

No. 76

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2nd Session, 14th Legislature, Alberta  
9 Elizabeth II

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## **BILL 76**

A Bill to amend The School Act

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HON. MR. AALBORG

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## **Explanatory Note**

**2. Section 2, clauses (x) and (aa) presently read:**

- "(x) "school building" means a building owned or occupied by a district or division, includes a building owned or occupied jointly with a municipality or with another district or division and includes any school, college, auditorium, gymnasium, dormitory, teacherage, divisional or other office, garage, barn, sewage disposal plant or other building owned or occupied, or proposed to be owned or occupied by a district or division;
- (aa) "superintendent" means a school superintendent appointed by a board or by the Minister under this Act;"

**3. This new section will permit the dissolution of a consolidated school district without the necessity of the negotiation of any new agreements by town or village districts contained therein.**

**4. Section 73 is amended to provide for the submission and discussion of anticipated expenditures at annual meetings of divisions. Section 73, subsection (3), clause (d) presently reads:**

"(3) The chairman shall conduct the business of the annual meeting in the following order:

- .....
- (d) the last annual financial statement and auditor's report and the budget adopted by the board for the year covered by the auditor's report;"

# BILL

No. 76 of 1961

An Act to amend The School Act

(Assented to \_\_\_\_\_, 1961)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

**1.** *The School Act*, being chapter 297 of the Revised Statutes, is hereby amended.

**2.** Section 2 is amended

- (a) as to clause (x) by striking out the word "teacher-age" and by substituting the word "residence",
- (b) as to clause (aa) by adding immediately after the word "board" the words "of a non-divisional district".

**3.** The following section is added immediately after section 41:

**41a.** (1) Where a consolidated school district that has been included in a school division is dissolved pursuant to section 43,

- (a) the districts that comprised the consolidated school district continue to be included in the division, and
- (b) the Minister shall assign each such district to a subdivision of the division.

(2) If the consolidated district included a town district or a village district, the agreement between the division and the consolidated district shall be deemed, *mutatis mutandis*, to be an agreement between the division and the town or village district.

(3) Where a dispute exists between the division and the district as to the application of the agreement, either of the parties may refer the dispute to the Minister for determination and the decision of the Minister is final.

**4.** Section 73, subsection (3) is amended by striking out clause (d) and by substituting the following:

- (d) the last annual financial statement and auditor's report, the budget adopted by the board for the year covered by the auditor's report and an estimate of anticipated expenditure for the current year;

**5.** A new section is added providing a procedure whereby upon petition a district may be excluded from an order made under section 85. Section 85, subsection (1) reads:

"85. (1) Notwithstanding any other provisions of this Act, when the board of a school division provides for the attendance of the pupils residing in two or more districts at one school operated by the board, the Minister by order

- (a) may direct that one board of trustees only is to be elected for all the districts, and
- (b) may determine
  - (i) a place for the election of the board,
  - (ii) a date on or before which the election is to be held, and
  - (iii) the name of the new board."

**6.** Section 87 is amended to enable a local trustee of a divisional district or of a centralized board to take a teaching position in another district. Section 87 presently reads:

"87. No teacher under contract to a board shall hold the office of trustee in any district or division."

**7.** Section 104 is amended to clarify the procedure on voting for the establishment of a separate school district. The persons entitled to vote on the establishment of a separate school district are the persons described in sections 105 and 106.

**8.** Section 106 is amended for greater clarity. Section 106, clause (a) presently reads:

"106. The following persons are entitled to vote at an election in a town or city district:

- (a) a Canadian citizen or a British subject, of the full age of twenty-one years whose name is on the town or city voters' list and who is entitled to vote in the town or city under the provisions of The Town and Village Act, or of The City Act;".

**9.** Section 178, subsection (1), clause (b) presently reads:

"178. (1) The board of a non-divisional district or a division may .....

- (b) subject to the approval of the Minister, enter into an agreement with any other board or boards in the Province, or a board or other publicly constituted school authority in the provinces of Saskatchewan or British Columbia, or in the Northwest Territories or in the State of Montana, for the instruction of pupils in any grade and in any course approved by the Department, upon such terms, including the fees payable by the board, as may be mutually fixed,".

5. The following new section is added immediately after section 85:

**85a.** (1) The electors of a district which is one of the divisional districts electing one board of trustees pursuant to an order made under section 85, may apply to the divisional board by a petition for the district to be excluded from the application of the order.

(2) The petition shall be signed by not fewer than twenty-five per cent of the electors of the district.

(3) Upon receipt of the application the board of the division shall as soon as convenient conduct a poll of the electors of the district for and against its exclusion.

(4) All the provisions of Part II relating to the taking of a vote on the establishment of a proposed district, in so far as applicable, apply to the conduct of the poll.

(5) Forthwith after the poll the chairman shall certify to the result, and shall place in an envelope the certificate, the poll list, ballots, declarations and other records of the poll, securely seal the same and deliver it to or send it by registered mail to the secretary of the division, who shall advise the Minister as to the result of the poll.

(6) Upon being satisfied that a majority of the votes cast have been in favour of exclusion the Minister, by order shall exclude the district effective on such date as is designated in the order and shall direct in the same or a subsequent order that a local board of trustees be elected for the district excluded.

6. Section 87 is struck out and the following is substituted:

**87.** (1) Subject to subsection (2), no teacher under contract to a board may hold the office of trustee in any district or division.

(2) A teacher may be a trustee of a divisional district or of a board constituted under section 85 if he does not teach in a school in that district or within the area that elects the board, as the case may be.

7. Section 104 is amended by adding immediately after the words "election in a proposed district" the words "other than a proposed separate school district".

8. Section 106, clause (a) is amended by striking out the words "and who is entitled to vote" and by substituting the words "or who is otherwise entitled to vote".

9. Section 178, subsection (1), clause (b) is amended by adding immediately after the words "State of Montana" the words "or with the Government of Canada".

**10.** Authority is given to non-divisional districts and divisions to operate classrooms and schools for mentally retarded pupils. Section 182, clause (d) provides:

"182. The board of a non-divisional district or of a division may .....

- (d) exclude from attendance at school any pupil who, in the judgment of the inspector or superintendent of schools, is so mentally deficient as to be incapable of responding to class instruction by a skilful teacher, or whose presence is detrimental to the education and welfare of the other pupils in attendance at the school, subject, however, to the right of an appeal by the parent or guardian of the pupil to the Chief Superintendent of Schools whose decision thereon is final,"

**11.** Section 203 is amended to require that town and city districts employ an auditor. Section 203 presently reads:

"203. (1) The books and accounts of every non-divisional rural, village and consolidated district and of every division shall, on or before the thirty-first day of January in each year and in the manner prescribed by the Minister be audited by an auditor appointed by the board.

(2) The auditor shall be a chartered accountant or an experienced auditor approved by the Minister.

(3) In every non-divisional town or city district the town or city auditor shall audit the books and accounts of the district in each year, for which he shall receive no special remuneration out of the funds of the district.

(4) Notwithstanding subsection (3), if the auditor is a member or employee of the board the board shall engage another auditor, whose appointment is subject to the Minister's approval."

**12.** Section 223, subsection (1), clause (c) presently reads:

"223. (1) The board of a non-divisional district or of a division may .....

- (c) enter into contracts and make expenditures for the erection or acquisition of a teacherage under the National Housing Act, (Canada),".

**13.** Section 227, subsections (2) and (3) presently read:

"(2) The board shall submit to the Department the tender or tenders that it wishes to accept, together with such information concerning the other tenders received as the Minister may require.

(3) The board shall not accept a tender until the Minister has given his approval thereto."

**14.** Under the old provision only 5 per cent of the proprietary electors could demand a poll.

**15.** (a) Section 284, subsection (1), clause (b) presently reads:

"284. (1) On or before the first day of April in each year the proper officer of a municipality within which a non-divisional district is situate in whole or in part shall provide a certificate to the secretary of the district showing .....

(b) in a municipality other than a special area,

- (i) the total estimated nominal value of all lands that are in the part of the district within the municipality, that are held under homestead lease as provided by The Public Lands Act and on which a share of crop has become payable to the Department of Lands and Forests, and the nominal value shall be estimated by multiplying four hundred dollars by the total number of quarter sections so held as at the thirty-first day of December of the preceding year, or

- (ii) the total estimated nominal value of all lands that are in the part of the district within the municipality and that are held under grazing lease as provided by The Public Lands Act, and the nominal value shall be estimated by multiplying three hundred dollars by the total number of quarter sections so held as at the thirty-first day of December of the preceding year,".

(b) Section 284, subsection (2) presently reads:

"(2) The board of a non-divisional district shall, on or before the thirtieth day of April of each year, prepare and adopt a detailed estimate of its expenditures for the current year."

**16.** Section 293, subsection (2) presently reads:

"(2) The notice shall be given to the company, to the proper officer of the municipality and to the secretary of the public school district."

**17.** Section 297, dealing with estimates by divisions is amended in the same manner as section 284 dealing with estimates by districts (see clause 15 of this Bill).

**10.** Section 182 is amended by adding immediately after clause (d) the following:

- (d1) operate special classrooms or schools for mentally retarded pupils,

**11.** Section 203 is amended

- (a) as to subsection (1) by striking out the words "non-divisional rural, village and consolidated district and of every division" and by substituting the words "non-divisional district and division",
- (b) by striking out subsections (3) and (4).

**12.** Section 223, subsection (1), clause (c) is amended by striking out the word "teacherage" and by substituting the word "residence".

**13.** Section 227 is amended as to subsections (2) and (3) by striking out the words "The board" and by substituting the words "With respect to a school building to be used for the instruction or accommodation of pupils, the board".

**14.** Section 239, subsection (2) is amended by striking out clause (a) and by substituting the following:

- (a) in a district other than a city district, by fifty proprietary electors or by five per cent of the proprietary electors, whichever is the lesser number,

**15.** Section 284 is amended

- (a) as to subsection (1), clause (b), by striking out the word "or" at the end of subclause (i) and by substituting the word "and",
- (b) as to subsection (2) by adding immediately after the words "estimate of its" the words "revenues and".

**16.** Section 293, subsection (2) is amended by adding immediately after the word "district" the words "or to the secretary of the school division if the public school district is a divisional district".

**17.** Section 297, subsection (1), clause (b) is amended by striking out the word "or" at the end of subclause (i) and by substituting the word "and".

**18. Section 298, subsection (1) presently reads:**

"298. (1) On or before the thirtieth day of April in each year a divisional board shall prepare and adopt a detailed estimate of its expenditures for the current year."

**19. Section 304, subsections (1) and (2) read:**

"304. (1) The council of a municipality, or the Minister of Municipal Affairs in the case of an improvement district or special area may, within thirty days of the receipt of the requisition upon it by a district or division, apply to the Board of Public Utility Commissioners for an examination of the estimates of the district or division for the current year.

(2) No application may be made by a council or by the Minister unless the requisition received by the municipality exceeds twenty per cent of the total sum requisitioned by the district or division upon all the municipalities to which requisitions are submitted, or unless the requisition exceeds fifty per cent of the total amount of the requisitions made upon the municipality by all districts and divisions."

**20. Establishes a School Foundation Program Fund.**



**18.** Section 298 is amended as to subsection (1) by adding immediately after the words "estimate of its" the words "revenue and".

**19.** Section 304 is amended by striking out subsection (2).

**20.** The following section is added immediately after section 304:

**304a.** (1) The Minister shall establish a fund to be known as the School Foundation Program Fund.

(2) The Lieutenant Governor in Council shall by the fifteenth day of February in each year, or as soon thereafter as possible, establish a rate expressed in mills, not exceeding thirty-two mills.

(3) Each municipality shall pay into the Fund annually a sum equal to the amount which results from applying the mill rate established pursuant to subsection (2) to the equalized assessment of the municipality as established for that year by the Alberta Assessment Equalization Board under *The Municipalities Assessment and Equalization Act*.

(4) The Minister shall advise each municipality by the first day of April in each year, or as soon thereafter as possible, of the amount that it is required to pay into the Fund.

(5) Each municipality shall pay one-third of the sum required in each year on or before the first days of each of the months of June, September and December.

(6) In default of payment by any municipality the Minister may require the Provincial Treasurer to pay any grants payable to the municipality for that year or any succeeding year, into the Fund, to the credit of the municipality until the amount owing by the municipality has been received.

(7) From the Fund the Minister shall pay to each school district, school division and county, such sums as may be authorized by regulations established by the Lieutenant Governor in Council.

(8) Notwithstanding subsections (3) to (7), the Lieutenant Governor in Council may, by regulation, provide that the sum required pursuant to subsection (3) to be paid into the Fund by a municipality

(a) may be paid, in whole or in part, directly to one or more school districts or divisions, situated in whole or in part within the municipality, or

(b) in the case of a county, may be retained by the county to be applied towards the budget of the school committee of the county,

and any sum so paid, or so retained, shall be deemed to be a payment into the Fund.

**21.** Section 338 is amended for greater clarity. Subsection (2) presently reads:

“(2) A board may employ a teacher who has attained the age of sixty-five years as a temporary teacher or as a substitute teacher.”.

**22.** Section 350 is amended as the new section 350a now deals with suspension. (See clause 23 of this Bill). Section 350, subsections (1) and (3) presently read:

“350. (1) A board may suspend or dismiss a teacher summarily for gross misconduct, neglect of duty, or for refusal or neglect to obey any lawful order of the board.

(3) A teacher who is suspended or dismissed summarily by the board may appeal to the Minister within fifteen days.”.

**23.** This is a new section dealing with suspension. This was previously dealt with by section 350. (See clause 22 above).

(9) Nothing in this section restricts or prohibits or limits the power of a board to requisition a municipality for such further revenue as it may require for its operations.

(10) For the purpose of this section a school district that levies its own taxes pursuant to section 305 is deemed to be a municipality.

(11) Notwithstanding anything contained in this section

(a) property assessed for separate school purposes shall not be included in the equalized assessment referred to in subsection (3), and

(b) no payment shall be made out of the Fund to any separate school district,

unless the board of trustees of the district certifies to the Minister, under the seal of the district, pursuant to a resolution passed by the board, that this section is to apply to it.

(12) A resolution in effect pursuant to subsection (11) may be rescinded at any time by the board and upon certification to the Minister that the resolution has been rescinded the application of this section to the district ceases and determines as of the thirty-first day of December next following.

**21.** Section 338 is amended by striking out subsection (2) and by substituting the following:

(2) A board may employ a teacher who has attained the age of sixty-five years and if the teacher is employed other than as a substitute or temporary teacher section 344 applies as though he were a temporary teacher.

**22.** Section 350 is amended

(a) as to subsection (1) by striking out the words "suspend or",

(b) as to subsection (3) by striking out the words "suspended or".

**23.** The following section is added immediately after section 350:

**350a.** (1) Where a board has reasonable grounds for believing that

(a) a teacher has been guilty of gross misconduct, neglect of duty or refusal or neglect to obey a lawful order of the board, or

(b) the presence of a teacher is detrimental to the well-being of the school for reason of mental infirmity,

the board may suspend the teacher from the performance of his duties.

(2) The board shall give notice in writing to the teacher setting forth the reasons for suspension and forthwith transmit a written statement of the facts to the Minister.

(3) A teacher who is suspended by the board may within ten days appeal to the Minister.

(4) The Minister shall

(a) investigate the matter and confirm or reverse the decision of the board, and

**24.** Subclause (iii) of clause (b) of subsection (3) of section 369 now reads as follows:

“(3) The principal of the school, or the teacher in the event of there being no principal, shall

.....  
(b) send the report

.....  
(iii) to the attendance officer.”.

**25.** A board is given specific power to determine what facilities constitute a school for the purposes of section 370.

**26.** This new section will provide for the appointment of a teacher to a supervisory or administrative position and to provide for the termination of the appointment.

**27.** Section 383, subsection (4) presently reads:

“(4) The Lieutenant Governor in Council may declare any day to be a school holiday.”.

(b) inform the board and the teacher of his decision within ten days of the conclusion of his investigation.

(5) Where a teacher is suspended pursuant to clause (b) of subsection (1), the Minister may require the teacher to produce a certificate from a medical practitioner appointed or approved by him, certifying as to the teacher's health.

(6) If the teacher refuses or fails to produce such a certificate, the Minister may authorize the board to terminate the contract of the teacher by giving such period of notice as the Minister may direct.

(7) Where the Minister confirms the suspension the board may terminate the suspension or take action to terminate the contract in accordance with this Act.

(8) Where the teacher does not appeal to the Minister the board shall make such investigation of the circumstances as it deems proper and may reinstate the teacher, either from the date of suspension, or some other date, or may take action to terminate the contract of the teacher in accordance with this Act.

(9) A teacher shall receive his salary for the period during which he is under suspension unless the Minister in his discretion and on the application by the board declares that salary is not payable for any portion of the period.

**24.** Section 369, subsection (3), clause (b) is amended by striking out subclause (iii) and by substituting the following:

(iii) to the parent or guardian of the pupil.

**25.** Section 370 is amended by adding immediately after subsection (4) the following:

(5) For the purposes of this section the board shall determine the teachers, pupils, classrooms and other facilities that comprise any school.

**26.** The following section is added immediately after section 371:

**371a.** (1) The Minister may, on the application of a board desiring to employ a teacher in an administrative or supervisory position in respect of more than one school, approve the position as an administrative or supervisory position.

(2) Sections 371, 372 and 373 apply to a position approved by the Minister under subsection (1) as though the teacher appointed were a principal.

**27.** Section 383, subsection (4) is amended by adding immediately after the word "holiday" the words "for all schools or for such schools as may be designated in the order declaring the holiday".

**28.** These words are removed from this section as this matter is provided for in The Department of Education Act. Section 396 presently reads:

"396. Where kindergarten classes are conducted in a school under the direction of a board, or in any other place under the direction of any other person or persons, no person shall be engaged or employed to teach and train the children in such classes unless he holds qualifications approved by the Minister."

**29.** Section 400, subsection (1) presently reads in part:

"400. (1) A child is excused from attendance at school if  
(a) an inspector certifies in writing that the child is under efficient instruction at home or elsewhere,".

**28.** Section 396 is amended by striking out the words "or in any other place under the direction of any other person or persons,".

**29.** Section 400, subsection (1) is amended by adding immediately after clause (a) the following:

(a1) the child is in attendance at a private school approved by the Minister pursuant to *The Department of Education Act*,

**30.** (1) This Act, except section 20, comes into force on the day upon which it is assented to.

(2) Section 20 comes into force on a date to be fixed by proclamation and upon so coming into force shall be deemed to have been in force at all times on and after such earlier date, not prior to the first day of January, 1961, as may be stated in the proclamation.

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SECOND SESSION

FOURTEENTH LEGISLATURE

9 ELIZABETH II

1961

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**BILL**

An Act to amend The School Act

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. AALBORG

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