

1999 BILL 11

Third Session, 24th Legislature, 48 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 11

**PUBLIC SECTOR PENSION PLANS
AMENDMENT ACT, 1999**

PROVINCIAL TREASURER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 11

1999

PUBLIC SECTOR PENSION PLANS AMENDMENT ACT, 1999

(Assented to _____, 1999)

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 Schedule 1 is amended

(a) in section 1(1)(g) by striking out “, 5(2) and 9(6)” and substituting “and 5(2)”;

(b) in section 3(2)(a) by striking out “and to set the “total required” for the purposes of section 9”;

(c) by repealing section 9;

(d) by adding the following before section 10:

Effect of
elimination of
pre-1992
unfunded
liability

9.1 The actuarial valuation prepared as at December 31, 1997 having shown that the Plan’s unfunded liability referred to in section 9, before its repeal, was eliminated as at that date, the Crown has no further liability in respect of that unfunded liability.

(e) in section 14

(i) by repealing subsection (6);

(ii) in subsection (7) by striking out “except the liability referred to in subsection (6) and, with that exception,” and substituting “, and”;

(f) in section 15

Explanatory Notes

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

2 Amendments to Local Authorities Pension Plan Schedule. Schedule 1 presently reads in part:

1(1) In this Schedule,

(g) “plan rules” means the plan provisions made pursuant to sections 4, 5(2) and 9(6), including amendments or repeals and replacements of existing plan rules;

3(2) The objects of the Board are

(a) to make plan provisions by regulation to ensure that current service under the Plan is funded in accordance with sections 5(2) and 4(3) and to set the “total required” for the purposes of section 9,

9(1) This section applies only with respect to the Plan’s unfunded liability in respect of service that was recognized as pensionable service, and the benefits that were in place, as at December 31, 1991.

(2) The Plan’s unfunded liability is to be met by the imposition of additional contributions under this section.

(3) The Minister shall ensure that a separate accounting is made and maintained in respect of the unfunded liability, including the application of the additional contributions.

- (i) by repealing subsection (7);**
- (ii) in subsection (8) by striking out “except the liability referred to in subsection (7) and, with that exception,” and substituting “, and”;**
- (iii) by repealing subsection (9) and substituting the following:**

(9) The Lieutenant Governor in Council may make regulations establishing any further conditions of the transfer and may subsequently, if those conditions and subsections (5) and (6) have been met, authorize the transfer.

(4) The initial amount of the unfunded liability is an amount equal to the difference between

(a) the actuarial present value, as determined by the Plan's actuary, of the total liabilities of the Plan arising from service that was recognized as pensionable service, and the benefits that were in place, as at December 31, 1991, and

(b) the amount prescribed as the December 31, 1991 asset value for the purposes of section 6(4).

(5) Subject to plan rules made for the transitional purposes referred to in section 4(1)(b), the additional contributions to be paid annually are as follows:

(a) by the Crown, additional contributions in the aggregate amount of 30% of the total required;

(b) by the employers, additional contributions, based as between different employers proportionately on the pensionable salaries of all participants who are employees of a particular employer, in the aggregate amount of 35% of the total required;

(c) by the participants, additional contributions, based as between individual participants proportionately on each person's pensionable salary, in the aggregate amount of 35% of the total required.

(6) The Board shall have

(a) the unfunded liability, and

(b) the aggregate amount of the annual additional contributions required in the years before the next actuarial valuation in order to ensure the elimination of the Plan's unfunded liability on or before December 31, 2036,

re-determined by the Plan's actuary at each actuarial valuation under the Plan, and the Board shall make plan provisions establishing the amount referred to in clause (b), and specifying the contribution rates payable under subsection (5)(a), (b) and (c).

(7) In subsection (5),

(a) "pensionable salary" and "pensionable salaries" have the meaning given to them by the plan rules;

(b) "total required" means the aggregate amount of the annual additional contributions required, as established by plan rules under subsection (6).

(8) The re-determination by the Plan's actuary under subsection (6) must be made with the agreement of the Minister.

3 Schedule 3 is amended

(a) in section 14

(i) in subsection (6)(a) by adding “, to the extent that such associations exist,” after “associations”;

(ii) by adding the following after subsection (6):

(6.1) Any liability under an indemnity given under subsection (6)(d) by the other pension fund’s legal

(9) The plan rules under subsection (6) must ensure that the additional contribution requirements of that subsection meet or exceed the funding and solvency requirements except only for the extended period for the elimination of the unfunded liability.

(10) In subsections (1) and (4)(a), the references to benefits that were in place as at December 31, 1991 are to be taken as including any cost-of-living adjustments initially provided by plan rules made specifically under section 4(1)(d) with regard to those benefits.

(11) Subject to this section, the Crown has no liability in respect of the unfunded liability.

14(6) The Crown is to remain liable for additional contributions to the other plan's pension fund with respect to the withdrawing employer and its employees, but only so long as the withdrawing employer and its employees continue to pay additional contributions to the other plan pursuant to the terms and conditions of the withdrawal, and the withdrawal must not result in any increase in that liability on the part of the Crown.

(7) The Crown is to have no liability in respect of benefits to be provided by the other plan except the liability referred to in subsection (6) and, with that exception, the pension fund of the other plan is to assume all such liability.

15(7) The Crown is to remain liable for additional contributions to the other plan's pension fund with respect to the terminating employers and their employees, but only so long as the terminating employers and the employees continue to pay additional contributions to the other plan pursuant to the terms and conditions of the termination, and the termination must not result in any increase in that liability on the part of the Crown.

(8) The Crown is to have no liability in respect of benefits to be provided by the other plan except the liability referred to in subsection (7) and, with that exception, the pension fund of the other plan is to assume all such liability.

(9) If subsections (5) and (6) have been met, the Lieutenant Governor in Council may make regulations establishing any further conditions of the transfer, and authorizing the transfer on those conditions.

3 Amendments to Universities Academic Pension Plan Schedule.
Schedule 3 presently reads in part:

14(6) Where a withdrawal is proposed,

(a) the withdrawing employers must have the written consent of their academic staff associations for the withdrawal, in the form approved by the Minister,

(b) the withdrawing employers must give the Minister, the Board and all the other employers at least 2 years' written notice of their intention to withdraw or any lesser

owners is required to be met only from that pension fund itself.

(iii) in subsection (8)(b) by striking out “section 9” wherever it occurs and substituting “sections 9 and 9.1”;

(b) in section 15 by adding the following after subsection (5):

(5.1) Any liability under an indemnity given under subsection (5)(c), as it incorporates section 14(6)(d), by the other pension fund’s legal owners is required to be met only from that pension fund itself.

4 Schedule 5 is amended in section 12

(a) in subsection (1) by striking out “and” at the end of clause (i) and adding the following after clause (i):

(j) respecting the exit of a prescribed employer from the Plan, and particularly establishing terms and conditions for that exit, and

period of notice that is agreed in writing between those employers, the Minister and the Board,

- (c) the liabilities and assets apportioned to the withdrawing employers may be transferred only to other pension plans,*
- (d) the withdrawing employers and the legal owners of the pension funds of the other pension plans must indemnify the Crown in a written form acceptable to the Minister with respect to any claims that may be made by any person that arise directly or indirectly from the withdrawal, and*
- (e) those fund owners, the withdrawing employers and the Board must accept the terms and conditions of the withdrawal established under subsections (7) and (8) in a written form acceptable to the Minister which releases the Crown from all liability with respect to the withdrawing employers' relationship to the Plan except that specified in subsection (7)(a).*

(8) Where a request for a withdrawal is made, the Lieutenant Governor in Council may, if satisfied that subsection (6) has been complied with and the conditions under subsection (7) are met, effectuate the withdrawal by

- (b) establishing provisions that are equivalent to section 9, stating the various continuing liabilities with respect to the unfunded liability under section 9 assumed by the other pension plans and the liabilities of the Crown, the withdrawing employers and their employees to make additional contributions to meet that assumed unfunded liability, and*

15(5) Where termination is proposed,

- (a) the Minister must give each employer and the Board at least 2 years' written notice of the proposed termination or any lesser period of notice that is agreed in writing between the Minister, all the employers and the Board,*
- (b) the liabilities and assets may be transferred only to other pension plans, and*
- (c) the conditions in section 14(6)(d) and (e) apply.*

4 Exit of employer from the Management Employees Pension Plan. Schedule 5 presently reads in part:

12(1) The Lieutenant Governor in Council may, after consulting with the Board, make regulations establishing provisions of a legislative nature that do not form part of the Plan

- (i) prescribing any matter or thing that by this Schedule may be or is to be prescribed, and*

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

(1.1) Without limiting subsection (1)(j), the regulations under that clause may provide that the amount of assets to be transferred from the Plan in respect of the exit is to be reduced

- (a) where the exiting employer is not one to which the *Public Service Act* applies, to take into account any detrimental effect on the funding of the Plan resulting from any pensionable salary of an employee of the exiting employer exceeding that of an employee holding a position in the public service of Alberta that is similar to that employee's position, and
- (b) by some or all of the liabilities of the closed plan in respect of members of the closed plan who, at the time of their last termination, were employees of the exiting employer,

and, notwithstanding anything in this Schedule, must provide, if applicable, that the amount of the asset reduction under clause (b) will be transferred from the Plan into the closed plan.

(1.2) Regulations under subsection (1)(j) may be

- (a) different for different employers, and
- (b) made to apply with effect from a date specified in them, being the effective date of the exit, that is prior to the commencement of this subsection.

(1.3) The guarantee contained in section 9(11) is not to continue with respect to benefits transferred from the Plan in connection with an exit referred to in subsection (1)(j).

5 Schedule 6 is amended in section 12

(a) in subsection (1) by striking out “and” at the end of clause (b), adding “and” at the end of clause (i) and adding the following after clause (i):

- (j) that are considered necessary or advisable, from the perspective of the Plan, to give full effect to the regulations made under section 12(1)(j) of Schedule 5.

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

5 Effect on Closed Management Plan of exit of employer from active Management Plan. Schedule 6 presently reads in part:

12(1) The Lieutenant Governor in Council may make any regulations

(1.1) Regulations under subsection (1)(j) operate notwithstanding anything to the contrary in this Schedule.

(1.2) Regulations under subsection (1)(j) may be made to apply with effect from a date specified in them, being the effective date of the exit referred to in section 12(1)(j) of Schedule 5, that is prior to the commencement of this subsection.

6 Schedules 1 to 5 are amended

(a) by repealing section 4(1)(f) and substituting the following:

(f) reciprocal agreements, other than affecting another pension plan established or continued by Alberta legislation,

(b) in section 12 in the case of Schedules 1 to 4 and in section 12(1) in the case of Schedule 5 by adding the following after clause (g):

(g.1) respecting the transfer of pension entitlements between the Plan and another pension plan established or continued by Alberta legislation,

(c) by repealing section 13.

6 Schedules 1 to 5 presently read in part exactly or somewhat as follows:

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

(f) reciprocal agreements,

12 The Lieutenant Governor in Council may, after consulting with the Board, make regulations establishing provisions of a legislative nature that do not form part of the Plan

13(1) Notwithstanding section 6(3), until the date prescribed, section 6(3)(a) is deemed to read

(a) invest the assets of the plan fund in forms of investment referred to in section 50(1) or (1.1) of the Financial Administration Act.

(2) The first actuarial valuation to be performed pursuant to section 5(1) is to be as at December 31, 1994 or prior to the making of any recommendation for a change in the plan rules that changes any benefits, whichever is earlier.

Furthermore, section 13 of Schedule 3 contains the following additional subsection:

(3) Notwithstanding anything in section 5 or 9, the Board shall by regulation make plan rules, on such basis as it considers appropriate, setting the rate of annual contributions for current service and of additional contributions payable by the employers and by participants in the period from August 1, 1994 to July 31, 1995, but the Board must be in full compliance with sections 5(2) and 9(6) respectively by August 1, 1995.

And Schedule 5 has much the same provision with, however, the Lieutenant Governor in Council being the regulation-making authority and the provision extending through to August 1, 1996.

7 Schedules 2, 3 and 4 are amended

(a) in section 9

(i) in subsection (1) by striking out “This section applies” and substituting “This section and section 9.1 apply”;

(ii) by adding the following after subsection (11):

(12) Notwithstanding section 5(1), the Board shall, when so requested by the Minister, have an actuarial valuation of the Plan performed, and a report on that valuation prepared, in respect of the unfunded liability and the service and benefits referred to in subsection (1).

(13) The Provincial Treasurer shall advance money from the General Revenue Fund to make all payments of additional contributions required by subsection (5)(a) to be paid by the Crown.

(b) by adding the following after section 9:

Effect of
elimination of
pre-1992
unfunded
liability

9.1 If an actuarial valuation referred to in section 9 shows that the Plan’s unfunded liability has been eliminated as at the effective date of the valuation, then, with respect to any period after that date,

- (a) any additional contributions paid are to be considered for the purposes of the plan rules as contributions in excess of what was payable and dealt with accordingly,
- (b) the Crown has no further liability in respect of that unfunded liability, and
- (c) section 9, other than section 9(1), is to be regarded as having no effect.

8 This Act comes into force on Proclamation.

7 Amendments to Public Service, Universities Academic and Special Forces Pension Plan Schedules. Schedules 2, 3 and 4 presently read in part:

9(1) This section applies only with respect to the Plan's unfunded liability in respect of service that was recognized as pensionable service, and the benefits that were in place, as at December 31, 1991.

8 Coming into force.