

1970 Bill 92

Third Session, 16th Legislature, 19 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 92

**An Act respecting
Labour Relations for Firefighters and Policemen**

THE MINISTER OF LABOUR

First Reading

Second Reading

Third Reading

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1970

An Act respecting
Labour Relations for Firefighters and Policemen

(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. This Act may be cited as *The Firefighters and Policemen Labour Relations Act*.

2. In this Act,

- (a) "bargain collectively" means to negotiate in good faith with a view to the conclusion of a collective agreement or of the revision or renewal of an existing collective agreement;
- (b) "bargaining agent" means
 - (i) with respect to a bargaining unit of firefighters, a trade union, or
 - (ii) with respect to a bargaining unit of policemen who hold the rank of inspector or higher (excluding the chief constable and deputy chief constable), representatives of those policemen, or
 - (iii) with respect to a bargaining unit of policemen who hold rank lower than that of inspector, a police association,
that represents a majority of the persons in the bargaining unit;
- (c) "bargaining unit" means
 - (i) the firefighters of the fire department of a municipality, excluding the chief and the deputy chief, or
 - (ii) the policemen of a municipal police force who hold the rank of inspector or higher, excluding the chief constable and deputy chief constable, or
 - (iii) the policemen of a municipal police force who hold ranks lower than that of inspector;

Explanatory Notes

1. This Bill will provide procedures for collective bargaining, conciliation and arbitration for firefighters and policemen. It will replace sections 24 to 29 of The Police Act and The Fire Departments Hours of Labour Act and The Fire Departments Platoon Act.

2. Definitions.

- (d) "collective agreement" means an agreement in writing between a municipality and a bargaining agent containing provisions with reference to rates of pay, hours of work, pensions or other terms or conditions of employment or service of the members or persons in a bargaining unit and signed by the parties thereto;
- (e) "firefighters" means the persons, including officers and technicians, employed by a municipality and assigned exclusively to fire protection or fire prevention duties (which may include the performance of ambulance or rescue services);
- (f) "Minister" means the member of the Executive Council charged with the administration of *The Alberta Labour Act*;
- (g) "municipality" means
 - (i) the council of a city, town, village, county or municipal district, or
 - (ii) a board of police commissioners authorized to bargain collectively;
- (h) "police association" means an association of policemen limited to members of one municipal police force and having among its objects the improvement of conditions of service or remuneration of the members of that police force;
- (i) "policemen" means the members of the municipal police force appointed on a permanent basis for policing duties and duties incidental thereto;
- (j) "trade union" means a trade union within the meaning of *The Alberta Labour Act*, but does not include a police association.

3. (1) All firefighters, except the chief and the deputy chief, have the right

- (a) to be members of a trade union and to participate in its lawful activities, and
- (b) to bargain collectively with the municipality engaging their services on a permanent basis, through a bargaining agent.

(2) All policemen, except the chief constable and deputy chief constable, have the right

- (a) to be members of a police association and to participate in its lawful activities, and
- (b) to bargain collectively with the municipality to which they are appointed on a permanent basis, through a bargaining agent,

3. Right of firefighters and policemen to organize and bargain collectively.

except no policeman or member of a bargaining committee representing policemen in a bargaining unit or the counsel permitted under section 7, subsection (2) shall remain or become a member of a trade union or of an organization that is affiliated, directly or indirectly, with a trade union.

4. Notwithstanding section 3, firefighters and policemen are prohibited from

- (a) any cessation of work or duty by a body of them acting in combination, or
- (b) refusing under a common understanding of a number of them to work or carry out their duties for a municipality,

for the purpose of compelling the municipality or to aid other persons in compelling another municipality to accept terms or conditions of employment or service.

5. A municipality has the right

- (a) to bargain collectively with a bargaining agent, and
- (b) may bargain through a committee appointed to bargain on its behalf.

6. (1) Either the bargaining agent or the municipality may

- (a) where no collective agreement is in force, at any time, or
- (b) where a collective agreement is in force, at any time in the last three months of the term of the agreement,

require by notice in writing the other party to meet and bargain collectively.

(2) A notice under subsection (1) shall be served at least 14 days before the time fixed in the notice for the meeting, and the municipality and the bargaining agent, or their representatives, shall attend the meeting and bargain collectively.

(3) Service of the notice may be effected

- (a) personally, or
- (b) by mailing the notice by registered post, in which case the date of mailing shall be deemed to be the date of service.

7. (1) The members of a bargaining committee representing a bargaining agent shall be members of the bargaining unit.

4. Stoppage of work by firefighters and policemen.

5. Right of municipality to bargain collectively.

6. Notice by either party to initiate bargaining.

7. Composition of bargaining committee for firefighters or policemen.

(2) Notwithstanding subsection (1), a bargaining committee may include

- (a) where the bargaining agent is a trade union, one member of an affiliated local or of the chartering organization, or
- (b) where the bargaining agent represents members of a police force, a member of another police association,

and one additional person as legal or other counsel.

8. (1) Where a notice to negotiate is served under section 6, the municipality may appoint a committee comprised of officers or servants of that municipality to bargain on its behalf.

(2) Notwithstanding subsection (1), the municipality or the committee appointed under subsection (1) may be accompanied by one person as legal or other counsel as a member of the bargaining committee.

9. (1) If during negotiations for a collective agreement or revision or renewal of an existing agreement the parties fail to agree on the terms of an agreement, either of the parties may apply to the Minister for the appointment of a conciliation commissioner not later than 90 days after

- (a) where there is no collective agreement in force, the expiration of 90 days from the date notice to negotiate was served, or
- (b) where there is a collective agreement in force, the date of the termination of the agreement.

(2) On application made pursuant to subsection (1), the Minister may appoint a conciliation commissioner if he is satisfied that the dispute is a proper one for reference to a conciliation commissioner.

(3) The decision of the Minister on the application for the appointment of a conciliation commissioner shall be made within three days after the receipt of the application.

(4) Upon the appointment of a conciliation commissioner the Minister shall forthwith give notice of the appointment to the representatives of the parties to the dispute.

10. (1) A conciliation commissioner shall in such manner as he thinks fit expeditiously and carefully inquire into the dispute and all matters affecting the merits and settlement thereof.

(2) In the course of the inquiry the conciliation commissioner may make all suggestions and do all things that he

8. Composition of municipal bargaining committee.

9. When conciliation commissioner may be appointed.

10. Functions of conciliation commissioner.

considers right and proper to encourage the parties to come to a settlement of the dispute, and he shall

- (a) hear any representations that are made on behalf of the parties to the dispute, and
- (b) diligently seek to mediate between the parties to the dispute,

and may, in his discretion, make recommendations to the parties on the matters in dispute.

(3) The conciliation commissioner within the time, not exceeding 14 days, limited by the terms of his appointment or within such longer time as may be agreed to by the parties shall transmit a report to the Minister setting out

- (a) the matters upon which the parties have agreed, and
- (b) the matters upon which the parties cannot agree.

11. (1) If

- (a) no application for the appointment of a conciliation commissioner is made to the Minister under section 9, or
- (b) the conciliation commissioner reports to the Minister that he is unable to bring about any settlement of the dispute,

either party to the dispute may by notice in writing to the other party require all matters in dispute to be referred to a board of arbitration or the parties jointly may apply to the Minister for a referral of all matters in dispute to a tribunal to be appointed by the Minister.

(2) Where the Minister appoints a tribunal under subsection (1) it shall perform the duties and has the authority of a tribunal appointed under section 100 of *The Alberta Labour Act*.

12. (1) Where the matters in dispute are referred to a board of arbitration

- (a) the board shall consist of five members, with each party appointing two members, or
- (b) if the parties so agree, the board shall consist of three members, with each party appointing one member,

and the other member, who shall be chairman, shall be appointed by the members appointed pursuant to clause (a) or (b).

(2) No person shall be appointed or shall act as a member of the board of arbitration

11. Reference to board of arbitration may be requested.

12. Composition of board of arbitration.

- (a) if he has not resided in Alberta for six months immediately preceding the date of his appointment to the board, or
- (b) if he has any pecuniary interest in the issue or dispute referred to arbitration, or
- (c) if he is the solicitor, counsel or paid agent of either of the parties to the arbitration or if he has acted as such at any time within the six months immediately preceding the date of the notice to refer the dispute to arbitration, or
- (d) if he has received remuneration directly from either of the parties to the arbitration at any time within six months immediately preceding the date of the notice to refer the dispute to arbitration.

(3) A person is not disqualified to act as a member of the board of arbitration by reason only that he is a tax payer in the municipal area affected by the issue or dispute referred to arbitration.

(4) Where either party,

- (a) fails to appoint any member of the board of arbitration as required by subsection (1) within seven days after receipt of the notice to refer the dispute to a board of arbitration, or
- (b) having appointed a person who is unable or unwilling to act, fails to appoint another member of the board of arbitration within seven days after receiving notice of the inability or unwillingness of the member to act,

the Minister, upon the written request of the other party, may appoint a member in lieu thereof.

(5) Where the members of the board of arbitration appointed by the parties under subsection (1) or by a party and the Minister under subsection (4) fail to agree, within five days after the appointment of the member last appointed, upon an additional member, the Minister upon notice in writing of the failure given to him by any of the members of the board or by either of the parties, may appoint an additional member to be chairman of the board.

(6) Where, upon an arbitration, a majority of the members of the board of arbitration fail to agree upon a matter of procedure, the ruling of the chairman upon the matter is the ruling of the board of arbitration.

13. A board of arbitration

- (a) shall make such inquiry into the dispute referred to it as it considers necessary, and
- (b) shall endeavour to bring about agreement between the parties in relation to the matters referred to it,

13. Duties of board of arbitration.

and its members have the powers of commissioners appointed under *The Public Inquiries Act*.

14. (1) After making full inquiry and without undue delay and in any event not more than 14 days (exclusive of Saturdays and Sundays or other holidays) after the date of appointment of the chairman of the board of arbitration and where the dispute has not been settled,

- (a) the board shall make its award and in its award shall deal with each item of the dispute,
- (b) those members that concur therein shall sign the award, and
- (c) the chairman shall forthwith transmit the award to the parties to the dispute, with a copy to the Minister.

(2) Where a board of arbitration has not made its award and the dispute has not been settled within the time specified in subsection (1), the time in which the board of arbitration shall make its award may be extended

- (a) with the consent of both parties, or
- (b) at the direction of the Minister.

(3) The decision of a majority of the members is the award of the board of arbitration but if there is no majority the decision of the chairman is the award of the board.

(4) Where the dispute arose during the term of a collective agreement the award of a board of arbitration shall be effective on the day following the date of termination of the collective agreement.

(5) Where the dispute did not arise during the term of a collective agreement a board of arbitration may by its award make the terms of the award effective at a specified date either before or after the date of the award.

(6) Where any question arises as to the interpretation or application of the award, the Minister may, if he considers it advisable, request the chairman to reconvene the board of arbitration and the board of arbitration shall as soon as practicable report to the Minister its decision upon the question.

15. An award of a board of arbitration is binding upon

- (a) the municipality, and
- (b) the bargaining agent and every member of the bargaining unit,

and the parties shall forthwith give effect to it and include the terms of the award in a collective agreement.

14. Award of board of arbitration.

15. Effect of award of board of arbitration.

16. A collective agreement entered into by a bargaining agent and a municipality, in so far as its provisions do not conflict with any provisions of this Act, is binding upon

- (a) the bargaining agent and every member in the bargaining unit on whose behalf the agreement has been entered into, and
- (b) the municipality who has entered into the agreement or on whose behalf the agreement has been entered into.

17. (1) Every collective agreement shall contain provisions for final settlement by grievance arbitration or such other method as may be agreed upon by the parties of all differences between the parties or persons,

- (a) bound by the collective agreement, or
- (b) on whose behalf it was entered into

concerning its interpretation, application or operation or any alleged violation thereof, including any question as to whether the differences are arbitrable without stoppage of work or refusal to perform work.

(2) Where a collective agreement, whether entered into before or after the coming into force of this Act, does not comply in whole or in part with subsection (1), it shall be deemed to contain such of the following provisions in respect of which the collective agreement remains silent:

- (a) If any difference concerning the interpretation, application, operation or any alleged violation of this agreement or any question as to whether any difference is arbitrable arises between the parties or persons bound by the collective agreement, such parties or persons shall meet and endeavour to resolve the difference;
- (b) If the parties are unable to resolve the difference referred to in clause (a), either of the parties may 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 a grievance arbitration board. The recipient of the notice shall, within five days (exclusive of Saturdays and Sundays and other holidays) inform the other party of the name of its appointee to the grievance 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;
- (c) If the recipient of the notice fails to appoint an arbitrator within the time limited under clause (b), the appointment shall be made by the Minister of Labour upon the request of either party. If the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Minister of Labour upon the request of either party;

16. Effect of collective agreement.

17. Grievance procedure to be in collective agreement.

- (d) The grievance 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 decision of a majority is the award of the grievance arbitration board, but if there is no majority, the decision of the chairman governs and it shall be deemed to be the award of the board;
- (e) The grievance arbitration board may quash or confirm any action taken by either party and may vary any action taken by either party respecting personal discipline;
- (f) The grievance arbitration board by its decision shall not alter, amend or change the terms of the collective agreement;
- (g) Each party to the difference shall bear the expense of its respective appointee to the grievance arbitration board and the two parties shall bear equally the expenses of the chairman.

18. (1) Notwithstanding section 17, either party to the collective agreement may refer by notice of motion any question as to the

- (a) interpretation, or
- (b) application, or
- (c) alleged violation

of the agreement in respect of personal discipline of a policeman to a judge of the Supreme Court of Alberta.

(2) The procedure in a reference shall be as determined by the judge.

(3) The judge upon hearing the reference may

- (a) make any finding that in his opinion ought to have been made, or
- (b) quash, vary or confirm any action taken by either party, or
- (c) refer the matter back to the parties for further consideration.

(4) The judge by his decision shall not alter, amend or change the terms of the collective agreement.

(5) The decision of the judge is binding on both parties and on all persons affected.

(6) The judge shall make no award as to costs of the reference.

19. Where a conflict arises between the provisions of this Act and

- (a) any other Act, or
 - (b) any by-law or regulation of a municipality,
- the provisions of this Act apply.

18. Reference may be made to the Supreme Court of Alberta with respect to personal discipline of policemen.

19. Prevalance of this Act.

20. Part 5 of *The Alberta Labour Act* does not apply to firefighters.

21. The Lieutenant Governor in Council may make such regulations as he considers necessary for carrying out the provisions of this Act.

22. Any person, municipality, trade union or association who contravenes

(a) this Act, or

(b) the regulations,

is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000 and in default of payment to imprisonment for a term not exceeding 90 days.

23. Expenses of boards of arbitration and conciliation commissioners shall be paid out of the General Revenue Fund of the Province.

24. (1) *The Fire Departments Hours of Labour Act* and *The Fire Departments Platoon Act* are repealed.

(2) *The Police Act* is amended

(a) as to section 2 by striking out clauses (a), (d), (g) and (i),

(b) by striking out sections 24 to 29.

25. This Act comes into force on July 1, 1970.

20. Part 5 of The Alberta Labour Act.

21. Regulations.

22. Offence and penalty.

23. Expenses of board of arbitration.

24. Repeal.