

1981 BILL 51

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Third Session, 19th Legislature, 30 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 51

THE UNIVERSITIES AMENDMENT ACT, 1981

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THE MINISTER OF ADVANCED EDUCATION AND  
MANPOWER

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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*Bill 51*

## **BILL 51**

1981

### **THE UNIVERSITIES 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 Universities Act is amended by this Act.*
  
- 2 Section 2(a) is repealed and the following is substituted:*
  - (a) “academic staff member”, “academic staff” and “member of the academic staff” 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;
  
  - (a.1) “academic staff association” means an association established under section 19.2 or continued under section 19.3;
  
- 3 Sections 4.1(1)(d) and 4.2(1)(e) are amended by adding “, 19 to 19.9” after “14”.*

- 4 Section 6 is amended*
  - (a) *in subsection (1.1) by striking out “not less than two per-*

## Explanatory Notes

**1** This Bill will amend chapter 378 of the Revised Statutes of Alberta 1970.

**2** Section 2(a) presently reads:

*2 In this Act,*

*(a) “academic staff” and “full-time members of the academic staff” mean such employees of a university as may be so designated by the board thereof;*

**3** Sections 4.1(1) and 4.2(1) presently read in part:

*4.1(1) Notwithstanding anything in this Act, with respect to an additional Provincial university established under section 4 after December 1, 1972, the Lieutenant Governor in Council may by regulation*

*(d) provide that any or all of the provisions of sections 6 to 14, 23, 32 to 42 or 44 do not apply to the university,*

*4.2(1) Where the Lieutenant Governor in Council has established a governing authority for a university under section 4.1, the Lieutenant Governor in Council may, with respect to that university, by regulation*

*(e) provide that any or all of the provisions of sections 6 to 14, 23, 32 to 42 or 44 do not apply to the university,*

**4** Section 6 presently reads in part:

*(1.1) A joint committee representing the general faculties council, the*

sons” and substituting “1 or more persons, as directed by the senate,”;

(b) in subsection (1.2) by striking out “at the meeting at which the election is held” and substituting “by members of the senate at the meeting of the senate at which the joint committee presents its nominations to the senate”;

(c) in subsection (4) by adding “or has been admitted to Canada for permanent residence” after “citizen”.

5 Section 8 is amended

(a) in subsection (1)(c) by striking out “ex officio and appointed members” wherever it occurs and substituting “members of the senate”;

(b) by adding the following after subsection (1):

(1.1) Only persons who

(a) are Canadian citizens or have been lawfully admitted to Canada for permanent residence, and

(b) are residents of Alberta,

are eligible to be appointed as members of a senate under subsection (1)(b)(v).

6 Section 9 is amended

(a) in subsection (4)(b) by striking out “ex officio and appointed members” and substituting “members of the senate”;

(b) by adding the following after subsection (4):

(4.1) A person appointed under section 8(1)(b)(v) to fill a vacancy is, if otherwise qualified under section 8, eligible to be appointed for 2 additional terms as a member of the senate.

(c) by adding the following after subsection (5):

(6) The members of the senate may be paid travelling and living expenses while absent from their ordinary places of residence in the course of their duties as members of the senate at the rates prescribed by the senate.

7 Section 13(6) is repealed and the following is substituted:

(6) The members of the board

*alumni association and the senate, with three members appointed by each, may nominate not less than two persons for the office of chancellor.*

*(1.2) The senate may elect the chancellor from among the persons nominated by the joint committee under subsection (1.1) and such other persons as are nominated at the meeting at which the election is held.*

*(4) A person is not eligible for election as chancellor unless he is a Canadian citizen.*

**5** Section 8 presently reads in part:

*8(1) For each university there shall be a senate consisting of*

*(b) the following appointed members,*

*(v) nine members of the public, to be appointed by the Minister,*

*(c) 30 representative members, to be elected by the ex officio and appointed members to represent affiliated colleges or institutions, geographical areas and groups and organizations with an interest in the university including, at the discretion of the ex officio and appointed members, representatives of staff organizations within the university.*

**6** Section 9 presently reads in part:

*(4) Where a vacancy exists,*

*(a) if the vacancy is in respect of an appointed member, the body having the power of appointment may appoint a person to fill the vacancy, and*

*(b) if the vacancy is among the representative members, the ex officio and appointed members may elect a person to fill the vacancy,*

*in each case for the remainder of the unexpired term of office.*

**7** Section 13(6) presently reads:

*(6) The members shall receive their reasonable travelling and other*

(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 in the course of their duties as members of the board,

at the rates prescribed by the board.

8 *Section 14 is amended*

*(a) by repealing subsections (1) and (2) and substituting the following:*

**14(1)** Only persons who

(a) are Canadian citizens or have been lawfully admitted to Canada for permanent residence, and

(b) are residents of Alberta,

are eligible to be appointed under section 13(4)(a) or (e).

(2) 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.

(2.1) 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.

*(b) in subsection (7) by adding “, and an appointment to an unexpired term of office shall not be considered, for the purposes of subsection (4), as a term of office” after “office”.*

9 *The following is added after section 15(1)(d):*

(d.1) after consultation with the academic staff association, to designate categories of employees as academic staff members, designate individual employees as academic staff members and change the designation of the categories and individuals so designated under this section or section 19.92,

*expenses while absent from their ordinary places of residence or employment and in the course of their duties as members of the board.*

**8** Section 14 presently reads in part:

*14(1) A person is not eligible for appointment as a member of a board unless he is a Canadian citizen or has been lawfully admitted to Canada for permanent residence.*

*(2) A person appointed a member of a board holds office for a term of three years, or until his successor is appointed.*

*(6) Where a board advises the Lieutenant Governor in Council that an appointed member is, for any reason, no longer capable of acting as a member or of fulfilling his duties, the Lieutenant Governor in Council may terminate the appointment of the member.*

*(7) Where a vacancy occurs among the appointed members of a board, the Lieutenant Governor in Council may appoint a person to fill the vacancy for the remainder of the unexpired term of office.*

**9** Empowers the boards expressly to designate categories of academic staff members and individuals as academic staff members.

10 *Section 19 is repealed and the following is substituted:*

**19(1)** A board may,

- (a) subject to subsection (2), appoint any officers and employees it considers necessary for the proper conduct of the affairs of the university and promote or dismiss the officers and employees,
- (b) determine the salaries or remuneration of the officers and employees,
- (c) prescribe the duties of the officers and employees, and
- (d) prescribe the term of office or employment and the terms and conditions of employment of officers and employees.

(2) A person shall not be appointed to, promoted to or dismissed from any senior position, as determined by the board, on the administrative staff of a university, except on the recommendation of the president made in accordance with procedures approved by the general faculties council.

(3) Except as otherwise provided in section 19.1(5) a president may, in his discretion, suspend from duty and privileges

- (a) any officer or employee of the university, or
- (b) any person who is paid from funds administered by the university,

for a period not exceeding 3 months, but any person suspended pursuant to this subsection is entitled to be paid his salary during the time the suspension is in effect.

**19.1(1)** In this section and in sections 19.2 to 19.8, “agreement” means an agreement in writing between a board and an academic staff association under section 19.5 and includes an agreement under 19.9.

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

(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.



**10** Section 19 presently reads:

*19(1) A board may,*

*(a) subject to subsection (3), appoint such officers and employees as it considers necessary for the proper conduct of the affairs of the university and promote and dismiss any such officer or employee,*

*(b) subject to subsections (2) and (5), determine the salaries or remuneration of the officers or employees,*

*(c) prescribe the duties of the officers and employees, and*

*(d) subject to subsection (3), prescribe the tenure of office or employment of the officers and employees.*

*(2) A board may establish salary and wage scales, and the ranges thereof, for all positions on the academic staff of the university.*

*(3) A person shall not be appointed to, promoted to or dismissed from*

*(a) any position on the academic staff of a university, or*

*(b) any senior position, as determined by the board, on the administrative staff of a university,*

*except upon the recommendation of the president made in accordance with procedures approved by the general faculties council.*

*(4) A president may, in his discretion, suspend from duty and privileges*

*(a) any officer or employee of the university, or*

*(b) any person who is paid from funds administered by the university,*

*for a period not exceeding three months and when he exercises the power of suspension with respect to a member of the academic staff, the president shall promptly report his action and the reasons therefor*

*(c) to the board, and*

*(d) to the executive committee of the general faculties council,*

*but any person suspended pursuant to this subsection is entitled to be paid his salary during the time the suspension is in effect.*

*(5) The Alberta Labour Act, 1973 does not apply to the board or academic staff.*

The proposed sections 19.1 to 19.91 set out matters respecting bargaining between universities' boards of governors and academic staff associations.

(4) A person shall not be appointed to, promoted to or dismissed from any full-time position on the academic staff at a university, 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 university and shall forthwith report his action and the reasons for it

(a) to the board, and

(b) to the executive committee of the general faculties council.

**19.2(1)** For each university there shall be an academic staff association.

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

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

**19.3(1)** The bodies incorporated before the commencement of this section under the names:

(a) the Academic Staff of the University of Alberta,

(b) The University of Calgary Faculty Association,

(c) the University of Lethbridge Faculty Association, and

(d) the Athabasca University Faculty Association

are continued as corporations for the purposes of this Act.

(2) Where the Lieutenant Governor after the commencement of this section establishes additional universities under section 4, he may establish an academic staff association for each university so established with a name that he considers appropriate.

**19.4(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 amount 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 University.

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

**19.5(1)** Where the Lieutenant Governor in Council after the commencement of this section establishes an additional university, or where an agreement referred to in section 19.9(1) expires, the board and the academic staff association of the university 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 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.

**19.6(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 academic staff member is required to sign an agreement that has been entered into on his behalf by an academic staff association.

**19.7** *The Labour Relations Act* and *The Employment Standards Act* do not apply to the interim governing authority, the board, the academic staff association or the academic staff members of the university.

**19.8** 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 19.5(2)(e) or the provisions of section 19.91, as the case may be, apply to the parties and the difference as if the agreement had remained in effect.

**19.9(1)** The following agreements respecting the employment of academic staff members entered into between the board and the academic staff associations of the universities mentioned are binding on the boards and the academic staff associations that are parties to them:

(a) University of Alberta agreement dated April 28, 1976, as amended;

(b) University of Calgary agreement dated January 22, 1979, including the arbitration award dated September 4, 1980 made with respect to that agreement;

(c) University of Lethbridge agreement dated July 1, 1977, as amended;

(d) Athabasca University agreement dated October 1, 1979.

**19.91** If an agreement does not contain the provisions required under section 19.5(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 discharge or discipline that to him seems just and reasonable in all the circumstances.*

**19.92** Notwithstanding anything in this Act, the interim governing authority or the board, as the case may be, shall forthwith after being established

(a) designate

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

(ii) individual employees as academic staff members

at the university;

(b) prescribe procedures respecting the election

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

(ii) of the council of a student organization as defined in section 41(1).

*11 Section 34(1) is amended in clause (f) by adding “other than honorary degrees” after “degrees”.*

*12 Section 61 is amended by adding “and experience” after “the adequacy of the academic”.*

**11** Section 34(1)(f) presently reads:

*34(1) Subject to the authority of the board, a general faculties council is responsible for the academic affairs of the university and in particular, but without restricting the generality of the foregoing, the general faculties council is empowered to*

*(f) provide for the granting and conferring of degrees,*

**12** Section 61 presently reads in part:

*61 Where any Act respecting a profession or calling gives to the Universities Co-ordinating Council jurisdiction to appraise the adequacy of the academic qualifications of persons applying for membership in a body incorporated under that Act, the Universities Co-ordinating Council is, notwithstanding anything in that Act, empowered to*

*(a) enter into such arrangements with the body corporate as the Council considers desirable for the fulfilment of the Council's powers, duties and functions under that Act,*

*13 This Act comes into force on Proclamation.*