

The Global Warming Solutions Act

Preamble

WHEREAS British Columbia is particularly vulnerable to the impacts of global warming; and

WHEREAS increased temperatures will worsen air quality problems, increase the incidence of exotic diseases, and otherwise adversely impact the health of British Columbians; and

WHEREAS rising sea levels threaten British Columbia coastal communities, and increased storm damage and flooding threaten other communities; and

WHEREAS the combined effects of an increase in temperatures and diminished water supply and quality threaten to affect the abundance and quality of British Columbia's natural resources; and

WHEREAS the effects of global warming are already having a negative impact on the provincial economy, and threaten to seriously impact key economic sectors, including forestry, agriculture, fisheries, residential development, the insurance industry and tourism; and

WHEREAS it has been estimated that the worldwide economic impact of global warming could exceed the impacts of the Great Depression and both World Wars, combined; and

WHEREAS mitigation efforts will be necessary to reduce greenhouse gas emissions and adaptation efforts will be necessary to prepare British Columbians for the consequences of global warming; and

WHEREAS many of the technologies that reduce greenhouse gas emissions create jobs as well as operating cost savings for consumers; a portion of these costs savings are then spent across a variety of sectors of the economy, creating an overall benefit to the provincial economy;

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

Short Title

1. This Act may be cited as “The Global Warming Solutions Act”

Interpretation

2. In this Act:

“*Board*” means the British Columbia Global Warming Solutions Board, as established under section 6 of this Act.

“*greenhouse gas*” means any and all greenhouse gases listed in Annex A to the Kyoto Protocol.

“*Kyoto Protocol*” means the Kyoto Protocol to the United Nations Framework Convention on Climate Change, agreed to on December 11, 1997 at Kyoto, Japan, and ratified by Canada on December 17, 2002, as amended from time to time.

“*Minister*” means the Minister of Environment.

“*national inventory*” means Canada’s national inventory report, communicated in accordance with Article 12, paragraph (1)(a), of the United Nation Framework Convention on Climate Change.

“*1990 level*” means the level of emissions in British Columbia, excluding emissions and removals resulting from land-use, land use changes and forestry, quantified for the year 1990 in the most recent national inventory which quantifies emissions for the year 1990 by province.

“*2000 level*” means the level of emissions in British Columbia, excluding emissions and removals resulting from land-use, land use changes and forestry, quantified for the year 2000 in the most recent national inventory that quantifies emissions for the year 2000 by province.

Purpose

3. The purpose of this Act is to ensure that greenhouse gas emissions are reduced to:

- a) the level of XXX by 2010;
- b) the level of YYY by 2020; and
- c) the level of ZZZ by 2050.¹

Her Majesty

4. This Act is binding on Her Majesty in Right of British Columbia.

¹ A decision needs to be made about the exact numbers here. For example: California requires reductions to the 2000 level by 2010; the 1990 level by 2020 and 80% below the 1990 level by 2050. Kyoto requires Canada to reduce its emissions to a level that is 6% below 1990 levels between 2008 and 2012. The Federation of Canadian Municipalities policy calls for a reduction in greenhouse gas emissions of 30% by 2020 and 80% by 2050.

Greenhouse Gas Emissions Limit

5. The Government of British Columbia shall ensure that greenhouse gas emissions in British Columbia are reduced to the following levels:

- a) a reduction of annual greenhouse gas emissions to XXX level by January 1, 2010
- b) a reduction of annual greenhouse gas emissions to YYY level by January 1, 2020
- c) a reduction of annual greenhouse gas emissions to ZZZ level by January 1, 2050.

Global Warming Solutions Board

6. The British Columbia Global Warming Solutions Board is hereby established.

7. The Board shall consist of five members, appointed in accordance with section 14 of this Act.

Objects of the Board

8. The objects of the Board are:

- a) to develop a plan to reduce British Columbia's greenhouse gas emissions in accordance with the limits set out in section 5 of this Act;
- b) to ensure the implementation of that plan.

Powers of the Board

9. The powers of the Board include the power to:

- a) develop a comprehensive strategy to reduce British Columbia's greenhouse gas emissions in accordance with the levels set out in section 5 of this Act;
- b) establish interim annual targets and annual sectoral targets for greenhouse gas emissions reductions;
- c) make recommendations for legislation and policy changes necessary to ensure the successful implementation of the plan. Among other things, the Board shall consider all practical options, including emissions regulations and caps, carbon trading systems, carbon taxes, offsets, energy efficiency measures, land use planning and management measures, transportation and other infrastructure investment, and economic incentives to encourage innovative technology;

- d) gather information necessary for the Board's functions; and share information and coordinate actions with any agencies, officials, ministries or other bodies in order to carry out these objects;
- e) employ personnel it considers advisable in order to carry out the objects of the Board;
- f) make bylaws for the conduct of its business and select its chair; and
- g) report annually to the Legislative Assembly and the public;

10. The *Public Service Staff Relations Act* shall apply to employees of the Board.

Climate Change Action Plan

11. On or before May 31 of each year, the Board shall submit a Climate Change Action Plan to the public and to the Legislative Assembly. This Plan shall include:

- a) a comprehensive and detailed ten-year plan to reduce greenhouse gas emissions in the province of British Columbia to the levels specified in section 5 of this Act and the annual targets set by the Board;
- b) the specific actions that government should take in each year of the Plan;
- c) changes in legislation and policy that the Board recommends in order to implement the Plan;
- d) the expected reductions in greenhouse gas emissions in British Columbia that the Board estimates will result from the implementation of the Plan by the year 2010; by the year 2020; and by the year 2050;
- e) the most recent available data on greenhouse gas emissions in British Columbia;
- f) explanation of any discrepancy between the actual levels of greenhouse gas emissions and the expected reductions set out in previous Plans submitted;
- g) recommendations for correcting any such discrepancy.

Board Recommendations to be Implemented by Government

12. (1) Within six month of receiving plans and recommendations from the Board, the Lieutenant Governor in Council will implement those plans and recommendations, and shall bring any necessary enabling legislation before the Legislative Assembly.

(2) To the extent that it decides not to implement any plan or recommendation, the Lieutenant Governor in Council will, within six months of receiving those plans and recommendations, provide an explanation to the public and the Legislature, and implement an alternative mode of action to achieve the limits set in section 5 of this Act.

Oversight of the Auditor General

13. (1) Every three years on the anniversary of the coming into force of this Act, the Auditor General of British Columbia shall perform an audit and report to the Legislative Assembly and the public regarding:

- a) the progress being made towards achieving the purposes of this Act;
- b) achievement of greenhouse gas emission targets;
- c) progress being made towards implementing the Global Warming Solutions Board plans and recommendations;
- d) the effectiveness of any alternative modes of action implemented by the Lieutenant Governor in Council, pursuant to s. 12(2);
- e) the Auditor General's recommendations for policy and legislative change; and
- f) other matters the Auditor General deems relevant.

(2) Upon the request of any British Columbia resident, the Auditor General may audit government enforcement of relevant legislation, and report to the Legislative Assembly and the public on its findings.

Citizen Suits [OPTION #1]

14. Notwithstanding any other provision of law, any person may commence a civil suit to obtain an injunction or declaration against Provincial Government bodies or officials with respect to the failure to enforce or carry out the provisions of this Act.

Citizen Suits [OPTION #2]

14. Any person who suffers loss or damage from climate change to which the Province of British Columbia has contributed by allowing greenhouse gas emission levels to exceed the levels and targets established under this Act may seek damages and equitable remedies against Her Majesty the Queen in Right of British Columbia.

Appointment of Board Members

15. (1) On the recommendation of the Legislative Assembly, the Lieutenant Governor must appoint as members of the Board five people who have been unanimously recommended by a special Committee of the Legislative Assembly.
- (2) The members of the Board must include members with expertise in climate science, energy, economics, and environmental regulation.
- (3) Members shall serve a term of six years, and may be reappointed to successive terms by the process described in subsection (1).
- (4) A vacancy in the membership of the board or the incapacity of one of the members does not impair the power of the remaining members to act.
- (5) The Lieutenant Governor in Council may remove a Member from office only upon the unanimous recommendation of the Special Committee of the Legislature constituted pursuant to subsection (1).
16. The Minister shall ensure that the Board is adequately funded to carry out the objects specified in section 8 of this Act, and shall determine the remuneration of Members.

Construction

17. No enactment shall be construed to allow any government decision or action (including but not limited to licences, approvals, permits, government expenditure, land disposal or designation) that is inconsistent with the limits on greenhouse gas emissions set pursuant to this Act, unless that other enactment is expressly declared to operate notwithstanding this Act.

Other Jurisdictions

18. Nothing in this Act precludes the Lieutenant Governor in Council or any regional district, municipality or aboriginal government from setting more stringent target plans for greenhouse gas reductions or implementing supplementary measures considered advisable in order to reduce greenhouse gas emissions.

Commencement

19. This Act shall come into force upon receiving Royal Assent.

Optional Provisions:

Optional Section 17:

Construction (stronger)

17. No enactment shall be construed to allow any government decision or action (including but not limited to licences, approvals, permits, government expenditure, land disposal or designation) that is inconsistent with the limits on greenhouse gas emissions set pursuant to this Act, unless that other enactment is expressly declared by an Act, passed by a two-thirds majority of the Members present, to operate notwithstanding this Act.

Construction (strongest)

17. No enactment shall be construed to allow any government decision or action (including but not limited to licences, approvals, permits, government expenditure, land disposal or designation) that is inconsistent with the limits on greenhouse gas emissions set pursuant to this Act, unless that other enactment is expressly declared by an Act, ratified by a referendum conducted according to the procedures set out in the *Recall And Initiatives Act*, [RSBC 1996, C.398], to operate notwithstanding this Act.