

1977 BILL 44

Third Session, 18th Legislature, 26 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 44

THE SCHOOL AMENDMENT ACT 1977

THE MINISTER OF EDUCATION

First Reading

Second Reading

Third Reading

Bill 44

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1977

THE SCHOOL AMENDMENT ACT, 1977

(Assented to , 1977)

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. The following sections are added after section 60:

60.1. (1) In this section,

- (a) "allotment of assessment" means that portion of the assessment of the property of a property holding corporation that bears the same ratio to the total assessment of that property as the value of the shares held by the shareholder corporation bears to the total value of all the shares of the property holding corporation;
- (b) "property holding corporation" means a corporation that has property that
 - (i) is situated within a separate school district, and
 - (ii) is assessable for school purposes;
- (c) "share" means a share issued by a property holding corporation;
- (d) "shareholder corporation" means a corporation that is a shareholder of a property holding corporation.

(2) Where a property holding corporation has at least one shareholder who is a natural person, a shareholder corporation of that property holding corporation may, by giving written notice to that property holding corporation, designate all or any portion of its allotment of assessment for separate school purposes and thereupon the property holding corporation shall, with respect to that portion of the allotment of assessment so designated for separate school purposes, treat the shareholder corporation as a separate school supporter for the purposes of section 60, subsection (2).

Explanatory Notes

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

2. Corporations that are separate school supporters. Section 60 reads:

60. (1) Where a separate school district exists, a corporation that has shareholders or members of the same religious faith as those who established the separate school district may, by giving notice to the proper officer of the municipality require a percentage of the property in respect of which it is assessable to be entered and assessed for separate school purposes.

(2) Where the corporation has shareholders, that notice shall designate the percentage of the property of the corporation in the district assessable for separate school purposes that bears the same ratio to the total assessed value of the property of the corporation in the separate school district as the value of shares of the separate school supporters bears to the total value of all shares of the corporation.

(3) Where the corporation does not have shareholders or is a co-operative association the notice shall designate the percentage of the property of the corporation in the district assessable for separate school purposes that bears the same ratio to the total assessed value of the property of the corporation in the separate school district as the number of members who are separate school supporters bears to the total number of members of the corporation.

(4) The notice given by a corporation shall state that the percentage of the property of the corporation designated in the notice has been approved by a resolution of the corporation or the board of directors of the corporation.

(3) Where all the shareholders of a property holding corporation are corporations, a shareholder corporation of that property holding corporation may, by giving written notice to that property holding corporation, designate all or any portion of its allotment of assessment for separate school purposes and where such a notice is given

- (a) the property holding corporation may give a notice under section 60, subsection (1) as though that shareholder corporation were a natural person, and
- (b) the property holding corporation, if it gives a notice under section 60, subsection (1), shall, with respect to that portion of the allotment of assessment so designated for separate school purposes, treat the shareholder corporation as a separate school supporter for the purposes of section 60, subsection (2).

60.2. (1) In this section,

- (a) “member corporation” means a corporation that is a member of a property holding corporation which does not have shareholders or is a co-operative association;
- (b) “property holding corporation” means a corporation that has property that
 - (i) is situated within a separate school district, and
 - (ii) is assessable for school purposes.

(2) Where a property holding corporation has at least one member who is a natural person, a member corporation of that property holding corporation may, by giving written notice to that property holding corporation, declare itself to be a separate school supporter and thereupon the property holding corporation shall treat the member corporation as a separate school supporter for the purposes of section 60, subsection (3).

(3) Where all the members of a property holding corporation are corporations, a member corporation of that property holding corporation may, by giving written notice to that property holding corporation, declare itself to be a separate school supporter and where such a notice is given

- (a) the property holding corporation may give a notice under section 60, subsection (1) as though that member corporation were a natural person, and
- (b) the property holding corporation, if it gives a notice under section 60, subsection (1), shall treat the member corporation as a separate school supporter for the purposes of section 60, subsection (3).

60.3. Where

- (a) a notice is given under sections 60, 60.1, 60.2 or 63.1, or
 - (b) a statement is given under section 63, subsection (4),
- that notice or statement, as the case may be, is prima facie proof
- (c) of the contents of that notice or statement, and
 - (d) that the corporation that gave the notice or statement was properly empowered to give the notice or statement.

3. The following section is added after section 63:

63.1. (1) In this section,

- (a) “property holding corporation” means a corporation that receives a notice from the board of a separate school district under section 63, and
- (b) “shareholder corporation” means a corporation that is a shareholder of a property holding corporation.

(2) A shareholder corporation may, by giving written notice to the property holding corporation of which it is a shareholder, declare itself to be of the same religious faith as the electors of the public school district and thereupon the property holding corporation shall treat the shareholder corporation as being of the same religious faith as the electors of the public school district for the purposes of section 63, subsection (4).

4. The following section is added after section 73:

73.1. Unless a person holds a certificate of qualification as a teacher issued under *The Department of Education Act*, that person is not eligible to hold a supervisory or consultative position that directly relates to the teaching functions of a teacher.

5. Sections 75 and 76 are struck out and the following sections are substituted therefor:

75. (1) A board may, at any time during a school year, transfer a teacher from

- (a) one of its schools to another, or
- (b) one room in one of its schools to another room in the same school.

3. Corporations that are public school supporters. Section 63 presently reads:

63. (1) Where a corporation has not given a notice under section 60, the board of a separate school district, by giving notice, may require part of the property in respect of which the corporation is assessable to be entered and assessed for separate school purposes.

(2) The notice shall be given to the corporation, to the proper officer of the municipality and to the secretary of the public school district or to the secretary of the division if the public school district is in a division.

(3) The notice shall be given on or before December 15 and becomes effective on the following December 31 and remains in effect until the corporation gives a notice in accordance with sections 60 and 61, or a notice under subsection (4).

(4) If, before December 31 of any year, a corporation gives to each person mentioned in section 61, subsection (1) a statement under the seal of the corporation that all of the shareholders of the corporation are of the same religious faith as the electors of the public school district, the notice of the board of the separate school district under subsection (1) is not effective with respect to any subsequent year.

4. Eligibility of persons being appointed to positions that have a supervisory or consultative function.

5. Sections 75 and 76 presently read:

75. (1) A board may transfer a teacher from one school or room in its charge to another at any time during the school year.

(2) The board shall give to the teacher concerned seven days' notice in writing of the transfer.

(3) Within seven days after receiving notice of the transfer, the teacher may request in writing, an opportunity to be heard before the board.

(2) Subject to this section, where a teacher is transferred, that transfer becomes effective not less than seven days from the day that the notice of transfer is received by the teacher.

(3) Where a teacher is given a notice of transfer, that teacher may, within seven days of receiving the notice of transfer, make a written request to the board to have a hearing before the board for the purpose of objecting to the transfer.

(4) Where a teacher makes a request to have a hearing before a board under subsection (3), that teacher shall not be transferred until the hearing is held.

(5) Notwithstanding section 81, where a teacher

(a) has been given a notice of transfer and does not wish to transfer in accordance with the notice, or

(b) has been given a hearing before the board under this section and does not wish to comply with the decision of the board,

that teacher may resign from his employment with the board upon giving to the board 30 days' written notice of his resignation.

(6) Notwithstanding that 30 days have not passed from the date that a teacher gave notice of resignation to the board under subsection (5), the contract of employment between that teacher and that board terminates upon the board paying to the teacher the salary which that teacher would have been entitled to if he had remained in the employ of the board for 30 days from the day of giving his notice of resignation.

76. Subject to this Act, a contract of employment between a board and a teacher continues in force from year to year.

76.1. (1) A teacher may be employed by a board under a temporary contract of employment where that teacher is being employed for the purpose of

(a) replacing a teacher who is absent from his duties for a period of not less than 20 consecutive teaching days, or

(b) filling, for not less than 20 consecutive teaching days, a teaching position which has become vacant during a school year.

(2) A temporary contract entered into under subsection (1),

(a) shall be in writing,

(b) shall specify the date upon which the teacher commences employment with the board, and

(4) If a hearing is requested, the transfer shall not be effective until the teacher has been heard before the board or a committee thereof.

(5) Notwithstanding section 81 a teacher who has been transferred by a school board may, after subsections (3) and (4) of this section have been complied with, resign upon 30 days' notice if he does not wish to comply with the transfer order of the board.

76. (1) Unless there is agreement to the contrary a contract of employment between a board and a teacher continues in force from year to year.

(2) A board shall send to the Minister a copy of every agreement it enters into with a teacher which does not continue in force from year to year, within 30 days of the agreement being entered into.

(c) terminates

- (i) on June 30 immediately following the commencement date specified in the temporary contract, or
- (ii) upon such date as may be provided for in the temporary contract,

whichever occurs first.

(3) Notwithstanding anything contained in a temporary contract, a party to that contract may terminate that contract by giving to the other party to the contract 30 days' written notice of such termination.

(4) Section 85 does not apply in respect of the termination under this section of a temporary contract.

76.2. A board may employ a teacher for a complete school year under a contract that terminates at the conclusion of that school year where that teacher

- (a) was not employed by that board as a teacher in the previous year, or
- (b) was employed by that board in the previous year under section 89 or under a contract referred to in section 76.1.

6. (1) Notwithstanding section 60, subsections (2) and (3) of The School Act, where a notice was given by a corporation under section 60, subsection (1) of The School Act on or before December 1, 1976 to be effective for the year 1977, that notice is conclusive proof as to the percentage of the property of that corporation situated in a separate school district that is assessable for separate school purposes for the year 1977.

(2) Any proceedings taken or decisions rendered under sections 45 to 55 of The Municipal Taxation Act or under The Assessment Appeal Board Act with respect to a notice referred to in subsection (1) are, with respect to that notice, void and without any force or effect.

7. (1) A trustee, as defined in The School Act, who held the office of trustee on November 4, 1976 is deemed not to have been disqualified from continuing to hold that office for the remainder of the term of that office by reason only that he was not a Canadian citizen on November 4, 1976 if

- (a) he was a British subject at the time he was last elected to or assumed that office, and*

6. Property of corporations assessable for separate school purposes for the year 1977.

7. Trustees who were not Canadian citizens on October 3, 1976.

(b) he either

(i) on or after November 4, 1976 became a Canadian citizen, or

(ii) remains a British subject until that term of office expires.

(2) Where a trustee referred to in subsection (1) performed any duty or exercised any power in his capacity as a trustee in the period between November 4, 1976 and the time this Act comes into force, the performance of that duty or the exercise of that power has the same force and effect as if that trustee had not been disqualified on November 4, 1976 by reason of his not being a Canadian citizen.

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

