BILL

No. 614

An Act Respecting Public Participation in Matters of Public Interest

(Assented to)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 *The Public Participation Act.*

Interpretation

2 In this Act:

"administrative proceeding" means an application or other process for bringing a matter before a tribunal;

"applicant" means a person making an application pursuant to section 4;

"court" means the Court of King's Bench;

"dismissal order" means an order pursuant to section 4 dismissing a proceeding;

"expression" means any communication, whether it is made verbally or non-verbally, publicly or privately, and whether it is directed or not directed at a person or entity;

"proceeding" means any action or proceeding within the meaning of the definitions used in *The Court of King's Bench Act*;

"respondent" means a person responding to an application made pursuant to section 4;

"tribunal" means one or more persons, whether or not incorporated and however described, on whom a statutory power of decision is conferred.

Application

3 This Act applies in respect of proceedings commenced on or after the day this Act comes into force.

Qualified privilege

4 If an oral or written communication on a matter of public interest, between persons who have a direct interest in the mater, has qualified privilege, that communication has qualified privilege regardless of whether the communication is witnessed or reported by the media or other persons.

Application for Dismissal Order

5(1) In a proceeding, a person against whom the proceeding has been brought may apply for a dismissal order pursuant to subsection (2) on the basis that:

(a) the proceeding arises from an expression made by the applicant; and

(b) the expression relates to a matter of public interest.

(2) If the applicant satisfies the court that the proceeding arises from an expression referred to in subsection (1), the court must make a dismissal order unless the respondent satisfies the court that:

(a) there are grounds to believe that:

(i) the proceeding has substantial merit;

(ii) the applicant has no valid defense in the proceeding; and

(b) the harm likely to have been or to be suffered by the respondent as a result of the applicant's expression is serious enough that the public interest in continuing the proceeding outweighs the public interest in protecting that expression.

No further steps

6 (1) Subject to subsection (2), if the applicant serves on a respondent an application for a dismissal order pursuant to section 4, no party may take further steps in the proceeding until the application, including any appeals, has been finally resolved.

(2) Subsection (1) does not apply to an application for an injunction.

No amendments unless permitted

7 Unless the court orders otherwise, a respondent may not amend the respondent's pleadings:

(a) in order to prevent or avoid a dismissal order pursuant to section 4; or

(b) in order to continue the proceeding if the proceeding is dismissed.

Costs

8(1) If the court makes a dismissal order pursuant to section 4, the applicant is entitled to costs on the application and in the proceeding, assessed as costs on a full indemnity basis unless the court considers that assessment inappropriate in the circumstances.

(2) If, on an application for a dismissal order pursuant to section 4, the court does not dismiss the proceeding, the respondent is not entitled to costs on that application unless the court considers it appropriate in the circumstances.

Award for damages

9 On an application for a dismissal order pursuant to section 4, the court may, on its own motion or on application by the applicant, award the damages it considers appropriate against a respondent if it finds that the respondent brought the proceedings in bad faith or for an improper purpose.

Procedure on application

10(1) Subject to this Act, an application for a dismissal order pursuant to section 4 must be made in accordance with the Court of King's Bench Rules.

(2) An application for a dismissal order pursuant to section 4 may be made at any time after the proceeding has commenced.

(3) An application for a dismissal order pursuant to section 4 must be heard as soon as practicable.

(4) Subject to subsections (5) and (6) of this section, on an application for a dismissal order pursuant to section 4, evidence must be given by affidavit.

(5) An applicant or respondent may, before the hearing of the application:

(a) call, out of court before an official reporter, the witness who swore or affirmed the affidavit for cross-examination on the witness's affidavit; and

(b) cross-examine the witness on the witness's affidavit, provided that:

(i) the total period of cross-examination of all applicants in the proceeding does not exceed 7 hours in duration; and

(ii) the total period of cross-examination of all respondents in the proceeding does not exceed 7 hours in duration.

(6) The Court may extend the period permitted for cross-examination pursuant to subsection (5) if the court considers it necessary in the interests of justice.

Appeals

11 An appeal of dismissal order made pursuant to this Act, to the Court of Appeal must be heard as soon as practicable.

Stay of administrative proceedings

12(1) This section applies if a respondent has commenced an administrative proceeding that the applicant believes to be related to the same matter of public interest alleged by the applicant to be the basis of the proceeding that is the subject of the applicant's application for a dismissal order pursuant to section 4.

(2) The applicant may serve the tribunal with a copy of the notice of the application for the dismissal order.

(3) Service by the applicant on the tribunal pursuant to subsection (2) operates as a stay of administrative proceeding.

(4) The Tribunal must give to each party a notice of the stay and a copy of the notice of application that was served on the tribunal.

(5) A stay of an administrative proceeding pursuant to subsection (3) remains effective until:

(a) the application for a dismissal order, including any appeals, has been finally resolved; or

(b) an earlier date, if, on application, the court considers that:

(i) the proceeding that is the subject of the application for a dismissal order and the administrative proceeding that was stayed pursuant to subsection (3) are not connected enough to warrant a stay; or

(ii) the stay is causing, or would likely cause, a party undue hardship.

(6) An application for the costs of any proceeding under this section must be heard only on the basis of written submissions unless:

(a) the tribunal is satisfied that a party would suffer significant prejudice if the tribunal did not allow oral submissions; or

(b) the applicant and respondent consent to oral submissions and the tribunal agrees.

Rights not limited

13 The remedies pursuant to this Act are in addition to any other right or remedy that may be available to an applicant or a respondent.

Coming into force

14 This Act comes into force on Assent.

FOURTH SESSION

Twenty-ninth Legislature

SASKATCHEWAN

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Received and read the

First time

Second time

Third time

And Passed

Ms. Nicole Sarauer

Printed under the authority of
The Speaker of the Legislative Assembly
of Saskatchewan
2023