



STANDING COMMITTEE ON THE ECONOMY

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STANDING COMMITTEE ON THE ECONOMY

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Moosomin

Ms. Danielle Chartier, Deputy Chair
Saskatoon Riversdale

Mr. Fred Bradshaw
Carrot River Valley

Ms. Jennifer Campeau
Saskatoon Fairview

Mr. Larry Doke
Cut Knife-Turtleford

Mr. Bill Hutchinson
Regina South

Ms. Victoria Jurgens
Prince Albert Northcote

[The committee met at 14:59.]

The Chair: — I'd like to welcome the minister and his officials, committee members to the committee meeting on the Economy, a discussion on Bill No. 49, *An Act to amend The Forestry Professions Act*. And I will invite the minister to introduce his officials and make any further remarks, if he wishes to, above what he did the other day.

**Bill No. 49 — *The Forestry Professions
Amendment Act, 2012***

Clause 1

Hon. Mr. Cheveldayoff: — Thank you very much, Mr. Chair. Just very briefly, I'm pleased to return today to continue discussions on the amendments to *The Forestry Professions Act* that will establish in law the right to practice for professional foresters and forest technologists in Saskatchewan. This same right to practice is already legally established for many other professions in Saskatchewan including agrologists, engineers, geoscientists, and land surveyors.

With me today are Kevin Murphy, assistant deputy minister, resource management and compliance division, and Earl Bourlon, the forest policy coordinator for the forest service branch.

As you will recall, the amendments will change the current legislation from right to title to right to practice, which means only registered forestry professionals and technologists will be able to provide these services on forested Crown lands. The amended legislation elevates the forestry profession in Saskatchewan to the same level as other, as in other provinces in Canada, including other New West Partnership provinces.

The changes demonstrate our government's confidence in our forestry professionals and their association, and are an acknowledgement of their key role in implementing the results-based approach to environmental regulation and the Saskatchewan Environmental Code.

With that, Mr. Chair, my officials and I would be pleased to answer any questions that you or committee members may have.

The Chair: — Thank you, Mr. Minister. We'll now entertain questions to the Act beginning with short title, clause 1. I recognize Ms. Sproule.

Ms. Sproule: — Thank you, Mr. Chair. And thank you, Mr. Minister, and thanks to the officials for coming back for further clarity on the amendments that were provided I think last week, May 6th, I guess it was.

I've been provided with a letter from the Association of Saskatchewan Forestry Professionals, the president, Mr. Chris Brown, dated May 9th, 2013, wherein the profession has indicated its support for the bill and continues to support it. And the letter . . . I can just read it for the record. It says:

The Association of Saskatchewan Forestry Professionals

has requested the provisions contained within Bill 49 as well as the amendments to the bill. The association has been watching the bill progress through the various stages of the Legislative Assembly and continues to be highly supportive of its passage. As the province implements results-based legislation, this shift from prescribing how to do something to setting out the results that must be achieved, puts an emphasis on accountability and reliance on professionals. There's an important role for the ASFP to play in supporting this change and shepherding the ethical, competent management of our province's forests.

And then he goes on to say if they can provide any assistance, they were available.

Mr. Chair, and Mr. Minister, I agree 100 per cent with what they're saying. What my concern is, and having had an opportunity to read the commentary from your officials and yourself and my colleague on May 6th, I'm not sure I have any more clarity than my colleague does, and in terms of the new definitions and why right to title is being replaced with right to practice.

So specifically I guess the first question I'll have is, how does the shift from right to title to right to practice fit in with the results-based legislative approach?

Mr. Murphy: — Kevin Murphy, ADM [assistant deputy minister] with Saskatchewan Environment. The difference between right to title and right to practice as it applies to the Environmental Code is that when someone has right to title, it's merely the right to their title, whereas right to practice is tied to disciplinary action for misconduct and a requirement for them to be responsible for not only creation of a plan but conduct of the plan. The results-based regulatory framework, as we look for qualified persons to support the operation of a plan and to support the creation of a plan, requires that that person be responsible for it and subject to disciplinary action, which right to practice invokes as opposed to right to title.

So we're looking for persons to be actually responsible for the work that's being undertaken as opposed to simply just signing off on it.

Ms. Sproule: — That's certainly something I would support 100 per cent because as a practising lawyer, my right to practice subjects me to all kind of disciplinary actions.

But what's that got to do with results-based legislation? What's the connection? Because that's your justification for moving to this. I'm fine if you're just saying, right to practice is the goal for forestry professions. I think that makes complete, total sense. What I don't get is the connection in your statements to the fact that you're moving towards results-based legislation.

Mr. Murphy: — Kevin Murphy again. So the results-based regulatory framework that we're embarking on has two major tenets or precepts in terms of achieving the environmental objectives and outcomes. The first is what we like to call a standard or an accepted operational procedure. If a group is undertaking an environmental work or a plan or an operation according to that accepted solution, they don't need to have a

sign-off from a qualified person. They don't need to seek the resources of doing that. They simply follow that standard of practice.

However for more complex or . . . What we're hoping to seek is actually innovation for innovative solutions. What we're calling for is for the industry, the group, the individuals that are looking to practise that alternative solution as it's being called in the proposed code, to look for innovation. It's to be signed off by a qualified person who guarantees that the environmental outcomes being sought by the code are being met by the plan or the operation that they're putting into place. That's why we're seeking someone with actually right to practice, to be the responsible, qualified person for signing off for those innovative solutions. And as I'm sure you can appreciate, forestry planning operations are relatively complex and take place over a number of years and require a number of professionals to be involved in the undertaking.

Ms. Sproule: — Okay. I appreciate that distinction. I think definitely regardless of whether you use results-based legislation or not, it would seem to me that any professional association should have the utmost skills and responsibilities and disciplinary actions regardless of the types of legislation.

So I guess my point is I'm not sure that this legislative change in terms of moving towards a results-based type of legislation should be the driving factor for elevating a profession to this type of responsibility, where the right to practice has the disciplinary provisions. So I understand it, but I'm not sure there's a direct nexus between the two. So I'll just leave that at that for this point in time.

The other thing that's confusing to me still, even after having read through the exchange that happened on May 6th, is that the profession is only under . . . being legislated to operate on what you're now calling . . . I'm trying to find it and I couldn't find it. I know it's forested land or forest land. I have to find the amendment. And I know my colleague made reference to this as well. It's a bit confusing because we're going from one Act to another Act, and typically in legislation it provides a lot more clarity if you just provide definitions within the Act rather than referring to another Act.

The Forest Resources Management Act refers to forest land, and the amendment refers to forested land. So it becomes quite confusing I think for anyone that's trying to sort this out. And I think rather than ask a question — because I think you attempted to answer this already — is just a further comment that this is very confusing and may be difficult to interpret in the future. So I know my colleague raised those concerns, and I don't see any further amendments on the table today, so I'm assuming that the ministry has chosen not to take those comments under advisement.

So I won't get into it again, but just to further add to my colleague's comments that it is confusing, first of all referring to another Act. And then the other part that's confusing is where a professional . . . You're a professional when you're standing on one piece of land, but if you're hired on private land . . . that's Crown land, but if you're hired on private land to do work, you're no longer a professional. And that seems a bit confusing coming from a profession that I come from where it

doesn't matter where you're standing. You either are a professional forester or professional teacher or a professional lawyer or you're not.

So the geographic location is very confusing, and I think I'm just putting it on the record that this may provide some confusion in the future, unless I totally misunderstand the purpose of a forestry professional. If it's a very limited profession and not a general profession, then maybe that's where I'm missing it. So I think . . . That's a comment. I don't know if the minister has any response to that. I'm just going to gather my thoughts for one final question.

Hon. Mr. Cheveldayoff: — If I could just respond very quickly, the right is not taken away, but the requirement is taken away. So that's a very important distinction that has to be made. So they still have the right but not the requirement, as we discussed last time around that the requirements can be quite onerous, and so that's why we've chosen to go this way.

Ms. Sproule: — Thank you, Mr. Minister. I guess I would suggest I'm not clear the wording achieves that, so I'll leave it at that.

With respect to the other amendments, I don't have any further comments to those of my colleague, and I guess just maybe one further explanation on the clause 4 amendments to . . . the amendments. And that's where you're taking out the words, final plans. And I know you did explain that a little bit in your comments before. But I'm not sure I fully understand that, where you're removing the reference to final plans that were currently in the amended provisions. Can you explain that a little bit further?

Mr. Bourlon: — Earl Bourlon with the Ministry of Environment. Yes, the association had actually sought legal counsel on their behalf, and the advice that they received was that it might be more prudent to have those signing requirements and sealing requirements set out in the bylaws as opposed to the legislation. And it may encompass documents other than final documents, so they chose to follow the advice that they had received by that . . . from that, from their solicitor or their lawyer, and propose that amendment to Environment.

Ms. Sproule: — Again, I'm not sure that it was necessary because the existing provision was to seal all final plans, reports, and other documents relating to the practice of professional forestry. So it appears that that was already captured within the existing wording. Having said that, it also referred to it in accordance with the bylaws in the previous draft.

So I thank you for the explanation. I think it may have overachieved the result, but these are the concerns we have when these types of amendments come up late in the game. And I know that you've explained that as well and certainly understand how this came about, but it's difficult to sort of deal with it on a quick turnaround.

So I think, Mr. Chair, we appreciate the opportunity to provide . . . have further questions on this after having a chance to think about the amendments. We still have concerns with the drafting and are not sure it achieves the purpose that the ministry's

attempting to achieve. However we have raised those concerns and now it's up to the ministry. Thank you.

The Chair: — Thank you, Ms. Sproule. Any further questions of the minister and his officials? Seeing none, we will move through the vote clause by clause. Clause 1, short title, are we agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 1 agreed to.]

[Clause 2 agreed to.]

Clause 3

The Chair: — Clause 3. I recognize Mr. Doke.

Mr. Doke: — Mr. Chair, I recommend that the committee vote against clause 3, as I plan to move an amendment that inserts a new clause.

The Chair: — Thank you, Mr. Doke. According to Erskine May, 23rd Edition, page 608, “An amendment to leave out a clause is not in order, as the proper course is to vote against the clause standing part of the bill.” So I'll call the question on clause 3. Is clause 3 agreed?

Some Hon. Members: — No.

The Chair: — Clause 3 is not agreed. It is defeated.

[Clause 3 not agreed to.]

[15:15]

Clause 4

The Chair: — Clause 4. I recognize Mr. Doke.

Mr. Doke: —

Amend subsection (1) of Clause 4 of the printed Bill by striking out subsection 22(1.1) of *The Forestry Professions Act*, as being enacted by that Clause, and substituting the following:

“(1.1) Every professional forester, professional forest technologist and restricted member shall sign and seal plans, reports and other documents relating to the professional practice of forestry in accordance with the bylaws”.

I so move.

The Chair: — Do the committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Agreed. Carried. Is clause 4 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 4 as amended agreed to.]

Clause 5

The Chair: — Clause 5. I again recognize Mr. Doke.

Mr. Doke: —

Amend Clause 5 of the printed Bill by striking out clause 23.01(2)(b) of *The Forestry Professions Act*, as being enacted by that Clause.

I so move.

The Chair: — Mr. Doke has moved an amendment to clause 5. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Agreed. Carried. Clause 5 as amended, is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 5 as amended agreed to.]

Clause 6

The Chair: — Clause 6, coming into force. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 6 agreed to.]

Clause 3

The Chair: — I recognize Mr. Doke.

Mr. Doke: —

New Clause 3 of the printed Bill

Add the following Clause after Clause 2 of the printed Bill:

“Section 2 amended 3 Section 2 is amended:

(a) by repealing clause (g) and substituting the following:

“(g) ‘forested land’ means forest land as defined in *The Forest Resources Management Act*”; and

(b) by repealing clause (m) and substituting the

following:

“(m) ‘**professional practice of forestry**’ means the provision of services in relation to the development, management, conservation and sustainability of forested land where those services require knowledge, training and experience equivalent to that required to become a member pursuant to this Act, and includes all or any of the following:

- (i) the planning, classification, inventory, mapping, measurement, certification, appraisal and evaluation of forested land;
- (ii) the development, implementation, examination or auditing of programs for harvesting and renewal of forested land;
- (iii) the conservation, reclamation, improvement or protection of forested land for forestry purposes;
- (iv) the administration, inspection or monitoring of forested land”.

I so move.

The Chair: — Mr. Doke, has moved new clause 3. Do committee members agree with the amendment as read?

Some Hon. Members: — Agreed.

The Chair: — Agreed. Carried. Is new clause 3 as amended agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried.

[Clause 3 as amended agreed to.]

The Chair: — Her Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows: *The Forestry Professions Amendment Act, 2012*. Is the committee in agreement?

Some Hon. Members: — Agreed.

The Chair: — Agreement carried. I would ask a member to move that we report Bill No. 49, *The Forestry Professions Amendment Act, 2012* with amendment.

Mr. Bradshaw: — I so move.

The Chair: — Mr. Bradshaw. Is that agreed?

Some Hon. Members: — Agreed.

The Chair: — Carried. I would like to thank the minister and his officials for joining us this afternoon, and committee members. I recognize Ms. Sproule.

Ms. Sproule: — Thank you, Mr. Chair. I have a question for

the minister. When we met on May 1st and we did estimates for Environment, you had made some undertakings to provide me with some documentation. I’m just wondering if those are ready yet? I was hoping they’d be tabled today.

Hon. Mr. Cheveldayoff: — Okay. I have to check into . . . I was assuming that that was coming forthwith. We’ll try to get it to you tomorrow.

Ms. Sproule: — Thank you.

The Chair: — Thank you, Ms. Sproule. And thank you so much, committee members. I would ask a member now to move a motion of adjournment. Mr. Bradshaw has moved that the committee do now adjourn. Are we all agreed? Agreed. Carried.

This committee stands adjourned to the call of the Chair. Thank you, members. Thank you, Minister. Thank you, officials.

[The committee adjourned at 15:20.]