

Notice of Amendment

Bill 205

Advocate for Persons with Disabilities Act

Dr. Swann to move that Bill 205, *Advocate for Persons with Disabilities Act*, be amended as follows:

A. Section 1 is amended by striking out clause (b) and substituting the following:

(b) “Standing Committee” means the Standing Committee on Legislative Offices.

B. Section 2 is struck out and the following is substituted:

Appointment of Advocate for Persons with Disabilities

2(1) The Lieutenant Governor in Council, on the recommendation of the Legislative Assembly, must appoint an Advocate for Persons with Disabilities to carry out the duties and functions set out in this Act.

(2) The Advocate is an officer of the Legislature.

(3) The Advocate may not be a member of the Legislative Assembly.

Term of office

2.1(1) Except as provided for in section 2.2, the Advocate holds office for a term not exceeding 5 years.

(2) A person holding office as Advocate continues to hold office after the expiry of that person’s term of office until that person is reappointed, a successor is appointed or a period of 6 months has expired, whichever occurs first.

(3) A person is eligible for reappointment as Advocate.

Resignation, removal or suspension of Advocate

2.2(1) The Advocate may resign at any time by notifying the Speaker of the Legislative Assembly or, if there is no Speaker or the Speaker is absent from Alberta, by notifying the Clerk of the Legislative Assembly.

(2) The Lieutenant Governor in Council must remove the Advocate from office or suspend the Advocate for cause or incapacity on the recommendation of the Legislative Assembly.

(3) If the Legislative Assembly is not sitting, the Lieutenant Governor in Council may suspend the Advocate for cause or incapacity on the recommendation of the Standing Committee.

Acting Advocate

2.3(1) The Lieutenant Governor in Council, on the recommendation of the Standing Committee, may appoint an acting Advocate if

(a) the office of Advocate is or becomes vacant when the Legislative Assembly is not sitting,

- (b) the Advocate is suspended when the Legislative Assembly is not sitting, or
- (c) the Advocate is removed or suspended or the office of the Advocate becomes vacant when the Legislative Assembly is sitting, but no recommendation is made by the Assembly under section 2(1) before the end of the session.

(2) The Lieutenant Governor in Council may appoint an acting Advocate if the Advocate is temporarily absent because of illness or for another reason.

(3) An acting Advocate holds office until

- (a) a person is appointed under section 2(1),
- (b) the suspension of the Advocate ends, or
- (c) the Advocate returns to office after a temporary absence.

Remuneration

2.4 The Advocate must be remunerated as determined by the Standing Committee, and it must review that remuneration at least once a year.

Oath

2.5(1) Before beginning the duties of office, the Advocate must take an oath to faithfully and impartially perform the duties of the office and not to disclose any information received by the Office of the Advocate for Persons with Disabilities under this Act except as provided in this Act.

(2) The oath must be administered by the Speaker of the Legislative Assembly or the Clerk of the Legislative Assembly.

Office of the Advocate for Persons with Disabilities

2.6(1) There may be a part of the public service of Alberta called the Office of the Advocate for Persons with Disabilities consisting of the Advocate and those persons employed pursuant to the *Public Service Act* that are necessary to assist the Advocate in carrying out the Advocate's duties and functions under this or any other enactment.

(2) The Advocate may engage the services of any persons necessary to assist the Advocate in carrying out the Advocate's duties and functions.

(3) On the recommendation of the Advocate, the Standing Committee may order that

- (a) any regulation, order or directive made under the *Financial Administration Act*, or
- (b) any regulation, order, directive, rule, procedure, direction, allocation, designation or other decision under the *Public Service Act*,

does not apply to, or is varied in respect of, the Office of the Advocate for Persons with Disabilities or any particular employee or class of employees in the Office.

(4) An order made under subsection (3)(a) operates despite section 2 of the *Financial Administration Act*.

(5) The *Regulations Act* does not apply to orders made under subsection (3).

(6) The chair of the Standing Committee must lay a copy of each order made under subsection (3) before the Legislative Assembly if it is then sitting or, if it is not then sitting, within 15 days after the start of the next sitting.

(7) Every person employed or engaged by the Office of the Advocate for Persons with Disabilities must, before beginning to perform duties under this Act, take an oath, to be administered by the Advocate, not to disclose any information received by that person under this Act except as provided in this Act.

C. Section 3(2)(e) is amended by striking out “and advice to the Government”.

D. The following is added after section 3:

Delegation by Advocate

3.1(1) The Advocate may delegate to any person any power, duty or function of the Advocate under this Act except the power

(a) to delegate under this section, and

(b) to make a report under this Act.

(2) A delegation under subsection (1) must be in writing and may contain any conditions or restrictions the Advocate considers appropriate.

Financing of operations

3.2(1) The Advocate must submit to the Standing Committee in respect of each fiscal year an estimate of the public money that will be required to be provided by the Legislature to defray the several charges and expenses of the Office of the Advocate for Persons with Disabilities in that fiscal year.

(2) The Standing Committee must review each estimate submitted pursuant to subsection (1) and, on the completion of the review, the chair of the Committee must transmit the estimate to the Minister of Finance for presentation to the Legislative Assembly.

(3) If at any time that the Legislative Assembly is not in session the Standing Committee, or if there is no Standing Committee, the Minister of Finance,

(a) reports that the Advocate has certified that, in the public interest, an expenditure of public money is urgently required in respect of any matter pertaining to the Office of the Advocate for Persons with Disabilities, and

(b) reports that either

(i) there is no supply vote under which an expenditure with respect to that matter may be made, or

(ii) there is a supply vote under which an expenditure with respect to that matter may be made but the authority available under the supply vote is insufficient,

the Lieutenant Governor in Council may order a special warrant to be prepared to be signed by the Lieutenant Governor authorizing the expenditure of the amount estimated to be required.

(4) When the Legislative Assembly is adjourned for a period of more than 14 days, for the purposes of subsection (3), the Assembly is deemed not to be in session during the period of the adjournment.

(5) When a special warrant is prepared and signed under subsection (3) on the basis of a report referred to in subsection (3)(b)(i), the authority to spend the amount of money specified in the special warrant for the purpose specified in the special warrant is deemed to be a supply vote for the purposes of the *Financial Administration Act* for the fiscal year in which the special warrant is signed.

(6) When a special warrant is prepared and signed under subsection (3) on the basis of a report referred to in subsection (3)(b)(ii), the authority to spend the amount of money specified in the special warrant is, for the purposes of the *Financial Administration Act*, added to and deemed to be part of the supply vote to which the report relates.

(7) When a special warrant has been prepared and signed pursuant to this section, the amounts authorized by it are deemed to be included in, and not to be in addition to, the amounts authorized by the Act, not being an Act for interim supply, enacted next after it for granting to Her Majesty sums of money to defray certain expenditures of the Public Service of Alberta.

E. Section 4 struck out and the following is substituted:

4(1) As soon as possible after the end of each year, the Advocate shall prepare and submit to the Speaker of the Legislative Assembly a report summarizing the Advocate's activities in that year.

(2) On receiving a report under subsection (1), the Speaker shall lay a copy of the report before the Legislative Assembly if it is then sitting or, if not, within 15 days after the commencement of the next sitting.

Date:

May 18/17

MLA Signature



Dr. David Swann

JK
Parliamentary Counsel
MAY 18, 2017