

1970 Bill 20

Third Session, 16th Legislature, 19 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 20

An Act to amend The Public Service Act, 1968

HON. R. A. SPEAKER

First Reading

Second Reading

Third Reading

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An Act to amend The Public Service Act, 1968

(Assented to _____, 1970)

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

1. *The Public Service Act, 1968* is hereby amended.
2. Section 29 is amended by striking out subsections (3) to (7).

3. The following sections are added after section 29:

29a. Within 14 days of the receipt of the report of the negotiating committee, the Executive Council and the Association shall each advise the other whether the recommendations are in whole or in part accepted or rejected.

29b. Where the recommendations of the negotiating committee covering all proposals are accepted by both the Executive Council 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.

29c. 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 Executive Council 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.

29d. (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

Explanatory Notes

1. This Bill amends chapter 81 of the Statutes of Alberta, 1968.

2. See note to clause 3 of this Bill.

3. The amendment to section 29 and the sections added by this clause will provide a mediation procedure with respect to employers under The Public Service Act, 1968, similar to that presently in force under The Crown Agencies Employee Relations Act. Section 29 of The Public Service Act, 1968, presently reads:

29. (1) The negotiating committee, 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 Executive Council 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 make a recommendation.

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

(3) Upon receipt of the report of the negotiating committee, the Executive Council and the Association shall each advise the other, within 14 days from the date of receipt of the report

- (a) whether the recommendations therein are in whole or in part accepted, and
- (b) which recommendations are rejected.

(4) Where

- (a) the negotiating committee has not made recommendations respecting all proposals, or
 - (b) either the Executive Council or the Association rejects the negotiating committee's recommendations in whole or in part,
- representatives of the Executive Council and of the Association shall meet with a view to concluding an agreement.

(5) After the meeting held pursuant to subsection (4) and before an agreement is signed pursuant to subsection (6), the Government shall submit to the Association a statement containing the Government's decisions on those proposals on which settlement was not reached, and thereupon

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

during the term of the agreement signed pursuant to subsection (6).

(6) Where proposals are accepted by both the Executive Council and the Association pursuant to subsection (3) or (4) they shall be included in an agreement which shall be binding on the parties and the employees affected.

(7) The Lieutenant Governor in Council shall forthwith amend the Official Pay Plan and the regulations as is necessary to give effect to

- (a) an agreement signed pursuant to subsection (6), or
- (b) a decision of the Government made pursuant to subsection (5).

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 date 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 immediately 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 Government 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).

29e. (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.

29f. (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.

29g. (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 Executive Council and to the Association as soon as practicable after the making thereof.

29h. (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 Executive Council 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.

29i. The Executive Council 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.

29j. Where the recommendations of a mediation board are accepted by both the Executive Council 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.

29k. (1) Where either the Executive Council or the Association rejects the recommendations of a mediation board in whole or in part, the Executive Council and the representatives of the Association shall meet with a view to concluding an agreement.

(2) After the meeting mentioned in subsection (1), the Executive Council 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 Executive Council 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 Government, the Association and the employees affected, and

(b) the Government shall not alter, revoke or do anything inconsistent with the decisions,

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

29l. The Lieutenant Governor in Council shall forthwith amend the Official Pay Plan and the regulations as is necessary to give effect to

(a) an agreement signed pursuant to section 29b, 29j or section 29k, subsection (2), or

(b) a decision of the Executive Council made pursuant to section 29k, subsection (3)

4. Section 30, subsection (2), clause (a), subclause (i) is amended by striking out the words "section 29," and by substituting the words "section 29k, subsection (3),"

5. This Act comes into force on the day upon which it is assented to.

4. Section 30, subsection (2), clause (a) presently reads:

(2) The functions of the Joint Council are

- (a) to discuss matters of mutual interest to the Government and the Association but which are**
 - (i) declared not negotiable under section 29, or**
 - (ii) not included in an agreement,**
- and**