

PUBLIC EDUCATION SUPPORT STAFF COLLECTIVE BARGAINING ASSISTANCE ACT

CHAPTER 2

Assented to April 2, 2000

Contents

Section

PART 1 – CONTINUATION OF SUPPORT STAFF SERVICES

- 1 Definitions
- 2 Support staff services continued
- 3 Other rights not affected
- 4 Appointment and duties of industrial inquiry commission
- 5 Decision of industrial inquiry commission
- 6 Decision binding
- 7 Execution of documents
- 8 Regulations

PART 2 – FRAMEWORK FOR SUPPORT STAFF COLLECTIVE BARGAINING

- 9 Definitions
- 10 Support staff collective bargaining
- 11 Regulations relating to support staff collective bargaining

PART 3 – MISCELLANEOUS

- 12 Application of *Labour Relations Code*
- 13 Repeal

SCHEDULE

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

PART 1 – CONTINUATION OF SUPPORT STAFF SERVICES

Definitions

1 In this Part:

“**employee**” means an employee of the employer within a bargaining unit for which a support staff union is certified;

“**employer**” means a board of school trustees of a school district designated in the Schedule;

“**industrial inquiry commission**” means the industrial inquiry commission referred to in section 4;

Section 2

“support staff union” means a trade union that

- (a) represents employees of the employer, other than teachers, and
- (b) is designated in the Schedule.

Support staff services continued

- 2 (1) Despite the *Labour Relations Code*, immediately on the coming into force of this Act,
- (a) an employer must not lock out or declare a lockout of any of its employees and must terminate any lockout,
 - (b) a support staff union and the employees represented by that union must not strike or declare a strike and must terminate any strike,
 - (c) every employee must resume his or her ordinary duties and work schedules of employment with the employer,
 - (d) any declaration, authorization or direction to go on strike given before or after the coming into force of this Act becomes invalid by reason of this Act,
 - (e) an officer or representative of a support staff union must not in any manner impede or prevent, or attempt to impede or prevent, any person to whom paragraphs (a) to (c) apply from complying with those paragraphs, and
 - (f) an employer or a person acting on behalf of an employer must not
 - (i) refuse to permit any person to whom paragraphs (a) to (c) apply to continue or resume the ordinary duties of his or her employment, or
 - (ii) discharge or in any other manner discipline such a person by reason of the person having been locked out or on strike before the coming into force of this Act.
- (2) A collective agreement between an employer and a support staff union that was in force on March 1, 2000 is extended and is deemed to be in effect for the period from the coming into force of this Act until the employer and support staff union conclude a collective agreement or a renewed or revised collective agreement takes effect under this Part.

Other rights not affected

- 3 Nothing in this Part affects the right of an employer to suspend, transfer, lay off, discharge or discipline an employee in accordance with the collective agreement that is in force on the day on which this Act comes into force.

Appointment and duties of industrial inquiry commission

- 4 (1) The Minister of Labour must appoint an industrial inquiry commission under section 79 of the *Labour Relations Code* to
- (a) assist employers and support staff unions to conclude collective agreements, and
 - (b) if necessary, determine collective agreements under section 5 of this Act.

-
- (2) The industrial inquiry commission may utilize such persons as it considers appropriate to assist it to carry out the duties referred to in subsection (1).

Decision of industrial inquiry commission

- 5
- (1) If after 60 days from the day on which an employer and a support staff union are designated in the Schedule the employer and support staff union have failed to conclude a collective agreement, the industrial inquiry commission must within 15 days make a written decision for settlement of a collective agreement between the employer and support staff union.
- (2) The decision of the industrial inquiry commission must include provisions agreed to by the parties.
- (3) The decision of the industrial inquiry commission must provide that the renewed or revised collective agreement takes effect from a date set out in the decision.

Decision binding

- 6
- (1) The decision of the industrial inquiry commission is binding on the employer and support staff union and on the employees on whose behalf the support staff union is entitled to bargain except insofar as the parties agree to vary it.
- (2) If it is shown to the satisfaction of the industrial inquiry commission that an error is apparent on the face of the decision, the industrial inquiry commission may, on application of a party to the dispute within 7 days after the effective date of that decision, amend the decision.

Execution of documents

- 7
- (1) If the employer and support staff union fail to prepare and execute documents in the form of a renewed or revised collective agreement giving effect to the decision of the industrial inquiry commission within 7 days after the industrial inquiry commission's decision, the parties, or either of them, must promptly notify the industrial inquiry commission in writing, and the industrial inquiry commission must prepare documents in the form of a renewed or revised collective agreement giving effect to the decision of the industrial inquiry commission and any matters agreed to by the parties, and submit the documents to the parties for execution.
- (2) If the parties or either of them fail to execute the documents prepared by the industrial inquiry commission within 7 days after the day of submission of the documents to them, the documents come into effect as though they had been executed by the parties and constitute renewed or revised collective agreements under the *Labour Relations Code*.

Regulations

- 8 The Lieutenant Governor in Council may make regulations to amend the Schedule

Section 9

- (a) to make corrections in the designations of employers and support staff unions,
- (b) to designate additional employers and support staff unions, or
- (c) to delete designations of employers and support staff unions.

PART 2 – FRAMEWORK FOR SUPPORT STAFF COLLECTIVE BARGAINING

Definitions

9 In this Part:

“**commissioner**” means the person appointed under section 10 as the commissioner;

“**employers’ association**” means the employers’ association established for school boards under section 6 of the *Public Sector Employers Act*;

“**support staff collective bargaining**” means collective bargaining by the employers’ association, school boards and support staff unions;

“**support staff union**” means a trade union that represents employees of the employer, other than teachers.

Support staff collective bargaining

10 (1) The Minister of Labour may appoint a commissioner to do the following:

- (a) inquire into the structures, practices and procedures for support staff collective bargaining;
- (b) make recommendations, after taking into consideration the factors mentioned in subsection (2), with a view to improving those structures, practices and procedures;
- (c) report the recommendations to the Minister of Labour within the time set by that minister.

(2) The commissioner may consider the following:

- (a) the public interest in stable industrial relations in the public school system and in a bargaining environment that reduces the potential for disruptions in education;
- (b) the need for effective structures, practices and procedures for support staff collective bargaining and the views of the employers’ association, the school boards and support staff unions on how to achieve this;
- (c) the role, responsibility and effectiveness of the employers’ association in support staff collective bargaining, including any matter concerning the constitution, bylaws, rules, policies or procedures of the employers’ association;
- (d) the role, responsibility and effectiveness of support staff unions in support staff collective bargaining;

-
- (e) the history and pattern of union representation of support staff employees of school boards;
 - (f) any other factor that the commissioner considers relevant or that the Minister of Labour may direct.
- (3) The recommendations under subsection (1) may include, without limitation, recommendations respecting any or all of the following:
- (a) the establishment of associations or other organizations consisting of all or some of the support staff unions and the functions of those associations or organizations, including the extent of their bargaining authority;
 - (b) the establishment of two-tiered bargaining structures and the designation of bargaining matters for the purposes of those structures;
 - (c) the establishment and content of articles of association for any association or other organization of support staff unions;
 - (d) the conferral of jurisdiction on the Labour Relations Board in relation to any matter arising from the commissioner's recommendations.
- (4) The commissioner must make recommendations to the Minister of Labour respecting implementation of the recommendations made under subsection (1), including, but not limited to,
- (a) any changes to the constitution, bylaws or rules of the employers' association necessary to implement the recommendations under subsection (1), and
 - (b) any limitations the commissioner considers necessary as to the period during which any change to the structures, practices and procedures for support staff collective bargaining should remain in effect or be reviewed.
- (5) The commissioner may not recommend the expiry or extinguishment of a collective agreement before the expiry date set out in the collective agreement.
- (6) For the purposes of an inquiry under this section, the commissioner has the protection, privileges and powers of a commissioner under sections 12, 15 and 16 of the *Inquiry Act*.
- (7) The commissioner may be paid remuneration and expenses set by the Minister of Labour.

Regulations relating to support staff collective bargaining

- 11** (1) If the Minister of Labour accepts all of the recommendations made under section 10, the Lieutenant Governor in Council may make regulations to give effect to those recommendations.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations
- (a) respecting the structure, role and responsibilities of the employers' association in support staff collective bargaining,

Section 12

- (b) establishing, or providing for the establishment of, one or more associations or other organizations of support staff unions for collective bargaining with the employers' association,
 - (c) defining for the purposes of any provision of the *Labour Relations Code* whether an association or other organization of support staff unions established in accordance with a regulation under this section is a trade union, a council of trade unions, a person or a party,
 - (d) defining the functions of, an association or other organization of support staff unions established in accordance with a regulation under this section, including the extent of its bargaining authority despite the authority of a member support staff union under section 27 (1) (a) of the *Labour Relations Code*,
 - (e) establishing, or providing for the establishment of, the articles of association for any association or other organization of support staff unions,
 - (f) amending, with the approval of the Minister of Finance and Corporate Relations, the constitution, bylaws or rules of the employers' association to facilitate bargaining with one or more associations or other organizations of support staff unions,
 - (g) conferring jurisdiction on the Labour Relations Board in relation to any matter arising from the commissioner's recommendations and specifying the provisions of the *Labour Relations Code* that apply in relation to that matter, and
 - (h) governing any transitional difficulties encountered in giving effect to the recommendations made by the commissioner under section 10 of this Act.
- (3) If the constitution, bylaws or rules of an employers' association are amended under subsection (2) (f) of this section, the amended provisions
- (a) apply to the employers' association as if they were established and approved under section 7 of the *Public Sector Employers Act*, and
 - (b) subject to section 7 (4) of that Act, may be further amended, or may be repealed and replaced, by the employers' association.

PART 3 – MISCELLANEOUS

Application of *Labour Relations Code*

- 12 (1) The *Labour Relations Code* and the regulations made under it apply in respect of a matter to which this Act or the regulations made under it apply, but if there is a conflict or an inconsistency between
- (a) this Act or the regulations made under this Act, and
 - (b) the *Labour Relations Code* or the regulations made under it,
- this Act or the regulations made under this Act, as the case may be, applies.
- (2) The Labour Relations Board has exclusive jurisdiction to decide

- (a) a question arising under this Act, including any question of a conflict or an inconsistency referred to in subsection (1), and
- (b) unless otherwise provided in the regulations, a question arising under a regulation made under this Act.

Repeal

- 13 Part 1 and the Schedule are repealed on July 31, 2000 unless a later date is set by regulation of the Lieutenant Governor in Council, in which case Part 1 and the Schedule are repealed on that date.

SCHEDULE**School District**

SD # 5 – Southeast Kootenay
 SD # 8 – Kootenay Lake
 SD # 10 – Arrow Lakes
 SD # 19 – Revelstoke
 SD # 20 – Kootenay-Columbia
 SD # 22 – Vernon
 SD # 23 – Central Okanagan
 SD # 35 – Langley

 SD # 37 – Delta
 SD # 38 – Richmond
 SD # 39 – Vancouver
 SD # 40 – New Westminster
 SD # 41 – Burnaby
 SD # 42 – Maple Ridge
 SD # 44 – North Vancouver
 SD # 46 – Sunshine Coast
 SD # 47 – Powell River
 SD # 48 – Howe Sound
 SD # 50 – Haida Kwai/Queen Charlottes
 SD # 51 – Boundary

 SD # 53 – Okanagan-Similkameen
 SD # 54 – Bulkley Valley
 SD # 57 – Prince George
 SD # 58 – Nicola Similkameen
 SD # 61 – Greater Victoria

 SD # 62 – Sooke
 SD # 63 – Saanich
 SD # 64 – Gulf Islands
 SD # 67 – Okanagan Skaha
 SD # 68 – Nanaimo/Ladysmith
 SD # 69 – Qualicum
 SD # 70 – Alberni
 SD # 71 – Comox
 SD # 73 – Kamloops/Thompson
 SD # 74 – Gold Trail

Local Union

Canadian Union of Public Employees, Local 4165
 Canadian Union of Public Employees, Local 748
 Canadian Union of Public Employees, Local 2450
 Canadian Union of Public Employees, Local 523
 Canadian Union of Public Employees, Local 1285
 Canadian Union of Public Employees, Local 523
 Canadian Union of Public Employees, Local 3523
 Canadian Union of Public Employees, Local 1260
 Canadian Union of Public Employees, Local 1851
 Canadian Union of Public Employees, Local 1091
 Canadian Union of Public Employees, Local 716
 Canadian Union of Public Employees, Local 407
 Canadian Union of Public Employees, Local 409
 Canadian Union of Public Employees, Local 379
 Canadian Union of Public Employees, Local 703
 Canadian Union of Public Employees, Local 389
 Canadian Union of Public Employees, Local 801
 Canadian Union of Public Employees, Local 476
 Canadian Union of Public Employees, Local 779
 Canadian Union of Public Employees, Local 2020
 Canadian Union of Public Employees, Local 2098
 Canadian Union of Public Employees, Local 523
 Canadian Union of Public Employees, Local 523
 Canadian Union of Public Employees, Local 2145
 Canadian Union of Public Employees, Local 3742
 Canadian Union of Public Employees, Local 847
 Canadian Union of Public Employees, Local 947
 Canadian Union of Public Employees, Local 382
 Canadian Union of Public Employees, Local 459
 Canadian Union of Public Employees, Local 441
 Canadian Union of Public Employees, Local 788
 Canadian Union of Public Employees, Local 523
 Canadian Union of Public Employees, Local 606
 Canadian Union of Public Employees, Local 3570
 Canadian Union of Public Employees, Local 727
 Canadian Union of Public Employees, Local 439
 Canadian Union of Public Employees, Local 3500
 Canadian Union of Public Employees, Local 173

Schedule

SD # 75 – Mission	Canadian Union of Public Employees, Local 593
SD # 79 – Cowichan Valley	Canadian Union of Public Employees, Local 606
SD # 82 – Coast Mountains	Canadian Union of Public Employees, Local 2052
SD # 83 – North Okanagan-Shuswap	Canadian Union of Public Employees, Local 523
SD # 84 – Vancouver Island West	Canadian Union of Public Employees, Local 2769
SD # 85 – Vancouver Island North	Canadian Union of Public Employees, Local 2045
SD # 87 – Stikine	Canadian Union of Public Employees, Local 3234
SD # 91 – Nechako	Canadian Union of Public Employees, Local 4177
SD # 92 – Nisga'a	Canadian Union of Public Employees, Local 2298