exempt were they owned and occupied by the government.

(4) For the purposes of subsection (3):

"improvements" and **"land"** have the same meaning as in the *Assessment Act*;

"subsidiary" has the same meaning as in the *Business Corporations Act*.

(5) With the approval of the Lieutenant Governor in Council, if an exemption is prescribed under subsection (3), the corporation may make annual grants to

- (a) the Surveyor of Taxes with respect to a rural area within the region, and
- (b) municipalities and other local governments within the region.

(6) Annual grants made under subsection (5) must not, in total, exceed the amount of the taxes from which the land and improvements referred to in subsection (3) were exempted under that subsection for that year.