

1971 Bill 128

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Fourth Session, 16th Legislature, 20 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 128**

**An Act to amend The Public Service Act**

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MR. WERRY

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First Reading .....

Second Reading .....

Third Reading .....

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# BILL 128

1971

## AN ACT TO AMEND THE PUBLIC SERVICE ACT

(Assented to \_\_\_\_\_, 1971)

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

R.S.A. 1970  
c. 298

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

2. *Section 40 is struck out and the following sections are substituted:*

Rejection of  
recommend-  
ation

**40.** Where either the Executive Council or the Association rejects the recommendations of a mediation board in whole or in part they may serve notice on the other party to have the dispute resolved by a board of arbitration.

Represent-  
ation on  
arbitration  
board

**40.1** (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

- (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.

## Explanatory Notes

The present Public Service Act provides for a mediation process in settling wage and salary contracts and other disputes, however in the event of a disagreement over the terms and the parties cannot agree, the Executive Council has the absolute right to impose their decision on the Civil Service Association and their 18,000 civil servants. The present provisions are even further restrictive as the Executive Council has the absolute right to impose their decision even on those items on which the Mediation Board may agree.

In order to give the powerless 18,000 civil servants the basic bargaining rights enjoyed by all other workers in Alberta, the provisions contained in this amendment provide for a Board of Arbitration to be set up. The Board is comprised of equal representation from the Civil Service Association and the Government who then select an impartial person to act as chairman. Where either party rejects the recommendations of the Mediation Board in whole or in part, they may serve notice on the other party to have the dispute referred to the Arbitration Board. The Arbitration Board will then sit and hear both sides of the dispute and reach a decision. The decision of a majority of the members is the award of the Board and the award is binding upon both parties.

(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 of Labour, 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 of Labour 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.

Duties of  
board of  
arbitration

**40.2** A board of arbitration

- (a) shall make such inquiry into the dispute referred to as it considers necessary, and
- (b) shall endeavour to bring about agreement between the parties in relation to the matters referred to it, and its members have the powers of commissioners appointed under The Public Inquiries Act.

Award of  
board of  
arbitration

**40.3** (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.



(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 of Labour.

(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 of Labour 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.

Effect of  
award

**40.4** An award of a board of arbitration is binding upon both parties and the parties shall forthwith give effect to it and include the terms of the award in a collective agreement.

Effective  
date

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

