



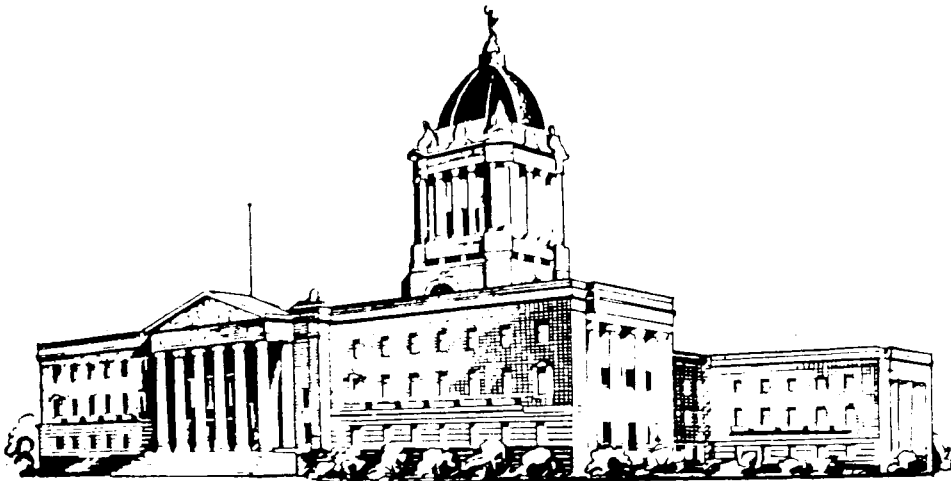
Legislative Assembly of Manitoba

HEARINGS OF THE STANDING COMMITTEE

ON

LAW AMENDMENTS

Chairman
Mr. William Jenkins, M.L.A.
Constituency of Logan



11:30 a.m., Friday, June 4, 1976.

THE LEGISLATIVE ASSEMBLY OF MANITOBA
STANDING COMMITTEE ON LAW AMENDMENTS
11:30 a.m., Friday, June 4th, 1976

CHAIRMAN: Mr. William Jenkins.

MR. CHAIRMAN: Committee will come to order. The bills before the Committee this morning are:

- No. 54, an Act to amend The Teachers' Pensions Act.
- No. 58, an Act to amend The Civil Service Superannuation Act.
- No. 64, an Act to amend The Civil Service Act.
- No. 70, an Act to amend The Mortgage Brokers and Mortgage Dealers Act.
- No. 72, an Act to amend The Change of Name Act.
- No. 75, an Act to amend The Public Health Act.
- No. 76, an Act to amend The Health Services Act.

BILL 54 - THE TEACHERS' PENSIONS ACT

MR. CHAIRMAN: Bill No. 54. There are amendments to that. Mr. Boyce. Just a moment, Mr. Boyce, I think we'll pass the first couple of pages.

Is it the will of the committee to proceed page by page? (Agreed) Page 1--pass; Page 2 - Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move that Bill No. 54 be amended by adding thereto immediately after Section 6 thereof the following section:

Clause 43(2)(e) amended.

6.1 Clause 43(2)(e) of the Act is amended by striking out the words and figures "and section 50" in the 2nd line thereof.

MR. CHAIRMAN: The motion as moved. Is there any discussion on the motion? Pass? Mr. Tallin.

MR. TALLIN: The Minister's not here so if you don't mind I could explain this to you. Section 50 is the provision which requires the School Division of Winnipeg to make certain payments with respect to teachers who are members of the old School District of Winnipeg prior to them coming under this Act. It's just being repealed now because that amount is being picked up in the ordinary operation of the Fund from now on.

MR. CHAIRMAN: Any further discussion on the motion? Pass. Mr. Boyce.

MR. BOYCE: . . . That section 7 of Bill 54 be struck out and the following section substituted therefor:

Subsection 43(3) amended.

7 Subsection 43(3) of the Act is amended by striking out the word "and" at the end of clause (c) thereof and by adding thereto, immediately after clause (c) thereof, the following clauses:

(c.1) with contributions in excess of 6 percent of the salary paid to the board under subsection 55(2.1);

(c.2) with moneys paid to the board under section 61; and. . .

MR. CHAIRMAN: The motion as moved. Is there any discussion on the motion? Pass? Just a moment. Can we pass Page 2 as amended--pass; Page 3 - Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move That section 9 of Bill 54 be amended by striking out the word "subsection" in the 2nd line thereof and substituting therefor the word "subsections" (the plural) and by adding thereto, immediately after the proposed subsection 44(9) of The Teachers' Pensions Act set out therein, the following subsection:

Additional authority to invest.

44(10) In addition to the authority granted under subsections (2) to (9), moneys in the fund may be invested in any other security, real estate or leasehold of real estate, but

(a) the book value of investments made under this subsection in a security issued by any one person or in any single parcel of real estate or in a leasehold of any single parcel of real estate shall not exceed one percent of the book value of the total assets of the fund; and

(MR. BOYCE cont'd)

(b) the total book value of all investments made under this subsection shall not exceed five percent of the book value of the total assets of the fund.

MR. CHAIRMAN: The motion as moved. Is there any discussion on the motion? Pass. Mr. Boyce.

MR. BOYCE: Mr. Chairman, I move that Bill 54 be amended by adding thereto, immediately after section 9 thereof, the following section:

Section 50 repealed.

9.1 Section 50 of the Act is repealed.

MR. CHAIRMAN: Motion as moved. Is there any discussion on the motion? Pass.

MR. BOYCE: I would move, Mr. Chairman, that Bill 54 be further amended by adding thereto, immediately after section 9.1 thereof, the following section:

Subsection 55(2) amended.

9.2 Subsection 55(2) of the Act is amended

(a) by striking out the words "within one year immediately" in the 1st line thereof and substituting therefor the words "at any time"; and

(b) by striking out the words "was a teacher" in the 2nd line thereof and substituting therefor the words "was either enrolled in an accredited teacher training institution in Canada or employed as a teacher in Canada and provides proof of the facts acceptable to the board."

MR. CHAIRMAN: The motion as moved. Is there any discussion on the motion? Pass.

MR. BOYCE: Mr. Chairman, I move that the proposed new subsection 55(2.1) of The Teachers' Pensions Act as set out in section 10 of Bill 54 be amended

(a) by striking out the words and figures "at the rate of 12 percent" in the 5th and 6th lines thereof; and

(b) by adding thereto, at the end thereof, the words and figures "at the rate of 6 percent plus 1 percent for each 12 months, or part thereof, by which the expiry of the applicable time limit allowed under clause (a) or (b) of subsection (2), as the case may require, preceded the actual date upon which he became a teacher after the period of enlistment or engagement, except that the rate of contributions so determined shall not exceed 12 percent.

MR. CHAIRMAN: The motion as moved. Is there any discussion on the motion? Hearing none--pass. Page 3 as amended--pass; Page 4--pass. Before I go to the Preamble, could I ask that the legal counsel have authority to renumber the sections? (Agreed) Preamble--pass; Title--pass. Bill be reported.

BILL 58 - AN ACT TO AMEND THE CIVIL SERVICE SUPERANNUATION ACT (2)

MR. CHAIRMAN: Bill No. 58, an Act to amend The Civil Service Superannuation Act (2). There are some amendments. Have the amendments all been distributed? Page 1--pass - oh, there is an amendment.

MR. BOYCE: Mr. Chairman, I would move that Bill 58 be amended by numbering sections 2 to 8 thereof as sections 3 to 9 respectively and by adding thereto, immediately after section 1 thereof, the following section:

Subsection 9(7) added.

2 Section 9 of the Act is amended by adding thereto, at the end thereof, the following subsection:

Additional authority to invest.

9(7) In addition to the authority granted under subsections (2) to (6), moneys in the fund may be invested in any other security, real estate or leasehold of real estate, but

(a) the book value of investments made under this subsection in a security issued by any one person or in any single parcel of real estate or in a leasehold of any single parcel of real estate shall not exceed 1 percent of the book value of the total assets of the fund; and

(b) the total book value of all investments made under this subsection shall not

(MR. BOYCE cont'd)exceed 5 percent of the book value of the total assets of the fund.

MR. CHAIRMAN: The motion as moved. Is there any discussion on the motion? Mr. Craik.

MR. CRAIK: I wonder if legislative counsel or the Attorney-General could indicate why the restriction on the portion of funds invested in real estate?

MR. TALLIN: Because it's a generally accepted principle that moneys which are required to be used for insurance or pension purposes be kept fairly liquid and real estate is not particularly liquid. There are other areas in the investment provisions where "unliquid" type of investments are allowed where there is also limitations as to how much, for instance mortgages where there's not always a going market for mortgages. So there is a limitation of 15 percent that they can hold in mortgages. The limitation here is 10 percent because it includes real estate.

The other reason is that this allows a broad provision. This is a very broad provision in investment. They can invest in anything they want and it may be very high risk securities that they invest in, so there should be a limitation for that reason too. At least 95 percent of the whole fund should be in pretty solid, not too high risk investments.

MR. CRAIK: Yes.

MR. TALLIN: There are other provisions for them to involve themselves in some risk. For instance they can invest in mutual funds to a limited extent apart from this so that they can get into some other risk.

MR. CHAIRMAN: Motion as presented--pass; Page 1 as amended--pass; Page 2 - Mr. Boyce.

MR. BOYCE: Mr. Chairman, I would move that section 5 of Bill 58, as printed and as renumbered as section 6 be struck out and the following section substituted therefor

Subsections 33(1) and 33(2) repealed and substitute

6 Subsections 33(1) and 33(2) of the Act are repealed and the following subsection is substituted therefor:

Period of war service counted as service.

33(1) Where a person at any time before his enlistment or engagement as herein-after mentioned was an employee and enlisted or was engaged in such capacity that he would be entitled to receive a preference under section 14 of The Civil Service Act if he applied to be appointed or assigned to a position in the Civil Service of the province, and

(a) in the case of enlistment or engagement during the First Great War, 1914-18, again became an employee within 2 years after his discharge or release from the service in which he was enlisted or engaged; or

(b) in the case of enlistment or engagement during the Second Great War or during the military operations undertaken by the United Nations to restore peace in the Republic of Korea, again became an employee

(i) within two years after his discharge or release from the service in which he was enlisted or engaged, or

(ii) within one year after the cessation of any disability that, in the opinion of the board (which shall be conclusive in the matter) prevented him from performing the duties of an employee, and that resulted from, or was caused by, wounds or injuries received during his service as aforesaid or resulted from illness contracted by reason of that service, or

(iii) in one year after completion, to the satisfaction of the board, of a course of vocational, technical, educational, or other training and which he began within 1 year after his discharge or release as aforesaid or the cessation of a disability mentioned in sub-clause (ii); the period of his enlistment or engagement as mentioned in clause (a) or (b) shall be included in computing his years of service for the purposes of this Act.

MR. CHAIRMAN: The motion as presented--pass.

MR. BOYCE: Mr. Chairman, I would move that Section 6 of Bill 58, as printed and as renumbered as Section 7, be amended:

(a) by striking out the word and figure "or (2)" in the 4th line of the proposed new subsection 33(2.1) of The Civil Service Superannuation Act set out therein;

(MR. BOYCE cont'd)

(b) by striking out the figures and words "12 percent of" where they appear

(i) in the 3rd line of the proposed sub-clause 33(2.1)(b)(i) of The Civil Service Superannuation Act set out therein,

(ii) in the 5th line of the proposed sub-clause 33(2.1)(b)(ii) of the Civil Service Superannuation Act set out therein, and

(iii) in the 7th line of the proposed sub-clause 33(2.1)(b)(iii) of The Civil Service Superannuation Act set out therein, and substituting therefor, in each case, the words "the determined percentage"; and

(c) by adding thereto, immediately after the proposed Subsection 33(2.1) of The Civil Service Superannuation Act set out therein, the following subsection:

Meaning of "the determined percentage".

33(2.2) For the purposes of Subsection (2.1), "the determined percentage" in respect of any employee means 6 percent plus 1 percent for each 12 months, or part thereof, by which the expiry of the applicable time limit allowed under clause (1)(a) or (b), as the case may require, preceded the actual date upon which he became an employee after the period of enlistment or engagement, except that the rate of contributions so determined shall not exceed 12 percent.

MR. CHAIRMAN: The motion as moved - and a vote of thanks to the member for reading it--pass; Page 2 as amended--pass; Page 3 as amended--pass; Page 4--pass; Preamble--pass; Title--pass; Bill be reported.

BILL 64 - AN ACT TO AMEND THE CIVIL SERVICE ACT

MR. CHAIRMAN: Are there any amendments? No amendments. Is it the desire of the committee to proceed page by page? Page 1--pass - Mr. Sherman.

MR. SHERMAN: Mr. Chairman, Page 1, with the reference in section 1 to section 11, subsection 3.1 of the existing Act. As members know there's some argument and some dissatisfaction over the conditions laid down here with respect to eligibility for merit increases. I would like to ask the Minister, Mr. Chairman, through you, whether he has given consideration to any adjustment of this section that would prove to be more equitable from the point of view of considering anniversary dates?

MR. CHAIRMAN: Mr. Uruski.

MR. URUSKI: Mr. Chairman, I wish to indicate to the honourable member that at present the agreement indicates that there are four anniversary dates on a quarterly basis for promotion. We certainly would be prepared to consider amending the agreement with respect to - I'm negotiating it - to having monthly anniversary dates, being that the pay schedule and the computer system handling the pay could handle that kind of an adjustment and we'd certainly consider that kind of a request.

Secondly, I'd like to indicate that there was another matter raised with respect to the subject probation and the possibility of negotiating any employee's position should he fail his probationary period, on promotion back to his previous position or a job of like position as he previously did. That is not in the Act at all. It was raised as a side issue by the MGEA and some other representations that were made. I'd only like to indicate there that this is the first time that I've been contacted on that very issue and if there are representations to be made I'd be prepared to hear them on that issue which is a side issue.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, I think that you would want to be careful, both sides of the House would want to be careful that we are not trying to conduct negotiations on behalf of the employees at this committee. I think that the Minister should not be put into a position where he can't negotiate properly.

What I think we have to understand is that the right that we are now talking about - and that's one of the problems with the present Civil Service situation, many things are in the Act and more should be left to collective bargaining - the right that we are now talking about is one that they have not by virtue of collective bargaining but which is in the Act and which the government always understood operated in a different way. I think you have been given examples of the anomalies that arise. We promote somebody

(MR. GREEN cont'd)on December 15th; we may promote him out of classification and it has happened, from a clerk to - I can't remember all of the classifications - but it could be let us say, an assistant director or from a Planning Officer I to an Assistant Director. What happens is he's promoted on December 15th, he's given a considerable increase in salary, January 1st comes, he's been on the job for a week and he is required to be given a merit increase. We have never anticipated that it worked that way. We passed a regulation which we though stipulated that it wouldn't work that way and it was ruled down.

Well we have a power to legislate. We do not intend what the legislation now says and we are asking it to be confirmed, That will not stop the bargaining agent from trying to get a better agreement from us. But what we are trying to do now is not change the agreement but change the legislation which confers something which we did not think it conferred.

MR. CHAIRMAN: Mr. Sherman.

MR. SHERMAN: Mr. Chairman, do I understand what Mr. Green and the Minister are saying is that this matter, particularly with respect to anniversary dates, will now be negotiable in bargaining between the MGEA and the government?

MR. URUSKI: That is correct as far as the dates concerned.

MR. SHERMAN: As far as the dates are concerned?

MR. URUSKI: Yes.

MR. CHAIRMAN: Any further discussion? Page 1--pass; Page 2--pass?

MR. SHERMAN: On Page 2, Mr. Chairman, I'd like to ask the Minister what's the rationale for the retroactivity? This is retroactive legislation.

MR. CHAIRMAN: Mr. Uruski.

MR. URUSKI: Mr. Chairman when the bill was brought in the groupings of the anniversary date was April 1, the first anniversary date of this year. It was left using that date for the cutoff point with respect to merit increases. Anyone who received a promotion after that date would fall under the stipulations of this Act. That's the reason for the April 1st date.

MR. CHAIRMAN: Mr. Green.

MR. GREEN: Mr. Chairman, the Honourable Member for Fort Garry will appreciate that we can move that date. The more you move it the more inequities you will make, because those people before that date will have gotten something which immediately after people will not be able to get. So we've taken the last date.

MR. SHERMAN: I was wondering, Mr. Chairman, what would happen to appeals that are still hanging from January 1st.

MR. URUSKI: Mr. Chairman, there's been a ruling by the Commission which has been clear that the appeals for merit increases prior to this date, that they are entitled to the merit increase --(Interjection)-- In my interpretation the Civil Service Commission could not rule any differently than the courts did on the basis of the previous Act,

MR. SHERMAN: Well if the government has lost on that I'm satisfied, Mr. Chairman.

MR. CHAIRMAN: Page 2--pass; Preamble--pass; Title--pass. Bill be reported.

BILL 70 - AN ACT TO AMEND THE MORTGAGE BROKERS AND MORTGAGE DEALERS ACT

MR. CHAIRMAN: No amendments? Page 1--pass; Page 2--pass; Page 3--pass; Page 4--pass; Page 5--pass; Preamble--pass; Title--pass. Bill be reported.

BILL 72 - AN ACT TO AMEND THE CHANGE OF NAME ACT

MR. CHAIRMAN: No amendments? Page 1--pass; Page 2--pass; Page 3--pass; Preamble--pass; Title-pass. Bill be reported.

BILL 75 - AN ACT TO AMEND THE PUBLIC HEALTH ACT

MR. CHAIRMAN: Mr. Brown.

MR. BROWN: In clause 34, subsection 4, we now have requiring specified

(MR. BROWN cont'd)persons to report to the Minister or a specified officer in the department or both, cases of communicable disease or disease dangerous to public health, prescribing the time for reporting information to be reported. Now this specified persons, it used to state that these were duly qualified medical practitioners. Now why has this been changed to specified persons?

MR. CHAIRMAN: Mr. Tallin.

MR. TALLIN: They may be public health nurses who get this information, laboratories who get the information and a laboratory is not a medical person, it's usually a corporation. It's to require reports from those kind of organizations. They'll specify all medical laboratories will have to do this. That will be the category of specified persons. Hospitals might be required to do it, personal care homes might be, that sort of thing.

MR. CHAIRMAN: Mr. Brown.

MR. BROWN: Well is the medical practitioner then going to decide who these specified people are going to be?

MR. TALLIN: No, no. The regulations specify who will be doing it.

MR. BROWN: It seems to me that this is going to create quite a bit of confusion. The way the Act was before I think it was very clear that it was the duty of the medical practitioner to report these cases to the Minister or whoever.

MR. TALLIN: The difficulty was that the medical practitioners were not always involved, particularly in outlying areas where public health nurses were the people who were doing the diagnosis.

MR. BROWN: Well okay.

MR. CHAIRMAN: Page 1--pass; Preamble--pass; Title--pass. Bill be reported.

BILL 76 - AN ACT TO AMEND THE PUBLIC HEALTH SERVICES ACT

MR. CHAIRMAN: Page 1--pass; Page 2--pass; Page 3--pass; Page 4--pass; Preamble--pass; Title--pass. Bill be reported.

Committee rise and report.