

1968 Bill 66

First Session, 16th Legislature of Alberta

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 66

**An Act respecting Negotiations between Boards and
Agencies of the Crown and Their Employees**

THE HON. MR. R. A. SPEAKER

First Reading

Second Reading

Third Reading

Printed by L. S. Wall, Queen's Printer, Edmonton

BILL 66

1968

An Act respecting Negotiations between Boards and
Agencies of the Crown and Their Employees

(Assented to _____, 1968)

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Alberta,
enacts as follows:

1. This Act may be cited as *The Crown Agencies Employee Relations Act*.

2. In this Act,

- (a) "agreement" means an agreement in writing between an employer and the Association containing provisions with respect to rates of pay, fringe benefits or other terms or conditions of employment and signed by the parties;
- (b) "Association" means The Civil Service Association of Alberta or, where authority to negotiate is delegated to it, a branch of the Association;
- (c) "employees" means persons employed by an employer other than
 - (i) persons who, in the opinion of the Minister, exercise a policy making function in matters relating to personnel administration or who make significant decisions respecting the treatment of employees, or
 - (ii) persons who are members of a professional association who are excluded by the Minister at the request of a majority of the persons in the group;
- (d) "employer" means any board or agency of the Crown in right of Alberta (other than The Alberta Government Telephones Commission) to which *The Public Service Act, 1968* does not apply, and includes The Workmen's Compensation Board;
- (e) "mediation board" means a mediation board appointed pursuant to this Act;
- (f) "Minister" means the member of the Executive Council charged with the administration of *The Public Service Act, 1968*;

Explanatory Notes

1. This Bill is complementary to the proposed new Public Service Act and sets out the procedures for negotiations between Crown boards and agencies and the Civil Service Association on behalf of employees of the boards and agencies. The procedure is similar to that applying to boards and agencies under the present Public Service Act.

2. Definitions.

- (g) “negotiate” means to bargain in good faith with a view to the conclusion of an agreement or the revision or the renewal of an existing agreement.

3. The Association has the sole right to negotiate with an employer

- (a) on behalf of all the employees, when a majority of the employees are members of the Association, or
- (b) on behalf of all employees in a specific field of employment, when a majority of the employees in that specific field of employment are members of the Association.

4. (1) The Association and an employer shall upon request of either party enter into negotiations in the manner prescribed by this Act.

(2) Either party to an agreement may, not less than 60 days and not more than 90 days immediately prior to the expiry of the agreement, give notice to the other party to commence negotiations.

(3) A notice to commence negotiations shall describe the proposals respecting rates of pay, fringe benefits or other terms or conditions of employment which the party making the request wishes to negotiate.

(4) Where the members of a negotiating committee established pursuant to section 5 cannot agree as to whether a specific proposal is negotiable the decision of the Minister thereon is final.

5. Where notice to negotiate has been served by either party a negotiating committee shall be appointed consisting of three persons appointed by the employer and three persons appointed by the Association.

6. (1) The negotiating committee shall consider the proposals contained in the notice to commence negotiations and within a period of three months from the date of the notice, or such longer period as may be agreed to by the members of the negotiating committee, shall transmit its report to the employer and to the Association setting out

- (a) its recommendations for settlement of the proposals, and
- (b) the proposals respecting which the negotiating committee could not agree on a recommendation.

(2) The recommendation of a majority of the members of a negotiating committee are the recommendations of the committee.

7. Within 14 days of the receipt of the report of the negotiating committee, the employer and the Association shall each advise the other whether the recommendations are in whole or part accepted or rejected.

3. Right of Association to negotiate.

4. Request for negotiations.

5. Negotiating committee.

6. Report of negotiating committee.

7. Notice to other party.

8. Where the recommendations of the negotiating committee covering all proposals are accepted by both the employer and the Association, the recommendations are binding on the parties and the employees and the parties shall give effect to them and include the terms of the recommendations in an agreement.

9. Where

- (a) the negotiating committee has not made recommendations respecting all proposals, or
- (b) the negotiating committee has made recommendations respecting all proposals but either the employer or the Association rejects the recommendations in whole or in part,

either party may by notice in writing to the other party require all proposals not settled to be referred to a mediation board.

10. (1) Where proposals are referred to a mediation board each party shall appoint a member to the board within seven days (exclusive of Saturdays and Sundays and other holidays) of the date of the service of the notice requesting the reference to a mediation board.

(2) The two persons so appointed as members shall appoint a person to act as a third member and the third member shall be chairman of the board.

(3) If the two members fail to appoint a third member within five days (exclusive of Saturdays and Sundays and other holidays) after the day on which the last of the two members is appointed, the Attorney General shall appoint a third member who shall be chairman of the mediation board.

(4) An appointment to fill a vacancy in the membership of a mediation board shall be made in the same manner as the original appointment of the member whose ceasing to act caused the vacancy.

(5) No person shall be appointed or act as a member of a mediation board if

- (a) he is not a Canadian citizen or a British subject, or
- (b) he has not resided in Alberta for one year immediately preceding the date of his appointment to the board, or
- (c) he has any pecuniary interest in the proposals referred to the board, or
- (d) he is the solicitor or counsel of either of the parties or if he has acted as such at any time within the six months immediately preceding the date of his appointment to the mediation board, or
- (e) he has received remuneration directly from either of the parties at any time within six months im-

8. Acceptance of recommendations.

9. Request for mediation of unsettled proposals.

10. Mediation board.

mediately preceding the date of his appointment to the mediation board.

(6) Before entering upon the exercise of the functions of his office a member of a mediation board shall make an oath in writing

(a) that he will faithfully and impartially perform the duties of his office, and

(b) that, except in the discharge of his duties, he will not disclose to any person any of the evidence or other matter brought before the mediation board.

(7) The Minister may provide a mediation board with a secretary and such clerical assistance as to the Minister appears necessary for the efficient carrying out of the duties of the mediation board.

(8) The employer and the Association shall bear the expenses of its respective appointee to a mediation board and the two parties shall bear equally the expenses of the chairman and of clerical assistance appointed under subsection (7).

11. (1) As soon as possible after a mediation board is designated it shall, after serving sufficient notice on all parties, proceed to make full inquiry and shall endeavour to bring about agreement between the parties in relation to the proposals referred to it.

(2) The sittings of a mediation board shall be held at the time and place fixed from time to time by the chairman after consultation with the other members of the board and the parties shall be notified by the chairman of the time and place at which sittings are to be held.

12. (1) A mediation board has power to determine its own procedures but shall give full opportunity to all parties to present evidence and to be heard.

(2) For the purpose of inquiry a mediation board has the power of administering oaths and any member of the mediation board may administer an oath.

(3) A mediation board may accept, admit and call for such evidence as in equity and good conscience it thinks fit, whether strictly legal evidence or not.

(4) A party to proceedings before a mediation board may be represented before the board by not more than three persons designated by the party for that purpose.

(5) A party appearing by a representative is bound by the acts of his representative.

(6) If, without good cause being shown, any party to proceedings before a mediation board fails to attend or to be represented, the mediation board may proceed as if the party had attended or had been represented.

11. Inquiry by mediation board.

12. Powers of mediation board.

13. (1) After making full inquiry and without undue delay and in any event not more than 14 days (exclusive of Saturdays and Sundays and other holidays) after the date the chairman has agreed to act, the mediation board shall make its recommendations and in its recommendations

(a) shall, so far as practicable, deal with each proposal, and

(b) shall state in plain terms, and avoiding as far as possible all technicalities, what in the opinion of the board ought or ought not to be done by the parties concerned.

(2) With the unanimous consent of all parties, the time within which a mediation board is to make its recommendations may be extended for such period as is agreed to by the parties.

(3) The recommendations of a majority of the members of a mediation board are the recommendations of the board.

(4) The recommendations of a mediation board may be in whole or in part retroactive.

(5) The recommendations shall be signed by those members of the mediation board who concur therein and shall be transmitted to the employer and to the Association as soon as practicable after the making thereof.

14. (1) Where any question arises as to the meaning of or application of or with regard to anything relating to or connected with the recommendations, either the employer or the Association if they consider it expedient may request from the chairman of the mediation board an expression of the opinion of the mediation board upon the question.

(2) The chairman shall, upon the receipt of the request, reconvene the mediation board and the mediation board shall as soon as practicable report to the parties its opinion upon the question.

15. The employer and the Association shall each advise the other within 14 days from the date of the receipt of the recommendations of the mediation board whether the recommendations are in whole or in part accepted or rejected.

16. Where the recommendations of a mediation board are accepted by both the employer and the Association, the recommendations are binding on the parties and the employees affected and the parties shall give effect to them and include the terms of the recommendations in an agreement.

17. (1) Where either the employer or the Association rejects the recommendations of a mediation board in whole or in part, the employer and the representatives of the

13. Recommendations of mediation board.

14. Settling of questions.

15. Notice of other party.

16. Acceptance of recommendations.

17. Rejection of recommendations.

Association shall meet with a view to concluding an agreement.

(2) After the meeting mentioned in subsection (1), the employer and the Association shall include in an agreement the terms of any settlement reached on any of the proposals and the agreement so made is binding upon the parties and the employees affected and the parties shall give effect to the terms thereof.

(3) After the meeting mentioned in subsection (1) and before an agreement is signed pursuant to subsection (2), the employer shall submit to the Association a statement containing their decisions on those proposals on which settlement was not reached, and thereupon

- (a) the decisions are binding upon the employer, the Association and the employees affected, and
- (b) the employer shall not alter, revoke or do anything inconsistent with the decisions,

during the term of the agreement signed pursuant to subsection (2).

18. (1) Every agreement between an employer and the Association shall contain a provision for final settlement of all differences between the parties to or persons bound by the agreement or on whose behalf it was entered into concerning its interpretation, application, operation or any alleged violation thereof, including any question as to whether the differences are arbitrable.

(2) Where any agreement does not contain a provision as required in subsection (1) it shall be deemed to contain the following provisions:

- (a) If any differences concerning the interpretation, application, operation or any alleged violation of this agreement arises or any question as to whether any difference is arbitrable arises between the parties or persons bound by this agreement or on whose behalf it was entered into, the representatives of the employer and of the Association shall meet and endeavour to resolve the difference.
- (b) If the parties are unable to resolve the difference either of the parties may
 - (i) after exhausting the procedure set out in the preceding paragraph, or
 - (ii) where either party fails to follow the procedure set out in the preceding paragraph to its conclusion,

notify the other party in writing of its desire to submit the difference to arbitration and the notice shall contain a statement of the difference and the name of the first party's appointee to an arbitration board. The recipient of the notice shall within five days (exclusive of Saturdays and Sundays and

18. Agreement to contain arbitration provision.

other holidays) inform the other party of the name of its appointee to the arbitration board. The two appointees so selected shall within five days (exclusive of Saturdays and Sundays and other holidays) of the appointment of the second of them, appoint a third person who shall be the chairman.

If the two members fail to appoint a third member within five days (exclusive of Saturdays and Sundays and other holidays) after the day on which the last of the two members is appointed, the Attorney General shall appoint a third member who shall be chairman of the arbitration board.

- (c) The arbitration board shall hear and determine the difference and shall issue an award in writing and the decision is final and binding upon the parties and upon any employee affected by it. The award of a majority is the award of the arbitration board, but if there is no majority the decision of the chairman governs and shall be deemed to be the award of the board.
- (d) Each party to the difference shall bear the expenses of its respective appointee to the arbitration board and the two parties shall bear equally the expenses of the chairman.
- (e) The arbitration board by its decision shall not alter, amend or change the terms of this agreement.

19. *The Universities Act* is amended as to section 19, subsection (5) by striking out the words "Part 2 of *The Public Service Act, 1962*" and by substituting the words "*The Crown Agencies Employee Relations Act*".

20. This Act comes into force on July 1, 1968.

19. Consequential amendment.