

1993 BILL 354

Fourth Session, 22nd Legislature, 42 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 354

**MEMBERS OF THE LEGISLATIVE
ASSEMBLY PENSION REFORM ACT**

MR. DICKSON

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 354
Mr. Dickson

BILL 354

1993

MEMBERS OF THE LEGISLATIVE ASSEMBLY PENSION REFORM ACT

(Assented to , 1993)

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

Definitions

1 In this Act:

(a) "additional allowance" means the salary or allowance paid to a member with additional responsibilities in respect of his duties as a member with additional responsibilities, but does not include any allowance or grant that is payable in respect of travelling expenses or in respect of the cost of staff, supplies, stationery or services;

(b) "former Act" means any former *Members of the Legislative Assembly Pension Plan Act*;

(c) "fund" means the Fund established by section 3;

(d) "indemnity" means the amounts payable to a member pursuant to Part 3 of the *Legislative Assembly Act* or the allowances substituted for those amount by orders issued by the Member's Services Committee pursuant to sections 50 and 67.1 of that Act;

(e) "Leader of the Opposition" means Leader of the Opposition as defined in the *Legislative Assembly Act*;

(f) "Leader of a recognized opposition party" means leader of the Third Party as defined in the *Legislative Assembly Act*;

(g) "member" means a member of the Assembly;

(h) "member with additional responsibilities" means a member who also serves as Premier, Speaker, Deputy Speaker, Leader of the Opposition, Leader of the Third Party, Government Whip, Deputy Government Whip, Opposition Whip, Whip of the Third Party, Deputy Government Whip, Deputy Opposition Whip or Deputy Whip of the Third Party or as a member of the Executive Council or as a legislative secretary;

(i) "minister" means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(j) "office" means the position or office of Member of the Legislative Assembly, of Member of the Executive Council in any capacity, or of Speaker, Deputy Speaker, Deputy Chairman, Leader of the Opposition or leader of a recognized opposition party with the meaning of section 48 of the *Legislative Assembly Act*;

(k) "officer" means a person who holds or previously held an office and is a participant of the Plan;

(l) "pensionable service" means service in respect of which:

(i) a person is entitled to make and has made, or elected to make, contributions to the fund in accordance with this Act or any former Act and with respect to which he has not received a withdrawal allowance; or

(ii) a person has received a withdrawal allowance and is entitled to make and has made, or elected to make, contributions to the fund in accordance with section 8 or 9; and, with respect to service:

(iii) prior to July 1, 1989 service for the duration of a session of the Legislature is deemed to be a year of pensionable service; and

(iv) on or after July 1, 1989, an actual year of service, calculated from the day on which service commenced, equals

a year of pensionable service.

**PART I
PREVIOUS PLAN AND FUND**

Pre-1989 pensions **2** A former Member, who ceased to hold any office on or before March 20, 1989, shall continue to receive such pension as he is entitled to under the terms of the former Act and the former Act continues to be in force for that purpose.

3(1) The Members of the Legislative Assembly Superannuation Fund is hereby created.

(2) There shall be credited to the fund:

(a) the contributions and interest paid by members and former members pursuant to this Act;

(b) the amounts paid by the Provincial Treasurer pursuant to section 5; and

(c) any interest earned and any other revenue accruing from the investment of moneys in the fund.

Post 1989 service **4** To the extent that this Act and the plan created under it relate to service and except to the extent expressly stated otherwise, the plan created under this Act relates only to service since March 20, 1989.

Account in respect of each member **5** The Provincial Treasurer shall keep an account, in respect of each member and former member, in which shall be shown all payments made into or out of the fund under this Act with respect to that member or former member, but the member or former member has no interest in or claim to moneys in the fund except as expressly provided in this Act or the regulations.

6(1) This section applies with respect to members who held an office between March 20, 1989, and April 1, 1993 and contributed to the plan established by the former Act.

(2) With respect to each office held by a member referred to in

subsection (1), there shall be transferred from the accounts established under the former Act, into an account set up for each member by the Minister for that purpose, an amount equal to 9% of the pensionable salary for the office or offices held by the member multiplied by the number of years of pensionable service in or in respect of that office, provided funds are allocated to that purpose by the Legislative Assembly.

(3) The government shall, in respect of each member, transfer into the accounts referred to in subsection (2) an amount equal to 9% of the pensionable salary for the office or offices held by the member multiplied by the number of years of pensionable service in or in respect of that office, provided funds are allocated to that purpose by the Legislative Assembly.

(4) In addition to the amount specified in subsection (2), the Government shall contribute an amount equal to the annually compounded interest the amount specified in subsection (2) would have earned, provided funds are allocated to that purpose by the Legislative Assembly.

(5) In the event that the accounts established under the former Act contain insufficient funds to pay the amounts set out in this section, and provided that the Legislative Assembly allocates additional funds to this purpose, the government shall contribute the amount of deficiency.

PART II MONEY PURCHASE PLAN

Application of
Part

7 This Part applies to every member elected as a member for the first time on or after April 1, 1993.

Contributions

8(1) Every member and every member with additional responsibilities shall, by way of reservation, contribute 9% of his indemnity, or his indemnity and expense allowance to the fund.

(2) Notwithstanding subsection (1), a member may elect to make a voluntary contribution to the fund, in accordance with the regulations, in excess of 9%, but no contribution shall be made by the Government with respect to any contributions made by a member pursuant to this subsection.

(3) The Provincial Treasurer shall deduct the amount of contributions from each payment of indemnity or expense allowance.

(4) The government shall pay, into each member's account an amount equal to the amount contributed by the member in subsection (1).

Refund where
contributions for
less than a year

9 Where a person, at the time he ceases to be a member, had contributed for less than one year, he may, at any time after he ceases to become a member, elect to receive a withdrawal allowance equal to the total amount of the contributions that he has paid under this Part, together with accrued interest thereon.

Vesting and
locking in of
contributions

10 All contributions made by and with respect to a member pursuant to section 8, together with accrued interest thereon, shall, at the conclusion of one year, be permanently vested and locked in the fund until the member ceases to be a member and reaches the age of 55 years or dies, at which time the amount standing to his credit in the fund shall be used in accordance with sections 11 to 13 and the regulations.

Annuity to a
member

11(1) A person who has ceased to be a member and has reached the age of 55 years or at any time thereafter until he reaches the age of 65 years may elect to receive and on reaching the age of 65 years shall receive:

- (a) a guaranteed life annuity;
- (b) a postponed guaranteed life annuity;
- (c) an immediate guaranteed life annuity together with a postponed guaranteed life annuity in any portions that he may specify;

provided by the amount standing to his credit in the fund.

(2) A married person is required to receive a joint and last survivor guaranteed annuity as described in the regulations.

Annuity to spouse
where member or
former member
dies before annuity
elected for

12 Where a person dies before he has elected to receive an annuity in accordance with section 11, the amount standing to his credit in the fund shall be used to provide his spouse with:

- (a) a guaranteed life annuity;
- (b) a postponed guaranteed life annuity; or
- (c) an immediate guaranteed life annuity together with a postponed guaranteed life annuity in any proportions that the spouse may specify;

provided by the amount standing to the credit of the person in the fund.

Payments on death
where no spouse

13 Where a person dies before he is in receipt of an annuity to which he is entitled under this Part and does not leave a spouse, the amount standing to his credit shall be used for the benefit of his children under the age of 18 years as the Provincial Treasurer may consider expedient or as provided in the regulations, and, if there are no such children, the amount shall be paid to his personal representative or nominee, or to a member of his family, as the Provincial Treasurer may direct.

PART III GENERAL

Time at which
person deemed to
have ceased to be
a member

14 For the purposes of this Act:

- (a) a person does not cease to be a member by reason only of the dissolution of the Assembly;
- (b) a person who is a member immediately before a dissolution of the Assembly ceases to be a member if he is not elected as a member at the general election next following the dissolution, and he is deemed to have ceased to be a member on the day on which that general election is held;
- (c) a person who resigns or vacated his seat pursuant to the *Legislative Assembly Act* is deemed to have ceased to be a member on the day on which his seat becomes vacant pursuant to that Act;

(d) a person who dies while a member is deemed to have ceased to be a member on the day of his death but, where his death occurs while the Assembly is in session, he shall be deemed to have ceased to be a member on the day following the day on which the session is prorogued.

Monthly payments **15** An annual allowance shall be paid monthly in arrears in approximately equal instalments.

Allowances, etc., unattachable and unassignable **16(1)** No payments made under this Act or any former Act, or any annuities provided pursuant to this Act, are assignable or subject to garnishment, attachment, seizure or any legal process.

(2) Subsection (1) does not apply to a matrimonial property order.

Discontinuance of allowances and annuities **17(1)** Subject to subsections (2), (3) and (4), any allowance payable to a person under this Act or any former Act or any annuity payable to a person or jointly to him and his spouse shall be discontinued while that person:

- (a) is a member;
- (b) is employed in the public service of the province; or
- (c) renders services the remuneration for which is paid out of the consolidated fund or by a corporation, board or commission that is an agent of Her Majesty in right of Alberta;

and where that person is member, or is so employed or renders such services at any time during a month, the whole amount payable on account of the allowance or annuity in that month shall be withheld.

(2) A person mentioned in subsection (1) may be employed in the public service of the province or render services mentioned in clause (1)(c) for more than 100 days in the aggregate in any fiscal year, without discontinuance of the allowance or annuity.

(3) Where a person mentioned in subsection (1) renders services as a member or as chairman of a corporation, board or commission that is an agent of Her Majesty in right of Alberta

and the appointment does not require the person to be engaged in continuous full-time employment in carrying out the duties of the position, the person may be so employed for any period of time without discontinuance of the allowance or annuity, and no periods of employment in such a position shall be taken into account for the purposes of subsection (2).

Election by written
notice

18(1) An election pursuant to this Act shall be made in writing to the Provincial Treasurer and is deemed to be made on the day on which the notice, duly signed by the person making the election, is received by the Provincial Treasurer.

(2) Unless otherwise expressly provided, an election heretofore or hereafter made is irrevocable.

Regulations

19(1) For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make regulations that are ancillary to this Act, and every regulation made under this section has the force of law and, without restricting the generality of the foregoing, the Lieutenant Governor in Council may make regulations:

(a) defining any word or expression used in this Act but not defined in this Act;

(b) prescribing forms that are required by this Act to be prescribed or that are considered necessary for the administration of this Act;

(c) prescribing,

(i) the circumstances under which required contributions shall be made to the fund;

(ii) the types of guaranteed life annuities which may be purchased;

(iii) the manner of payment of annuities;

(iv) the conditions of governing beneficiaries and the manner of payment to beneficiaries;

(f) respecting any other matter that he considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) Notwithstanding any other Act or law, a regulation made under clause (1)(e) may be made retroactive to a date not earlier than April 1, 1993.

Special regulations **20** Notwithstanding any other provision of this Act, the Lieutenant Governor in Council may make regulations, which may be retroactive in effect, for the purpose of adjusting contributions or benefits under this Act or the manner and method of payment thereof in respect of members who are contributors under the *Canada Pension Act* pursuant to the pension agreement, and those regulations shall have the same effect as if incorporated in this Act.

Audit **21** The accounts and transactions of the fund shall be audited in each fiscal year by the Provincial Auditor or by an auditor appointed by the Lieutenant Governor in Council for the purpose.

**Report to the
Legislative
Assembly** **22(1)** The Provincial Treasurer shall, in each fiscal year, lay before the Legislative Assembly an annual report on the administration of this Act and shall include therein:

(a) the balance sheet for that fiscal year;

(b) a statement of the receipts of the fund during that fiscal year, classified as to source;

(c) a statement of the amounts paid by way of allowances;

(d) a statement of the number of contributors;

(e) with respect to any investments made a statement of all securities in which moneys of the fund have been invested, a statement of any such securities that have been so acquired during that fiscal year and a statement of all dispositions of such securities during that period;

(f) any other information that the Lieutenant Governor in Council may prescribe.

(2) The Provincial Treasurer shall, lay before the Legislative Assembly the report mentioned in subsection (1).

PART IV
REPEAL

Rev. Stat
repealed

23 The *Members of the Legislative Assembly Pension Plan Act* is repealed.