

1980 BILL 237

Second Session, 19th Legislature, 29 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 237

**AN ACT TO AMEND THE PUBLIC SERVICE
EMPLOYEE RELATIONS ACT**

MR. R. CLARK

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 237
Mr. R. Clark

BILL 237

1980

AN ACT TO AMEND THE PUBLIC SERVICE EMPLOYEE RELATIONS ACT

(Assented to _____, 1980)

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

*1 The Public Service Employee Relations Act is amended by this
Act.*

2 Section 1 is amended

(a) by adding after clause (f):

(f.1) "binding arbitration" means a method for resolving
disputes by which the arbitrator makes a ruling which may
include elements of the final collective bargaining proposals
of both parties to the dispute;

(b) by adding after clause (j):

(j.1) "conciliator" means a person appointed by the Tri-
bunal to attend collective bargaining meetings;

(c) by adding after clause (o):

(o.1) "essential service" means any public service function
which, if not carried out, would seriously jeopardize the
health, safety or property rights of the residents of the
Province;

(o.2) "final offer selection" means a method for resolving
disputes by which the final collective bargaining proposal of
one or the other of the parties to the dispute is selected in its
entirety, to the complete exclusion of the proposal which is
not selected;

(d) by adding after clause (r):

Explanatory Notes

- 1** This Bill will amend chapter 40 of the Statutes of Alberta, 1977.
- 2** Amends section 1 to provide new definitions.

(r.1) "Tribunal" means the Essential Public Services Tribunal established by section 95.1.

3 *Sections 93, 94, and 95 are repealed.*

4 *The following Part is added after Part 9:*

Part 9.1

ESSENTIAL SERVICES

95.1(1) There is hereby established a tribunal to be called the Essential Public Services Tribunal.

(2) The Tribunal shall

- (a) determine what services are essential services, and
- (b) administer the system of essential services arbitration provided for in this Act.

(3) The Tribunal shall consist of

- (a) a chairman, and
- (b) 4 members, 2 of whom shall be appointed by the Lieutenant Governor in Council on the recommendation of the certified bargaining agent, and 2 of whom shall be appointed by the Lieutenant Governor in Council.

(4) The chairman of the Tribunal shall be a judge of the Court of Queen's Bench, who shall be appointed by the Lieutenant Governor in Council

- (a) on the recommendation of at least 3 of the 4 Tribunal members or, in the event that no 3 agree on the choice of a chairman, then
- (b) on the recommendation of the Chief Justice of the Court of Queen's Bench.

(5) The term of appointment of the chairman and members of the Tribunal, shall be 3 years.

(6) The chairman and members of the Tribunal shall receive such remuneration and reimbursement of expenses as is fixed by the Lieutenant Governor in Council, which shall be paid out of money appropriated to that purpose by the Legislature.

(7) The remuneration of the 4 members shall be equal.

(8) The Tribunal shall, prior to December 31, 1981

3 Sections 93, 94 and 95 presently read as follows:

93(1) No person shall cause or attempt to cause a strike by the persons to whom this Act applies.

(2) No person to whom this Act applies shall strike or consent to a strike.

94(1) No person shall cause or attempt to cause a lockout by an employer.

(2) No employer shall lockout or consent to a lockout.

95 A person who contravenes section 93, subsection (1) or section 94, subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$10 000.

4 Adds a new Part whereby a Tribunal establishes which services are essential and arbitrates on disputes involving essential service employees, on a basis agreed by the parties. It provides that the employees of the public service other than those designated as essential, are governed by The Alberta Labour Act.

(a) conduct a systematic review of all public service job classifications established by the Board, for the purpose of determining which positions shall be considered essential services; and

(b) review and revise the list of essential services on a continuing basis; and

(c) publish the list to the public service in such a manner that any employee shall be able to ascertain from the list, not less than 90 days in advance of the date of expiry of his collective agreement, whether his job is designated as an essential service.

95.2(1) The Tribunal shall arbitrate on every dispute involving any or all groups of essential service employees, as provided in this section.

(2) In the event that a dispute has not been resolved 30 days before the date of expiry of the collective agreement in question, the Tribunal shall appoint a conciliator whose services shall be available upon the joint written request of both parties to the dispute.

(3) The conciliator shall attend and observe the proceedings of all collective bargaining meetings to which he is invited by both parties to the dispute, and upon such conditions as are agreed to by both parties, and shall make efforts to bring about a collective agreement between the parties.

(4) In the event that the dispute has not been resolved upon the expiry date of the collective agreement, the conciliator shall submit to both parties to the dispute, and to the Tribunal, a confidential report which shall consist of a summary of the proceedings of all collective bargaining meetings at which the conciliator was present, together with an evaluation of the positions taken by both parties to the dispute, and which shall be submitted not more than 7 days after the expiry date of the collective agreement.

(5) Within 7 days after receipt of the conciliator's report, the parties to the dispute shall jointly inform the Tribunal whether they wish the dispute to be settled by binding arbitration or final offer selection.

(6) If the parties to the dispute do not comply with subsection (5), the Tribunal shall determine the method of settlement, and shall inform the parties forthwith.

(7) Within 7 days of the determination of the method to be used to resolve the dispute, each party to the dispute shall submit to the Tribunal its final collective bargaining proposal, together with all documentation which it considers relevant to its proposal.

(8) Within 14 days of receipt of the proposals, the Tribunal shall advise the parties of its decision, which shall be made in accordance with the method selected pursuant to subsections (5) or (6).

(9) In the conduct of proceedings before it, and in rendering an arbitral award in respect of a matter in dispute, the Tribunal shall consider:

(a) the documentation provided by each party to the dispute in support of its final collective bargaining proposal;

(b) the needs of the public service for qualified employees;

(c) the conditions of employment in similar occupations outside the public service;

(d) the need to maintain appropriate and consistent relationships in the conditions of employment between different grade levels within one occupation, and between different occupations within the public service;

(e) the need to establish terms and conditions of employment which are fair and reasonable in respect to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered; and

(f) any other factor that appears to the Tribunal to be relevant to the matter in dispute.

(10) Every decision of the Tribunal shall have the approval of a majority of the members and chairman of the Tribunal.

(11) Every decision of the Tribunal shall be expressed in writing, and shall be signed by the chairman of the Tribunal, whether or not he supported it, and shall thereupon be transmitted to the parties to the dispute and to all members of the Tribunal.

(12) The Tribunal may issue a report for the purpose of explaining the rationale used to arrive at any or all decisions made by the Tribunal.

(13) No member or members of the Tribunal shall issue a minority report.

(14) The Tribunal shall determine the composition of bargaining units for essential service employees, notwithstanding any decision rendered by the Board regarding the composition of public service bargaining units.

95.3(1) All decisions of the Tribunal shall be binding on

- (a) the employer, and
- (b) the bargaining agent, and
- (c) every employee affected.

(2) Where a decision of the Tribunal is not complied with, the Tribunal may file a copy of the decision with the clerk of the Court of Queen's Bench in the judicial district in which the dispute arose, and thereupon the decision is enforceable as a judgement or order of the Court.

95.4 In the event that both parties to a dispute not involving essential services submit in writing, not less than 60 days before the date of expiry of the collective agreement in question, a request for the services of the Tribunal to reach a settlement, the Tribunal shall deal with the dispute in the manner described in section 95.2 for settlements involving essential services.

95.5(1) The conduct of collective bargaining procedures and labour disputes in respect to employees of the public service who have not been designated as essential services

(a) shall be governed by the provisions of *The Alberta Labour Act*, where the certified bargaining agent submits in writing to the Board and to the Tribunal, not less than 90 days before the date of expiry of the collective agreement in question, notice of intent to be governed by *The Alberta Labour Act*;

(b) shall be governed by the provisions of Parts 5, 6, and 7 of this Act, where the certified bargaining agent submits in writing to the Board and to the Tribunal, not less than 90 days before the date of expiry of the collective agreement in question, notice of intent to be governed by the provisions of Parts 5, 6, and 7 of this Act.

(2) The conduct of collective bargaining procedures in respect to employees of the public service who have been designated essential services shall be governed by the provisions of Part 5 of this Act.

95.6 For the purpose of carrying out the provisions of sections 95.1, 95.2, 95.3, and 95.4 according to their intent, the Lieutenant Governor in Council may, upon the recommendation of the Tribunal, make regulations or orders which are ancillary to and not inconsistent with them.

95.7 Notwithstanding any other provision of this Act, where the Tribunal undertakes the settlement of a dispute pursuant to this Act, the Public Service Employee Relations Board shall have no

authority in relation to the settlement of the dispute.

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