



# **BILL NO. 67**

*Government Bill*

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*1st Session, 62nd General Assembly  
Nova Scotia  
63 Elizabeth II, 2014*

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## **An Act to Establish the Invest Nova Scotia Board**

CHAPTER 9  
ACTS OF 2014

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR  
MAY 1, 2014**

The Honourable Michel P. Samson  
*Minister of Economic and Rural Development and Tourism*

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*Halifax, Nova Scotia  
Printed by Authority of the Speaker of the House of Assembly*

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## **An Act to Establish the Invest Nova Scotia Board**

Be it enacted by the Governor and Assembly as follows:

**1** This Act may be cited as the *Invest Nova Scotia Board Act*.

**2 (1)** In this Act,

(a) “Board” means the Invest Nova Scotia Board established by this Act;

(b) “Chair” means the Chair of the Board;

(c) “Department” means the Department of Economic and Rural Development and Tourism;

(d) “economic development incentive” means financial assistance provided pursuant to this Act, including assistance by way of loan, loan guarantee, contribution, indemnity or other contingency, the purchase or guarantee of any bonds, debentures, notes or other debt obligations, the purchase, leasing or other holding of any real or personal property and the improvement or maintenance of any real or personal property, but not including by way of equity investments, and includes an amendment to an economic development incentive;

(e) “Fund” means the Invest Nova Scotia Fund;

(f) “member” means a member of the Board;

(g) “Minister” means the Minister of Economic and Rural Development and Tourism;

(h) “statutory capital authority” means the sums of money made available for the purpose of the Fund pursuant to subsection 22(2);

(i) “Vice-chair” means the Vice-chair of the Board.

**(2)** In determining financial authority for the purpose of this Act, the statutory capital authority available from time to time and any budgetary considerations of the Department as may be described by the regulations must be considered.

**3** The Minister has the general supervision and management of this Act.

### **INVEST NOVA SCOTIA BOARD**

**4** There is hereby established a board to be known as the Invest Nova Scotia Board.

**5 (1)** The Board has those decision-making functions, powers and duties that are, from time to time, conferred or imposed upon it by

(a) this Act or any other enactment; and

(b) the Governor in Council.

(2) The operation of the Board is under the general supervision and direction of the Minister.

(3) The administration expenses of the Board are administration expenses of the Department.

6 (1) The first Board consists of the Deputy Minister of the Department and up to nine other members appointed by the Governor in Council.

(2) The Governor in Council shall designate one of the members appointed by the Governor in Council to be the Chair of the first Board and another to be the Vice-chair.

(3) Each member appointed to the first Board by the Governor in Council serves for such term, not exceeding four years, as determined by the Governor in Council.

7 (1) Subject to Section 6, the Board consists of the Deputy Minister of the Department and up to nine other members elected pursuant to this Act.

(2) The Board shall determine the term of office for all members elected pursuant to this Act, with such term not to exceed four years.

(3) No person may be elected to the Board or serve as an elected member unless that person is first approved for election to the Board by the Minister.

(4) In approving persons for election to the Board, the Minister shall take into consideration expertise, competency and such other factors as may be set out in the regulations.

(5) The Minister may remove a member if, in the opinion of the Minister, there are extraordinary circumstances that warrant it.

8 The Deputy Minister of the Department is a non-voting member of the Board, and the Deputy Minister's presence or absence at a meeting does not affect the quorum.

9 No person may be appointed or elected to the Board for more than two consecutive terms.

10 Where the term of any member appointed or elected to the Board expires or any such person ceases to be a member or is unable to act prior to the expiration of the member's term of office, the Board may, subject to Section 9, fill the vacancy by election in accordance with the regulations.

11 Each member who is appointed or elected to the Board is entitled to receive such remuneration and such reasonable expenses as may be determined by the Governor in Council.

12 (1) Subject to Section 8, a majority of the members constitutes a quorum of the Board.

(2) Meetings of the Board may be held or a member may participate in a meeting of the Board by means of telephone or another communications facility that permits all persons participating in the meeting to speak to and hear each other, and a member participating in a meeting by such means is deemed to be present at the meeting and is counted in determining whether a quorum is present.

13 A vacancy on the Board does not impair the right of the remaining members to act.

14 (1) Upon the expiry of the term of the Chair of the first Board, the Chair shall be elected in accordance with the regulations.

(2) Upon the expiry of the term of the Vice-chair of the first Board, the Vice-chair shall be elected in accordance with the regulations.

15 (1) The Chair has the general supervision and direction over the conduct of the affairs of the Board.

(2) The Chair shall report to the Minister on the activities of the Board from time to time at the request of the Minister.

(3) In case of the absence of the Chair or the Chair's inability to act, the Vice-chair shall perform the duties and exercise the powers of the Chair.

16 (1) All decisions of the Board must be made by a resolution passed at a meeting of the Board by an affirmative vote of the majority of the members present and entitled to vote.

(2) A resolution in writing signed by all members then in office and entitled to vote on that resolution at a meeting of the Board is as valid as if it had been made at a meeting of the Board, duly called, constituted and held.

17 The Board may make by-laws, not inconsistent with this Act or any other enactment, that it considers necessary for the effective exercise of its functions, powers and duties and for its internal control, management and administration including, without limiting the generality of the foregoing by-laws, respecting

- (a) the procedure for calling meetings of the Board;
- (b) the creation of committees;
- (c) the delegation to committees of the Board of such functions, powers and duties as the Board considers necessary;
- (d) the procedure to be followed at meetings of the Board and of any committees;
- (e) the procedure to adopt and amend by-laws.

18 (1) The Board is deemed to be a department for the purpose of the *Conflict of Interest Act* and, for greater certainty, Section 22 of that Act applies to the members of the Board.

(2) The Board is deemed to be a public body within the meaning of the *Freedom of Information and Protection of Privacy Act*.

**19** Section 44A of the *Civil Service Act* applies to the members of the Board.

**20 (1)** The Board may avail itself of the services of employees of the Department, subject to the approval of the Deputy Minister.

**(2)** The Board shall designate an employee of the Department as Secretary, who shall keep a record of the proceedings of the Board, have the custody and care of all records and documents belonging to or pertaining to the Board and perform such duties as the Board requires, subject to the approval of the Deputy Minister.

**(3)** The Chair may engage the services of professional persons, technical persons and experts to advise the Board, subject to the approval of the Deputy Minister.

**21** No action or other proceeding for damages lies or may be instituted against the Board, a member of the Board or an employee of the Department providing services to the Board, as such, for an act or omission done in good faith in the execution or intended execution of any function, power or duty.

#### INVEST NOVA SCOTIA FUND

**22 (1)** There is hereby established a fund to be known as the Invest Nova Scotia Fund.

**(2)** The Governor in Council may from time to time authorize the Minister of Finance and Treasury Board to make available such sums of money from the General Revenue Fund as the Governor in Council considers necessary for the purposes of the Fund.

**(3)** All repayments and all recoveries made in respect of any transaction out of the Fund must be paid or credited to the Fund.

**(4)** Any loan guarantee made pursuant to this Act is a charge upon the Fund in the amount of the guarantee from time to time authorized.

**23** The objects and purposes of the Fund are to foster an economic environment to achieve sustained economic development and growth, with economic development incentives that have broad benefits across sectors, innovation systems or regions, by

(a) developing, promoting or implementing initiatives related to sector development or economic diversification;

(b) focusing on enhanced workforce-skills development to improve competitiveness;

(c) enhancing innovation, including applied research and development, pilot projects, trials and other similar projects;

(d) supporting strategic trade links, gateways or economic infrastructure;

(e) creating economic development opportunities through leveraging investments in significant capital projects such as new technologies or expansions that result in gains in innovation, productivity and competitiveness as well as increased international trade; and

(f) engaging in regional development, with emphasis on high unemployment regions where the support can make a sustainable contribution to the economic and social well-being of the community.

**24** Not later than June 30th in each year, the Board shall prepare and submit to the Minister a report concerning the work and decisions of the Board and the decisions of the Chair in respect of the Fund during the previous fiscal year of the Government of the Province.

**25** The Board or, where provided by the regulations, the Chair, shall review and decide upon applications for economic development incentives, considering the objects and purposes of the Fund and subject to any matters set out in the regulations.

**26** Where the Board approves an economic development incentive application that is projected by the Department to exceed the financial authority or where required by the regulations, that approval requires the consent of Treasury and Policy Board to be effective.

**27** Treasury and Policy Board may only consent to an economic development incentive that exceeds the financial authority if the Fund's statutory capital authority is sufficient.

**28** The Minister shall implement the economic development incentives from the Fund in accordance with the approvals given pursuant to Section 25 and, where applicable, the consents given pursuant to Section 26.

**29** The Minister may, for and on behalf of the Her Majesty in right of the Province, and in accordance with the processes and approvals set out in this Act and the regulations, execute all agreements or other instruments that the Minister considers necessary or desirable to provide the economic development incentives from the Fund approved in accordance with this Act.

## GENERAL

**30 (1)** The Governor in Council may make regulations

- (a) respecting the determination of financial authority for the purpose of this Act;
- (b) respecting elections for the purpose of Section 14;
- (c) respecting the manner in which applications for economic development incentives may be made;
- (d) respecting the process to be followed when applications for economic development incentives are received by the Department;
- (e) respecting the process to be followed by the Department before any application for economic development incentives received by the Department is sent to the Board or the Chair for review and decision;
- (f) prescribing circumstances when applications for economic development incentives, other than applications of the type referred to in Section 26, are to be referred to the Chair for review and decision, rather than to the Board;

(g) prescribing policy guidelines to be adhered to by the Board in considering applications for economic development incentives;

(h) prescribing circumstances when approvals of economic development incentives by the Board require the consent of Treasury and Policy Board;

(i) respecting the process to be followed by the Board when applications for economic development incentives are required to be sent to Treasury and Policy Board for consent;

(j) prescribing terms and conditions upon which economic development incentives may be provided;

(k) respecting any matter authorized by this Act to be done by the regulations;

(l) defining any word or expression used but not defined in this Act;

(m) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

**31 Section 2 of Chapter 33 of the Acts of 2013, the *Accountability in Economic Development Assistance Act*, is amended by**

**(a) adding “, the Invest Nova Scotia Fund” immediately after “Fund” in the second line of clause (c); and**

**(b) adding immediately after clause (c) the following clause:**

(ca) “Invest Nova Scotia Fund” has the same meaning as in the *Invest Nova Scotia Board Act*;

**32 Subsection 4(1) of Chapter 33 is amended by adding “anybody who approved the agreement and” immediately after “identifying” in the third line.**

**33 Chapter 16 of the Revised Statutes of 1989, the *Financial Assistance Advisory Board Act*, is repealed.**

**34 Chapter 40 of the Acts of 2011, the *Nova Scotia Jobs Fund Act*, is amended by adding immediately after Section 5 the following Section:**

5A (1) Upon the coming into force of this Section, the Minister may not provide new investment or increase the amount of any existing investment pursuant to this Act.

(2) For greater certainty, subject to subsection (1), the Minister may amend the terms of any investment pursuant to clause 5(2)(b).

**35** This Act, except Section 34, comes into force on such day as the Governor in Council orders and declares by proclamation.

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