



COMMITTEE RECORD OF PROCEEDINGS
MEETING 166-19-23 OF THE STANDING COMMITTEE
ON ECONOMIC DEVELOPMENT AND ENVIRONMENT

FRIDAY, AUGUST 11, 2023 AT 10:30 a.m.

EAGLE ROOM

Acting Chair Nokleby called the meeting to order at 10:33 a.m.

Committee Members in attendance: Johnson, Bonnetrouge, O'Reilly, Weyallon
Armstrong

Other Members in attendance: Cleveland

1. Prayer was omitted.
2. MLA Johnson moved the adoption of the Agenda as presented. Carried.
3. There were no declarations of conflicts of interest.
4. Public Matters
 - a) Clause-by-Clause Review of Bill 74: Forest Act

MLA Johnson moved that move that paragraph 7(b) of Bill 74 be amended by striking out "working relationships for effective". Carried. The Minister of Environment and Climate Change concurred.

MLA Johnson moved that Bill 74 be amended by adding the following after clause 14:

14.1 The Minister shall, as soon as is practicable or within a time period set out in the regulations, make the following information respecting the operation or administration of this Act publicly available by publishing it on a website maintained by the department:

- (a) any forest management committee establishment agreements entered into under section 10;

- (b) the powers and duties given to officers by the Forest Superintendent under subsection 17(2);
- (c) any forest ecosystem management plans developed under subsection 24(1);
- (d) any extensions or variations of the wildfire season declared under subsection 28(2);
- (e) any prescribed information.

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA O'Reilly moved that clause 14.1 of Bill 74 be amended by

- (a) renumbering that clause as subclause 14.1(1);
- (b) deleting paragraphs (d) and (e) of that renumbered subclause and substituting the following:

- (d) any forest harvesting agreements entered into under subsection 25(1);
- (e) any extensions or variations of the wildfire season declared under subsection 28(2);
- (f) all wildfire prevention and preparedness plans submitted to the Forest Superintendent under subsection 45(2), any such plans resubmitted under subsection 45(3), and any hazard assessments conducted under subsection 45(5);
- (g) all permits and licences issued under subsection 48(2), other than those that authorize the holder to undertake activities set out in that subsection solely for personal purposes;
- (h) any prescribed information.

- (c) adding the following after that renumbered subclause:

Exceptions (2) Before publishing a forest harvesting agreement under paragraph (1)(d), the Minister may remove from the agreement any of the following information, the disclosure of which would be prohibited pursuant to the Access to Information and Protection of Privacy Act:

- (a) any ecologically or culturally sensitive information;
- (b) any information harmful to the financial or economic interests of a party to the agreement.

Exceptions (3) Information is not required to be published under subsection (1) if the information

- (a) is prohibited from disclosure under an Act of Canada or an Act of the Northwest Territories; or

(b) is provided, implicitly or explicitly, in confidence to a person or body exercising powers or performing duties or functions under this Act, and is consistently treated as confidential information by the party providing the information.

The motion was carried. The Minister of Environment and Climate Change did not concur.

MLA Johnson moved that Bill 74 be amended by adding the following after clause 15:

15.1. (1) The Forest Superintendent shall, not later than the December 31 following the end of each year, deliver to the Minister a report on the activities of the Forest Superintendent under this Act for that year, that includes

(a) a summary of

(i) any activities of the Forest Superintendent under subsection 23(2),

(ii) any forest ecosystem management plans developed under subsection 24(1),

(iii) any monitoring under subsection 26(1), and (iv) any forest renewal activities funded under section 57; and

(b) any prescribed information.

(2) The Minister shall, upon receipt of a report under subsection (1), make the report available to the public by publishing it on a website maintained by the department.

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA O'Reilly moved that subclause 15.1(1) of Bill 74 be amended by

(a) adding the following immediately preceding subparagraph (a)(i):

(0.i) any significant research activities of the Forest Superintendent under paragraph 15(3)(b),

(b) deleting "; and" at the end of the English version of subparagraph (a)(iv) and substituting a semicolon; and

(c) deleting paragraph (b) and substituting the following:

(b) the total number of inspections and

- investigations conducted under Part 7;
- (c) the total number of fines and other penalties imposed under Part 8; and
- (d) any prescribed information.

The motion was carried. The Minister of Environment and Climate Change did not concur.

MLA Weyallon Armstrong moved that subclause 22(3) of Bill 74 be amended by striking out "the Minister may implement those aspects at their discretion" and substituting "the Minister may, upon provision of written reason for the decision to the parties to the dispute resolution process, implement those aspects at the Minister's discretion". The motion was carried. The Minister of Environment and Climate Change concurred.

MLA Bonnetrouge moved that clause 24 of Bill 74 be amended by

- (a) adding a semicolon at the end of the English version of paragraph (1)(a);
- and
- (b) adding the following after subclause (1):

(1.1) In developing a forest ecosystem management plan under subsection (1), the Forest Superintendent shall consider potential impacts of a changing climate on the relevant area of forest, including by considering any relevant Indigenous traditional knowledge, modelling, data and trends.

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA Johnson moved that Bill 74 be amended by adding the following before subclause 24(2)

(1.2) The Forest Superintendent shall ensure that there is an opportunity for public engagement during the development of a forest ecosystem management plan under subsection (1).

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA Weyallon Armstrong moved that Bill 74 be amended by adding the following after subclause 25(1):

(1.1) The Minister shall ensure that there is an opportunity for public engagement prior to entering into a forest harvesting agreement under subsection (1) for an area of forest where no forest ecosystem management plan has been developed.

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA Bonnetrouge moved that subclause 25(2) of Bill 74 be amended by striking out "forest management plan" and substituting "forest ecosystem management plan". The motion was carried. The Minister of Environment and Climate Change concurred.

MLA Bonnetrouge moved that Bill 74 be amended by adding the following after subclause 25(2):

(2.1) A forest harvesting agreement entered into under subsection (1) must be consistent with any applicable aspects of a forest ecosystem management plan that have been implemented in respect of the area that is covered by the agreement.

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA Johnson moved that Bill 74 be amended by adding the following after paragraph 26(1)(e):

(e.1) climate change impact;

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA Weyallon Armstrong moved that subclause 29(3) of Bill 74 be amended by striking out "kindled in" and substituting "burning in". The motion was carried. The Minister of Environment and Climate Change concurred.

MLA Johnson moved that Bill 74 be amended by deleting clause 38 and substituting the following:

38. The Forest Superintendent shall take the steps required by the regulations to notify the public where

- (a) a prescribed burn, other than one on or near an existing wildfire under section 35, is to be carried out;
- (b) a restricted area has been declared under paragraph 36(1)(a);
- (c) activities have been prohibited in a restricted area under paragraph 36(1)(b);

- (d) entry to a restricted area has been prohibited under paragraph 36(1)(c); or
- (e) a fire restriction has been declared under subsection 37(1).

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA Bonnetrouge moved that that Bill 74 be amended by deleting subclauses 45(2) and (3) and substituting the following:

- (2) An owner or operator of an industrial activity shall prepare a wildfire prevention and preparedness plan in accordance with the regulations.

(2.1) A wildfire prevention and preparedness plan prepared under subsection (2) must be

(a) provided to the governments of affected communities for review and comment, as required by the regulations; and

(b) submitted to the Forest Superintendent

(i) before the start of the wildfire season, or

(ii) if the industrial activity commences after the start of the wildfire season, before the industrial activity starts.

(3) If the Forest Superintendent is not satisfied with a plan submitted under paragraph (2.1)(b), the Forest Superintendent may require the owner or operator to resubmit the plan with any changes that the Forest Superintendent may direct.

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA Bonnetrouge moved that Bill 74 be amended by adding the following after subclause 48(2):

(2.1) A permit or licence issued under this section must be consistent with

(a) any applicable aspects of a forest ecosystem management plan that have been implemented in respect of the area that is covered by the permit or licence; and

(b) any legally binding land use plan that is applicable in respect of the area covered by the permit or licence.

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA O'Reilly moved that subclause 48(2.1) of Bill 74 be amended

(a) In paragraph (a), by striking out "in respect of the" and substituting "in respect of an"; and

(b) In paragraph (b), by striking out "that is applicable in respect of the" and substituting "or zoning bylaw that is applicable in respect of an".

The motion was carried. The Minister of Environment and Climate Change did not concur.

MLA Weyallon Armstrong moved that subclause 50(4) of Bill 74 be deleted and the following substituted:

(4) A person claiming to exercise an Aboriginal or treaty right to harvest forest resources in an area of the Northwest Territories shall either

(a) carry on their person documentation that provides evidence of the right being claimed, and on request by an officer, produce that documentation for inspection; or

(b) comply with any applicable alternative requirements respecting documentation that provides evidence of the right being claimed that may be set out in the regulations.

(5) Documentation referred to in subsection (4) must satisfy any conditions set out in the regulations.

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA Johnson moved that Bill 74 be amended by deleting subclauses 60(1) to (3) and the heading immediately preceding subclause 60(1) and substituting the following:

Appeal from Decision and Orders of Officers

60. (0.1) In this section and in sections 6.1 to 6.3, "approved form" means a form approved by the Minister.

(1) Subject to subsection (2), a person who is adversely affected by a decision or order of an officer made under this Act or the regulations, including a decision or order of the Forest Superintendent acting in their capacity as an officer, may appeal that decision or order by filing a notice of appeal in an approved form and in accordance with the regulations within 30 days after receiving the decision or order.

(2) No appeal lies under subsection (1) in respect of a decision or order made under Part 7.

(2.1) If a notice of appeal is filed under subsection (1),

(a) the Forest Superintendent shall decide the appeal; or

(b) if the decision or order appealed from is one of the Forest Superintendent, or in the prescribed circumstances, an adjudicator must be appointed in accordance with the regulations to decide the appeal.

(3) No person shall be appointed under paragraph (2.1)(b) who works in the department.

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA O'Reilly moved that Bill 74 be amended by adding the following after paragraph 127(c):

(c.1) prescribing information that must be made publicly available under section 14.1, and respecting times periods within which that information must be published;

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA Johnson moved that Bill 74 be amended by adding the following immediately preceding paragraph 127(d):

(c.2) prescribing information that must be included in the annual report under section 15.1

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA Weyallon Armstrong moved that Bill 74 be amended by adding the following after paragraph 127(z.01):

- (z.01.1) respecting the provision of wildfire prevention and preparedness plans to governments of affected communities under subsection 45(2.1), including
 - (i) prescribing classes of affected communities whose governments must be provided with a plan, and
 - (ii) defining “government” for the purposes of that subsection

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA O’Reilly moved that paragraph 127(z.01) of Bill 74 be deleted and the following substituted:

- (z.01) respecting requirements for wildfire prevention and preparedness plans under subsection 45(2) and the amendment of such plans;

The motion was carried. The Minister of Environment and Climate Change did not concur.

MLA O’Reilly moved that paragraph 127(z.01.1) of Bill 74 be amended by

- (a) Striking out “, and” at the end of the English version of subparagraph (i) and substituting a comma;
- (b) Striking out the semicolon at the end of subparagraph (ii) and substituting “, and” ; and
- (c) Adding the following after subparagraph (ii):
 - (iii) respecting time periods within which plans must be provided;.

The motion was carried. The Minister of Environment and Climate Change did not concur.

MLA Bonnetrouge moved that Bill 74 be amended by deleting paragraphs 127(z.02) and (z.03) and substituting the following:

- (z.02) respecting requirements for hazard assessments under subsection 45(5);
- (z.03) respecting the power of officers regarding the clearing and disposal of flammable material under section 46;

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA Weyallon Armstrong moved that paragraph 127(z.21) of Bill 74 be deleted and the following be substituted:

- (z.21) respecting the form, content or production of documentation under subsection 50(4), including

- (i) the timing of production, and
- (ii) setting out different provisions
- (A) based on representation by different Indigenous governments or Indigenous organizations, or
- (B) for different areas as specified in the regulations;

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA Johnson moved that Bill 74 be amended by deleting paragraph 127(z.27) and substituting the following:

- (z.27) respecting appeals authorized by this Act, including
 - (i) the filing of appeals,
 - (ii) procedures in respect of appeals,
 - (iii) the appointment of adjudicators, and
 - (iv) prescribing circumstances for the purposes of paragraph 60(2.1)(b);

The motion was carried. The Minister of Environment and Climate Change concurred.

MLA O'Reilly moved that Bill 74 be amended by adding the following after clause 128:
128.1 (1) Subject to subsection (2), before making regulations under this Act, the Minister shall

- (a) Ensure that there is an opportunity for public engagement by
 - (i) Publishing a copy of the proposed regulations on a website maintained by the Government of the Northwest Territories, and
 - (ii) Ensuring that a reasonable period of time has been allotted for receiving feedback on the proposed regulations; and
 - (b) Consider any feedback provided on the proposed regulations under paragraph (a).
- (2) Subsection (1) does not apply if the Minister is satisfied that the proposed regulations have been prepared in response to an emergency.

The motion was carried. The Minister of Environment and Climate Change did not concur.

MLA O'Reilly moved that Bill 74: *Forest Act* be reported to the Assembly as ready for consideration in Committee of the Whole as amended. Carried.

MLA Johnson moved that Committee move in-camera. Carried. Committee moved in-camera at 12:36 p.m.

5. In-Camera Matters

- a) Bill 74: Forest Act Discussion

MLA O'Reilly moved that Committee conclude in-camera matters. Carried. Committee concluded in-camera matters at 12:52 p.m.

6. Committee set its next meeting for Thursday, August 24, 2023 at 10:30 a.m.

7. MLA Johnson moved to adjourn the meeting. Carried. The meeting was adjourned at 12:52 p.m.



Acting Committee Chair



Committee Clerk