

**Joint Submissions of Justice and the Public Service Commission
To the Standing Committee on Families and Communities
*Public Sector Compensation Transparency Act***

Background and General Operation of the Act

The *Public Sector Compensation Transparency Act* (Act) was passed in 2015, with the first disclosure under the Act occurring in June 2016.

The Act requires the Government of Alberta and public sector bodies to disclose compensation paid to employees earning over a specified threshold, along with all compensation paid to public sector body board members. The disclosure is intended to increase transparency, helping Alberta taxpayers to see how their money is spent. By only requiring disclosure of compensation above the threshold, the Act focuses on higher incomes.

The thresholds for government and for public sector bodies differ in the following:

- For government, the threshold is based on base salary or severance. It does not include overtime, taxable benefits or other amounts. For 2023 earnings, the threshold is \$125,888.
- For public sector bodies¹, the threshold is based on the employee's total compensation, including overtime, taxable benefits and severance. This approach is intended to help minimize costs and the administrative burden for employers so they do not have to calculate compensation differently than they already do for their employees' T4 slips. The public sector bodies' threshold for 2023 earnings is \$150,219.

These thresholds do not remain static; they change each year to reflect the Consumer Price Index. When the Act was first passed in 2015, the thresholds were \$104,754 for government departments and \$125,000 for public sector bodies. This indexing is intended to ensure the threshold responds to inflation.

From 2012 to 2014, the government relied on a threshold contained in a Treasury Board Directive. Prior to 2012, there was no disclosure.

The Lieutenant Governor in Council is able to, by regulation, exempt a public sector body or health entity from the application of all or part of the Act. This is currently done under the *Public Sector Compensation Transparency General Regulation* (Alta Reg 52/2016).

Additionally, the Minister may exempt individual employees, health practitioners, or health services providers where the Minister is of the opinion that the disclosure of compensation would unduly threaten the employee's safety. The use of this exemption is not common and affects a small number of employees.

The Lieutenant Governor in Council may, by regulation, require the Crown to disclose to the public and the Minister, documents and records relating to claims made under the *Alberta Health Care Insurance Act* and payments in respect of those claims.

¹ Pursuant to section 1(m) of the Act, "public sector body" means an Office of the Legislature, a public agency and the subsidiaries of a public agency, Covenant Health and the subsidiaries of Covenant Health, and any part or all of a person, an organization or a body (whether incorporated or not) that is identified in the regulations as a public sector body.

The Lieutenant Governor in Council may, by regulation, also require specific health entities² to disclose to the public and Minister information and documents related to any funding received, payments made, or benefits provided by a health authority in respect of publicly funded health services. No regulation currently exists on these subjects.

The Act permits (but does not require) municipal authorities and education bodies³ to disclose compensation in a manner similar to public sector bodies.

The Act contains a mandatory review clause; it must be reviewed by a committee of the legislature every four years from the date on which the previous committee submits its final report. Each review must be completed within six months.

The most recent review was completed by a former iteration of the Standing Committee on Resource Stewardship in October, 2019 (2019 Committee). The Act has not been amended in response to these recommendations.

This submission was prepared jointly by Justice and the Public Service Commission (PSC), being the departments responsible for the legislation and the administration of the Act, respectively. Deputy ministers of other departments were also invited to provide input. Individuals whose compensation is or may be disclosed are able to provide input in their capacity as private citizens.

Submissions

Overall assessment

The previous submissions to the 2019 Committee indicated that, overall, the Act is operating as intended, with a very high level of compliance. This assessment has not changed.

That said, Justice and the PSC would like to offer a few comments for consideration.

Expanded disclosure by municipal authorities and education bodies (Recommendations 1 and 2 of 2019 Committee)

The Act authorizes (but does not require) municipalities and school boards to choose whether to disclose compensation. Municipal Affairs and Education have previously indicated support for this opt-in approach as municipalities and school boards in Alberta are elected and answer to their electors.

The 2019 Committee recommended that the Government of Alberta amend the Act to change this optional disclosure to mandatory disclosure.

² Pursuant to section 5(2) of the Act, these entities are the Government of Alberta; a regional health authority and a subsidiary health corporation under the *Regional Health Authorities Act*; the Alberta Medical Association; Covenant Health its subsidiaries; and any part or all of any other person, organization or body, whether incorporated or not, that provides or receives funding in respect of publicly funded health services.

³ Pursuant to section 1(c), “education body” means a board as defined in the *Education Act*, a board as defined in the *Northland School Division Act*, a Francophone regional authority as defined in the *Education Act*, a person responsible for the operation of a private school registered under the *Education Act* that receives a grant under the *Government Organization Act*, and the operator of a charter school established under the *Education Act*.

If similar recommendations are considered, this committee may wish to consult with these stakeholders, perhaps through associations, such as the Alberta Municipalities, the Rural Municipalities of Alberta, or organizations representing education bodies.

In addition to providing feedback on the Act, consultation may also help identify complexities associated with mandatory disclosure and provide insight into potential technical readiness issues. For example, payroll systems are almost certainly different across organizations; education bodies and municipal authorities may not be able to disclose compensation in accordance with the requirements outlined in the Act without technical changes. Consultation may also provide greater detail on the compensation disclosure already occurring.

For example, in respect of municipalities, the *Supplementary Accounting Principles and Standards Regulation* under the *Municipal Government Act* already requires municipalities to disclose the salaries and benefits received by councillors, the chief administrative officer, and designated officers (based on total compensation paid to all designated officers and number of positions). Some municipalities, such as Edmonton, Calgary, and Red Deer also publish anonymized salary ranges by job title.

The *Education Act* requires that annual financial statements provided by school boards include remuneration, benefits, allowances, and expenses paid to or on behalf of the members of the board, superintendent, secretary, treasurer, and secretary-treasurer. The total remuneration and benefits paid to a board's teachers and non-teaching employees must also be disclosed in aggregate. Salary grids for teaching staff and officials are publicly available.

Disclosure of compensation below threshold in aggregate (Recommendation 3 of 2019 Committee)

The 2019 Committee recommended:

“That the Act be amended to require the disclosure of employee compensation and severance information for those employees whose remuneration when calculated in accordance with the Act falls below the threshold but above \$40,000 and that this disclosure of information be limited to the number of employees receiving compensation within a range, with ranges in increments not to exceed \$25,000, and shall not include any identifying information about employees.”

This \$40,000 threshold would likely include virtually every remaining employee of the Alberta Public Service not already above the threshold and, as such, would result in an extremely large and highly aggregated data set. This data set may be cumbersome to create and annually update while not necessarily providing information of similar significance compared to what is currently disclosed under the Act.

Total salaries paid by individual ministries are already available in each ministry's annual report, and salary scales are publicly available.

Disclosure of ratios for employees to supervisors, managers and directors (Recommendation 4 of 2019 Committee)

The 2019 Committee recommended:

“That the Act be amended to require the disclosure of ratios for employees to supervisors,

managers and directors by each entity that is required to disclose compensation under the Act.”

Amending the Act to require the disclosure of ratios for employees to supervisors, managers, and directors may pose operational challenges since the terms “supervisor,” “manager,” and “director” will need to be defined, interpreted, and applied. Given the variety of organizations covered by the Act, and their considerable differences in size and structure, confusion and inconsistencies are likely to exist in this disclosure.

Reporting on ratios in this fashion, like compiling disaggregated data for employees below the threshold, will be cumbersome since employees are frequently changing jobs, being promoted, retiring, and being reclassified.

Finally, there may also be concerns that disclosure of aggregate ratios does not provide sufficient information about an organization’s actual function, structure, or effectiveness, to warrant this ongoing expenditure of time and resources.

Organizational exemptions

There are exemptions for ATB Financial, the Alberta Investment Management Corporation (AIMCo) and the Alberta Teachers’ Retirement Fund (ATRF).

Treasury Board and Finance continues to support these exemptions.

- These organizations compete globally to attract and retain top talent.
- ATB Financial has a mandate to compete with other private-sector entities and follows the same stringent regulatory requirements and industry standards as its competitors, specifically the banks and other financial institutions across Canada.
- The financial returns generated by AIMCo and ATRF are critical to the livelihood of 400,000 Alberta pensioners and the continued success of the Heritage Fund and other government investment funds.
- This approach provides a level playing field between these agencies and their private sector counterparts, while ensuring Albertans continue to be served by top talent in the highly competitive financial industry.

Administrative issues and clarity of rules

For the initial disclosure in 2016, government received a variety of questions from public sector bodies on particular issues including how certain items were to be reported. Those questions have largely tapered off. Other questions raised by public sector bodies are generally addressed through clarification in the Technical Guide and Frequently Asked Questions documents available on the PSC website.

One topic that continues to generate questions is what comprises “non-monetary benefits”. This committee could consider whether the definition of this term should be clarified. For example, the committee could consider whether the cost of unfunded pension plans should be disclosed as a non-monetary benefit.

Conclusion

We thank the committee for the opportunity to provide comments for consideration as it reviews the *Public Sector Compensation Transparency Act* and look forward to providing ongoing technical support.