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## ***Alberta BC investment deal threatens local governments***

*Murray Dobbin*

**L**ast April the provincial government signed the Trade, Investment and Labour Mobility Agreement, or TILMA, with the province of Alberta. It may well be one of the most radical investment deals ever signed anywhere and local governments may be the most negatively affected.

The agreement, to come into effect next April, will jeopardize many of the regulatory powers now enjoyed by municipalities and could result in an enormous amount of additional administrative paper work and costs.

TILMA has been promoted primarily as a labour mobility agreement and has been touted as a way of creating an economic powerhouse of the two provinces by harmonizing all regulations. The agreement requires BC and Alberta regulations to be made the same. But by far its most important provisions have to do with investment—and the power the agreement gives to investors to challenge existing and future regulations.

But the agreement goes much further by adopting some of the most controversial aspects of international treaties such as NAFTA. Specifically, TILMA enshrines the right of corporations to sue governments when regulations negatively impact their profitability. It allows private individuals (and companies) from one province to sue and get up to \$5 million compensation for regulations, policies, and programs existing in the other province that 'impair or restrict' investment, trade, or labour mobility. A three-person dispute panel will have the power to make legally binding decisions that will compel these governments to change their policies, no matter how popular they might be.

This agreement is designed to foster massive deregulation. Article 3 proclaims that there shall be 'No Obstacles' that would impair or restrict...*'investment...between the Parties'* and that *'Parties shall not establish new standards or regulations that operate to restrict or impair trade, investment or labour mobility.'* The problem, of course, is that virtually every regulation or standard has some impact on investment. That means that literally all existing and future regulation could be affected.

TILMA accepts certain regulatory objectives as legitimate—but even these can be challenged on the basis that the stated objective could be achieved in a 'less restrictive' manner. Also, there are many objectives that are not accepted as legitimate—for example the preservation of agricultural land, the conservation of heritage sites, the maintenance of scenic views, or the promotion of neighbourhood or rural economic development. Bylaws restricting billboards could be one of the

first to be challenged. Tax deductions for local businesses in depressed areas could be next.

There are some limited exceptions allowed for in the agreement, such as water, but even these are to be reviewed annually to reduce their scope.

There is supposed to be a transition period for municipalities during which time consultations will take place. But as of next April, the agreement will require that no municipal (or school board) regulation or policy be 'amended or renewed in a manner that would decrease its consistency with this Agreement.' This means local governments actions could be the subject of a TILMA challenge as early as next April.

The agreement has the potential to increase exponentially the amount of paper work municipalities have to do regarding new bylaws, procurement or new infrastructure. Each provincial government, as well as local governments in each province, will be obliged when they are undertaking any action that might be covered by TILMA, to 'provide the other Party [BC or Alberta] with an opportunity to comment on the measure, and take such comments into consideration.' In addition, purchasing decisions costing as little as \$10,000 will be open to challenge and could be overturned if the panel decides the purchase violated the agreement.

TILMA is being sold to the public as an agreement about getting rid of internal trade barriers and increasing labour mobility. But a 1998 study for the BC government found that: *'efforts to liberalize interprovincial trade will have almost no effect on trade flows. The reality is that interprovincial trade barriers are already very low.'* As for labour mobility, this question is already being dealt with at the national level, under an initiative taken by Manitoba.

It would be difficult to imagine a more anti-democratic initiative by a government. The governments of BC and Alberta have actually created greater rights for interests outside of their provinces to intervene in the legislative process, than they have guaranteed for voters in their own provinces. As of next April, the value of citizens' votes, provincial and municipal, will drop dramatically as governments will be severely restricted from increasing their standards or regulations whether citizens desire it or not. Nor will they be able to undertake most kinds of regional or industrial development initiatives. Maybe that is why the Liberals cancelled the fall sitting of the legislature. They are already anticipating having nothing to do. ✍

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