

1973 Bill 50

Second Session, 17th Legislature, 21 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 50

The School Amendment Act, 1973

THE MINISTER OF EDUCATION

First Reading

Second Reading

Third Reading

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BILL 50

1973

THE SCHOOL AMENDMENT ACT, 1973

(Assented to _____, 1973)

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

1. *The School Act is hereby amended.*
2. *Section 12, subsection (1) is amended*
 - (a) *as to clause (f), by adding the following words to the end thereof: "including the times and dates by which the matters must be reported on and information supplied",*
 - (b) *by striking out the word "and" at the end of clause (k) and by adding the following clauses after clause (l):*
 - (m) *respecting the form, content, confidentiality, use, maintenance and disposition of student records, and*
 - (n) *respecting the manner in which and the persons to whom a board shall give notice of its intention to dispose of land or dispose or discontinue use or accommodation of a school building or other improvement or part thereof used for the instruction or accommodation of pupils.*

3. *Section 13 is struck out and the following section substituted:*

13. (1) The Minister may delegate all or any of his powers or duties under section 12 to a board, with or without restrictions.

(2) The Minister may delegate all or any of his powers or duties under sections 93, 95, 96, 98, 99 or 144 to a person designated by him in writing.

Explanatory Notes

1. This Bill will amend chapter 329 of the Revised Statutes of Alberta 1970.

2. Section 12, subsection (1), clause (f) presently reads:

12. (1) In addition to his other powers specified in this Act the Minister may make regulations

...

(f) respecting the matters concerning which boards must supply information,

Clause (m) will enable the Minister to develop and ensure a consistent student record procedure in Alberta.

Clause (n) permits the Minister to require boards to give adequate notice to interested persons of school closure.

3. Section 13 presently reads:

13. The Minister may in his discretion delegate all or any of his powers under section 12 to a board with or without restrictions.

4. Section 15, subsection (2), clause (b) is amended by striking out the word "seven" and by substituting the word "nine".

5. Section 28, subsection (4) is amended by striking out the words "shall appoint the teacher to the school if the teacher enters into a contract" and by substituting the words "may appoint the teacher to the school if the teacher wishes to enter into a contract".

6. Section 30, subsection (4) is amended by striking out the word "seven" and by substituting the word "nine".

7. Section 65, subsection (1), clause (a) is amended by adding immediately preceding the words "appoint, subject to" the words "unless exempted by the Minister,".

8. Section 71 is amended by striking out subsection (3) and by substituting the following subsection:

- (3) Nothing in this section prevents an employee
 - (a) with the prior approval of a board, from entering into a contract with the board or with a person contracting with the board
 - (i) for services to be performed by the employee,
 - (ii) for the sale in the ordinary course of business of the employee of goods and merchandise, or
 - (iii) for the rental of accommodation,
 - or
 - (b) with the prior approval of the Minister, from entering into a contract with a board for the purchase of property.

9. Section 78 is struck out and the following section is substituted:

78. (1) A board may terminate

- (a) a contract of employment with a teacher, or
- (b) a designation of a teacher made pursuant to section 82,

after giving the teacher 30 days' notice in writing of its intention to do so.

(2) A notice of termination of a contract of employment or of a designation shall specify the reasons for the termination and in each case the board shall act reasonably.

(3) A board may suspend from his duties any teacher who has been served with a notice of termination of contract or of a designation.

4. Section 15 presently reads:

15. (1) The Minister may establish a division consisting of any number of public school districts.
- (2) The order establishing a division shall
- (a) give the division a name and number in the following form:
"The School Division No.",
 - (b) divide the division into not less than three nor more than seven subdivisions,
 - (c) give each subdivision a number, and
 - (d) state which public school districts are comprised in which subdivision of the newly constituted division.

5. Section 28, subsection (4) presently reads:

- (4) Where a local advisory board passes a resolution nominating a teacher for a school in the district for which the local advisory board was established and sends the resolution to the board of the division at least 30 days before school opening date, the board of the division shall appoint the teacher to the school if the teacher enters into a contract.

6. Section 30, subsection (4) presently reads:

- (4) The Minister shall for each board specify the number of trustees to be elected to the board, being not less than three nor more than seven.

7. Section 65, subsection (1), clause (a) presently reads:

65. (1) A board shall
- (a) appoint, subject to
 - (i) the prior approval of the Minister, and
 - (ii) the regulations of the Minister,
- a Superintendent of Schools and in his contract of employment include a statement of his position as executive officer of the board, and

8. Section 71, subsection (3) presently reads:

- (3) Nothing in this section prevents an employee, with the prior approval of the board, from entering into a contract with the board or with a person contracting with the board
- (a) for services to be performed by the employee, or
 - (b) for the sale in the ordinary course of business of the employee of goods and merchandise, or
 - (c) for the rental of accommodation.

9. Section 78 presently reads:

78. (1) A board may terminate a contract of employment with a teacher after giving the teacher 30 days' notice in writing of its intention.
- (2) A notice of termination of a contract of employment shall specify the reasons for the termination of contract and in each case the board shall act reasonably.
- (3) A board may suspend from his duties any teacher who has been served with a notice of termination of a contract of employment.
- (4) A teacher who has been suspended is entitled to receive pay until the effective date of termination.

(4) A notice of termination of a designation or the termination thereof does not terminate a contract of employment.

(5) A teacher who has been suspended is entitled to receive pay until the effective date of termination.

10. Section 83 is struck out and the following section is substituted:

83. (1) A teacher on receipt of a termination of designation may terminate his contract of employment by giving 30 days' notice in writing to the board, notwithstanding section 81.

(2) No appeal may be made from a termination of a contract to the Board of Reference, if the contract of employment is terminated pursuant to subsection (1).

11. Section 87 is amended by striking out subsection (3) and by substituting the following subsections:

(3) Notwithstanding any provision of this Act concerning the

(a) termination of a contract of employment of a teacher, or

(b) termination of a designation of a teacher, or

(c) suspension of a teacher,

and matters connected therewith, the Board of Reference may make such order as it considers just with respect to the appeal.

(3.1) Without restricting the generality of subsection (3), the Board of Reference may, among other orders, make all or any of the following orders:

(a) an order providing that the termination date of the contract of employment or of a designation be changed;

(b) an order to provide for the reinstatement of a contract of employment or of a designation (but only where the teacher is the party appealing);

(c) an order for the payment of money, equivalent to salary, for any period whether before or after the termination of the contract or of a designation that a salary has not been paid;

(d) an order providing that no salary be paid for a specific period.

12. Section 88 is struck out and the following section is substituted:

88. (1) The Minister, in any case in which he considers it proper to do so, may refer an appeal to any one or to any two or more members of the Board of Reference.

10. Section 83 presently reads:

83. (1) A board may only terminate a designation in the same manner specifying its reasons as it may terminate a contract of employment under section 78.

(2) The termination of a designation does not terminate a contract of employment.

(3) A teacher on receipt of a termination of designation may terminate his contract of employment by giving 30 days' notice in writing to the board, notwithstanding section 81.

(4) No appeal may be made from a termination of a contract, to the Board of Reference, if the contract of employment is terminated pursuant to subsection (3).

11. Section 87, subsection (3) presently reads:

(3) Notwithstanding any provision of this Act concerning termination or suspension of a contract of employment between a board and a teacher and matters connected therewith, the Board of Reference may make such order as it considers just with respect to the appeal and without restricting the generality of the foregoing the Board of Reference may, amongst other orders make all or any of the following orders:

- (a) that the termination date of a contract of employment be changed;
- (b) provide for reinstatement of a contract of employment (but only where a teacher is the party appealing);
- (c) order payment of money (equivalent to salary) for any period whether before or after the termination of contract, that a salary has not been paid;
- (d) order that no salary be paid for a specified period.

The amendments to sections 78, 83 and 87 will ensure that a teacher whose designation is terminated has the same right to appeal to the Board of Reference as he has when a contract of employment is terminated.

12. Section 88 presently reads:

88. (1) The Minister, in any case in which he considers it proper to do so, may refer an appeal to one member of the Board of Reference.

(2) The member of the Board of Reference to whom the appeal is referred has the same powers and duties as the Board of Reference and his decision shall be deemed to be a decision of the Board of Reference.

(2) Upon a reference of an appeal to the member or members of the Board of Reference pursuant to subsection (1), the member or members have all the powers, duties and functions of the Board of Reference and his or their decision shall be deemed to be a decision of the Board of Reference.

13. Section 91 is amended by adding the following subsection after subsection (2):

(3) A board shall notify the Minister within 30 days of the date the board purchases or enters into an agreement to purchase any land or any interest in land pursuant to subsection (2), clause (a), (b) or (d).

14. Section 93 is amended

- (a) as to subsection (2), by striking out the words "or a person designated in writing by him to give approval",*
- (b) as to subsection (6) by striking out the words "or a person designated in writing by him to give approval",*
- (c) by adding the following subsection after subsection (6):*

(7) Notwithstanding subsection (3), a board may dispose of any real or personal property to another board, a municipal corporation, a community association or other charitable or non-profit organization for a nominal consideration if it obtains prior approval of the Minister.

15. Section 95 is amended

- (a) as to subsection (1), by striking out the words "or a structural alteration",*
- (b) as to subsection (2), by striking out the words "or a person designated in writing by him to give approval",*
- (c) by adding the following subsection after subsection (2):*

(3) No structural alteration having the effect of reducing the number of classrooms approved in the original design of the school may be made to a school building unless the plans and specifications for it have received the prior approval of the Minister.

13. Section 91, subsection (2) presently reads:

(2) A board may

- (a) acquire and hold real or personal property or any interest therein,
- (b) acquire land for school buildings, whether the land is in or outside the district or division and acquire additional land to add to land owned by it,
- (c) acquire land or any rights in, on, over or under it (if necessary extending beyond the boundaries of school sites) for sewage, water, gas, electric power or other services,
- (d) enter into contracts granting or acquiring an option to purchase or sell real or personal property,
- (e) acquire, build, furnish and rent out residences and dormitories, and
- (f) acquire, build, furnish and rent offices for itself and its employees.

14. Clauses (a) and (b) reflect the amendments made to the Act by section 3 of this Bill. Clause (c) adding a new subsection (7), is new.

15. Section 95, subsection (2) presently reads:

- (2) Notwithstanding subsection (1) the approval of the Minister is not required in respect of a board which has over 15,000 pupils enrolled in its schools.

16. *Section 96 is amended*

- (a) *as to subsection (4), clauses (a) and (b), by striking out the words "or person designated in writing by him," wherever they occur,*
- (b) *by striking out subsection (5) and by substituting the following:*

(5) Where the result of the vote is to defeat the proposal to erect or purchase a school building, the board is bound by the vote for a period of 12 months from the date thereof and during that time it shall not propose the same or a similar erection or purchase of a school building.

17. *Section 98, subsections (1), (2) and (3) are amended by striking out the words "a person designated in writing by him" wherever they occur.*

18. *Section 118 is struck out.*

19. *Section 116, subsections (1), (2) and (3) are amended by striking out the words "Local Authorities Board" wherever they appear and in each case by substituting the word "Minister".*

20. *Section 119 is amended by striking out clause (b) and by substituting the following clause:*

- (b) *providing any method, including a vote called for by electors, by which a board may exceed the limits specified pursuant to clause (a).*

21. *Section 128, subsection (1) is amended by striking out the word "on" and by substituting the words "on or before".*

22. *Section 144 is amended by striking out the words "or person designated by him".*

23. *Section 156 is amended by striking out subsection (3) and by substituting the following:*

(3) A board may charge the parents of pupils riding on transport provided by the board, whether the transport is provided by agreement pursuant to subsection (1) or in any other manner, such fee as it determines.

24. *This Act comes into force on the day upon which it is assented to.*

16. Section 96, subsection (5) presently reads:

(5) The board is bound by the result of the poll for a period of 12 months from the date of the poll and during that time it shall not propose the same or a similar erection or purchase of a school building.

The subsection is now consistent with section 104, subsection (3).

17. Self-explanatory.

18. Section 118 presently reads:

118. In each year, within 30 days after the establishment of the School Foundation Program Fund regulations under section 129, a board shall prepare and adopt, in the form prescribed by the Minister, a detailed estimate of its revenues and expenditures for the current year.

This matter will be covered by regulations made by the Minister under section 12, subsection (1), clause (f).

19. Section 116, subsections (1), (2) and (3) presently read:

116. (1) Where debentures have been issued for a capital expenditure and upon completion of the work or in consequence of its partial abandonment there remains a balance, a board, by resolution reciting the facts, shall apply to the Local Authorities Board for authority to use the balance for capital expenditures for any purpose not authorized by the by-law under which the debentures were issued.

(2) The Local Authorities Board may grant permission to a board to use the balance for such purposes and upon such terms and conditions as the Local Authorities Board considers expedient.

(3) If a board applies moneys included in the balance for any purpose not authorized by the Local Authorities Board, the trustees who vote for such application are personally liable for the amount diverted and it may be recovered by the board by legal action as a debt due from the trustees responsible.

20. Section 119, clause (b) presently reads:

119. The Lieutenant Governor in Council may make regulations

...
(b) providing any method, including a poll or plebiscite of electors, by which a board may exceed the limit specified pursuant to clause (a).

21. Section 128, subsection (1) presently reads:

128. (1) Each municipality shall pay to a board the amount of the sum requisitioned by equal quarterly instalments on the 15th day of each of the months of March, June, September and December.

22. Minister may delegate duties and powers under amended section 13 of the Act (see section 3 of this Bill).

23. Section 156, subsection (3) presently reads:

(3) Where an agreement is entered into to provide transport for pupils a board may charge the parents of pupils riding on the transport provided such fee as it determines.