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Bill 92

(Chapter 3 of the Statutes of Ontario, 2017)

An Act to amend the School Boards Collective Bargaining Act, 2014 and make related amendments to other statutes

The Hon. M. Hunter
Minister of Education

1st Reading	February 21, 2017
2nd Reading	March 6, 2017
3rd Reading	March 23, 2017
Royal Assent	March 27, 2017



EXPLANATORY NOTE

*This Explanatory Note was written as a reader's aid to Bill 92 and does not form part of the law.
Bill 92 has been enacted as Chapter 3 of the Statutes of Ontario, 2017.*

The Bill makes various amendments to the *School Boards Collective Bargaining Act, 2014*. Currently, the Act provides that collective bargaining for collective agreements under the Act may include central bargaining, but is not required to include it. The Bill changes this rule to require that central bargaining must always occur and that for the purposes of central bargaining, every school board must be represented by an employer bargaining agency and every employee in a bargaining unit must be represented by an employee bargaining agency.

The Bill adds new rules to the Act to ensure that all trade unions representing employees other than teachers must either be designated as an employee bargaining agency or be a member of a council of unions designated as an employee bargaining agency for the purposes of central bargaining. The Ontario Labour Relations Board's role in the process is set out and related regulation-making powers are included.

A new requirement set out in the Bill is that notice must be given of any change to the nature or scope of a strike or lock-out that will result in the complete withdrawal of instruction or services in one or more schools of a board, or the closure of one or more schools of a board.

Currently, the Act prohibits parties from entering into agreements to continue the term of operation of a collective agreement. The Bill adds provisions to permit such agreements in the specified circumstances and sets out the process by which an agreement may be entered into and the rules that apply to an agreement. A transitional provision addresses the validity of continuation agreements that were entered into when the prohibition applied.

Other new provisions added to the Act address,

- (a) when the Crown or an employer bargaining agency may provide assistance with local bargaining or require information regarding local bargaining;
- (b) how conflicts or inconsistencies within a collective agreement between central and local terms may be resolved;
- (c) agreements or undertakings entered into by the Crown for certain purposes under the Act;
- (d) the delegation of powers from the Lieutenant Governor in Council to the Minister or from the Minister to a Ministry employee; and
- (e) the continuation of the Education Relations Commission and related governance matters.

Several related or consequential amendments are made to the Act and other Acts.

**An Act to amend the School Boards Collective Bargaining Act, 2014
and make related amendments to other statutes**

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1 (1) The definition of “central terms” in subsection 2 (1) of the *School Boards Collective Bargaining Act, 2014* is amended by striking out “if any” at the end.

(2) The definition of “employee bargaining agency” in subsection 2 (1) of the Act is amended by striking out “section 19 or 20” and substituting “section 19, 20 or 20.1”.

(3) Subsection 2 (1) of the Act is amended by adding the following definition:

“Ministry” means the Ministry of the Minister; (“ministère”)

(4) Subsection 2 (2) of the Act is repealed and the following substituted:

Local bargaining

(2) In this Act, local bargaining refers to collective bargaining between a school board and a bargaining agent for local terms to be included in a collective agreement.

2 Section 11 of the Act is amended by adding the following subsections:

Same

(2) Every trade union that is certified or voluntarily recognized as a bargaining agent for a bargaining unit that is not a teachers’ bargaining unit after the day section 2 of the *School Boards Collective Bargaining Amendment Act, 2017* comes into force shall advise the Minister in writing within 30 days following certification or voluntary recognition.

Information in notice

(3) The Minister may, by regulation, determine the information that must be included in the notice under subsection (2).

3 (1) Subsection 12 (1) of the Act is amended by striking out “may” and substituting “shall”.

(2) Subsections 12 (2) and (3) of the Act are repealed.

4 The Act is amended by adding the following section:

Role of Crown and employer bargaining agency in local bargaining

Assistance with local bargaining

14.1 (1) Despite section 14,

- (a) the Crown may provide assistance with local bargaining to either party to the bargaining, or both parties to the bargaining, upon request; and
- (b) an employer bargaining agency may provide assistance with local bargaining to the school board if the school board requests it.

Not a party or participant

(2) The provision of assistance by the Crown or by an employer bargaining agency under subsection (1) does not create any requirement to obtain their consent for or approval of any of the local terms of a collective agreement, and the Crown and an employer bargaining agency do not become a participant or a party to local bargaining by virtue of providing such assistance.

Information re local bargaining

(3) A school board may be required by the Crown or by the employer bargaining agency that represents it at a central table to,

- (a) inform the Crown or employer bargaining agency, as the case may be, when a memorandum of settlement of local terms has been agreed upon, before ratification of the memorandum; and
- (b) provide the Crown or employer bargaining agency, as the case may be, with information on the status and progress of local bargaining.

Timing

(4) A school board shall provide any information required under subsection (3) promptly.

Same

(5) Subsection (3) does not authorize the Crown or an employer bargaining agency to require from a school board information regarding details of local bargaining or of the matters under discussion during local bargaining.

5 (1) Subsection 15 (2) of the Act is amended by striking out the portion before paragraph 1 and substituting the following:

Requirement for mutual agreement with Crown

(2) Despite subsection (1), an employer bargaining agency cannot exercise the following rights and privileges under the *Labour Relations Act, 1995* unless the employer bargaining agency and the Crown have mutually agreed that it can do so:

(2) Section 15 of the Act is amended by adding the following subsections:

Duty of fair representation

(4) An employer bargaining agency shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the school boards for which it is designated, whether or not the school boards are its members, or, if it is a council of trustees' associations, are members of an entity that is a council member.

Same

(5) A council of trustees' associations that has been designated as an employer bargaining agency shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of its constituent trustees' associations.

Duty to co-operate

(6) An employer bargaining agency shall co-operate in good faith with the Crown in preparing for and conducting central bargaining.

6 Section 16 of the Act is repealed.

7 Section 17 of the Act is amended by adding the following subsections:

Duty of fair representation

(2) An employee bargaining agency shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees in a bargaining unit for which it is designated, whether or not the employees are members of the trade union that represents them.

Same

(3) A council of unions that has been designated as an employee bargaining agency shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of its constituent trade unions.

8 The Act is amended by adding the following section after the heading "Representatives for Central Bargaining":

Bargaining agency required for central bargaining

18.1 (1) For the purposes of central bargaining, every school board to whom this Act applies must be represented by an employer bargaining agency, and every employee to whom this Act applies must be represented by an employee bargaining agency.

Same

(2) Representatives for central bargaining shall be determined in accordance with the following:

1. Employee bargaining agencies for employees in teachers' bargaining units are set out in section 19.
2. Employee bargaining agencies for employees in bargaining units that are not teachers' bargaining units shall be determined under sections 20 and 20.1.
3. Employer bargaining agencies for school boards shall be determined under section 21.

9 Section 20 of the Act is repealed and the following substituted:

Employee bargaining agencies for other employees

20 (1) All employees in bargaining units that are not teachers' bargaining units who are represented by the same trade union and its affiliated local trade unions must be represented by the same employee bargaining agency.

60 or more bargaining units, single trade union

(2) If all of the following conditions are met, the Minister shall, by regulation, designate a trade union as the employee bargaining agency for all employees in all of the bargaining units that are not teachers' bargaining units represented by that trade union and its affiliated local trade unions:

1. The trade union and its affiliated local trade unions represent at least 60 bargaining units that are not teachers' bargaining units.
2. The Minister is satisfied that the trade union and its affiliated local trade unions are the bargaining agents for the bargaining units at issue.

15 or more bargaining units

(3) If all of the following conditions are met, the Minister shall, by regulation, designate a trade union or council of unions as the employee bargaining agency, for a specified round of collective bargaining, for the employees in specified bargaining units that are not teachers' bargaining units:

1. The trade union has not been designated as an employee bargaining agency under subsection (2).
2. The trade union or council of unions must request the designation under this subsection.
3. The trade union or council of unions must specify the bargaining units for which the designation is requested.
4. The designation must be requested for at least 15 specified bargaining units.
5. In the case of a council of unions requesting designation, the expiry dates of the collective agreements that apply to the constituent trade unions of the council of unions are the same.
6. In the case of a trade union requesting designation, the Minister is satisfied that the trade union and its affiliated local trade unions are the bargaining agents for the specified bargaining units.
7. In the case of a council of unions requesting designation, the Minister is satisfied that the bargaining agents for all the bargaining units to be represented at the applicable central table have vested in the council appropriate authority enabling it to discharge the responsibilities of an employee bargaining agency.

Revocation of designation under subs. (2)

(4) If a trade union that has been or would be designated as an employee bargaining agency under subsection (2) becomes a constituent member of a council of unions and the council of unions requests a designation under subsection (3), then, despite subsection (2), the Minister shall not designate the trade union under subsection (2) and shall, by regulation, revoke any such designation.

Trade union application for advice

(5) If, on the day section 9 of the *School Boards Collective Bargaining Amendment Act, 2017* comes into force, a trade union is not a constituent member of a council of unions designated as an employee bargaining agency, and has not itself been designated as an employee bargaining agency, it shall, on or before the date specified by regulation, apply to the Ontario Labour Relations Board for advice and notify the Minister that an application has been made.

Crown application for advice

(6) If the trade union does not apply for advice in accordance with subsection (5), the Crown may apply to the Board for advice.

Board advice

(7) If an application is made to the Board under subsection (5) or (6), the Board shall provide advice, which may include the following:

1. A recommendation to the trade union to join a particular council of unions.
2. A recommendation to a council of unions to accept the trade union into its membership.
3. General advice in respect of the composition of councils of unions.
4. Advice about documents to establish and govern a council of unions.
5. Any other advice the Board believes is advisable in the circumstances to ensure that all employees in every school board who are in bargaining units other than teachers' bargaining units are represented by an employee bargaining agency for the purposes of central bargaining.

Trade union application for order

(8) If, on the date specified by regulation, a trade union is still not a constituent member of a council of unions designated as an employee bargaining agency and has not itself been designated as an employee bargaining agency, it shall, on or before that date, apply to the Board for an order and notify the Minister that an application has been made.

Crown application for order

(9) If a trade union does not apply for an order in accordance with subsection (8), the Crown may apply to the Board for the order.

Board order

(10) If an application is made to the Board under subsection (8) or (9), the Board shall make one or more of the following orders:

1. An order directing the trade union to join an existing council of unions.
2. An order directing an existing council of unions to accept the trade union into its membership, including directing the council to amend the documents that establish and govern the council.
3. An order that establishes a council of unions, including the necessary documentation to do so. The Board may only make this order if, in the Board's opinion, the order is necessary.
4. Any other order the Board believes is advisable in the circumstances to ensure that all employees in every school board who are in bargaining units other than teachers' bargaining units are represented by an employee bargaining agency for the purposes of central bargaining.
5. Any other type of order that the Lieutenant Governor in Council may, by regulation, specify.

Restrictions on Board orders

(11) In making an order under subsection (10), the Board must ensure that,

- (a) the result required by the order would be in compliance with subsection (1); and
- (b) the order does not result in a council of unions that represents employees in fewer than 15 bargaining units.

Designation regulation

(12) If an order is made under subsection (10), the Minister shall make a regulation that designates employee bargaining agencies in accordance with the order.

New bargaining units

(13) If a trade union is certified or voluntarily recognized on or after the day section 9 of the *School Boards Collective Bargaining Amendment Act, 2017* comes into force, and on the date specified by regulation, the trade union is not a constituent member of a council of unions designated as an employee bargaining agency and has not itself been designated as an employee bargaining agency, subsections (5) to (12) apply with necessary modifications.

Changing employee bargaining agency

20.1 (1) If the Minister has designated an employee bargaining agency for a specified round of collective bargaining under subsection 20 (3) or (12) or this subsection, the Minister shall, by regulation, make the same designation for the next round of collective bargaining, unless the Minister receives notice under subsection (2) or (3).

Withdrawal of union from council

(2) If a constituent trade union of a council of unions that was designated as an employee bargaining agency for a specified round of collective bargaining wishes to withdraw from that council for the next round of collective bargaining, it shall give the notice described in subsection (6) to,

- (a) the Minister;
- (b) every other constituent trade union that is a member of the same council of unions; and
- (c) every council of unions that has been designated as an employee bargaining agency.

Same

(3) A constituent trade union that receives a notice under clause (2) (b) shall give the notice described in subsection (6) to the Minister and to every council of unions that has been designated as an employee bargaining agency.

Addition of union to council

(4) If a council of unions that was designated as an employee bargaining agency for a specified round of collective bargaining wishes to include in its council, for the next round of collective bargaining, a trade union that was itself designated as an employee bargaining agency, it shall give, to the Minister and to every council of unions that has been designated as an employee bargaining agency, notice that includes the information that the Minister may, by regulation, specify.

Notice of change

(5) The notices mentioned in subsections (2), (3) and (4) may only be given within the period specified by regulation.

Same

- (6) The notice required under subsection (2) or (3) shall include the following information:
1. The name of the council of unions of which the trade union was a constituent member in the last round of collective bargaining.
 2. The expiry date of the collective agreement that applies to the trade union.
 3. A list of the bargaining units that the trade union and its affiliated local trade unions, if any, represent.
 4. An indication as to whether the trade union intends to be designated as an employee bargaining agency under subsection 20 (2) or (3), or whether it is, or intends to become, a constituent member of a council of unions that will request designation as an employee bargaining agency under subsection 20 (3).
 5. The name of the council of unions that will accept the trade union as a constituent member for the next round of collective bargaining, if any.
 6. If a name is provided under paragraph 5,
 - i. information showing that the trade union has vested in the council of unions appropriate authority enabling the council to discharge the responsibilities of an employee bargaining agency, and
 - ii. the expiry date of the collective agreements that apply to the trade unions in the council of unions.
 7. Any other information that the Minister may, by regulation, specify.

Restriction

(7) A trade union may only identify a council of unions under paragraph 5 of subsection (6) if the expiry dates identified under paragraph 2 and subparagraph 6 ii are the same.

No employee bargaining agency

(8) If a trade union gives notice under subsection (2) or (3) and, on the date specified by regulation, the trade union is not a constituent member of a council of unions designated as an employee bargaining agency and has not itself been designated as an employee bargaining agency for the next round of collective bargaining, subsections 20 (5) to (12) apply with necessary modifications.

Applications re employee bargaining agencies**Rules of practice**

20.2 (1) The following rules apply to the Ontario Labour Relations Board's practices and procedures with respect to applications made under section 20 or 20.1:

1. The Board shall deal with the applications in an expeditious fashion.
2. The *Statutory Powers and Procedure Act* does not apply.
3. The Board is not required to hold a hearing.
4. The Board may consult with trade unions or councils of unions that may be affected.
5. The Board may determine the extent to which the Board is required to give full opportunity to the parties to present their evidence and to make their submissions.
6. The Board may make or cause to be made such examination of records and such other inquiries as it considers necessary in the circumstances.
7. The Board shall provide to the Minister a copy of any advice given or order made in response to an application.

Same

(2) Subject to subsection (1), the Board may determine its own practices and procedures with respect to applications made under section 20 or 20.1, and the chair may make rules governing such practices and procedures and prescribing such forms as the chair considers advisable.

Rules not regulations

(3) Part III of the *Legislation Act, 2006* does not apply to rules made under subsection (2).

Minister regulations

(4) The Minister may, by regulation, specify dates for the purposes of subsections 20 (5), (8), (13), 20.1 (5) and (8) and information for the purposes of paragraph 7 of subsection 20.1 (6).

Lieutenant Governor in Council regulations

(5) The Lieutenant Governor in Council may, by regulation,

- (a) prescribe factors that the Board shall consider in providing advice or making orders under section 20;
- (b) specify types of orders that may be made under subsection 20 (10);
- (c) govern who may participate in proceedings relating to applications under sections 20 and 20.1; and
- (d) govern the manner in which orders may be enforced.

Conflict

(6) In case of a conflict or an inconsistency between a rule made under subsection (2) and a regulation made under subsection (4) or (5), the regulation prevails.

10 Section 21 of the Act is amended by adding the following subsection:

Information re trustees' association's funds

(12) The Minister may require a trustees' association to provide to the Minister, in the form and manner specified, such information as he or she requests regarding the trustees' association's use of the following funds:

1. Funds granted to the trustees' association pursuant to a regulation made under section 234 of the *Education Act*.
2. Fees paid to the trustees' association pursuant to a regulation made under subsection (10).
3. Direct payments made under transfer payment agreements with the Crown, as represented by the Minister.

11 Subsections 23 (2), (3) and (4) of the Act are repealed and the following substituted:

For other employees

(2) The Minister shall, by regulation, establish a central table for central bargaining by each employee bargaining agency designated under subsection 20 (2), (3), (12) or 20.1 (1) with respect to all of the bargaining units for which the employee bargaining agency is designated.

12 Subsection 30 (1) of the Act is amended by striking out "Where both central and local bargaining are required" at the beginning.

13 Subsection 31 (2) of the Act is amended by striking out "Where both central and local bargaining are required" at the beginning.

14 Subsection 32 (2) of the Act is amended by striking out "Where both central and local bargaining are required" at the beginning.

15 (1) Subsection 33 (1) of the Act is repealed and the following substituted:

Bargaining for a first collective agreement

(1) If a notice of desire to bargain is given under section 16 of the *Labour Relations Act, 1995* on or after the day subsection 15 (1) of the *School Boards Collective Bargaining Amendment Act, 2017* comes into force, the following rules apply:

1. The local terms of the first collective agreement shall be negotiated by the applicable school board and bargaining agent.
2. Where the employees in the bargaining unit are represented by a trade union or any of its affiliated local trade unions that is a constituent member of a council of unions designated as an employee bargaining agency or has itself been designated as an employee bargaining agency,
 - i. the first collective agreement is deemed to include the central terms negotiated by the employee bargaining agency, and
 - ii. despite subsection 20 (5), the employee bargaining agency is deemed to represent the employees in the bargaining unit for all purposes of this Act.
3. The first collective agreement must have an expiry date that is the same as the date determined under this Act for collective agreements in operation on the date on which the bargaining agent acquired bargaining rights under the *Labour Relations Act, 1995* with respect to the bargaining unit. If the collective agreement does not provide for that date, it is deemed to have done so.
4. The term of operation of the collective agreement may be less than one year.

Same

(1.1) For greater certainty, if a notice of desire to bargain was given before the day subsection 15 (1) of the *School Boards Collective Bargaining Amendment Act, 2017* came into force, the rules set out in subsection (1), as it read before that day, apply.

(2) Subsection 33 (1) of the Act, as re-enacted by subsection (1), is amended by striking out "on or after the day subsection 15 (1) of the School Boards Collective Bargaining Amendment Act, 2017 comes into force" in the portion before paragraph 1.

(3) Paragraph 2 of subsection 33 (1) of the Act, as re-enacted by subsection (1), is repealed and the following substituted:

2. The first collective agreement is deemed to include the central terms negotiated by the designated employee bargaining agency that represents the employees in the bargaining unit, as determined under section 20 or 20.1.

(4) Subsection 33 (1.1) of the Act, as enacted by subsection (1), is repealed.

(5) Section 33 of the Act is amended by adding the following subsection:

Regulations

(3) The Lieutenant Governor in Council may, by regulation,

- (a) establish and govern a process to determine whether the deemed inclusion of central terms in a first collective agreement under subsection (1) prejudicially affects any right or privilege guaranteed by section 93 of the *Constitution Act, 1867* or by section 23 of the *Canadian Charter of Rights and Freedoms*;
- (b) despite subsection (1), establish and govern processes for the exclusion of central terms that have been found under the process mentioned in clause (a) to prejudicially affect a right or privilege mentioned in that clause, and for the negotiation of alternatives to such terms;
- (c) provide for the representation of affected school boards by a trustees' association or a council of trustees' associations that is designated as an employer bargaining agency; and
- (d) govern first collective agreements and transitional matters relating to the operation of first collective agreements, and establish and govern processes for addressing disputes relating to the operation of first collective agreements.

16 (1) Subsection 34 (1) of the Act is amended by striking out “Where both central and local bargaining are required” at the beginning.

(2) The French version of subsection 34 (2) of the Act is amended by striking out “est un conseil de syndicats, les documents qui le créent” and substituting “est une intersyndicale, les documents qui la créent”.

(3) Subsection 34 (5) of the Act is amended by striking out “unless the Crown consents to the lock-out” and substituting “unless the employer bargaining agency and Crown have agreed to the lock-out”.

(4) Section 34 of the Act is amended by adding the following subsections:

Change in strike

(7) If a change to the nature or scope of a strike in respect of central or local bargaining will result in the complete withdrawal of instruction or services in one or more schools of a school board, notice shall be given, as required under subsection (3) or (4), as the case may be, at least five days before the change commences or occurs, and shall indicate the date the change will commence or occur.

Change in lock-out

(8) If a change to the nature or scope of a lock-out in respect of central or local bargaining will result in the closure of one or more schools of a school board, notice shall be given, as required under subsection (5) or (6), as the case may be, at least five days before the change commences or occurs, and shall indicate the date the change will commence or occur.

17 (1) Subsections 39 (1) and (2) of the Act are repealed and the following substituted:

Ratification of collective agreement, central and local bargaining

(1) Section 44 of the *Labour Relations Act, 1995* applies separately with respect to central bargaining and local bargaining.

Memorandum of settlement of central terms

(2) A memorandum of settlement of central terms has no effect until it is ratified by the parties at the central table and agreed to by the Crown.

Memorandum of settlement of local terms

(2.1) A memorandum of settlement of local terms has no effect until it is ratified by the parties to the local bargaining.

Central and local ratification

(2.2) The parties at the central table and the Crown are not entitled to ratify local terms, and the parties to the local bargaining are not entitled to ratify the central terms.

(2) Subsection 39 (5) of the Act is amended by striking out “trade”.

18 Subsection 40 (1) of the Act is amended by striking out “if central bargaining has occurred”.

19 (1) Subsection 41 (2) of the Act is amended by striking out “either two years or four years” at the end and substituting “two years, four years or five years”.

(2) Subsection 41 (6) of the Act is repealed and the following substituted:

No continuation of term

(6) Despite subsection 58 (2) of the *Labour Relations Act, 1995*, no agreement may be entered into to continue the term of operation of a collective agreement or of any of its provisions beyond the term of operation of the agreement, except in accordance with section 41.1 or 41.1.1 of this Act, and any renewal provision in a collective agreement that purports to do so is deemed to be void.

(3) Subsection 41 (6) of the Act, as re-enacted by subsection (2), is amended by striking out “or 41.1.1” after “section 41.1”.

20 (1) The Act is amended by adding the following sections:

Continuation of collective agreements

41.1 (1) This section applies to agreements between an employer bargaining agency and an employee bargaining agency to continue the term of operation of all collective agreements between the school boards represented by the employer bargaining agency and the bargaining agents for the employees in the bargaining units represented by the employee bargaining agency, with or without modifications to the central terms of the collective agreements, for a period of two, three, four or five years.

Conditions

(2) If the following conditions are met, an employer bargaining agency and the corresponding employee bargaining agency at a central table may enter into an agreement described in subsection (1):

1. The employer bargaining agency and the employee bargaining agency must each be satisfied that they are authorized to enter into the agreement.
2. The Crown approves the agreement.

Other central tables

(3) If an agreement is entered into under subsection (2) between the parties to central bargaining at one central table, the Crown shall consult with the parties to central bargaining at all other central tables as to whether they also wish to enter into an agreement described in subsection (1), whether for the same period as agreed to under the agreement made under subsection (2) or a different period.

Same

(4) The parties to central bargaining at another central table may enter into an agreement described in subsection (1) if the conditions set out in subsection (2) are met.

Continuation

(5) If an agreement is entered into under subsection (2) or (4),

- (a) the collective agreements are continued for the period set out in the agreement; and
- (b) the collective agreements are deemed to provide for the continuation and for an expiry date of August 31.

Crown consultation

(6) In conducting the consultations required under subsection (3) and subsection 41 (3), the Crown is not required to consult directly with any parties to local bargaining.

Transitional; no employee bargaining agency

41.1.1 (1) This section applies to a school board and a bargaining agent if an employee bargaining agency has not been designated for the employees represented by the bargaining agent.

Continuation

(2) A school board and a bargaining agent may enter into an agreement to continue the term of operation of a collective agreement between them, with or without modifications to the central terms of the collective agreement, for a period of two, three, four or five years.

Same

(3) If an agreement is entered into under subsection (2),

- (a) the collective agreement is continued for the period set out in the agreement; and
- (b) the collective agreement is deemed to provide for the continuation and for an expiry date of August 31.

Agreement expires

(4) If a collective agreement that was continued under clause (3) (a) continues to operate on the day that section 9 of the *School Boards Collective Bargaining Amendment Act, 2017* comes into force and, on or after that day, an employee bargaining agency is designated for the employees represented by the bargaining agent,

- (a) the continued collective agreement is deemed to expire on the same day as the other collective agreements that include central terms negotiated by the employee bargaining agency; and
- (b) if the employer bargaining agency enters into an agreement described in subsection 41.1 (1) to continue the term of operation of collective agreements described in that subsection, the agreement to continue shall also apply to the collective agreement that was continued under clause (3) (a), and that collective agreement is deemed to expire on the same day as provided for by the agreement to continue.

Transition

41.2 (1) An agreement described in subsection 41.1 (1) or 41.1.1 (1) that,

- (a) satisfies the applicable conditions for entering into the agreement;
- (b) was entered into before the day the *School Boards Collective Bargaining Amendment Act, 2017* received Royal Assent; and
- (c) was conditional on legislative changes being enacted that would authorize the making of such an agreement,

is not invalid solely because of subsection 41 (6), as it read before the day the *School Boards Collective Bargaining Amendment Act, 2017* received Royal Assent, or because the agreement was conditional in nature.

Regulations

(2) The Lieutenant Governor in Council may, by regulation, specify agreements for the purposes of subsection (1) and if such a regulation is made, subsection (1) applies only in respect of those agreements.

(2) Section 41.1.1 of the Act, as enacted by subsection (1), is repealed.

(3) Section 41.2 of the Act, as enacted by subsection (1), is repealed.

21 The Act is amended by adding the following section after the heading “General”.

Regulations

43.1 The Lieutenant Governor in Council may, by regulation,

- (a) govern any transitional matters that may arise out of amendments to this Act; and
- (b) provide for any matter that is necessary or advisable to ensure that central bargaining can take place under this Act.

22 Subsection 44 (3) of the Act is amended by striking out “16 (2)” and substituting “15 (6)”.

23 The Act is amended by adding the following section:

Conflicts and inconsistencies between local and central terms

45.1 (1) In case of a conflict or an inconsistency within a collective agreement between any of the central terms and any of the local terms, the central term prevails.

Application to Ontario Labour Relations Board

(2) If the Crown or a party to central bargaining is of the opinion that a local term in a collective agreement conflicts with or is inconsistent with a central term in the collective agreement, it may apply to the Ontario Labour Relations Board to decide the issue.

Participation

(3) The Crown, the employer bargaining agency, the employee bargaining agency, the school board, the bargaining agent and such other persons and entities as the Board considers appropriate may participate in a proceeding under subsection (2).

Decision

(4) The Board shall decide the issue and, subject to subsection (1), may make such orders in respect of the conflict or inconsistency as the Board determines are appropriate in the circumstances.

Factors

(5) For the purpose of deciding the issue described in subsection (2), the Board shall consider the factors set out in subsection 28 (8) and any other factors that the Lieutenant Governor in Council may, by regulation, prescribe.

Timing

(6) The Board shall make a decision in an expeditious manner.

Expediting proceedings

(7) The chair of the Board may make rules under subsection 110 (18) of the *Labour Relations Act, 1995* to expedite proceedings relating to an application under this section, and subsections 110 (19), (20), (21) and (22) of that Act apply, with necessary modifications, with respect to the rules.

24 Subsection 46 (1) of the Act is repealed.

25 The Act is amended by adding the following sections:

Crown agreements, undertakings

47 The Crown may enter into agreements or undertakings that, in the opinion of the Crown, are necessary or ancillary to,

- (a) facilitate reaching a memorandum of settlement of central terms, implementing such a memorandum or meeting commitments of the Crown relating to such a memorandum; or
- (b) administer or implement this Act.

Minister's authority

48 The Lieutenant Governor in Council may, by regulation, specify the powers of the Crown under this Act that the Minister is authorized to exercise as the representative of the Crown.

Delegation to Ministry employees

49 (1) The Minister may delegate to any person employed in the Ministry any of the Minister's powers or duties under this Act, including powers specified in a regulation made under section 48.

Same

(2) The delegation must be made in writing and is subject to such limitations, conditions and requirements as are set out in it.

Subdelegation

(3) In a delegation, the Minister may authorize a person to whom a power or duty is delegated to delegate the power or duty to other persons employed in the Ministry, subject to such limitations, conditions and requirements as the person may impose.

Presumption

(4) A person who purports to exercise a delegated power or perform a delegated duty shall be presumed conclusively to act in accordance with the delegation.

Education Relations Commission

50 (1) The Education Relations Commission is continued for the purposes of advising the Lieutenant Governor in Council when, in the opinion of the Commission, the continuation of a strike by school board employees or of a lock-out of school board employees will place in jeopardy the successful completion of courses of study by the affected pupils.

Composition

(2) The Commission shall be composed of five persons who shall be appointed by the Lieutenant Governor in Council.

Chair and vice-chair

(3) The Lieutenant Governor in Council shall designate a chair and a vice-chair from among the members of the Commission.

Acting chair

(4) In the case of the absence or inability to act of the chair or of there being a vacancy in the office of the chair, the vice-chair shall act as and have all the powers of the chair and in the case of the absence of the chair and vice-chair from any meeting of the Commission, the members of the Commission present at the meeting shall appoint an acting chair who shall act as and have all the powers of the chair during the meeting.

Quorum

(5) Three members of the Commission constitute a quorum and are sufficient for the exercise of all the authority of the Commission.

Exercising powers

(6) The powers of the Commission shall be exercised by resolution and the Commission may pass resolutions governing the calling of and the proceedings at meetings and generally dealing with the carrying out of its duties.

Remuneration

(7) The members of the Commission shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.

Competency as witness

(8) The members of the Commission are not competent or compellable witnesses before a court or tribunal respecting any information or material furnished to them while the Commission is forming its opinion regarding matters described in subsection (1).

Education Act

26 Section 57.2 of the *Education Act* is repealed.

Public Sector Salary Disclosure Act, 1996

27 The definition of “public sector” in subsection 2 (1) of the *Public Sector Salary Disclosure Act, 1996* is amended by adding the following clause:

(d.1) every trustees’ association as defined in the *School Boards Collective Bargaining Act, 2014*,

Commencement

28 (1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

(2) Subsections 1 (1), (2) and (4), sections 3, 8, 9, 11, 12, 13, 14, subsections 15 (2), (3) and (4), 16 (1) and (2) and 17 (1), section 18 and subsections 19 (3) and 20 (2) and (3) come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

29 The short title of this Act is the *School Boards Collective Bargaining Amendment Act, 2017*.