

2009 Bill 25

Second Session, 27th Legislature, 58 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 25

TEACHERS' PENSION PLANS AMENDMENT ACT, 2009

THE MINISTER OF FINANCE AND ENTERPRISE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 25

2009

TEACHERS' PENSION PLANS AMENDMENT ACT, 2009

(Assented to _____, 2009)

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

Amends RSA 2000 cT-1

1 The *Teachers' Pension Plans Act* is amended by this Act.

2 Section 1(1) is amended

(a) by adding the following after clause (b):

(b.1) “contributions”, in addition to any definition of the term in the plan rules (notwithstanding the words “not defined in subsection (1)” in subsection (2)), does not include any payments by the Crown under section 19.1 or 19.2;

(b) by adding the following after clause (c):

(c.1) “Education Minister” means the Minister responsible for the *School Act*;

(c) in clause (d)(i) by striking out “the case of the Principal Plan” and substituting “respect of the post-1992 benefits”;

(d) by adding the following after clause (d):

(d.1) “Finance Minister” means the Minister responsible for section 19.1(1);

(e) by repealing clause (f);

Explanatory Notes

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

2 Section 1(1) presently reads in part:

1(1) In this Act,

- (d) “employer-contributors” means,*
 - (i) in the case of the Principal Plan, the Crown and any other bodies prescribed, and*
 - (ii) in the case of the Private School Plan, the employers under that Plan;*
- (f) “funding requirements” means the minimum funding requirements of the Employment Pension Plans Act and the regulations under it with respect to service after August 31, 1992, that are prescribed;*
- (g) “Minister” means the Minister determined under section 16 of the Government Organization Act as the Minister responsible for this Act;*
- (h) “Pension Fund” means the Teachers’ Pension Plan Fund referred to in section 3(c) or the Private School Teachers’*

(f) by repealing clause (h) and substituting the following:

(h) “Pension Fund” means

(i) the post-1992 fund,

(ii) the pre-1992 fund, or

(iii) the Private School Fund,

as the case may be, and “Pension Funds” means all of them;

(g) by repealing clause (j) and substituting the following:

(j) “plan costs” means the costs and expenses described in section 19.3(a), (b) or (c) that relate to the Pension Fund or Plan in question;

(h) in clause (k) by striking out “, 16(2), (6) and (7) and 19(4)” and substituting “and 16(2)”;

(i) by adding the following after clause (k):

(k.1) “post-1992 benefits” means all benefits under the Principal Plan that are not pre-1992 benefits and includes the portions of the Principal Plan that relate generally to those benefits;

(k.2) “post-1992 fund” means the Teachers’ Pension Plan Fund as continued by section 3(1);

(k.3) “pre-1992 benefits” means the benefits specified as saved by, and with cost-of-living adjustments continuing under, section 19, and includes the portions of the Principal Plan that relate generally to those benefits;

(k.4) “pre-1992 fund” means the pension fund established by section 3(2);

(j) in clause (m)

(i) by striking out “referred to in section 3(a)” and substituting “continued by section 3(1)”;

Pension Plan Fund referred to in section 3(d), as the case may be, and "Pension Funds" means both of them;

- (j) "plan costs", in relation to a Plan, means the separate sum referred to in section 21(1);*
- (k) "plan rules" means the plan provisions made pursuant to sections 14, 16(2), (6) and (7) and 19(4) and pursuant to regulations made under section 23(1)(m), including amendments, repeals or repeals and replacements of existing plan rules;*
- (m) "Principal Plan" means the Teachers' Pension Plan referred to in section 3(a) and contained partly in the applicable provisions of this Act and partly in that Plan's plan rules, and includes the Teachers' Pension Plan Fund;*
- (n) "Private School Plan" means the Private School Teachers' Pension Plan referred to in section 3(b) and contained partly in the applicable provisions of this Act and partly in that Plan's plan rules, and includes the Private School Teachers' Pension Plan Fund;*
- (r) "total plan costs" means the aggregate for the Plans of those separate sums, each of which is equal to the costs and expenses that the Board decides were incurred in its provision of services to, and to acquire equipment and supplies for the benefit of, a Plan.*

(ii) **by striking out** “Teachers’ Pension Plan Fund” **and substituting** “post-1992 fund and the pre-1992 fund”;

(k) by adding the following after clause (m):

(m.1) “Private School Fund” means the Private School Teachers’ Pension Plan Fund continued by section 3(1);

(l) in clause (n)

(i) **by striking out** “referred to in section 3(b)” **and substituting** “continued by section 3(1)”;

(ii) **by striking out** “Teachers’ Pension Plan Fund” **and substituting** “Fund”;

(m) by repealing clause (r).

3 Section 3 is repealed and the following is substituted:

Continuation of pension plans and funds and establishment of pre-1992 fund

3(1) The Teachers’ Pension Plan, the Private School Teachers’ Pension Plan and the Private School Teachers’ Pension Plan Fund are continued, and the Teachers’ Pension Plan Fund is continued as the pension fund only for the post-1992 benefits, under and subject to this Act, the regulations and the plan rules.

(2) There is hereby established a pension fund in the Principal Plan, to be known as the “Teachers’ Pension Plan Pre-1992 Fund”, for the purposes generally set out in section 19.1.

4 Section 14(3)(a) and (b) and (10) are amended by adding “Education” before “Minister”.

5 Section 15 is amended by striking out “6” and substituting “4”.

3 Section 3 presently reads:

3 The pension plan and the pension fund continued by and under the former Act and collectively known as the “Teachers’ Retirement Fund” are continued as

(a) the Teachers’ Pension Plan,

(b) the Private School Teachers’ Pension Plan,

(c) the Teachers’ Pension Plan Fund, being the pension fund for the Teachers’ Pension Plan, and

(d) the Private School Teachers’ Pension Plan Fund, being the pension fund for the Private School Teachers’ Pension Plan,

under and subject to this Act, the regulations and the plan rules.

4 Changes in reference from “Minister” to Minister responsible for the School Act.

5 Section 15 presently reads:

6 Section 16 is amended

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

Funding of post-1992 benefits and Private School Plan

16(1) In this section,

- (a) “funding requirements” means the minimum funding requirements, excluding any requirements for the funding of solvency deficiencies, of the *Employment Pension Plans Act* and the regulations under it;
- (b) “solvency funding requirements” means the prescribed requirements, if any, for funding solvency deficiencies.

(1.1) The Board shall have a separate actuarial valuation of each of the post-1992 benefits and the Private School Plan performed and a separate report on each such valuation prepared by the Plan’s actuary at least once every 3 years, with each such report including a calculation of the solvency deficiencies.

- (b) in subsection (2)**

- (i) **by striking out** “or the report”;
- (ii) **by striking out** “for current service to comply with subsections (3) to (5)” **and substituting** “to comply with subsections (3), (5) and (6)”;

- (c) by repealing subsections (3) and (4) and substituting the following:**

(3) With regard to the post-1992 benefits and the Private School Plan, the funding requirements and, if applicable, the solvency funding requirements are to be met by contributions paid by the contributing active members and by the employer-contributors in accordance with the plan rules.

15 The Lieutenant Governor in Council may make regulations for the purposes described in section 6 of the Employment Pension Plans Act.

6 Section 16 presently reads:

16(1) The Board shall have a separate actuarial valuation of each Plan performed and a report on that valuation or on both valuations prepared by the Plan's actuary at least once every 3 years.

(2) The Board shall, if necessary, within a reasonable time after receiving each report or the report, make plan provisions for each Plan, substantially based on the Plan's actuary's report, adjusting the employer-contributors' and the contributing active members' contribution rates for current service to comply with subsections (3) to (5).

(3) The current service cost of a Plan is to be met by contributions paid for current service

(a) by its contributing active members, and

(b) by the employer-contributors,

in accordance with the plan rules and the funding requirements.

(4) The current service cost of the Principal Plan is to be determined using the prescribed method.

(5) The Board shall set the employer-contributors' and the contributing active members' contribution rates for current service under each Plan so that

(a) together they are sufficient to cover the current service cost in respect of the current service under the Plan,

(b) the aggregate contributions for the current service payable by contributing active members of the Plan are equal to those payable by the employer-contributors of the Plan, and

(c) no account is taken in the employer-contributors' contribution rates of the portions of the current service cost that represent the costs of any benefit or any portion of a benefit the costs of which are required by the Plan's plan

(d) by repealing subsections (6) and (7) and substituting the following:

(6) Separately with respect to the post-1992 benefits and the Private School Plan, the Board shall set the employer-contributors' and the contributing active members' contribution rates for unfunded liabilities or solvency deficiencies or both, so far as applicable, so that

- (a) those combined contributions are sufficient to meet or exceed the applicable funding requirements or, if applicable, the solvency funding requirements or both, as the case may be,
- (b) the aggregate contributions payable by contributing active members are equal to those payable by the employer-contributors, and
- (c) no account is taken in the employer-contributors' contribution rates of the portions of those unfunded liabilities or solvency deficiencies that represent the costs of any benefit or any portion of a benefit the costs of which are required by the plan rules to be borne exclusively by the contributing active members.

rules to be borne exclusively by its contributing active members.

(6) The Board shall make plan provisions setting the employer-contributors' and the contributing active members' contribution rates for unfunded liabilities attributable to pensionable service after August 31, 1992 under each Plan so that

- (a) together they are sufficient to meet or exceed the Plan's funding requirements,*
- (b) the aggregate contributions for those unfunded liabilities payable by contributing active members of the Plan are equal to those payable by the employer-contributors of the Plan, and*
- (c) no account is taken in the employer-contributors' contribution rates of the portions of those unfunded liabilities that represent the costs of any benefit or any portion of a benefit the costs of which are required by the Plan's plan rules to be borne exclusively by its contributing active members.*

(7) With respect to the Private School Plan, the Board shall make plan provisions setting the employer-contributors' and the contributing active members' contribution rates for solvency deficiencies so that

- (a) together they are sufficient to meet or exceed that Plan's funding requirements,*
- (b) the aggregate contributions for those solvency deficiencies payable by contributing active members of that Plan are equal to those payable by the employer-contributors of that Plan, and*
- (c) no account is taken in the employer-contributors' contribution rates of the portions of those solvency deficiencies that represent the costs of any benefit or any portion of a benefit the costs of which are required by that Plan's plan rules to be borne exclusively by its contributing active members.*

7 Section 17 is amended

(a) by repealing subsection (2) and substituting the following:

(2) All the assets of the Private School Plan are to be held in, and all its liabilities are to be assumed by, the Private School Fund, and all the assets and liabilities relating to the post-1992 benefits are to be respectively held in and assumed by the post-1992 fund.

(2.1) All the assets relating to the pre-1992 benefits are to be held in the pre-1992 fund.

(2.2) The pre-1992 benefits are to be funded through the medium of the pre-1992 fund and all the assets of that fund are to be used to fund those liabilities and related plan costs.

(b) in subsection (3) by striking out “benefits under the respective Plan” and substituting “the respective benefits”;

(c) in subsection (4) by striking out “that Plan’s Pension Fund” and substituting “the post-1992 fund or the Private School Fund, as the case may be,”;

(d) by repealing subsections (6) and (7) and substituting the following:

(6) The Board shall pay

(a) the post-1992 benefits and its plan costs out of the post-1992 fund,

(b) the pre-1992 benefits and its plan costs out of the pre-1992 fund, and

(c) the benefits under the Private School Plan and its plan costs out of the Private School Fund.

(7) The assets of the Private School Fund are not to be used to discharge any liabilities of or relating to the Principal Plan, and the assets of the post-1992 fund or the pre-1992 fund are not to be used to discharge any liabilities of or relating to each other or the Private School Plan.

7 Section 17 presently reads in part:

(2) All the assets of each Plan are to be held in, and all its liabilities are to be assumed by, its Pension Fund.

(3) The Board shall

(a) invest or lend the assets of a Pension Fund in a manner that is not excluded by the Employment Pension Plans Act or the regulations under it, and

(b) manage those assets

for the sole benefit of the persons entitled to benefits under the respective Plan.

(4) All contributions to a Plan, with interest, if any, payable on them, must be made and remitted to the Board, which shall deposit that money into that Plan's Pension Fund directly on receiving it.

(6) The Board shall pay the benefits payable under a Plan and its plan costs out of that Plan's Pension Fund.

(7) The assets of one Plan are not to be used to discharge any liabilities of the other Plan.

8 Sections 18 and 19 are repealed and the following is substituted:

Trust relationship to Pension Funds

18(1) The Board shall hold all the assets of

- (a) the post-1992 fund in trust solely for the purposes of providing post-1992 benefits,
- (b) the pre-1992 fund in trust solely for the purposes of providing pre-1992 benefits, and
- (c) the Private School Fund in trust solely for the purposes of providing benefits under the Private School Plan,

and of meeting the respective plan costs.

(2) The assets of

- (a) the post-1992 fund belong beneficially to the persons entitled to the post-1992 benefits,
- (b) the pre-1992 fund belong beneficially to the persons entitled to the pre-1992 benefits, and
- (c) the Private School Fund belong beneficially to the persons entitled to benefits under the Private School Plan,

and the Crown has no claim to those assets.

Saving of pre-1992 benefits

19 The benefits accrued under the Principal Plan as at the end of August 1992, including subsequent cost-of-living adjustments referred to in this section, as it was repealed by section 8 of the *Teachers' Pension Plans Amendment Act, 2009*, are saved but with cost-of-living adjustments continuing under this section as if that repeal had not taken place, but (to avoid any doubt) the benefits so saved do not include the value of any increase in any such benefits resulting from any amendment of the law coming into force after August 1992.

8 Sections 18 and 19 presently read:

18(1) The Board shall hold all the assets of a Pension Fund in trust for the sole purposes of providing benefits under the respective Plan and meeting its plan costs.

(2) The assets of a Pension Fund belong beneficially to the persons entitled to benefits under the respective Plan, and the Crown has no claim to those assets.

19(1) This section applies only with respect to the Principal Plan.

(2) In this section,

(a) “post-1992 assets” means any portion of the Principal Plan’s Pension Fund that is shown by the records kept under section 20(b) as attributable to pensionable service after August 1992;

(b) “pre-1992 assets” means any portion of that Plan’s Pension Fund that is shown by those records as attributable to pensionable service before September 1992;

(c) “pre-1992 benefits” means the benefits referred to in clause (d)(i);

(d) “unfunded liability” means the amount, if any, determined by the Principal Plan’s actuary in an actuarial valuation of the Principal Plan to be the excess of

(i) the actuarial present value of benefits attributable to all pensionable service recognized under the Principal Plan as at the end of August 1992, including, however, that value of cost-of-living adjustments in benefits after 1992 on all pensionable service recognized under that Plan as at the end of 1992 at the basic rate of increases stipulated in the plan rules for that Plan,

over

(ii) the value of that Plan’s assets attributable to all pensionable service recognized under that Plan as at the end of August 1992.

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

Funding of pre-1992 benefits

19.1(1) The Crown assumes the whole liability for the funding, in accordance with this section, of the pre-1992 benefits through the pre-1992 fund.

(2) The Finance Minister shall advance money from the General Revenue Fund to enable the Board to make regular payments of pre-1992 benefits from the pre-1992 fund.

(3) The Crown guarantees the payment of the pre-1992 benefits.

(4) Notwithstanding anything in this Act, in the event that there are any assets remaining in the pre-1992 fund after the payment of all the pre-1992 benefits and related plan costs, all those remaining assets belong to the Crown and the Board shall return them to the Crown, whereupon the pre-1992 fund is automatically closed.

Payment of post-1992 assets to post-1992 fund

19.2(1) The Finance Minister, after consulting with the Board, shall determine the accumulated value, as at the end of August 2009, of the post-1992 assets that were used pursuant to section 19(8) (repealed).

(2) The Finance Minister, in a manner and in accordance with a time schedule that the Finance Minister considers appropriate, shall pay from the General Revenue Fund to the post-1992 fund the full amount determined under subsection (1) with interest from the end of August 2009 at the prescribed rate.

(3) In the event that the Principal Plan is wound up and there remains any money due under this section, the Finance Minister shall forthwith pay from the General Revenue Fund to the post-1992 fund the whole amount of principal and interest owed.

Plan costs

19.3 The plan costs of or relating to

- (a) the pre-1992 fund consist of the costs and expenses that the Board decides fall within those prescribed as the plan costs relating to the pre-1992 benefits,

(4) The Board shall have

- (a) the Principal Plan's unfunded liability, and*
- (b) the aggregate annual amount of the additional contributions to that Plan required in the years before the next actuarial valuation in order to ensure the elimination of that Plan's unfunded liability on or before August 31, 2060*

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

(5) The additional contributions to be paid into the Principal Plan are as follows:

- (a) by the contributing active members of that Plan, additional contributions based, as between individual contributing active members, proportionately on each contributing active member's pensionable salary, in the aggregate annual amount of 32.65% of the total required, and*
- (b) by the employer-contributors of that Plan, additional contributions in the aggregate annual amount of 67.35% of the total required.*

(6) In subsection (5), "total required" means the aggregate annual amount of the additional contributions required, as established by the Principal Plan's plan rules under subsection (4).

(7) The Board shall first use the pre-1992 assets to fund all pre-1992 benefits.

(8) When the pre-1992 assets have been exhausted, the Board shall use post-1992 assets to fund pre-1992 benefits, except that if a decision is made to wind up the Principal Plan, then, notwithstanding anything in that Plan, the Board may no longer do so.

(9) In the event that the Principal Plan ceases to be able to pay all the pre-1992 benefits, the Crown guarantees

- (a) the payment, in the manner prescribed, of the pre-1992 benefits, and*

- (b) the post-1992 fund consist of the costs and expenses that the Board decides relate to the Principal Plan, excluding those falling within clause (a), and
- (c) the Private School Plan consist of the costs and expenses that the Board decides relate to the Private School Plan.

9 Section 20(b) and (c) are repealed and the following is substituted:

- (b) the classification of benefits under the Principal Plan as pre-1992 benefits or post-1992 benefits, and
- (c) the total of the plan costs to be charged against the Pension Funds and the allocation of that total among the Pension Funds.

10 Section 21 is repealed.

11 Section 23(1) is amended

- (a) **in clause (f) by adding** “or the Finance Minister” **after** “Minister”;
- (b) **by repealing clause (i);**
- (c) **in clause (k) by adding** “or Funds” **after** “Fund”;

(b) payment into the Plan's Pension Fund, in the manner prescribed, of an amount, calculated on the basis prescribed, that represents the current value of the post-1992 assets that were used pursuant to subsection (8) but restricted, if the regulations so prescribe, to what remains necessary to fund all benefits that are not pre-1992 benefits.

(10) Subsection (9) ceases to have force on August 31, 2060 or at such earlier time, if any, that the unfunded liability is first eliminated.

9 Section 20 presently reads:

20 The Board shall maintain such records, in accordance with any requirements that are prescribed, as are requisite to enable

- (a) all transactions and information respecting a Plan or Pension Fund to be attributed to whichever Plan or Pension Fund is appropriate,*
- (b) all transactions and information relating to any service under a Plan to be attributed either to service before September 1992, including the unfunded liability referred to in section 19(2), or to service after August 1992, and*
- (c) the total plan costs to be allocated between the Plans.*

10 Section 21 presently reads:

21(1) Each Plan's plan costs consist of the separate sum described in section 1(1)(r) that is applicable to the Plan.

(2) The Board shall charge each Pension Fund for the plan costs of the respective Plan.

11 Section 23(1) presently reads in part:

23(1) Subject to any other provisions of this Act imposing any further or other conditions, the Lieutenant Governor in Council may, on a recommendation made by the Minister following consultation with the Board, make regulations establishing provisions of a legislative nature that do not form part of a Plan,

(d) by adding the following after clause (p):

- (p.1) being provisions that are considered to be requisite or advisable so as to give full effect to the Plan or to be sound law in the field of pensions;

12 Section 26 is repealed.

13(1) Subject to subsection (2), this Act comes into force on September 1, 2009.

(2) Section 8, to the extent that it adds section 19.2(2) into the *Teachers' Pension Plans Act*, comes into force on January 1, 2010.

- (f) *requiring the Board to consult with the Minister in respect of the prescribed matters;*
- (i) *establishing exceptions to the requirements of section 19(4), (5) and (6) so as to enable temporary reductions in the amounts of additional contributions;*
- (k) *providing for the winding-up of a Plan, the basis on which the winding-up is to be carried out and the disposition of the assets and liabilities in that Plan's Pension Fund;*

12 Section 26 presently reads:

26(1) Notwithstanding anything in this Act except this section, or anything in the regulations or the plan rules, the Crown shall ensure that there is or has been paid, out of money voted by the Legislature and in whatever manner the Crown considers appropriate, all additional contributions that, but for this section, would be payable by contributing active members under section 19(5)(a) on pensionable salary paid to them in respect of the period from September 1, 2007 to August 31, 2009, including interest, if any, due on such contributions.

(2) Additional contributions referred to in subsection (1) are to be treated as additional contributions paid by the Crown, as one of the employer-contributors, under section 19(5)(b).

(3) Subsection (1) does not apply to additional contributions paid or payable where the employer-contributor is one that was listed in the Schedule to the Teachers' Pension Plans (Legislative Provisions) Regulation (AR 204/95) as at the beginning of September 2007.

(4) Prepayments made before the enactment of this section of money that became payable as the result of that enactment are validated notwithstanding any lack of legal authorization to make the payments at the time they were made.

13 Coming into force.

