

1997 BILL 32

First Session, 24th Legislature, 46 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 32

**PUBLIC SECTOR PENSION PLANS
AMENDMENT ACT, 1997**

THE PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 32

1997

PUBLIC SECTOR PENSION PLANS AMENDMENT ACT, 1997

(Assented to _____, 1997)

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

Amends SA
1993 cP-30.7

1 The *Public Sector Pension Plans Act* is amended by this Act.

2 The following is added after section 7:

Validation of
plan rule
changes and
transactions

7.1(1) Section 3 of each of Alberta Regulations numbered AR 182/96, AR 183/96 and AR 184/96 is validated notwithstanding that, by virtue of section 4 of the Regulation in question, that section 3 purported to come into force before the Regulation was filed under the *Regulations Act*.

(2) Alberta Regulation numbered AR 109/97 is validated notwithstanding that it purported to come into force before it was filed under the *Regulations Act*.

(3) The transfers of surplus assets from the Special Forces Pension Plan's plan fund to its indexing fund that occurred on July 1, 1995, July 26, 1995 and August 9, 1995, on that Plan's Board's authorization, in an aggregate amount of \$13 902 939.41 and \$23 201.80 of interest, are hereby validated, notwithstanding the lack of authorization by any regulation under section 4(1)(k) of Schedule 4 to conduct the transactions at the time they were done.

3 The following is added after section 9.1:

Explanatory Notes

1 Amends chapter P-30.7 of the Statutes of Alberta, 1993.

2 Validation of certain regulations and transactions.

3 Collection and provision of information.

9.2(1) In this section,

- (a) “employment” includes former employment;
- (b) “employment information” means, with respect to a particular Plan, personal information within the meaning of the *Freedom of Information and Protection of Privacy Act* that
 - (i) relates to pensions and other benefits and to participants’ and former participants’ employment, and
 - (ii) has a reasonable and direct connection to the administration of pensions and other benefits

but, as regards the collection by or the disclosure to an employer of any such information, is restricted to information about participants and former participants who are or were employed by that particular employer and related benefits;

- (c) “prescribed” means provided for by regulations made under subsection (7).

(2) The Minister is authorized to collect employment information from, and to disclose it to,

- (a) the specific participant or former participant to whom the information relates,
- (b) employers,
- (c) the relevant Board, and
- (d) any other prescribed body or person.

(3) The relevant Board is authorized to collect employment information from, and to disclose it to,

- (a) the specific participant or former participant to whom the information relates,
- (b) employers,
- (c) the Minister, and
- (d) any other prescribed body or person.

(4) Employers are authorized to collect employment information from, and to disclose it to,

- (a) the specific participant or former participant to whom the information relates,
- (b) the Minister,
- (c) the relevant Board, and
- (d) any other prescribed body or person.

(5) Where this section gives authority to a body or person to collect employment information from, or to disclose employment information to, a prescribed body or person, that prescribed body or person is authorized to disclose that employment information to, or to collect that employment information from, that first-mentioned body.

(6) Information may be collected under this section from a body or person other than the participant or former participant to whom it relates in any manner that is agreed on between the bodies or persons collecting and providing the information.

(7) The Lieutenant Governor in Council may make regulations determining the bodies or persons for the purposes of subsections (2)(d), (3)(d) and (4)(d).

4 Each of Schedules 1 to 5 is amended by adding the following after section 4(6):

(6.1) To the extent, if any, that is prescribed, a provision of the plan rules may be made to apply with effect from a date that is prior to that on which they are filed under the *Regulations Act*.

5(1) Schedule 1 is amended by this section.

(2) Section 14 is amended by adding the following after subsection (5):

(5.1) Any liability under an indemnity given under subsection (5) by the other pension fund's legal owners is only required to be met from that pension fund itself.

(3) The following is added after section 14:

14.1(1) Notwithstanding anything in section 14 to the contrary, the Lieutenant Governor in Council may make regulations, which need not comply with section 14, providing in effect for the withdrawal of employers referred

Withdrawal of
specified
employers

4 Ability of plan rules to apply prior to filing date.

5 Amendments to Local Authorities Pension Plan provisions respecting withdrawals of employers from, and termination of, the Plan.

to in subsection (2) from the Plan to another registered pension plan to which the *Employment Pension Plans Act* or, if applicable, the *Pension Benefits Standards Act, 1985* (Canada) applies.

(2) An employer referred to in subsection (1) is one that the Minister, after consulting with the Board, determines will become ineligible to continue to participate in the Plan as an employer.

(3) The regulations made under subsection (1) must provide for

(a) the employers' withdrawal from participation in, and their ceasing to be employers for the purposes of, the Plan,

(b) the transfer to the other plan of a portion of the Plan's liabilities and assets, and

(c) the basis for the withdrawal, the method by which it is to be made and the terms and conditions for it.

(4) Section 14(5) to (8) apply with respect to the withdrawal.

(5) Notwithstanding subsection (4), the regulations may provide that a corporation or other business entity that is related to an employer referred to in subsection (2) and that is approved for the purposes of this subsection by the Minister may give the indemnity referred to in section 14(5), instead of that employer.

(4) Section 15 is amended by adding the following after subsection (6):

(6.1) Any liability under an indemnity given under subsection (6) by the other pension fund's legal owners is only required to be met from that pension fund itself.

6(1) Schedule 4 is amended by this section.

(2) Section 3(2) is amended by striking out "and" at the end of clause (d), by adding ", and" at the end of clause (f) and by adding the following after clause (f):

(g) to recommend transfers from the indexing fund to the plan fund under section 6.2.

6 Amendments to the Special Forces Pension Plan provisions respecting post-1991 COLA benefits and repealing section 9(11)(b) of Schedule 4. Schedule 4 presently reads in part:

3(2) The objects of the Board are

(a) to make plan provisions by regulation

(i) to ensure that current service under the Plan is funded in accordance with sections 5(2) and 4(3), and

(3) Section 4(1)(j) is amended by striking out “and funded from post-1991 COLA contributions”.

(4) Section 4(10) is repealed and the following is substituted:

(10) Notwithstanding anything in subsections (1)(j) and (9), any particular post-1991 COLA benefit increase may be made only if

- (a) the indexing fund, before the transfer under section 6.2, contains assets at least equal in value to the amount certified by the Plan’s actuary to be the actuarial present value of the particular increase over the expected remaining lifetimes of all persons who stand to benefit by the increase,
- (b) the increase is to be paid from the plan fund,
- (c) the Plan meets the funding and solvency requirements, and
- (d) the increase complies with the tax rules and this Schedule.

(5) Section 6.1(2) is amended

(a) by striking out “pay” and substituting “enable payment”;

(b) by adding “of” after “Plan”.

(6) The following is added after section 6.1:

6.2 If the Board has set the amount of a particular increase pursuant to section 4(9) and the conditions set out in section 4(10) have been met for that increase, the Provincial Treasurer shall, on the recommendation of the Board, transfer from the indexing fund to the plan fund the certified amount referred to in section 4(10)(a).

(7) Section 7 is amended

(a) in subsection (1)

(i) in clause (a) by striking out “other than” and substituting “including, subject to clause (b),”;

(ii) in clause (b) by striking out “providing post-1991 COLA benefits” and substituting “enabling the

- (ii) *setting post-1991 COLA contributions and benefits,*
- (b) *to make any appropriate recommendations for the amending or repealing and replacing of plan rules under section 4(2),*
- (c) *to set general policy guidelines on*
 - (i) *the investment and management of*
 - (A) *the plan fund's assets in accordance with section 6(3), and*
 - (B) *the indexing fund's assets in accordance with section 6.1(3),*
 - and the regulations, and*
 - (ii) *the administration of the Plan*
- that it considers should be followed,*
- (d) *to review administrative decisions pursuant to any delegations under section 10, and*
- (f) *to authorize the transfer of any surpluses referred to in section 4(1)(k).*

4(1) The Lieutenant Governor in Council shall by regulation establish those plan provisions that are to be included in the Plan from the time of its continuation by this Schedule and that are not fully provided for in this Schedule, including plan provisions respecting

- (j) *increases in pensions of persons who have paid post-1991 COLA contributions, based on pensionable service occurring after 1991, to mitigate the effects of the increased cost of living and funded from post-1991 COLA contributions, except for setting the actual amounts of those increases, and*

4(10) Notwithstanding anything in subsections (1)(j) and (9), post-1991 COLA benefit increases may be made only if the indexing fund contains assets at least equal to the actuarial present value of all pension increases over the expected remaining lifetimes of all those persons who stand to benefit by the increases.

6.1(2) The purposes of the indexing fund are to receive post-1991 COLA contributions, and surpluses referred to in section 4(1)(k), to accumulate income deriving from those contributions and surpluses and to pay to those entitled under the Plan post-1991 COLA benefits.

7(1) The Provincial Treasurer shall hold all the assets of

- (a) *the plan fund in trust for the sole purposes of providing benefits (other than post-1991 COLA benefits) pursuant to the Plan and meeting plan costs, subject, however, to*

payment from the plan fund of post-1991 COLA benefits following transfers under section 6.2”;

(b) in subsection (2) by striking out “(other than post-1991 COLA benefits)”;

(c) in subsection (2.1) by adding “, subject to transfers made under section 6.2” after “benefits”.

(8) Section 8 is amended by repealing subsection (3) and substituting the following:

(3) The Provincial Treasurer shall pay all benefits and the plan costs from the plan fund.

(9) Section 9(11) is amended by striking out “, and” at the end of clause (a) and by repealing clause (b).

7 Section 6 is deemed to have come into force on September 1, 1996.

any right to transfer surpluses pursuant to plan provisions referred to in section 4(1)(k), and

(b) the indexing fund in trust for the sole purposes of providing post-1991 COLA benefits.

(2) Subject to plan provisions referred to in section 4(1)(k), the assets of the plan fund belong beneficially to the persons entitled to benefits (other than post-1991 COLA benefits) under the Plan.

(2.1) The assets of the indexing fund belong beneficially to the persons entitled to post-1991 COLA benefits.

8(3) The Provincial Treasurer shall pay

(a) from the plan fund the benefits under the Plan, except the post-1991 COLA benefits, and the plan costs, and

(b) from the indexing fund the post-1991 COLA benefits in accordance with regulations under section 4.

9(11) Subject to this section, the payment of all benefits under the Plan

(a) arising from pensionable service and benefits referred to in subsection (1), and

(b) arising from pensionable service between January 1, 1992 and December 31, 1993, but excluding post-1991 COLA benefits,

is guaranteed by the Crown.

7 Coming into force.