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Legislative Summary

BILL C-61: AN ACT RESPECTING WATER, SOURCE WATER, DRINKING WATER, WASTEWATER AND RELATED INFRASTRUCTURE ON FIRST NATION LANDS

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Legislative Summary of Bill C-61
(Preliminary version)

44-1-C61-E

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LEGISLATIVE SUMMARY OF BILL C-61: AN ACT RESPECTING WATER, SOURCE WATER, DRINKING WATER, WASTEWATER AND RELATED INFRASTRUCTURE ON FIRST NATION LANDS

1 BACKGROUND

Bill C-61, An Act respecting water, source water, drinking water, wastewater and related infrastructure on First Nation lands,¹ was introduced in the House of Commons by the Minister of Indigenous Services on 11 December 2023. It received first reading that same day.

Among other things, Bill C-61:

- affirms that First Nations' inherent right of self-government includes jurisdiction over water, drinking water, source water, wastewater and related infrastructure on, in and under lands reserved for First Nations (First Nation lands);²
- establishes principles for decision making regarding water services on First Nation lands;
- establishes minimum standards for water service provision on First Nation lands; and
- establishes a federal regulatory regime regarding water services on First Nation lands.

The bill completed second reading and was referred to the House of Commons Standing Committee on Indigenous and Northern Affairs (INAN) on 5 June 2024. On 2 December 2024, INAN reported the bill to the House of Commons with amendments. Among other matters, these amendments:

- **recognize and affirm the human right of individuals on First Nations land to access clean and safe drinking water (clause 3.1);**
- **require the quantity of water available on First Nation lands to take into account the cultural and spiritual needs of a First Nation (clause 15);**
- **provide that regulations concerning administration and enforcement of laws that apply in a protection zone cannot come into force unless the First Nation governing body provides free, prior and informed consent (clause 22(3));**

- **establish time limits for the beginning of consultations on regulations with respect to defining protection zones (clause 21(3)) and the completion of a framework for assessing needs and making funding decisions concerning water services on First Nation lands (clause 27(5)); and**
- **specify the circumstances under which a First Nation governing body and Canada are not liable for losses or damages in relation to acts or omissions by their employees (clauses 37(2) and 37(3)).**

Bill C-61 died on the *Order Paper* following the prorogation of Parliament on 6 January 2025.

Bill C-61 is part of a federal government commitment in a recent class action lawsuit settlement agreement to introduce legislation replacing the *Safe Drinking Water for First Nations Act*.³ In 2019, the Neskantaga First Nation and Curve Lake First Nation in Ontario and the Tataskweyak Cree Nation in Manitoba filed national class action lawsuits alleging that Canada failed to provide access to clean drinking water.⁴ On 22 December 2021, the Federal Court and the Court of Queen’s Bench of Manitoba⁵ approved a settlement agreement to these class actions (First Nations Drinking Water Settlement Agreement).⁶ The settlement agreement includes:

- compensation for certain First Nations communities and individuals subject to a drinking water advisory lasting at least one year between 20 November 1995 and 20 June 2021; and
- Canada’s commitments to:
 - provide funding of at least \$6 billion between 20 June 2021 and 31 March 2030 for the construction, upgrading, operation and maintenance of water infrastructure, and
 - make “all reasonable efforts” to repeal the *Safe Drinking Water for First Nations Act* and introduce replacement legislation by 31 December 2022.⁷

The following sections provide an overview of First Nations’ relationship with water; drinking water advisories in First Nations communities; and jurisdiction, roles and responsibilities for the provision of water and wastewater services in First Nations communities.

1.1 ACCESS TO CLEAN DRINKING WATER AND SANITATION
IN FIRST NATIONS COMMUNITIES

Water is a central part of First Nations cultures and ways of life. First Nations' relationships with water are reflected in their stories and laws.⁸ The British Columbia Assembly of First Nations explains that:

Water sustains all life and runs through our territories as the lifeblood of our lands. It is a sacred resource to our communities, and we rely on access to clean water for health and wellbeing, culture, customs and traditions and sustenance. We have a responsibility to protect and conserve water for our communities and for the generations to come.⁹

Some First Nations women have unique cultural relationships with water as some are water keepers “protecting the knowledge, ceremony, spirituality and cleanliness of water.”¹⁰

Access to clean water and sanitation are related to Aboriginal rights. In Canada, section 35 of the *Constitution Act, 1982* recognizes and affirms the “existing [A]boriginal and treaty rights” of First Nations, Inuit and Métis peoples.¹¹ Aboriginal rights refer to the traditions, practices and customs of distinct Indigenous groups.¹² Treaty rights refer to Aboriginal rights in treaties signed between Indigenous peoples and Canada. Some First Nations assert that they have Aboriginal and treaty rights to clean water.¹³

In 2010, the United Nations General Assembly recognized access to clean water and sanitation as human rights, acknowledging that they are “essential to the realisation of all human rights.”¹⁴ Article 25 of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) provides that Indigenous peoples have the right to maintain and strengthen their unique relationships with their traditional territories and waters while upholding their responsibilities to future generations.¹⁵ In Canada, the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDRIP Act) affirms that UNDRIP is “a universal international human rights instrument with application in Canadian law.”¹⁶ The UNDRIP Act also provides a framework for the federal government’s implementation of the Declaration, including by requiring the Minister of Justice to develop an action plan to “achieve the objectives of the declaration.”¹⁷ The action plan, released in June 2023, includes references to water; for example, it includes a federal government commitment to continue efforts to transfer water and wastewater services to First Nations communities.¹⁸

Access to clean and safe drinking water is essential to First Nations cultures, economies, health and wellbeing. However, some First Nations continue to lack access to clean drinking water. Some researchers argue that First Nations' lack of access to clean drinking water is connected to the legacy and ongoing effects of federal legislation, policies and approaches to funding water infrastructure on reserve.¹⁹ For example, the Ontario First Nations Technical Services Corporation explains that “[t]he root causes of the [water] crisis are found in the colonial project, its legacy, and in many cases, the forced relocation of many communities to areas where scarcity and resource extraction puts stress on drinking water sources.”²⁰

As of 8 May 2025, there were 38 drinking water advisories lasting more than one year (long-term) related to public systems on reserve in 36 First Nations communities.²¹ As of 15 May 2025, there are 34 drinking water advisories on public systems on reserve that have been in effect for less than one year (short-term) in First Nations communities south of the 60th parallel and outside of British Columbia.²² In British Columbia, as of 30 April 2025, there were 39 drinking water advisories in effect in 32 First Nations communities.²³

The territorial governments report on drinking water advisories in all communities across the territory including First Nations communities. As of 16 May 2025, there are no drinking water advisories in effect in Yukon. In the Northwest Territories, there is one long-term advisory in place for Colville Lake, where the Behdzi Adha First Nation is located, due to staffing and capacity issues.²⁴

In some cases, drinking water advisories on First Nations reserves have been in place for many years. However, tracking information about drinking water advisories over time can be challenging. Data from previous years is often not comparable and it may not include information about water systems in all First Nations communities, such as those on privately managed systems.²⁵ Moreover, there may be multiple drinking water advisories in effect covering different buildings within the same community. These limitations make it hard to get a complete picture of First Nations drinking water advisories over time. The following sections will outline jurisdiction, roles and responsibilities for water and wastewater in First Nations communities.

1.1.1 Jurisdiction for Water and Wastewater in First Nations Communities

Generally, in Canada, provinces and territories have jurisdiction over most areas of water protection and management. Most provinces and territories delegate responsibilities, such as drinking water and wastewater treatment, to municipalities.²⁶ However, the federal government has exclusive legislative authority over “Indians and lands reserved for the Indians,” pursuant to section 91(24) of the *Constitution Act, 1867*, meaning that it is responsible for managing water on First Nations reserves and lands set aside in Yukon.²⁷ Some First Nations have authority over some aspects of water management (including provision of water services and protection of potential source water) through modern treaties and self-government agreements signed with federal, and often provincial and territorial governments.²⁸

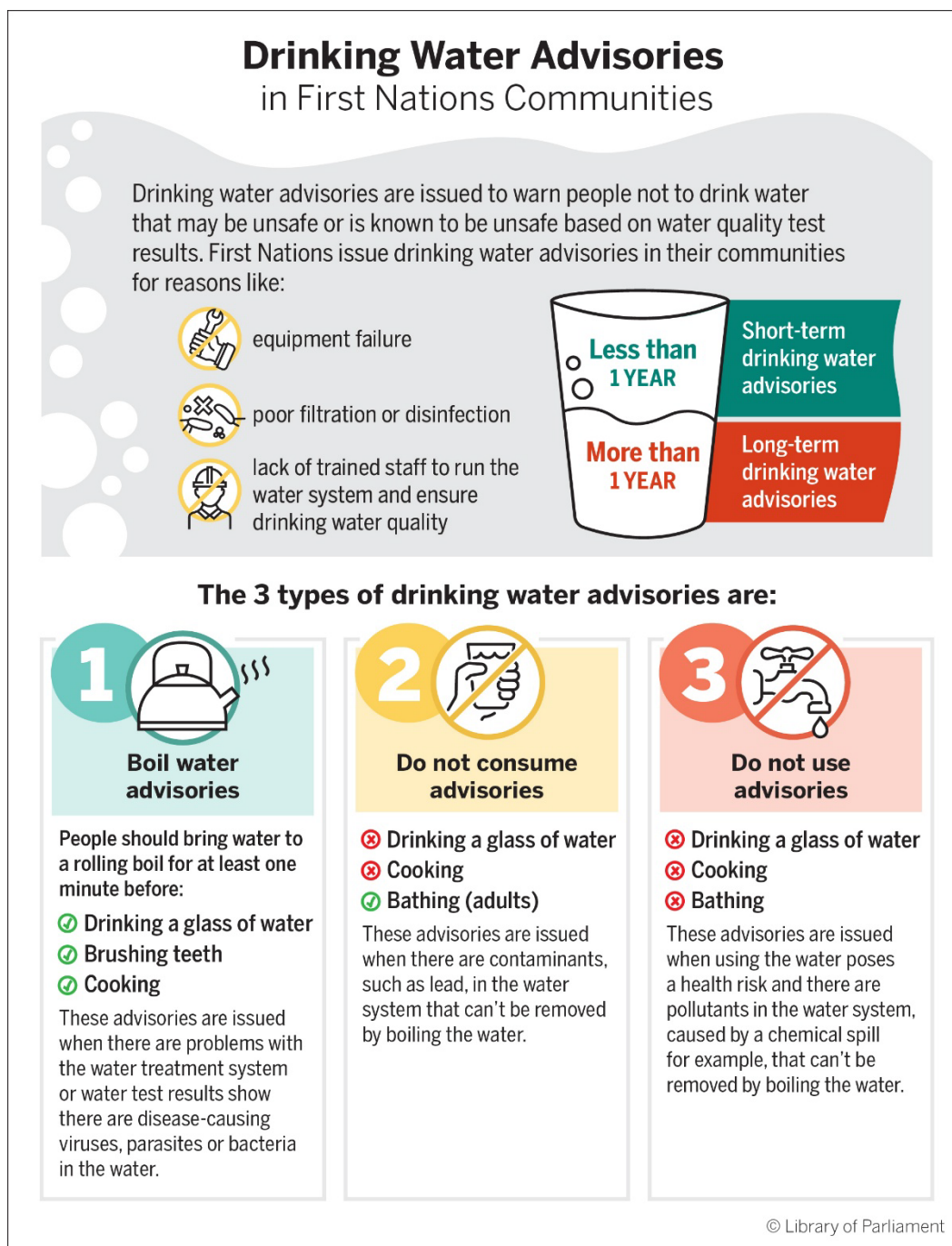
1.1.2 Roles and Responsibilities for Drinking Water and Wastewater in First Nations Communities

Responsibilities for water services in First Nations communities vary based on the location. In the territories, the territorial governments have the responsibility to provide safe drinking water and environmental public health services in all communities, including Indigenous communities.²⁹

1.1.2.1 First Nations' Roles and Responsibilities

On First Nations reserves south of the 60th parallel, First Nations chiefs and councils manage water and wastewater systems by testing drinking water, issuing drinking water advisories as needed and planning and developing infrastructure.³⁰ Figure 1 provides information about the types of drinking water advisories issued by First Nations chiefs and councils.

Figure 1 – Drinking Water Advisories in First Nations Communities



First Nations communities have various water and wastewater systems in place in their communities including piped systems and/or those that provide water and collect wastewater by truck. Some First Nations have signed agreements with nearby municipalities for the provision of drinking water and/or wastewater services.³¹

Some First Nations organizations have taken their own approaches to deliver culturally appropriate water services. For example, the First Nations Health Authority provides environmental public health services and advice on drinking water safety to First Nations in British Columbia.³² The Atlantic First Nations Water Authority is a First Nations water utility responsible for the operation, maintenance and capital upgrades for water and wastewater infrastructure in 12 participating First Nations communities.³³ Some First Nations organizations provide technical services related to water services in First Nations communities, including the Ontario First Nations Technical Services Corporation in Ontario and the First Nations Technical Services Advisory Group in Alberta.³⁴

1.1.2.2 Federal Role

Section 6(2) of the *Department of Indigenous Services Act* provides that the Minister of Indigenous Services will ensure that services in various areas, such as health and infrastructure, are provided to Indigenous individuals and governing bodies who are eligible to receive them under federal legislation or a Government of Canada program.³⁵ The list of service areas does not specifically mention water and wastewater on First Nations reserves.

Through the Capital Facilities and Maintenance Program, Indigenous Services Canada (ISC) provides funding for public water and wastewater infrastructure serving five or more households or other public facilities on First Nations reserves south of the 60th parallel. Other systems such as wells and cisterns that serve individual households are not funded by ISC.³⁶ ISC also provides public health advice and assessments related to drinking water and wastewater through Environmental Public Health Services.

The federal government may provide funding for drinking water related initiatives through modern treaties. For example, under the *2019 Tsawwassen First Nation Fiscal Financing Agreement*, the federal government provides transfer payments for several programs and services including a Drinking Water Safety Program.³⁷

1.1.3 Key Challenges

Some of the challenges First Nations face in accessing safe drinking water, such as high capital and operating costs, are like those in other rural and remote communities with small water systems.³⁸ However, First Nations also face unique challenges such as the absence of a regulatory framework for water and wastewater on reserves.³⁹ Moreover, the adequacy of federal funding for water and wastewater on reserves has been a long-standing concern.⁴⁰

1.1.3.1 The Absence of a Legislative or Regulatory Framework for First Nations

Over time, provinces and territories have developed regulatory regimes covering matters such as source water protection, water quality standards and water delivery services.⁴¹ However, provincial regimes do not apply to First Nations reserves because section 91(24) of the *Constitution Act, 1867* provides the federal government with exclusive jurisdiction over “Indians and lands reserved for the Indians.”⁴² Through various protocols, ISC recommends that First Nations adhere to the more stringent of either federal or provincial standards for water and wastewater systems.⁴³ However, there is currently no legislative or regulatory framework for water and wastewater in First Nations communities.

Concerns about the absence of a regulatory framework have been raised in reports and audits by the Office of the Auditor General of Canada for many years.⁴⁴ In 2006, the then Minister of Indian and Northern Affairs established an Expert Panel on Safe Drinking Water for First Nations (the expert panel) to consider options for a regulatory framework for First Nations water and wastewater on reserve. While the expert panel identified several options for a regulatory framework, it noted that “adequate resources – for plants and piping, training and monitoring, and operations and maintenance – are more critical to ensuring safe drinking water than is regulation alone.”⁴⁵

1.1.3.2 The *Safe Drinking Water for First Nations Act*

In 2013, Parliament enacted the *Safe Drinking Water for First Nations Act* (SDWFNA) (formerly Bill S-8).⁴⁶ The SDWFNA enabled the Governor in Council, on the recommendation of the Minister of Indian and Northern Affairs and, in some cases, the Minister of Health, to make regulations covering a number of matters related to the provision of drinking water and disposal of wastewater on First Nation lands.⁴⁷ The SDWFNA defines First Nation lands as those where the disposition is subject to the *Indian Act* or the *First Nations Land Management Act*, or First Nation lands described in regulations made by the Governor in Council for the purposes of the Act.⁴⁸

First Nations raised concerns about the SDWFNA related to the liability of First Nations governments for actions taken under the regulations; the lack of meaningful consultation on the legislation; and the adequacy of federal funding to meet the requirements of future regulations developed under the legislation.⁴⁹ After the SDWFNA came into force, First Nations called for its repeal and replacement.⁵⁰ In accordance with provisions of the First Nations Drinking Water Settlement Agreement discussed above, the SDWFNA was repealed in June 2022 by the *Budget Implementation Act, 2022, No. 1*.⁵¹ No regulations were made under the SDWFNA prior to its repeal.⁵²

1.1.3.2.1 Comparative Analysis of the *Safe Drinking Water for First Nations Act* and Bill C-61

There are many differences between the SDWFNA and Bill C-61. While both pieces of legislation enable the development of regulations in some similar areas, the approach to regulatory development differs. For example, clause 20(1) of Bill C-61 requires the Minister of Indigenous Services to consult and cooperate with First Nation governing bodies prior to making recommendations for regulations. In contrast, the SDWFNA did not require consultation in the regulatory development process but notes the commitment of the Minister of Indian Affairs and Northern Development and the Minister of Health to work with First Nations to develop proposals for regulations under the legislation.⁵³

Another difference is the recognition of First Nations jurisdiction and authority. The SDWFNA enabled the development of regulations which could “confer on any person or body any legislative, administrative, judicial or other power that the Governor in Council considers necessary to effectively regulate drinking water systems and waste water systems.”⁵⁴ Regulations could also be developed to confer on any person or body the power to appoint a manager independent of the First Nation to operate a drinking water or wastewater system on its First Nation lands (section 5(1)(c)(iii)). In contrast, clause 6(1)(a) of Bill C-61 affirms the inherent right of self-government in relation to water, source water, drinking water, wastewater and related infrastructure on, in and under First Nation lands. This jurisdiction includes legislative, administrative and enforcement authority (clause 6(2)).

1.1.3.3 Federal Funding

The federal government provides funding for water and wastewater on the basis of policy, rather than legislation.⁵⁵ The Office of the Auditor General of Canada has found that delivering programs for First Nations on reserves without a legislative base means that programs and services are not always well defined and there is confusion about federal funding responsibilities.⁵⁶ By providing funding for water and wastewater, the federal government aims to achieve service levels for

First Nations on reserve comparable to other non-First Nations communities of similar size and circumstances.⁵⁷ However, a 2021 ISC internal evaluation found that this objective has not yet been achieved.⁵⁸

First Nations and research reports have noted that the adequacy of federal funding for water and wastewater infrastructure, operations and maintenance on First Nations reserves is a long-standing concern.⁵⁹ Insufficient federal funding for operation and maintenance contributes to drinking water advisories, affects the ability to retain water and wastewater system operators, and reduces the operational lifespan of water and wastewater infrastructure in First Nations communities.⁶⁰ Some First Nations have pursued their claims in court, alleging that the federal government has never provided adequate funding for First Nations drinking water on reserve.⁶¹

In 2015, the federal government committed to lifting long-term drinking water advisories for public water systems on First Nations reserves by 31 March 2021.⁶² This commitment excludes privately operated systems, where users may still lack access to clean water. While the March 2021 deadline was not met, the federal government has proposed funding for First Nations water and wastewater on reserve in recent federal budgets.⁶³ In 2021, prior to the signing of the First Nations Drinking Water Settlement Agreement, the Office of the Parliamentary Budget Officer estimated that spending between fiscal years 2016–2017 and 2025–2026 will be sufficient for capital expenditures, but not for operations and maintenance costs.⁶⁴

1.2 DEVELOPMENT OF BILL C-61

The federal government indicates that it worked with First Nations communities and organizations to develop Bill C-61.⁶⁵ Engagements to develop Bill C-61 began in 2018. During the process, draft legislative proposals were posted online to solicit feedback.⁶⁶ Some First Nations organizations have welcomed Bill C-61 as the first step in developing standards and regulations for clean drinking water and treatment of wastewater.⁶⁷

However, some First Nations organizations raised concerns about consultation, stating that further discussions were needed prior to the tabling of the Bill C-61.⁶⁸ Some First Nations communities and organizations have also raised concerns about whether Bill C-61 will address challenges First Nations on reserve face with respect to clean drinking water and treatment of wastewater.⁶⁹

2 DESCRIPTION AND ANALYSIS

Bill C-61 contains a multi-page preamble and 44 clauses. As mentioned above, the First Nations Drinking Water Settlement Agreement requires that Canada, in consultation with First Nations, “make all reasonable efforts” to introduce legislation to replace the *Safe Drinking Water for First Nations Act* by December 2022.⁷⁰ This obligation is referred to in clause 33 of the bill, alongside the obligation to meet the terms of the First Nations Drinking Water Settlement Agreement more generally. The term “First Nation lands” is defined in clause 2 as reserve lands (including water and source water on, in and under those lands) and specifically excludes lands over which Aboriginal title is either claimed or has been confirmed by a court. Clause 2 originally defined “water services” as systems, infrastructure and services related to drinking water, wastewater and water used for sanitation or hygiene purposes. **INAN reported the bill with amendments to the definition of water services to include services, infrastructure and systems related to water intended for cooking and the protection of groundwater and aquifers.** Key clauses in relation to these and other measures are discussed below.

2.1 RIGHTS

INAN reported the bill with amendments to recognize and affirm the human right of individuals on First Nations land to have access to clean and safe drinking water in accordance with the bill (clause 3.1).

2.2 GUIDING PRINCIPLES

One of the stated purposes of the bill is to establish principles relating to decision-making under the law (clause 4(d)). Clause 5 lists three guiding principles: reliable access to water services, substantive equality, and free, prior and informed consent.

2.2.1 Reliable Access to Water Services

Clause 5(1) provides that decision-making under the law is to be based on First Nations having reliable access to water services on their lands. Among other things, that clause notes the importance of safe drinking water and effective treatment and disposal of wastewater for the health of the community and the environment. It also notes that reliable access to safe drinking water depends on the effective management and monitoring of all stages of water services delivery.

2.2.2 Substantive Equality

Decisions made under the bill are to be guided by substantive equality.⁷¹ Specifically:

- First Nations' reliable access to water services must be comparable to that in non-Indigenous communities (clause 5(2)(a));
- First Nations must have control over their water services, including related data (clause 5(2)(b)); and
- First Nations may deliver water services as they see fit, including by using innovative approaches and technology (clause 5(2)(c)).

2.2.3 Free, Prior and Informed Consent

Clause 5(3) provides that the *United Nations Declaration on the Rights of Indigenous Peoples*' (UNDRIP's) principle of "free, prior and informed consent" is to guide decisions made under the bill.⁷² **INAN reported the bill with amendments to add references to UNDRIP articles to guide decision making under the bill, namely article 10 (concerning forcible removal of Indigenous peoples from their lands or territories), paragraph 2 of article 29 (concerning storage or disposal of hazardous materials on Indigenous peoples' lands and territories) and paragraph 2 of article 32 (concerning processes for approving projects affecting Indigenous lands or other resources).**

2.3 MINIMUM STANDARDS OF WATER QUALITY AND MINIMUM CAPACITY STANDARDS FOR THE DELIVERY OF WATER

To support sustainable First Nation water and wastewater systems, the First Nations Drinking Water Settlement provides that the legislation to replace the now repealed *Safe Drinking Water for First Nations Act* shall include provisions:

- (i) defining minimum standards of water quality for First Nation Water and Wastewater Systems, with reference to standards that are directly applicable to First Nation communities; and
- (ii) defining minimum capacity standards for the delivery of water to First Nation communities, in terms of volume per individual community member.⁷³

Clause 14 of Bill C-61 provides that a First Nation governing body can choose between two standards for drinking water quality: the Guidelines for Canadian Drinking Water Quality⁷⁴ or the provincial or territorial standards that are in place where the First Nation lands are located. **INAN reported the bill with amendments to specify that the quality of water and source water available in a protection zone and on a First Nation's lands must be consistent with rights recognized and affirmed by section 35 of the *Constitution Act, 1982* (clause 14.1).**

Clause 16 provides that a First Nation governing body can choose between two standards for wastewater effluent:⁷⁵ the standard set out in the *Wastewater Systems Effluent Regulations*⁷⁶ or the provincial or territorial standards that are in place where the First Nation lands are located. If a First Nation governing body does not choose a standard, the Minister of Indigenous Services (the minister) must make “best efforts”⁷⁷ within 90 days of the law coming into force to consult and cooperate with that governing body to determine which standard is highest (clause 18). **INAN reported the bill with amendments to provide that the minister must obtain the consent of a First Nation governing body before applying the standard on a First Nation's lands (clause 18(3)).**

The standards relating to water quality, quantity and wastewater effluent apply to both public and private water systems (clause 17). Water quantity must be based on current and projected needs, including for drinking, sanitation and emergency management (clause 15). **INAN reported the bill with amendments to clause 15 to stipulate that the quantity of water available on First Nation lands must consider the cultural and spiritual needs of the First Nation.**

Clause 26 requires that the minister make best efforts to ensure that “all residents, occupants and users of buildings located on the First Nation lands of the First Nation” have access to clean and safe drinking water. **INAN reported the bill with amendments to add that the minister's best efforts must take place in a manner that meets obligations listed in other sections of the bill concerning funding for comparable services and obligations and commitments set out in the First Nations Drinking Water Settlement Agreement.**

2.4 TRANSPARENCY

The First Nations Drinking Water Settlement Agreement requires that the replacement legislation “create a transparent approach to building, improving, and providing drinking water and wastewater services for First Nations.”⁷⁸ As mentioned above, clause 5 of Bill C-61 sets out the principles that are to guide decision-making under the law. Clause 5(1)(d) notes that transparency and accountability form the basis of effective water service management and monitoring.

2.5 FUNDING

The First Nations Drinking Water Settlement Agreement requires that replacement legislation “confirm adequate and sustainable funding for First Nation Water and Wastewater Systems.”⁷⁹ Bill C-61’s preamble includes references to funding, including that the Government of Canada acknowledges “that First Nations have made multiple calls for water services funding that is adequate, predictable, stable, sustainable, needs-based and consistent with the principle of substantive equality in order to secure long-term positive outcomes for First Nations.”

As mentioned above, the First Nations Drinking Water Settlement Agreement also requires that the Government of Canada spend at least \$6 billion between 20 June 2021 and 31 March 2030 to meet the commitments under the settlement.⁸⁰ Clause 34 of Bill C-61 reinforces that commitment by specifying that at a minimum, the Government of Canada must provide that stipulated amount of funding.

One of the first steps to be taken in relation to funding is developing a framework to assess needs. To that end, the minister must consult and cooperate with First Nation governing bodies, making best efforts to do so within six months of the law’s coming into force. **INAN reported the bill with amendments requiring the framework to be completed within one year of clause 27(5) coming into force or within a longer time period as requested by the minister or First Nation governing bodies (clause 27(5)).** That same consultation and cooperation are required for making and implementing funding allocation decisions (clause 27(1)). **Clause 27(2) lists matters that could form part of the framework for assessing needs including capital and upgrades, operations and maintenance and governance. INAN reported the bill with amendments to add other potential elements of the framework including remoteness costs and insurance requirements for water services and operators.** Clause 27(3) lists a number of funding guiding principles, including that funding “be adequate, predictable, stable, sustainable and needs-based”; and that infrastructure funding consider current and future needs. **INAN reported the bill with amendments to clause 27(3) to require funding allocation decisions to be consistent with the principles set out in this clause.** Clause 19(1)(c) provides the Governor in Council with regulation-making authority in relation to the consultation process for funding allocation decisions.

Additional funding requirements established in the bill include: the Government of Canada must make best efforts to (1) provide funding that meets the needs assessed in the framework (clause 30); and (2) meet actual costs so that water services in First Nation lands are comparable to other water services (clause 31). **INAN reported the bill with amendments to clauses 30 and 31 such that best efforts to provide funding must also reflect consultations between the minister and**

First Nation governing bodies to develop the needs assessment framework.

Long-term funding arrangements can include grants (clause 36).

2.6 VOLUNTARY ASSUMPTION OF WATER
AND WASTEWATER INFRASTRUCTURE BY FIRST NATIONS

The replacement legislation required by the First Nations Drinking Water Settlement Agreement must “support the voluntary assumption of water and wastewater infrastructure by First Nations.”⁸¹

Key to the voluntary assumption of infrastructure by First Nations is the affirmation of the inherent right of self-government in relation to water, source water, drinking water, wastewater and related infrastructure on, in and under First Nation lands (clause 6(1)(a)). This right also applies to water and source water in a protection zone that is adjacent to the First Nation lands of a First Nation, if there is agreement among the First Nation, as well as federal and provincial or territorial governments, on how to coordinate the application of the laws of all three jurisdictions in the protection zone (clause 6(1)(b)). **INAN reported the bill with amendments to remove references to a protection zone being adjacent to the First Nation lands of a First Nation in clauses 6(1)(b) and 22(1).** After consultation and cooperation with First Nation governing bodies, federal ministers and provincial and territorial governments, “protection zone” is to be defined in regulations (clause 21). **INAN reported the bill with amendments to specify that, when making regulations, the minister must consider how a protection zone is connected to First Nation lands (clause 21(1)). During INAN’s study, evidence heard, and briefs received raised concerns about what was viewed as a lack of clarity concerning the meaning of the term “protection zone.” Some witnesses and briefs suggested amendments to remove the reference to the term “adjacent” with respect to protection zones.⁸² INAN also reported the bill with amendments to add a provision requiring the minister to begin the consultation process to define protection zones within six months of the section coming into force (clause 21(3)).**

If requested by a First Nation governing body, the minister may make regulations concerning the administration and enforcement of First Nations laws applicable in a protection zone (clause 22(1)). The minister must consult with a First Nation governing body and provincial or territorial government where the protection zone is located prior to making regulations (clause 22(2)). **INAN reported the bill with amendments to provide that such regulations must be co-developed with a First Nation governing body and must not come into force unless the First Nation governing body gives its “free, prior and informed consent” (clauses 22(2) and 22(3)).**

Jurisdiction explicitly includes legislative, administrative and enforcement authority (clause 6(2)). A First Nation governing body can request to enter into an agreement with the minister in relation to the minister's support for the governing body's exercise of jurisdiction (clause 23(1)). The agreement can include fiscal arrangements for water services delivery (clause 23(2)(a)).

Other relevant clauses that support the voluntary assumption of water and wastewater infrastructure by First Nations include the following:

- a First Nation governing body's ability to enter into an agreement with the minister in support of exercising jurisdiction (clause 23(1)), which can include fiscal arrangements (clause 23(2)(a)), **or under INAN's reported amendment, plans and policies to address water, source water, drinking water, wastewater and related infrastructure on First Nation lands (clause 23(2)(c));**
- a First Nation governing body's ability to delegate jurisdiction to a provincial or territorial government, public body or not-for-profit corporation, provided that the government, public body or not-for-profit corporation consents (clause 10); and
- a First Nation governing body's ability to enter into an agreement with the minister or other listed partners, such as provincial or territorial governments, to administer and enforce its First Nation laws (clause 24).

Under the bill, employees or persons hired by a First Nation governing body are immune from action or other proceedings for damages (clause 37).

INAN reported the bill with amendments to add clauses to clarify the scope of immunities for First Nation governing bodies and Canada. In the case of a First Nation governing body, there is no liability "if the acts or omissions were committed in good faith and the Government of Canada did not make best efforts to provide adequate funding for water services on those First Nation lands" (clause 37(2)). For the Crown, there is no liability "if the Government of Canada made best efforts to provide adequate funding for water services on those First Nation lands" (clause 37(3)).

2.7 CONFLICTS OF LAWS AND LIMITATIONS TO JURISDICTION

Clause 11 establishes that where a provision of a First Nation law is inconsistent or conflicts with a federal law or regulations, the First Nation law prevails over federal laws and regulations except for the provisions of clause 11, and:

- the guiding principles relating to decision-making under the bill set out in clause 5;
- the *Canadian Charter of Rights and Freedoms*, which applies to a First Nation governing body exercising its jurisdiction (clause 7);

- the *Fisheries Act*, the *Canadian Navigable Waters Act*, the *Migratory Birds Convention Act, 1994*, the *Canada Marine Act*, the *Canadian Environmental Protection Act, 1999*, the *Canada Shipping Act, 2001* and the *Species at Risk Act*, as well as their regulations (clause 8);
- the requirement that a First Nation governing body publish a First Nation law as soon as possible after making the law, including by publishing online and in the *First Nations Gazette* (clause 9); and
- drinking water quality, water quantity and wastewater effluent standards set out in clauses 14 to 16.

Where provisions of a modern treaty or self-government agreement are inconsistent or conflict with the bill or regulations made under the bill, the provisions of the modern treaty or self-government agreement prevail (clause 12(1)).

Where provisions of an *Indian Act* by-law⁸³ are inconsistent or conflict with regulations made under the bill, the provisions of the regulation prevail (clause 13).

2.8 REGULATIONS

Clause 19 authorizes the Governor in Council to make regulations under the bill based on the minister's recommendation, **and as added in amendments reported to the House of Commons by INAN, in collaboration with First Nations**. Among other topics, regulation-making authority relates to managing and monitoring water services (clauses 19(1)(a) and 19(1)(f)), protecting source water (clause 19(1)(b)), the disclosure of information (clause 19(1)(i)), insurance requirements for water services and water service operators (clause 19(1)(k)) and minimum standards for water services (clause 19(1)(l)). Regulations can also be made in relation to administering and enforcing the regulations (clause 19(1)(j)). **INAN reported the bill with amendments enabling the minister to share information with a First Nation about insurance terms and conditions or insurability of water services, if the information was obtained regarding a regulation related to insurance requirements (clause 19(4)).**

Before making a recommendation relating to a regulation, the minister must consult and cooperate with First Nation governing bodies (clause 20(1)). **INAN reported the bill with amendments to clause 20(1) to provide that any recommendations must also be “co-developed” with First Nation governing bodies.** The minister must make best efforts to begin such consultations within six months of the law's coming into force (clause 20(2)). A First Nation law can opt out of regulations applying to its First Nation lands.

2.9 OTHER AGREEMENTS

Clause 25 allows the minister to enter into an agreement with a First Nation governing body or a public body acting under the authority of a First Nation, in relation to protecting source water, water services, or administration and enforcement of regulations. **INAN reported the bill with amendments to clause 25 to stipulate that agreements may concern the administration and enforcement of First Nation laws.** Clause 25 also allows the minister to enter into an agreement on those topics with a provincial, territorial or municipal government. If those latter agreements might affect a First Nation, if the First Nation so chooses, it must be a party to the agreement. If a First Nation chooses not to be a party, they must be consulted before the agreement is entered into.

2.10 FIRST NATIONS WATER COMMISSION

Clauses 39 and 40 relate to the future establishment of a First Nations Water Commission. The terms of reference for the not-for-profit corporation must be developed in consultation and cooperation with First Nation governing bodies (clause 39(1)). The minister must make best efforts to begin the consultations within six months of Royal Assent (clause 39(4)). The terms of reference must provide that one of the Commission's purposes is to support Bill C-61's purpose and principles (clause 39(2)(a)). **INAN reported the bill with amendments to add that the Commission may, at any time, make special reports to Parliament on matters within its powers and that these reports be published on its website in both official languages and as many Indigenous languages as possible (clauses 39(2)(c) and 39(2)(d)).** Clause 32 requires the Government of Canada to make best efforts to provide sustainable funding to implement the Commission's terms of reference. The Commission's annual report must be tabled in the House of Commons and the Senate (clause 40).

2.11 REPORT, REVIEW, COORDINATING AMENDMENT AND COMING INTO FORCE

In consultation and cooperation with First Nations, the minister must report annually on the results of consultation and cooperation that are required by the law (clause 41). Clause 42 requires that a review of the law be commenced five years after the law comes into force, in consultation and cooperation with First Nation governing bodies. **INAN reported the bill with amendments requiring this review to be conducted based on criteria "jointly developed" by First Nations and the minister.** The review's report must be tabled in each House of Parliament within six years of the coming into force of the law.

Clause 3 specifies that the bill must not be construed as abrogating or derogating from rights recognized and affirmed by section 35 of the *Constitution Act, 1982* (this is commonly referred to as a non-derogation clause). Bill S-13, An Act to amend the Interpretation Act and to make related amendments to other Acts,⁸⁴ will add a non-derogation clause that will apply to all federal legislation, making other non-derogation clauses in federal laws redundant. Clause 43 explains that if Bill S-13 comes into force, clause 3 of Bill C-61 will be repealed on the first day that both laws are in force. **Bill S-13 received Royal Assent and came into force on 27 November 2024.**

INAN reported the bill with amendments providing that it comes into force one year after the day it receives Royal Assent (clause 44).

NOTES

1. [Bill C-61, An Act respecting water, source water, drinking water, wastewater and related infrastructure on First Nation lands](#), 44th Parliament, 1st Session (Bill C-61).
2. Bill C-61 defines “First Nation lands” as First Nation lands as those referred to in section 91(24) of the *Constitution Act, 1867* which refers to “Indians and lands reserved for the Indians.” First Nation lands do not include “lands over which Aboriginal title is claimed by a First Nation or has been confirmed by a court.” [Bill C-61](#), cl. 2.
3. [Settlement Agreement Between Tataskweyak Cree Nation, Curve Lake First Nation, Neskantaga First Nation and Canada](#), 15 September 2021, cls. 9.03(1) and 9.02(2) (First Nations Drinking Water Settlement Agreement); Indigenous Services Canada, [Together with First Nations leadership, Minister Patty Hajdu introduces a Bill to support clean drinking water in First Nations communities](#), News release, 11 December 2023; and Tonina Simeone and Shauna Troniak, [Legislative Summary of Bill S-8: The Safe Drinking Water for First Nations Act](#), Publication no. 41-1-S8-E, Library of Parliament, 19 April 2012.
4. [Tataskweyak Cree Nation et al. v. Canada; Curve Lake First Nation et al. v. Canada](#), 2021 MBQB 275, para. 29; and First Nations Drinking Water Settlement, [About](#).
5. Currently, the Court of King’s Bench of Manitoba.
6. Indigenous Services Canada, [Courts approve settlement agreement to resolve class action litigation related to safe drinking water in First Nations communities](#), News release, 23 December 2021.
7. The settlement specifically excludes members from the following First Nations: Tsuu T’ina Nation (Alberta); Sucker Creek First Nation (Alberta); Ermineskin Cree Nation (Alberta); Blood Tribe (Kainai Nation) (Alberta); and the Okanagan Indian Band (British Columbia). First Nations Drinking Water Settlement, [FAQs](#); and First Nations Drinking Water Settlement Agreement, ss. 9.02(2), 9.03(1) and 9.03(2).
8. National Inquiry into Missing and Murdered Indigenous Women and Girls, [Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls](#), Vol. 1a, 2019, p. 158; and Aimée Craft, “[Navigating Our Ongoing Sacred Legal Relationship with Nibi \(Water\)](#),” in Centre for International Governance Innovation, *UNDRIP Implementation: More Reflections on the Braiding of International, Domestic and Indigenous Laws*, Special report, 2018, p. 56.
9. British Columbia Assembly of First Nations, [Water](#).
10. National Inquiry into Missing and Murdered Indigenous Women and Girls, [Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls](#), Vol. 1a, 2019, pp. 159 and 570; and Native Women’s Association of Canada, [Water Carriers](#).
11. [Constitution Act, 1982](#), being Schedule B to the *Canada Act 1982*, 1982, c. 11 (U.K.), s. 35(1).
12. [Delgamuukw v. British Columbia](#), [1997] 3 S.C.R. 1010.

13. Olivia Stefanovich, "[Prairie First Nations call on Ottawa to rewrite clean water bill](#)," CBC News, 21 December 2023; Assembly of First Nations, [Submission to the United Nations Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation's Call for Input: Indigenous peoples and people living in rural areas](#), 31 December 2021, p. 3; *Tsuu Tina Nation v. Alberta (Environment)*, 2010 ABCA 137 (CanLII); Senate, Standing Committee on Indigenous Peoples (APPA), [Evidence](#), 3 June 2022 (Byron Louis, Chief, Okanagan Indian Band); and JFK Law LLP, [Kainai/Blood Tribe Submission on Division 3 of Part 5 of Bill C-19](#), Brief submitted to APPA, 31 May 2022.
14. United Nations General Assembly, [64/292. The human right to water and sanitation](#), A/RES/64/292, 3 August 2010. The right is derived from the right to an adequate standard of living under article 11(1) of the [International Covenant on Economic, Social and Cultural Rights](#), to which Canada is a party.
15. United Nations, [United Nations Declaration on the Rights of Indigenous Peoples](#), 13 September 2007, art. 25.
16. [United Nations Declaration on the Rights of Indigenous Peoples Act](#), S.C. 2021, c. 14, s. 4; and Sara Fryer and Olivier Leblanc-Laurendeau, [Legislative Summary of Bill C-15: An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples](#), Publication no. 43-2-C15-E, Library of Parliament, 18 May 2021.
17. [United Nations Declaration on the Rights of Indigenous Peoples Act](#), S.C. 2021, c. 14, s. 6.
18. Government of Canada, [The United Nations Declaration on the Rights of Indigenous Peoples Act Action Plan](#), 2023, p. 53.
19. For example, see Warrick Baijous and Robert J. Patrick, "[We Don't Drink the Water Here': The Reproduction of Undrinkable Water for First Nations in Canada](#)," *Water*, Vol. 11, No. 5, 2019; Lyndsey Huynh et al., "[Examining the connection between water concerns, water anxiety, and resilience among Indigenous persons: A systematic scoping review](#)," *Child Abuse & Neglect*, Vol. 148, February 2024; Wilfried Laurier University, [How can Canada deliver safe drinking water to First Nation communities? Q and A with Laurier researcher Sheri Longboat](#), 20 March 2024; Pamela Palmater, "[First Nations water problems a crisis of Canada's own making](#)," *Policy Options*, 6 February 2019; Jaida Beaudin, Yellowhead Institute, "[Water is Life: The fatal links between water infrastructure, COVID-19, and First Nations in Canada](#)," *The Indian Department*, 9 March 2021; and Margot Hurlbert et al., "[Decolonizing Indigenous Drinking Water Challenges and Implications: Focusing on Indigenous Water Governance and Sovereignty](#)," *Water*, Vol. 16, No. 5, 2024.
20. Ontario First Nations Technical Services Corporation, [Decolonizing water governance: Addressing the water crisis in Ontario through recognition of First Nations jurisdiction](#), July 2022, p. 3.
21. Government of Canada, [Ending long-term drinking water advisories](#); and Government of Canada, [Map of long-term drinking water advisories on public systems on reserves](#).
22. The First Nations Health Authority reports on drinking water advisories in British Columbia. Government of Canada, [Short-term drinking water advisories](#).
23. First Nations Health Authority, [Monthly Drinking Water Advisories in First Nations Communities in BC - April 2025](#).
24. Northwest Territories, Health and Social Services, "[Types of Water Advisories – Boil Water Advisories](#)," *Drinking Water Advisories*.
25. For example, the claim forms for the First Nations Drinking Water Settlement contain data about First Nations long-term drinking water advisories between 20 November 1995 and 20 June 2021. However, not all First Nations communities signed the First Nations Drinking Water Settlement. A sessional paper also provides information about drinking water advisories in First Nations communities from 2006 to 2011. See First Nations Drinking Water Settlement, [Claim Form for Individuals](#); and Government of Canada, [Inquiry of ministry: Q-359 – Reply by the Minister of Health and Minister of the Canadian Northern Economic Development Agency](#), Sessional Paper No. 8555-411-359, House of Commons, 9 December 2011.
26. Government of Canada, [Water governance and legislation: shared responsibility](#).
27. [Constitution Act, 1867](#), 30 & 31 Victoria, c. 3 (U.K.), s. 91(24); and Government of Canada, [Water governance and legislation: shared responsibility](#).
28. See, for example, Government of Canada, [Tsawwassen First Nation Final Agreement](#), 6 December 2007, ss. 22–27; and Government of Canada, [Sioux Valley Dakota Nation Governance Agreement and Tripartite Governance Agreement](#), 30 August 2013, s. 15.03.
29. Government of Canada, [Roles and responsibilities](#); and Government of Canada, [Map of long-term drinking water advisories on public systems on reserves](#).
30. Government of Canada, [Roles and responsibilities](#).

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31. Office of the Parliamentary Budget Officer, [Budget Sufficiency for First Nations Water and Wastewater Infrastructure](#), 7 December 2017, pp. 11–12; and Government of Canada, [Evaluation of the Water and Wastewater On-Reserve Program](#), March 2021.
32. First Nations Health Authority, [Drinking Water Safety Program](#).
33. Atlantic First Nations Water Authority Inc., [About Us](#); and Atlantic First Nations Water Authority Inc., [Members](#).
34. See [Ontario First Nations Technical Services Corporation](#) and [First Nations Technical Services Advisory Group Inc.](#)
35. [Department of Indigenous Services Act](#), S.C. 2019, c. 29, s. 336, s. 6(2).
36. Office of the Auditor General of Canada, [Access to Safe Drinking Water in First Nations Communities – Indigenous Services Canada](#), Report 3 in *2021 Reports of the Auditor General of Canada to the Parliament of Canada*.
37. [2019 Tsawwassen First Nation Fiscal Financing Agreement](#), 1 April 2019, Schedule B, s. 4.1.
38. Tonina Simeone and Shauna Troniak, [Legislative Summary of Bill S-8: The Safe Drinking Water for First Nations Act](#), Publication no. 41-1-S8-E, Library of Parliament, 19 April 2012; and Office of the Auditor General of Canada, [Access to Safe Drinking Water in First Nations Communities – Indigenous Services Canada](#), Report 3 in *2021 Reports of the Auditor General of Canada to the Parliament of Canada*.
39. Tonina Simeone and Shauna Troniak, [Legislative Summary of Bill S-8: The Safe Drinking Water for First Nations Act](#), Publication no. 41-1-S8-E, Library of Parliament, 19 April 2012; and Government of Canada, [Evaluation of the Water and Wastewater On-Reserve Program](#), March 2021.
40. Government of Canada, [Evaluation of the Water and Wastewater On-Reserve Program](#), March 2021.
41. Tonina Simeone and Shauna Troniak, [Legislative Summary of Bill S-8: The Safe Drinking Water for First Nations Act](#), Publication no. 41-1-S8-E, Library of Parliament, 19 April 2012.
42. Tonina Simeone and Shauna Troniak, [Legislative Summary of Bill S-8: The Safe Drinking Water for First Nations Act](#), Publication no. 41-1-S8-E, Library of Parliament, 19 April 2012; and Office of the Auditor General of Canada, [Access to Safe Drinking Water in First Nations Communities – Indigenous Services Canada](#), Report 3 in *2021 Reports of the Auditor General of Canada to the Parliament of Canada*.
43. Office of the Auditor General of Canada, [Access to Safe Drinking Water in First Nations Communities – Indigenous Services Canada](#), Report 3 in *2021 Reports of the Auditor General of Canada to the Parliament of Canada*; and Aboriginal Affairs and Northern Development Canada, [Protocol for Centralised Wastewater Systems in First Nations Communities](#), February 2010.
44. For example, Office of the Auditor General of Canada, [Access to Safe Drinking Water in First Nations Communities – Indigenous Services Canada](#), Report 3 in *2021 Reports of the Auditor General of Canada to the Parliament of Canada*.
45. [Report of the Expert Panel on Safe Drinking Water for First Nations](#), Vol. I, November 2006, p. 22.
46. [Safe Drinking Water for First Nations Act](#), S.C. 2013, c. 21; [Bill S-8, An Act respecting the safety of drinking water on First Nation lands](#), 41st Parliament, 1st Session; and Tonina Simeone and Shauna Troniak, [Legislative Summary of Bill S-8: The Safe Drinking Water for First Nations Act](#), Publication no. 41-1-S8-E, Library of Parliament, 19 April 2012.
47. [Safe Drinking Water for First Nations Act](#), S.C. 2013, c. 21, s. 4.
48. [Safe Drinking Water for First Nations Act](#), S.C. 2013, c. 21, ss. 2(1)–2(2).



49. Office of the Auditor General of Canada, [Access to Safe Drinking Water in First Nations Communities – Indigenous Services Canada](#), Report 3 in *2021 Reports of the Auditor General of Canada to the Parliament of Canada*; Atlantic Policy Congress of First Nations Chiefs Secretariat, [Policy Initiatives](#); Assembly of First Nations, [Safe Drinking Water Legislation](#); APPA, [Evidence](#), 8 May 2012 (Eric Morris, Regional Chief, Council of Yukon First Nations); APPA, [Evidence](#), 8 May 2012 (John Paul, Executive Director, Atlantic Policy Congress of First Nations Chiefs Secretariat); APPA, [Evidence](#), 8 May 2012 (Madeleine Paul, Chief, Eagle Village First Nation, Kipawa, Assembly of First Nations of Quebec and Labrador); APPA, [Evidence](#), 8 May 2012 (Roger Redman, Representative, Federation of Saskatchewan Indian Nations); APPA, [Evidence](#), 8 May 2012 (Guy Latouche, Consultant, Assembly of First Nations of Quebec and Labrador); APPA, [Evidence](#), 9 May 2012 (Chief Robert Chamberlin, Vice-President, Union of British Columbia Indian Chiefs); APPA, [Evidence](#), 16 May 2012 (Kevin McKay, Chairperson, Nisga'a Lisims Government); House of Commons, Standing Committee on Aboriginal Affairs and Northern Development (AANO), [Evidence](#), 23 May 2013, 1105 (Robert Howsam, Executive Director, Ontario First Nations Technical Services Advisory Group); and AANO, [Evidence](#), 28 May 2013, 0905 (Chief Charles Weaselhead, Chief, Blood Tribe/Kainai).
50. See, for example, Assembly of First Nations, Special Chiefs Assembly (5–7 December 2017), [Resolution no. 88/2017 – First Nations led Engagement Process for Safe Drinking Water Legislation](#); Government of Canada, [Government Response to the Third Report of the Standing Committee on Public Accounts, Access to Safe Drinking Water in First Nations Communities](#), p. 12; and Indigenous Services Canada, [Bill C-61: First Nations Clean Water Act \(short title\), or an Act respecting water, source water, drinking water, wastewater and related infrastructure on First Nation lands](#), Backgrounder, 11 December 2023.
51. [Budget Implementation Act, 2022, No. 1](#), S.C. 2022, c. 10, Part 5, Division 3.
52. Office of the Auditor General of Canada, [Access to Safe Drinking Water in First Nations Communities – Indigenous Services Canada](#), Report 3 in *2021 Reports of the Auditor General of Canada to the Parliament of Canada*.
53. [Safe Drinking Water for First Nations Act](#), S.C. 2013, c. 21, Preamble.
54. [Safe Drinking Water for First Nations Act](#), S.C. 2013, c. 21, s. 5(1)(b).
55. For example, see Government of Canada, [Water and Wastewater Policy and Level of Services Standards \(Corporate Manual System\), Volume 1 - Capital Facilities and Maintenance - Potable Water and Wastewater Systems](#).
56. Office of the Auditor General of Canada, [Programs for First Nations on Reserves](#), Chapter 4 in *2011 Status Report of the Auditor General of Canada to the House of Commons*.
57. Government of Canada, [Evaluation of the Water and Wastewater On-Reserve Program](#), March 2021.
58. Government of Canada, [Evaluation of the Water and Wastewater On-Reserve Program](#), March 2021.
59. For example, see Tonina Simeone and Shauna Troniak, [Legislative Summary of Bill S-8: The Safe Drinking Water for First Nations Act](#), Publication no. 41-1-S8-E, Library of Parliament, 19 April 2012; Office of the Auditor General of Canada, [Access to Safe Drinking Water in First Nations Communities – Indigenous Services Canada](#), Report 3 in *2021 Reports of the Auditor General of Canada to the Parliament of Canada*; Neal Spicer et al., “Drinking Water Consumption Patterns: An Exploration of Risk Perception and Governance in Two First Nations Communities,” *Sustainability*, Vol. 12, No. 17, 2020, p. 6851; Government of Canada, [Evaluation of the Water and Wastewater On-Reserve Program](#), March 2021; and [Report of the Expert Panel on Safe Drinking Water for First Nations](#), Vol. I, November 2006, p. 22.
60. Government of Canada, [Evaluation of the Water and Wastewater On-Reserve Program](#), March 2021.
61. [Tataskweyak Cree Nation et al. v. Canada; Curve Lake First Nation et al. v. Canada](#), 2021 MBQB 275, para. 30.
62. Office of the Auditor General of Canada, [Access to Safe Drinking Water in First Nations Communities – Indigenous Services Canada](#), Report 3 in *2021 Reports of the Auditor General of Canada to the Parliament of Canada*.
63. Department of Finance Canada, [A Plan to Grow Our Economy and Make Life More Affordable](#), Budget 2022, p. 173.
64. Jill Giswold and Nasreddine Ammar, [Clean Water for First Nations: Is the Government Spending Enough?](#), Office of the Parliamentary Budget Officer, 1 December 2021.
65. Indigenous Services Canada, [Together with First Nations leadership, Minister Patty Hajdu introduces a Bill to support clean drinking water in First Nations communities](#), News release, 11 December 2023.
66. Government of Canada, [Drinking water and wastewater legislation](#).

67. Nishnawbe Aski Nation (NAN), [NAN Statement on First Nations Clean Water Act](#), News release, 11 December 2023.
68. Noah Rishaug, [“Federal First Nations clean water bill gets mixed reaction in Sask.”](#) CTV News, 15 December 2023; NAN, [NAN Statement on First Nations Clean Water Act](#), News release, 11 December 2023; Olivia Stefanovich, [“Prairie First Nations call on Ottawa to rewrite clean water bill.”](#) CBC News, 21 December 2023; and Shari Narine, [“Alberta chiefs demand treaty table to talk about safe drinking water action.”](#) *Windspeaker*, 20 December 2023.
69. For example, see Jeanelle Mandes, [“Sask. Indigenous leaders react to federal legislation on water quality.”](#) *Global News*, 11 December 2023; Assembly of Manitoba Chiefs (AMC), [AMC Challenges Efficacy of Federal Water Legislation](#), News release, 13 December 2023; Olivia Stefanovich, [“Prairie First Nations call on Ottawa to rewrite clean water bill.”](#) CBC News, 21 December 2023 and Shari Narine, [“Alberta chiefs demand treaty table to talk about safe drinking water action.”](#) *Windspeaker*, 20 December 2023.
70. First Nations Drinking Water Settlement Agreement, s. 9.03(1).
71. Substantive equality recognizes that laws can affect groups differently, and that systemic disadvantage can mean that different, rather than identical treatment, is necessary to avoid furthering that disadvantage. See Robert Mason, [Section 15 of the Canadian Charter of Rights and Freedoms: The Development of the Supreme Court of Canada’s Approach to Equality Rights Under the Charter](#), Publication no. 2013-83-E, Library of Parliament, 30 August 2024.
72. It is important to note that “free, prior and informed consent” (FPIC) is not defined in either the [United Nations Declaration on the Rights of Indigenous Peoples](#) or the [United Nations Declaration on the Rights of Indigenous Peoples Act](#), S.C. 2021, c. 14. The Government of Canada’s [Background: United Nations Declaration on the Rights of Indigenous Peoples Act](#) contains the following explanation of FPIC:
- FPIC describes processes that are free from manipulation or coercion, informed by adequate and timely information, and occur sufficiently prior to a decision so that Indigenous rights and interests can be incorporated or addressed effectively as part of the decision making process – all as part of meaningfully aiming to secure the consent of affected Indigenous peoples.
- FPIC is about working together in partnership and respect. In many ways, it reflects the ideals behind the relationship with Indigenous peoples, by striving to achieve consensus as parties work together in good faith on decisions that impact Indigenous rights and interests. Despite what some have suggested, it is not about having a veto over government decision-making.
73. First Nations Drinking Water Settlement Agreement, s. 9.03(2)(a).
74. Government of Canada, [Guidelines for Canadian Drinking Water Quality – Summary Tables](#), March 2025.
75. The [Wastewater Systems Effluent Regulations](#), SOR/2012-139, under the [Fisheries Act](#), R.S.C. 1985, c. F-14, define effluent as “wastewater that is deposited from a wastewater system.”
76. [Wastewater Systems Effluent Regulations](#), SOR/2012-139.
77. “Best efforts” is a term frequently used in contract law, and among other things, are characterized as going beyond a “reasonable effort,” and “taking, in good faith, all reasonable steps to achieve the objective, carrying the process to its logical conclusion and leaving no stone unturned.” See [Atmospheric Diving Systems Inc. v. International Hard Suits Inc.](#), 1994 CanLII 16658 (BC SC), 1994 CarswellBC 158.
78. First Nations Drinking Water Settlement Agreement, s. 9.03(2)(b).
79. First Nations Drinking Water Settlement Agreement, s. 9.03(2)(c).
80. First Nations Drinking Water Settlement Agreement, s. 9.02(2).
81. First Nations Drinking Water Settlement Agreement, s. 9.03(2)(d).
82. For example, see Assembly of First Nations, [Re: Bill C-61 – An Act respecting water, source water, drinking water, wastewater, and related infrastructure on First Nation lands](#), Submitted to the House of Commons Standing Committee on Indigenous and Northern Affairs (INAN), 3 October 2024; ʔaᑭam First Nation, [Commentary on Bill C-61](#), Brief submitted to INAN, 18 September 2024; INAN, [Evidence](#), 23 September 2024, 1655 (Grand Chief Abram Benedict, Ontario Regional Chief, Chiefs of Ontario); and INAN, [Evidence](#), 23 September 2024, 1720 (Irving Leblanc, Advisory Consultant, First Nations Safe Drinking Water, Chiefs of Ontario).
83. Pursuant to section 81 of the [Indian Act](#), R.S.C. 1985, c. I-5, the council of a band can make by-laws in relation to a number of subjects.

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84. [Bill S-13, An Act to amend the Interpretation Act and to make related amendments to other Acts](#), 44th Parliament, 1st Session. The progress of Bill S-13 can be found on [LEGISinfo](#).