

**A BRIEF BY  
THE MANITOBA ASSOCIATION OF SCHOOL TRUSTEES (MAST)  
TO THE LAW AMENDMENTS REVIEW COMMITTEE  
ON BILL 44 THE LABOUR RELATIONS AMENDMENT ACT (2)**

**August 2000**

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## **INTRODUCTION**

The Manitoba Association of School Trustees is strongly opposed to Bill 44. Manitoba's public school boards employ approximately 12,000 school teachers, administrators and education specialists. Another approximately 8,000 support personnel are employed by school boards, the majority of whom are unionized and thereby subject to the provisions of the Labour Relations Act. Bill 42, The Public Schools Amendment and Consequential Amendments Act proposes that many of the Labour Relations Act provisions be extended to teachers and administrative staff covered by bargaining certificates under the Public Schools Act.

MAST has presented its opposition to Bill 42 at Law Amendments, requesting that Bill 42 not be passed. MAST is likewise opposed to Bill 44 for many of the same fundamental reasons.

## **MAST's Concerns**

As was expressed in our opposition to Bill 42, MAST believes that the amendments to The Labour Relations Act are both unnecessary and offside with existing labour laws in other provinces.

As was expressed repeatedly to government regarding the consultation process for changes to the Public Schools Act, government has proceeded too quickly and without sufficient consultation in introducing major legislative change. MAST finds itself with virtually no time to consult with member school boards regarding the content of Bill 44. MAST is therefore addressing the major areas of the bill which we believe will be of concern to public school boards.

## **THE SPECIFICS OF BILL 44**

### **Fairness and Equity**

In the debate about the motivation for amendments proposed by Bill 42, MAST often heard that teachers should have the same rights as other employees in the province. As was indicated in our submission, Bill 42 ensures that teachers will be treated like no other employee group. The Honourable Becky Barrett, Minister of Labour, in responding to questions in the Legislature,

stated that “Bill 44, we believe, is a balanced response to good labour relations in the province of Manitoba.”

Bill 44, like Bill 42, removes the fairness and equity of existing legislation and replaces it with proposed legislation that significantly favors the rights and agendas of unions over the rights of employers.

### **Certification Issues**

MAST questions the motivation for proposed changes in the area of certification. Amendments made to the Labour Relations Act in 1996 do not appear to have had a negative effect on the number of certifications, as evidenced by Labour Board statistics.

Automatic secret ballot vote expressing the true wishes of all employees is seen as the fairest and most democratic process for the establishment of a bargaining unit. The existing provisions of the Act are appropriate in this regard and also preclude the need for interim bargaining certificates as proposed by the Bill.

### **Reinstatement Following Strike or Lockout**

The 1996 amendments to the Labour Relations Act allowed an employer to dismiss or discipline an employee after a strike or lockout for conduct that was related to, or in support of, the strike or lockout.

The law should not allow striking employees who engage in activities that constitute or border on criminal activity to act with workplace impunity simply because the conduct occurred in the context of a strike. A strike should not act as a shield to excuse what would otherwise be inexcusable behavior in society.

The current wording of the Act properly addresses the matter of strike-related misconduct and should therefore remain unchanged.

### **Vote on Employer’s Last Offer**

MAST is strongly opposed to the repeal of Section 72.1(1), and in fact is proposing that a similar provision to be included for teacher bargaining prior to arbitration in conjunction with Bill 42 amendments.

### **Expedited Arbitration**

Expansion of issues eligible for expedited arbitration beyond termination and suspension over 30 days, in MAST's view, is unwarranted. Given the seriousness of termination or long-term suspension, expedited arbitration may be appropriate. Notwithstanding the longer time for referral of "other cases", we are concerned about the ability of counsel for the employer and/or union to prepare for and be ready to present a case, particularly with expanded expedited hearings. Adequacy of Labour Board resources also would need to be reviewed, particularly as teacher unions will now have access to the expedited process, should the provisions of Bill 42 be passed into law.

Interpretation matters affecting the collective agreement and bargaining unit should be dealt with in the conventional arbitration process where the parties consent to the choice of arbitrators and control the process, thus lending to the legitimacy of the outcome.

### **Arbitration During Work Stoppage**

Section 87 represents the most significant change, not only to the Labour Relations Act, but also to the fundamental premise of dispute resolution in collective bargaining.

It is MAST's understanding that while certain of the proposed amendments in Bill 44 were vetted through the province's Labour Management Review Committee, the single most important change proposed by the Bill became known only with its introduction.

In its presentation to the Law Amendments Review Committee on Bill 42, MAST concluded the legislative changes "*will have a major and overwhelmingly negative impact on the public school system.*" Section 87 interferes with the fundamentals of the collective bargaining process. That the government would propose this type of change at all, let alone without any consultation, is totally incomprehensible.

The limitation on strike/lockout will likely result in an increased number of strikes and/or job actions as unions will develop strategies to pressure their employers for settlements without facing the considerable financial risks posed by an indeterminate strike.

As a member of the Manitoba Employers Council, MAST endorses the position which has been developed by the MEC regarding Bill 44. MAST urges government to rethink the consequences of Bill 44 and not pass this legislation.