

BILL 26

2004

TEACHING PROFESSION AMENDMENT ACT, 2004

(Assented to _____, 2004)

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

Amends RSA 2000 cT-2

1 The *Teaching Profession Act* is amended by this Act.

2 Section 4(b) is amended by striking out “and” at the end of subclause (v), by adding “and” at the end of subclause (vi) and by adding the following after subclause (vi):

- (vii) by assessing the professional competence of its members by means of a professional practice review process provided for under the bylaws of the association;

3 Section 5 is amended

(a) by repealing subsection (1) and substituting the following:

Compulsory active membership

5(1) Subject to this section, the employment of a teacher by a school board is conditional on the teacher being and continuing to be an active member of the association except in the following cases:

- (a) a teacher who is a superintendent;

- (b) a teacher who
 - (i) is engaged in carrying out central office administrative functions for the school board,
 - (ii) is not engaged in carrying out teaching functions, and
 - (iii) is designated or otherwise described by or under the regulations as a teacher who is eligible to make an election under section 5.1;
- (c) a teacher who
 - (i) is designated by the school board to an administrative, supervisory or consultative position, and
 - (ii) under section 96(2) of the *School Act*, is excluded from the teachers on whose behalf the association is bargaining.

(b) by adding the following after subsection (3):

(4) Subsections (2) and (3) do not apply to a teacher referred to in subsection (1)(b) or (c) if that teacher is not an active member of the association.

4 The following is added after section 5:

Options re membership of certain teachers

5.1(1) A teacher referred to in section 5(1)(b) or (c) may elect one of the following:

- (a) to be an active member of the association;
- (b) to be an associate member of the association;
- (c) not to be a member of the association.

(2) Notwithstanding anything in the bylaws, where a teacher to whom this section applies makes an election under subsection (1), the association shall act in accordance with that election.

5 Section 8 is amended

(a) by renumbering it as section 8(1);

(b) in subsection (1) by adding the following after clause (g):

(g.1) the competence of its members, including the assessment of the professional competence of its members by means of a professional practice review process;

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

(2) Without restricting the generality of subsection (1)(g.1), a bylaw passed under subsection (1)(g.1) may

(a) provide for and govern

(i) the establishment of a Professional Practice Review Hearing Committee and procedures with respect to hearings before it;

(ii) the establishment of a Professional Practice Review Appeal Committee and procedures with respect to appeals before it;

(iii) with respect to matters before a committee referred to in this clause,

(A) the attendance before and the production of material to the committee;

(B) the taking of evidence;

(C) the assessing of costs and other payments to be made;

(D) the orders or decisions that may be made concerning

(I) matters relating to the hearing or the process;

(II) a teacher's professional competence;

(III) membership in the association;

- (E) the recommendations that may be made to the Minister respecting a teacher's certificate of qualification under the *School Act*;
 - (F) any other matter not referred to in this subclause that relates to a hearing or any other functions of the committee;
- (b) adopt in whole or in part, or with any modification, any regulation made under the *School Act* that deals with those matters referred to in subsection (1)(g.1) or clause (a);
 - (c) provide for the functions or duties, or both, to be performed by the association in matters concerning the competency of its members and the carrying out of a professional practice review process.
- (3) A bylaw made under subsection (1)(g.1) does not come into effect until it is approved by the Minister and remains in effect only during the time that the approval is in effect.
- (4) The approval of the Minister under subsection (3) is revocable, and the approval or revocation may
- (a) be general;
 - (b) be restricted, conditional or unconditional;
 - (c) be applicable only to a specific period of time;
 - (d) be applicable only to specific cases;
 - (e) be subject to terms or conditions;
 - (f) provide for transitional matters concerning the coming into effect of the bylaw or the revocation of the approval, including the disposition of any matter that was being dealt with at the time of the approval or revocation.

6 Section 57 is repealed and the following is substituted:

Decisions and judicial review

57(1) In this section,

- (a) “committee” means
 - (i) a hearing committee as defined in section 16;
 - (ii) the Appeal Committee as defined in section 16;
 - (iii) a Professional Practice Review Hearing Committee referred to in section 8(2);
 - (iv) a Professional Practice Review Appeal Committee referred to in section 8(2);
- (b) “decision” means the decision of a committee.

(2) A decision made by a committee is final and binding on the parties in respect of whom the decision is made and, subject to subsection (3), shall not be questioned, reviewed or restrained by any proceeding in the nature of an application for judicial review or otherwise in any court.

(3) On a question of jurisdiction only, a decision is reviewable on an application for judicial review of the decision.

(4) An application referred to in subsection (3) for judicial review of a decision must be commenced within 15 days from the day the decision is made.

7 The following is added after section 65:

Regulations

65.1 The Minister may make regulations

- (a) designating or otherwise describing, or providing for the designation or description of, teachers referred to in section 5(1)(b) who are eligible to make an election under section 5.1;
- (b) respecting membership in the association of teachers who are eligible to make an election under section 5.1.

8 This Act comes into force on Proclamation.

Explanatory Notes

1 Amends chapter T-2 of the Revised Statutes of Alberta 2000.

2 Section 4(b) presently reads:

4 The objects of the association are

(b) to improve the teaching profession

- (i) by promoting and supporting recruitment and selection practices that ensure capable candidates for teacher education,*
- (ii) by promoting and supporting adequate programs of preservice preparation, internship and certification,*
- (iii) by promoting the establishment of working conditions that will make possible the best level of professional service,*
- (iv) by organizing and supporting groups that tend to improve the knowledge and skill of teachers,*
- (v) by meetings, publications, research and other activities designed to maintain and improve the competence of teachers, and*
- (vi) by advising, assisting, protecting and disciplining members in the discharge of their professional duties and relationships;*

3 Section 5 presently reads:

5(1) Subject to this section, the employment of a teacher by a school board, other than as a superintendent, is conditional on the teacher being and continuing to be an active member of the association.

(2) When a school board employs a teacher, other than as a superintendent, the board shall notify the association in writing of the name of the teacher, the date of commencement of employment and the amount of salary to be paid and, notwithstanding subsection (1), the employment of the teacher by the school board is valid until the association notifies the school board in writing that the teacher is not an active member.

(3) When a teacher who is employed by a school board, other than as a superintendent, ceases to be an active member, the board may continue to employ the teacher until the association notifies the board in writing that the teacher is not an active member.

4 Membership of certain teachers.

5 Section 8 presently reads:

8 The association in general meeting may pass bylaws not inconsistent with this Act or any Act or regulation of Alberta concerning

- (a) the election of the executive council and officers of the association;*
- (b) the formation, government, management and dissolution of local associations;*
- (c) the management of its property and affairs and its own internal organization and administration;*
- (d) the maintenance of the association and the fixing and collecting of annual and other fees;*

- (e) *the time, place and conduct of the annual and other meetings of the association;*
- (f) *a code of professional conduct;*
- (g) *discipline proceedings, including the following:*
 - (i) *the appointment of members or acting members of the Professional Conduct Committee, the Complainant Appeal Committee, the Professional Conduct Appeal Committee and a hearing committee established under section 18;*
 - (ii) *setting a term of office for members of the Professional Conduct Committee, the Complainant Appeal Committee and the Professional Conduct Appeal Committee;*
 - (iii) *the designation of a chair and vice-chair for a committee referred to in subclause (i);*
 - (iv) *establishing the number of members that constitutes a quorum for a committee referred to in subclause (i);*
 - (v) *setting fees and expenses payable to members of a committee referred to in subclause (i) for attending to the business of the association;*
 - (vi) *respecting publication of an order made by a committee referred to in subclause (i);*
 - (vii) *determining costs of an investigation, hearing or appeal for the purpose of section 43(1)(a) or 54(2);*
 - (viii) *providing for the suspension or cancellation of a person's membership in the association for non-payment of fees, dues or levies that are payable to the association;*
 - (ix) *providing for the reinstatement of a person's membership in the association;*

(h) all other matters that are considered necessary or convenient for the management of the association and the promotion of its welfare or the conduct of its business.

6 Section 57 presently reads:

57 An application for judicial review of a decision made by a hearing committee or the Appeal Committee must be commenced within 15 days after the date the decision was made.

7 Regulations.

8 Coming into force.