

1981 BILL 50

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 50

THE COLLEGES AMENDMENT ACT, 1981

THE MINISTER OF ADVANCED EDUCATION
AND MANPOWER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 50

1981

THE COLLEGES AMENDMENT ACT, 1981

(Assented to _____, 1981)

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

1 *The Colleges Act is amended by this Act.*

2 *Section 2 is amended by repealing clauses (a) and (b) and substituting the following:*

(a) "academic staff association" means an academic staff association established under section 47.1 or continued under section 47.2;

(b) "academic staff member" means an employee of the board who, as a member of a category of employees or individually, has been designated as an academic staff member by the board;

3 *Section 26 is amended*

(a) *in clause (a) by striking out "with the approval of the Minister," and*

(b) *by adding the following after clause (a):*

(a.1) *after consultation with the academic staff association, designate categories of employees as academic staff members, designate individual employees as academic staff members and change the designation of the categories and individuals designated under this section or under section 47.91;*

4 *Section 32 is repealed and the following is substituted:*

Explanatory Notes

1 This Bill will amend chapter 56 of the Revised Statutes of Alberta 1970.

2 Section 2 presently reads in part:

2 *In this Act,*

(a) "*academic staff association*" means the organization recognized by the college board as the official body representing the academic staff members of the college;

(b) "*academic staff member*" means an employee of a college board designated as an academic staff member by the board;

3 Section 26 presently reads in part:

26 *A college board may*

(a) *with the approval of the Minister, establish the admission requirements for students of its college,*

4 Section 32 presently reads:

32(1) A college board shall consist of the following members:

- (a) the following persons appointed by the Minister:
 - (i) 1 academic staff member nominated by the academic staff association,
 - (ii) 1 student nominated by the students' council, and
 - (iii) 1 member of the non-academic staff;
- (b) 7 persons appointed by the Lieutenant Governor in Council, 1 of whom shall be designated as chairman;
- (c) in the case of Lakeland College, 1 other person appointed by the Lieutenant Governor in Council.

(2) Only persons who

- (a) are Canadian citizens or have been lawfully admitted to Canada for permanent residence, and
- (b) except if appointed by the Lieutenant Governor in Council under subsection (1)(c), are residents of Alberta,

are eligible to be appointed as members of the board under subsection (1)(b).

(3) A person appointed as a member of a board

- (a) holds office for a term not exceeding 3 years as prescribed in the appointment, and
- (b) continues to hold office after the expiry of his term of office until he is reappointed, his successor is appointed or a period of 3 months has expired, whichever first occurs.

(4) A member of the board is eligible for reappointment for a 2nd term, but not for a further term until the expiration of a period of 3 years after his 2nd term has ended.

(5) The Minister or Lieutenant Governor in Council, as the case may be, may fill a vacancy on the board by appointing an individual to fill the unexpired term of office of the former member and an appointment to an unexpired term shall not be considered, for the purposes of subsection (4), as a term of office.

(6) The term of office of a board member terminates when

- (a) in the case of a person nominated by the academic staff association, that person ceases to be an academic staff member,
- (b) in the case of a person nominated by the students' coun-

(2.1) A college board shall consist of the following members:

- (a) the president of the college,*
- (b) an academic staff member nominated by the academic staff association of the college and appointed by the Minister,*
- (c) a member of the student body of the college nominated by the students' council and appointed by the Minister*
- (d) seven other persons appointed by the Lieutenant Governor in Council, one of whom shall be designated as chairman.*

(2) Except as provided in subsection (4), the term of office of a person appointed or re-appointed as a member of a college board shall be three years from the effective date of his appointment or re-appointment.

(3) A member is eligible for re-appointment for a second term, but not for a further appointment until the expiration of a period of three years after his second term has ended.

(4) Notwithstanding subsection (2), the term of office of a member of a college board may be a period of less than three years in the case of

- (a) the member nominated by the students' council, or*
- (b) the member nominated by the academic staff association of the college, or*
- (c) a person appointed to serve the unexpired term of office of a person who has ceased to be a member of the board, or*
- (d) a person who is appointed pursuant to subsection (1), clause (c) for the purpose of providing an orderly change in the membership of the college board.*

(5) The appointment of a member of a college board, other than the president of the college, shall be revoked by the Minister or the Lieutenant Governor in Council, as the case may be, where

- (a) the member ceases to be a resident of Alberta, or*
- (b) the member is for any reason no longer capable of acting as a member or of fulfilling his duties, or*
- (c) in the case of the member nominated by the students' council, that person ceases to be a member of the student body of the college, or*
- (d) in the case of the member nominated by the academic staff association, that person ceases to be an academic staff member of the college or a member of the academic staff association, or*
- (e) the member submits his resignation to the board.*

cil, that person ceases to be a student at the college, and

(c) in the case of a person appointed from the non-academic staff, that person ceases to be a member of the non-academic staff at the college.

(7) If a person resigns his membership on the board, his appointment as a member of the board terminates on the effective date specified in his resignation or, if no effective date is specified, on the date of receipt of his resignation by the board.

32.1 The members of the board

(a) may be paid remuneration for the performance of their duties as members of the board, and

(b) shall be paid travelling and living expenses while absent from their ordinary places of residence and in the course of their duties as members of the board,

at the rates prescribed by the board.

5. The following is added after section 43:

43.1(1) Subject to the approval of the Lieutenant Governor in Council, a board, for the purposes of the college, may from time to time borrow sums of money that the board may require and may from time to time issue notes, bonds, debentures or other securities which

(a) shall bear interest at the rate or rates determined by the board,

(b) shall be in the denomination or denominations determined by the board,

(c) shall be payable as to principal and interest

(i) in the currency or currencies of the country or countries,

(ii) at the place or places,

(iii) at the time or times, and

(iv) in the manner,

determined by the board,

(d) may be made redeemable in whole or in part in advance of maturity

(i) at the time or times,

5 Crown authorized to guarantee college board debts.

(ii) on the terms, and

(iii) at the price or prices, either with or without premium,

determined by the board, and

(e) may be issued in the amounts that will realize the net sum required by the board for the purposes of the college.

(2) Where the authorizing resolution of a board made under subsection (1) contains a recital or declaration that the amount of the notes, bonds, debentures or other securities authorized by the resolution is necessary to realize the net sum required for the purposes of the college, the recital or declaration is conclusive proof of the facts stated in it.

(3) Subject to the approval of the Lieutenant Governor in Council, a board may sell or otherwise dispose of any notes, bonds, debentures or other securities on any terms and conditions it deems advisable, either at the par value of them or at less or more than the par value of them, and may charge, pledge, hypothecate, deposit or deal with any of those securities as collateral security.

(4) Any notes, bonds, debentures or other securities and the coupons, if any, attached to them, shall be in the form and shall be executed in the manner and by the persons as the board may determine.

(5) In this section "purposes of the college" include:

(a) acquiring any real property;

(b) constructing, repairing, altering or otherwise improving, or furnishing or equipping any building;

(c) the repayment or refunding from time to time of the whole or any part of any borrowings made by the board;

(d) the payment of any other liability or indebtedness of the board;

(e) the carrying out of any of the powers and duties of the board.

43.2(1) The principal and interest of any borrowings by or notes, bonds, debentures and other securities issued by a board may be guaranteed by the Province of Alberta.

(2) The guarantee, in the form and manner as the Lieutenant Governor in Council may approve, may be endorsed on any notes, bonds, debentures or other securities issued by a board

and may be signed on behalf of the Crown by the Provincial Treasurer, the Deputy Provincial Treasurer or by any other person the Lieutenant Governor in Council may designate.

(3) The signature of the Provincial Treasurer, the Deputy Provincial Treasurer or the person designated by the Lieutenant Governor in Council, on the guarantee is conclusive proof that the relevant provisions of this Act have been complied with.

(4) Where in respect of any notes, bonds, debentures or other securities issued by a board it becomes necessary or desirable under the terms of any guarantee given on behalf of the Province of Alberta to make payment under the guarantee, payment may be made on the order of the Lieutenant Governor in Council

(a) out of the General Revenue Fund, without further appropriation, or

(b) from the proceeds of any loan made under *The Financial Administration Act, 1977* or the sale of securities owned by the Province.

43.3(1) The seal of a board on any notes, bonds, debentures or other securities of the board and the signatures of

(a) any person authorized by the board to execute the notes, bonds, debentures or other securities or any coupon attached to them, or

(b) the Provincial Treasurer, the Deputy Provincial Treasurer or the person designated by the Lieutenant Governor in Council to sign a guarantee that is endorsed on the notes, bonds, debentures or other securities

may be engraved, lithographed, printed or otherwise reproduced on the notes, bonds, debentures or other securities of the board or on the guarantee endorsed on them, as the case may be.

(2) The reproduced signature of any person referred to in subsection (1) is for all purposes deemed to be the signature of that person and is binding on the board and the Crown notwithstanding that the person whose signature is reproduced did not hold office at the date of the notes, bonds, debentures or other securities or at the date of delivery of them.

6 *The following is added after section 45(2):*

(3) The president of the college shall receive notice of meetings of the board and, subject to the by-laws, attend meetings of the board but is not entitled to vote on any matter dealt with by the board.

6 Section 45 presently reads:

45(1) For each college there shall be a president who shall be the chief executive officer of the college

(2) The college board shall appoint the president and prescribe his tenure of office and the remuneration to be paid to him by the board

7 *Section 46(2) is repealed.*

8 *Section 47 is repealed and the following is substituted:*

47(1) In this section and in sections 47.1 to 47.6, "agreement" means an agreement in writing between a board and an academic staff association under this section or section 47.4 and includes an agreement under section 47.8.

(2) The board may employ any persons it considers necessary to serve as academic staff members at the college.

(3) A board may, subject to an agreement,

(a) determine the salaries or remuneration of academic staff members,

(b) prescribe the duties of academic staff members, and

(c) prescribe the term of employment and the terms and conditions of employment of academic staff members.

(4) A person shall not be appointed to, promoted to or dismissed from any full-time position on the academic staff at a college, except in accordance with an agreement.

(5) Subject to an agreement, a president may, in his discretion, suspend from duty and privileges any member of the academic staff at the college and shall forthwith report his action and the reasons for it to the board.

47.1(1) For each college there shall be an academic staff association.

(2) Each academic staff association is a corporation and consists of the academic staff members of the college.

(3) Each academic staff association shall have the exclusive authority, on behalf of the academic staff members, to negotiate and enter into an agreement.

47.2(1) The bodies incorporated before the commencement of this section under the names:

(a) Fairview College Academic Staff Association;

(b) Grand Prairie Regional College Faculty Association;

(c) Keyano College Faculty Association;

7 Section 46(2) presently reads.

(2) This section does not apply to employees of a board who are academic staff members.

8 Section 47 presently reads in part.

47(1) A college board may employ such academic staff members as it considers necessary for the purposes of the college.

(4) An agreement under subsection (2) is binding on

(a) the college board,

(b) the academic staff association, and

(c) the academic staff members

of the public college.

(5) The Employment Standards Act and The Labour Relations Act do not apply to the college board or the academic staff members.

- (d) Lakeland College Faculty Association;
- (e) The Association of the Faculty Personnel of the Lethbridge Community College;
- (f) The Faculty Association of Medicine Hat College;
- (g) Mount Royal Faculty Association;
- (h) Olds College Faculty Association;
- (i) Faculty Association of Red Deer College;

are continued as corporations for the purposes of this Act.

(2) The Grant MacEwan Community College Faculty Association is established as a corporation for the purposes of this Act.

(3) Where the Lieutenant Governor in Council after the commencement of this section establishes an additional college under section 19, he may establish an academic staff association for the college with a name that he considers appropriate.

47.3(1) The business and affairs of an academic staff association shall be managed by an executive, the members of which shall be elected by and from the academic staff members as provided in the by-laws of the academic staff association.

(2) The academic staff association may, with the approval of the majority of the academic staff members present and voting at a meeting of the association, make by-laws

- (a) respecting elections of members of the executive of the academic staff association,
- (b) prescribing the number of persons and the officers of which the executive is to consist,
- (c) governing the calling of meetings of the academic staff association, of the executive and respecting the conduct of business at those meetings;
- (d) authorizing the charging of membership fees and the amounts of those fees;
- (e) governing the acquisition, management and disposition of property of the academic staff association, and
- (f) respecting any other matter pertaining to the administration of the affairs of the academic staff association including, without limitation, the promotion of the general welfare of the members of the academic staff association consistent with the purposes of the college.

(3) After the end of each year an academic staff association may prepare and submit to the college board a report on the professional activities of the academic staff association during the year.

47.4(1) Where the Lieutenant Governor in Council after the commencement of this section establishes an additional college, or where an agreement referred to in section 47.8(1) expires, the board and the academic staff association of the college shall enter into negotiations for the purpose of concluding an agreement.

(2) An agreement shall with respect to the employment of academic staff members contain provisions respecting at least the following matters:

(a) procedures for determining and the methods of assigning teaching responsibilities and related duties;

(b) the establishment of salary rate and wage rate schedules for the purpose of setting the salaries or wages payable;

(c) procedures for fixing sick leave, vacation leave, leave of absence, or other leave to be allowed;

(d) procedures for determining conditions governing probation, term of employment, performance review, promotions, reassignment of duties, suspension or dismissal;

(e) procedures respecting the settlement of

(i) differences between the parties, and

(ii) grievances,

arising from the interpretation, application or operation of the agreement;

(f) procedures for determining rights relating to copyright and patent matters involving discoveries made in the course of employment;

(g) procedures respecting negotiations for future agreements.

(3) An agreement is binding

(a) on the board,

(b) on the academic staff association, and

(c) on the academic staff members.

47.5(1) When the terms and conditions to be included in an agreement have been settled, the board and the academic staff

association shall sign the agreement.

(2) No member of the academic staff is required to sign an agreement that has been entered into on his behalf by an academic staff association.

47.6 *The Labour Relations Act and The Employment Standards Act* do not apply to the board, the academic staff association or the academic staff members of the technical institute.

47.7 If a difference arises between a board and an academic staff association during the period between the date of termination of an agreement and the date of entry into a new agreement between them, the provisions that were contained in the agreement pursuant to section 47.4(2)(e) or the provisions of section 47.9, as the case may be, apply to the parties and the difference as if the agreement had remained in effect.

47.8 The following agreements respecting the employment of members of the academic staff entered into between the board and the academic staff association of the colleges mentioned are binding on the boards and the academic staff associations that are parties to them:

- (a) Fairview College agreement dated June 18, 1979;
- (b) Grande Prairie College agreement dated March 5, 1981;
- (c) Grant MacEwan Community College agreement dated December 14, 1979;
- (d) Keyano College agreement dated November 15, 1979;
- (e) Lakeland College agreement dated April 15, 1980;
- (f) Lethbridge Community College agreement dated August 1, 1980;
- (g) Medicine Hat College agreement dated March 30, 1981;
- (h) Mount Royal College agreement dated August 14, 1979;
- (i) Olds College agreement dated June 6, 1980;
- (j) Red Deer College agreement dated June 29, 1979.

47.9 If an agreement does not contain the provisions required under section 47.4(2)(e), the agreement shall be deemed to contain those of the following provisions in respect of which it is silent:

(a) If a difference arises as to the interpretation, application, operation or contravention or alleged contravention of this agreement or as to whether that difference can be the subject

of arbitration, the parties agree to meet and endeavour to resolve the difference.

(b) If the parties are unable to resolve a difference referred to in clause (a), either party may notify the other in writing of its desire to submit the difference to arbitration.

(c) The notice referred to in clause (b) shall

(i) contain a statement of the difference, and

(ii) specify a name or a list of names of the person or persons whom the party submitting the notice is willing to accept as the single arbitrator.

(d) On receipt of a notice referred to in clause (b), the party receiving the notice,

(i) if it accepts the person or one of the persons suggested to act as arbitrator shall, within 7 days, notify the other party accordingly and the difference shall be submitted to the arbitrator, or

(ii) if it does not accept any of the persons suggested by the party sending the notice shall, within 7 days, notify the other party accordingly and send the name or a list of names of the person or persons it is willing to accept as the single arbitrator.

(e) If the parties are unable to agree on a person to act as the single arbitrator, either party may request the chairman of the Labour Relations Board under The Labour Relations Act in writing to appoint a single arbitrator.

(f) The arbitrator may, during the arbitration, proceed in the absence of any party or person who, after notice, fails to attend or fails to obtain an adjournment.

(g) The arbitrator shall inquire into the difference and issue an award in writing, and the award is final and binding on the parties and on every employee affected by it.

(h) The parties agree to share equally the expenses of the arbitrator.

(i) Except as permitted in clause (j), the arbitrator shall not alter, amend or change the terms or conditions of the agreement.

(j) If the arbitrator by his award determines that an employee has been discharged or otherwise disciplined by an employer for cause and the agreement does not contain a specific penalty for the infraction that is the subject matter of the arbitration, the arbitrator may substitute any penalty for the

9 Section 50(1.1) presently reads.

(1.1) The number of members of the academic council elected under subsection (1)(d) shall in no case be less than 1/3 of the total of the number of those members who are

(a) named in subsection (1)(a) and (b),

(b) appointed under subsection (1)(c) and (f), and

(c) elected under subsection (1)(e).

10 Amends chapter 28 of the Statutes of Alberta, 1972.

charge or discipline that to him seems just and reasonable in the circumstances.

47.5 : Notwithstanding anything in this Act, the board shall forthwith after being established under section 31

(a) designate

(i) categories of employees as academic staff members, and

(ii) individual employees as academic staff members

at the college, and

(b) prescribe procedures respecting the election

(i) of the 1st executive of the academic staff association, at the college, and

(ii) of the 1st students' council.

9 Section 50(1.1) is repealed and the following is substituted:

(1.1) The number of academic staff members elected to the academic council under subsection (1)(d) shall in no case be less than 1/3 of the total of the number of members of the academic council.

10 The Department of Advanced Education and Manpower Act is amended by repealing section 8(2).

11 This Act comes into force on Proclamation.