

1971 Bill 99

Fourth Session, 16th Legislature, 20 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 99

An Act to amend The Public Service Act

HON. MR. RAY SPEAKER

First Reading

Second Reading

Third Reading

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1971

AN ACT TO AMEND THE PUBLIC SERVICE ACT

(Assented to _____, 1971)

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

1. *The Public Service Act is hereby amended.*

2. *Section 3 is amended by striking out subsection (4) and by substituting the following:*

(4) The Lieutenant Governor in Council may, upon the recommendation of the Minister, make any provisions of this Act inapplicable to any employee or class or group of employees, other than employees on whose behalf the Association has the sole right to negotiate.

3. *Section 5 is amended by striking out subsection (2) and by substituting the following:*

(2) The Commissioner is the deputy head of the Personnel Administration Office.

(3) The Commissioner may

- (a) delegate any powers, duties or functions conferred or imposed on the Commissioner by this Act or the regulations to an officer of the Personnel Administration Office;
- (b) with respect to the employees of any department or any class or group thereof, delegate any powers, duties or functions conferred or imposed on the Commissioner by this Act or the regulations to the deputy head of that department or an officer of that department;
- (c) amend, replace or revoke any delegation made under this subsection;
- (d) make any delegation made under this subsection subject to any conditions he may prescribe.

4. *The following section is added after section 6:*

Explanatory Notes

1. This Bill amends chapter 298 of the Revised Statutes of Alberta 1970.

2. Section 3(4) reads:

- (4) This Act does not apply to the members or employees of
 - (a) The Alberta Liquor Control Board, or
 - (b) The Workmen's Compensation Board, or
 - (c) the Oil and Gas Conservation Board, or
 - (d) The Research Council of Alberta, or
 - (e) The Alberta Human Resources Research Council.

The present subsection (4) is removed as unnecessary, as the Act does not in any event apply to the Boards named. It applies to Crown employees only. The new subsection (4) is intended to allow for exemptions from particular provisions of the Act in certain cases, especially cases of senior officials.

3. Section 5, subsection (2) presently reads:

- 5. (2) The Commissioner is the deputy head of the Personnel Administration Office and may delegate to any designated officer of that office any of the functions, duties and powers assigned to the Commissioner by this Act or the regulations.

The new subsection (3) contains the Public Service Commissioner's powers of delegation in more general terms. These powers are presently contained in section 5 (2) above, and also in sections 10(3) and 17(3) which will be repealed as a result.

4. Commissioner's right of access to personnel information and statistics in departments.

6.1 The Commissioner and any officers of the Personnel Administration Office designated by him for the purpose are entitled to access to the records and files of every department for the purpose of examining them and taking extracts therefrom or making copies thereof, where the records relate to personnel matters of that department or contain statistical information that is in the Commissioner's opinion required by him for the purpose of enabling him to carry out his duties under this Act and the regulations.

5. Section 7 is amended by adding the following subsection after subsection (2):

(3) A department head may appoint an employee of his department as the acting deputy head of that department, and an acting deputy head so appointed has, during the absence of the deputy head or a vacancy in the office of the deputy head, the powers and duties of the deputy head.

6. Section 9, subsection (2) is amended by striking out the words "the classification plan" and by substituting the words "a classification plan".

7. (1) Section 10 is amended

(a) *as to subsection (1) by striking out the words "The Lieutenant Governor in Council shall establish and maintain a classification plan" and by substituting the words "The Minister may with the approval of the Lieutenant Governor in Council establish one or more classification plans",*

(b) *as to subsection (2) by striking out the words "the classification plan" and by substituting the words "a classification plan",*

(c) *by striking out subsection (3) and by substituting the following:*

(3) The Minister may from time to time amend a classification plan without the approval of the Lieutenant Governor in Council.

(2) The classification plan in force under section 10 of The Public Service Act at the commencement of this subsection may be amended by the Minister as though it had been made by him pursuant to section 10 of that Act as amended by subsection (1).

8. Section 11 is amended

(a) *as to subsection (1) by striking out the words "the Lieutenant Governor in Council excludes therefrom" and by substituting the words "that are excluded therefrom by the Minister with the approval of the Lieutenant Governor in Council",*

5. Section 7(1) (c) presently reads:

- 7.(1) Subject to the general direction of the department head, the deputy head
- (c) may appoint an acting officer to have, during the absence of the incumbent, the power and authority of the office for which he is appointed to act, unless such an appointment is otherwise provided for by any other Act.

Subsection (3) is added because of doubts raised as to the power of a deputy head to appoint his own acting deputy head under section 7(1)(c). It is considered appropriate that the appointment in these cases should be made by the deputy head's superior, the Minister of the department.

6. Section 9(2) presently reads:

- (2) Where a department proposes to add a new position or change an existing position by
- (a) providing for the addition or change in its departmental estimates for the next ensuing fiscal year, or
 - (b) requesting authorization under subsection (3),
- the positions shall be allocated to a class in the classification plan pursuant to section 10 unless the position is excluded from the plan pursuant to section 11.

See note to section 7 of this Bill.

7. Section 10 presently reads:

10. (1) The Lieutenant Governor in Council shall establish and maintain a classification plan defining and designating the classes of positions in the public service
- (a) as a basis for uniform treatment of employees performing the same kind and level of work, and
 - (b) to provide a systematic basis for organization and administration.
- (2) Each position in the staff establishment of a department shall be allocated to a class in the classification plan by the Commissioner.
- (3) Notwithstanding subsection (2), the Commissioner may in writing authorize a department head to allocate positions in his department to any specified classes, subject to such rules and principles as the Commissioner prescribes.

The amendment will allow for the creation of more than one classification plan for employees. The Minister will establish the plans with the approval of the Lieutenant Governor in Council but will be able to amend a plan without such approval, in order to reduce the multiplicity of orders in council under the section. As to the repeal of the present subsection (3), see section 3 of this Bill.

8. Section 11 presently reads:

11. (1) Notwithstanding section 10, the classification plan shall not include the positions of deputy ministers and any other positions or classes of positions the Lieutenant Governor in Council excludes therefrom.
- (2) Before excluding a position or class of positions from the classification plan the Lieutenant Governor in Council shall obtain a report from the Commissioner as to the desirability of that action.

The section is amended in line with the amendments to section 10 of the Act.

- (b) *as to subsection (2) by striking out the words "Before excluding" and by substituting the words "Before approving the exclusion of"*.

9. *Section 12 is struck out and the following is substituted:*

12. (1) The Lieutenant Governor in Council shall make regulations

- (a) providing for the establishment of one or more classification appeal boards,
- (b) providing, in the case of each board so established, for the manner in which its members shall be appointed and its chairman designated, and
- (c) prescribing the procedure for appeals to a classification board and for the conduct of the appeals before a board.

(2) An employee or a department head may appeal the allocation of a position in a classification plan in accordance with the regulations.

(3) A classification appeal board shall, upon concluding an appeal under this section, either dismiss the appeal or re-allocate the position concerned.

(4) A decision of a classification appeal board under this section is binding on the Commissioner, the department head and the deputy head.

10. (1) *Section 13 is amended*

- (a) *by striking out subsection (1) and by substituting the following:*

13. (1) The Minister, with the approval of the Lieutenant Governor in Council, shall establish an Official Pay Plan for each classification plan established under section 10 showing in each case a salary range for each class in the classification plan, so that the total compensation for each class in the plan may remain comparable with that offered by private and public employees having regard to the relative levels of the classes.

- (b) *as to subsection (2), clause (a) by striking out the word "the" and by substituting the word "a",*
- (c) *as to subsection (2) by adding after the words "Official Pay Plan" the words "for that classification plan",*
- (d) *by adding the following subsection:*

(3) The Minister may from time to time amend an Official Pay Plan without the approval of the Lieutenant Governor in Council.

9. Section 12 presently reads:

12. (1) The Lieutenant Governor in Council shall appoint a classification appeal board consisting of a chairman and two other members.

(2) An employee or a department head may appeal the allocation of a position to the classification appeal board in the manner prescribed by the regulations.

(3) The decisions of the classification appeal board are binding upon the Commissioner.

10. Section 13 presently reads:

13. (1) The Lieutenant Governor in Council shall establish and maintain an Official Pay Plan showing a salary range for each class in the classification plan, so that the total compensation for each class may remain comparable with that offered by private and public employers, having due regard to the relative levels of the classes.

(2) Where a position or class of positions is

(a) included in the classification plan, but

(b) excluded from negotiations pursuant to section 26,

the Commissioner shall consult the head of any department concerned before recommending that the Official Pay Plan be amended.

For each classification plan there will be an Official Pay Plan. Official Pay Plans will now be made by the Minister with the approval of the Lieutenant Governor in Council, as in the case of classification plans: see section 7 of this Bill and the note to it.

(2) *The Official Pay Plan in force under section 13 of The Public Service Act at the commencement of this subsection may be amended by the Minister as though it had been made by him pursuant to section 13 of that Act as amended by subsection (1).*

11. *Section 14, subsection (1) is amended by striking out the words "the classification plan" and by substituting the words "a classification plan".*

12. *Section 16, subsection (1) is amended by striking out the words "the classification plan" and by substituting the words "a classification plan".*

13. *Section 17 is amended by striking out subsection (3).*

~~Section 18~~
14. *Section 18 is amended*

(a) *as to subsection (1) by striking out the words "the classification plan" and by substituting the words "a classification plan",*

(b) *by striking out subsection (2) and by substituting the following:*

(2) *Where a position*

(a) *is to be filled by in-service promotion or by limited or open competition, or*

(b) *is exempt from competition, an appointment to the position is subject to certification that the person to be appointed is qualified for the position, which certification shall be made in accordance with the directions of the Commissioner and by the persons authorized to do so by those directions.*

(c) *as to subsection (3) by striking out the words "the classification plan" and by substituting the words "a classification plan".*

15. *The following section is added after section 19:*

19.1 *Notwithstanding section 9, subsection (1) of The Public Service Pension Act, the Minister may*

(a) *authorize the continuation of the employment of an employee after he has attained the age of 65 years for a period specified by the Minister, or*

(b) *authorize the re-appointment of an employee who is 65 years of age or over, for a period specified by the Minister.*

11. Section 14(1) presently reads:

14. (1) The Commissioner shall, upon request of the Minister, prepare salary recommendations in respect of positions which are excluded from the classification plan pursuant to section 11.

12. See note to section 7 of this Bill.

13. Section 17(3) presently reads:

(3) Notwithstanding subsection (2), the Commissioner may authorize a department head to conduct limited or open competitions where due to the specialized nature of the work or the geographic isolation of the position the competition can be more efficiently conducted by the department.

See note to section 3 of this Bill.

14. Section 18(2) presently reads:

(2) Where a position

(a) is to be filled by limited or open competition conducted by the Commissioner, or

(b) is exempt from competition,

an appointment to the position is subject to the Commissioner's certification that the person to be appointed is qualified for the position.

As to the amendments to subsection (1) and (3), see section 7 of this Bill.

15. Continuation of employment or re-appointment of an employee after age 65. A similar provision was in the Act prior to its re-enactment in 1968.

16. Section 24 is amended by adding the following subsection:

(5) In this section "employee" includes a member or employee of the Research Council of Alberta.

17. Section 41 is amended by adding after the words "Official Pay Plan" the words "or Plans".

18. Section 42 is amended

- (a) as to subsection (2), clause (a), subclause (i) by striking out the words "section 40" and by substituting the words "section 28, subsection (2)",
- (b) as to subsection (4) by striking out the words "Executive Secretary" and by substituting the words "Executive Director".

19. The following sections are added after section 45:

46. (1) Notwithstanding anything in this Act a department head may, on behalf of the Government, enter into a contract of employment with any person in accordance with this section if the department head is authorized to do so under the regulations made pursuant to this section.

(2) A contract of employment shall not be entered into under this section with an employee on whose behalf the Association has the sole right to negotiate.

(3) A contract of employment under this section shall provide for

- (a) the remuneration to be paid to the employee,
- (b) the duration of the term of employment,
- (c) subject to clause (d), the period of notice required to be given by the employee or the department head to terminate the employment;
- (d) the amount of remuneration to be paid by the Government in lieu of the giving of notice to the employee,
- (e) the terms and conditions of the employment.

(4) A contract of employment under this section may

- (a) make inapplicable to the employee any of the provisions of this Act or the regulations under this Act;
- (b) vary, or qualify the application of, any of the provisions of this Act or any regulations under this Act.

(5) The Minister, with the approval of the Lieutenant Governor in Council, may make regulations

16. Section 24 in general prohibits Government employees from acquiring any interest in Crown lands. The amendment will extend the section to members and employees of The Research Council of Alberta.

17. See note to section 10 of this Bill.

18. (a) Corrects an erroneous cross-reference.
(b) Changes the title of the Executive Secretary of the Civil Service Association of Alberta.

19. Sections 46 and 47 provide specific authority to the Government to enter into contracts of employment or engage persons on a fee-for-service basis.

- (a) prescribing the circumstances and conditions under which a department head may enter into a contract of employment under this section;
 - (b) prescribing any terms and conditions of employment under contracts authorized pursuant to clause (a).
- (6) Notwithstanding The Public Service Pension Act the contract of employment may exclude the employee from the operation of that Act.

47. (1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may by order

- (a) engage any person to provide to the Government the services specified in the order;
- (b) authorize the payment of fees to that person and remuneration to be paid for his travelling and living expenses incurred while absent from his place of residence in the course of performing his services;
- (c) provide for any other matter in connection with the engagement of that person's services or the services required to be performed.

(2) The Lieutenant Governor in Council, upon the recommendation of the Minister, may delegate his powers under subsection (1) to a department head either generally or in specified cases and in either case shall prescribe the circumstances under which and the conditions upon which the department head may exercise the powers so delegated.

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

