

1979 BILL 76

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First Session, 19th Legislature, 28 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 76**

**THE SCHOOL AMENDMENT ACT, 1979**

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MRS. OSTERMAN

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

Bill 76  
Mrs. Osterman

## BILL 76

1979

### THE SCHOOL AMENDMENT ACT, 1979

(Assented to , 1979)

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

1 *The School Act is amended by this Act.*

2 *Section 5 is amended*

*(a) by repealing subsection (1)(b) and substituting the following:*

(b) by the lesser of

(i) 2000 electors in the district, or

(ii) 25% of the electors in the district,

*(b) by repealing subsection (4)(b) and substituting the following:*

(b) by resolution of the meeting identify the areas of concern, related to the purposes and objectives stated in the petition, that are to be studied by the committee.

*(c) in subsection (6) by striking out "21 days" and substituting "30 days", and*

*(d) by repealing subsection (7) and substituting the following:*

(7) Within 30 days after the receipt of recommendations under subsection (6), the board shall hold a meeting and permit the committee to make representations with respect to the recommendations.

3 *Section 6 is amended*

*(a) by striking out "shall be given in a form prescribed by the Minister" and substituting " , including the time, place, date and purpose of the meeting, shall be given",*

## **Explanatory Notes**

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

**2** Section 5 presently reads in part:

*5(1) Where a board of a city district receives a petition calling for a public meeting signed*

*(a) by 25 per cent of the parents of children in a school, or*

*(b) by 2,000 electors in the district,*

*the board shall within 21 days of the receipt of the petition call a public meeting.*

*(4) At any public meeting called under the provisions of this section, the electors present may*

*(a) elect four persons to a committee, and*

*(b) by resolution of the meeting identify the areas of concern to be studied by the committee.*

*(6) Within 21 days of the establishment of any committee under this section, the committee shall make recommendations to the board concerning the areas of concern identified in the public meetings at which the committee was established.*

*(7) The board shall permit every committee to present its views in a joint meeting before action is taken contrary to any committee report or recommendation.*

**3** Section 6 presently reads:

*6 Where any public meeting is called, the notice of the public meeting shall be given in a form prescribed by the Minister in at least two of the following ways:*

*(b) in clauses (a), (b) and (c) by striking out “it” and substituting “the notice in the form prescribed by the Minister”, and*

*(c) in clause (d) by striking out “, giving the time, place, date and purpose of the meeting”.*

*4 Section 12(1)(c.1) is amended by striking out “section 64.1” and substituting “sections 64 and 64.1”.*

*5 Section 32(2)(e) and (f) are repealed and the following is substituted:*

*(e) of the sale of goods, merchandise or services to the board or to persons contracting with the board made at competitive prices by a dealer in those goods, merchandise or services incidental to and in the ordinary course of his business, or*

*6 Section 35(3) is amended by striking out “Where” and substituting “Subject to section 35.1, if”.*

*7 The following is added after section 35:*

**35.1** (1) If an application under section 34 or 35 is before a judge and the judge finds that a trustee is disqualified he may nevertheless dismiss the application where he is of the

*(a) by mailing it at least 14 clear days before the date of the meeting to electors of a district or division;*

*(b) by posting it, not later than the eighth day prior to the date fixed for holding the meeting in one or more conspicuous places;*

*(c) by publishing it in a newspaper circulating within a district or division once a week for two successive weeks, the last of which shall be published not less than eight clear days prior to the date of the meeting;*

*(d) by announcement, giving the time, place, date and purpose of the meeting on three consecutive days during the eight days immediately preceding the day of the meeting,*

*(i) on a radio station serving the district or division, between the hours of 7:00 a.m. and 9:00 a.m. or 5:00 p.m. and 11:00 p.m., or*

*(ii) on a television station serving the district or division, between the hours of 5:00 p.m. and 11:00 p.m.*

**4** Section 12(1)(c.1) presently reads:

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

*(c.1) defining "resident pupil" for the purpose of section 64.1,*

**5** Section 32(2)(e) and (f) presently reads in part:

*(2) Subsection (2) does not apply to a person by reason only*

*(e) of the sale of goods, merchandise or service to the board made at competitive prices by a dealer in those goods, merchandise or services incidental to and in the ordinary course of his business provided that the fair market value of the goods, merchandise and services does not exceed \$1,000 in any one year, or*

*(f) of the sale of goods, merchandise or services to persons contracting with the board made at competitive prices by a dealer in those goods, merchandise or services incidental to and in the ordinary course of his business provided that the fair market value of such goods, merchandise and services which accrue to the benefit of or ultimately become the property of the board does not exceed \$1,000 in any one year, or*

**6** Section 35(3) presently reads:

*(3) Where a judge declares a trustee disqualified, his seat on the board thereupon becomes vacant.*

**7** Judge may dismiss applications where disqualification arose from inadvertence or error in judgment. Application alleging disqualification may be heard notwithstanding the fact that an election takes place.

opinion that the disqualification arose inadvertently or by reason of a bona fide error of judgment.

(2) If a judge dismisses an application by reason of subsection (1), the trustee is entitled to remain a trustee.

**35.2(1)** An application alleging a contravention of section 32(1)(f) or (m) or section 33 may be commenced pursuant to section 34(b) or 35 or continued under either of those sections, notwithstanding that an election has been held between the time when the disqualification of the trustee or former trustee is alleged to have arisen and the time at which the application was or is commenced and the judge may make an order under section 34(b) or 35.

(2) Subsection (1) applies whether or not the trustee in respect of whom the application is being brought

- (a) resigns before or after the election,
- (b) was re-elected in the election,
- (c) was not re-elected or did not run in the election, or
- (d) has completed his term of office.

8 *The following is added after section 49:*

**49.1** When the Minister considers that an official trustee appointed under section 11 of *The Department of Education Act* has completed his duties under that Act, the Minister may direct the official trustee to hold a by-election to fill the vacancies on the board whose affairs he has been conducting.

9 *Section 63(1) is amended by adding “or a statement under subsection (4)” after “section 60”.*

**8** Minister may direct a by-election when official trustee has completed his duties.

**9** Section 63 presently reads in part:

*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 puposes.*

*(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.*

10 *Section 64 is repealed and the following is substituted:*

**64** Where

(a) a separate school district is situated wholly or partly within a municipality, and

(b) there is property situated in that district in respect of which the board of the separate school district has given notice to a corporation under section 63

the proper officer for the municipality shall designate a portion of the assessment of that property to be allocated for separate school purposes that shall bear the same ratio to the total assessment of that property as the number of resident pupils residing in that district who are under the jurisdiction of the board of the separate school district bears to the total number of resident pupils residing in that district

(c) who are under the jurisdiction of the board of the separate school district, and

(d) who are under the jurisdiction of the board responsible for the public school district.

11(1) *Section 64.1 is amended*

(a) in subsections (1) and (2) by striking out “residing in that municipality” wherever it occurs and substituting “residing in that district”,

(b) in subsections (1)(d) and (2)(e) by striking out “board of” and substituting “board responsible for”, and

(c) by repealing subsection (3) and substituting the following:

(3) For the purposes of section 64 and subsections (1) and (2) of this section, a board shall, not later than December 31 of each year, give to the proper officer of the municipality a notice stating the total number of resident pupils residing in the district who are under the jurisdiction of that board.

(2) *Subsection (1)(a) only applies to the year 1980 and subsequent years.*



**10** Section 64 presently reads:

*64 Where the board of a separate school district has given a notice to a corporation under section 63, the proper officer of each municipality shall designate a percentage of the property of that corporation in the district assessable for separate school purposes which shall bear the same ratio to the total assessed value of the property of the corporation in the district as the assessment of property in the district of persons, other than corporations, who are separate school supporters, bears to the total assessed value of the property in the district of all persons, other than the corporations.*

**11** Section 64.1 presently reads:

*64.1(1) Where*

*(a) a separate school district is situated wholly or partly within a municipality, and*

*(b) there is property situated in that district that is*

*(i) owned or leased by the municipality, and*

*(ii) liable to assessment and taxation under The Municipal and Provincial Properties Valuation Act,*

*the proper officer for the municipality shall, for the purposes of enabling the council of that municipality to establish its mill rates for school purposes, designate a portion of the assessment of that property to be allocated for separate school purposes which shall bear the same ratio to the total assessment of that property under The Municipal and Provincial Properties Valuation Act as the number of resident pupils residing in that municipality who are under the jurisdiction of the board of the separate school district bears to the total number of*

*(c) resident pupils residing in that municipality who are under the jurisdiction of the board of the separate school district, and*

*(d) resident pupils residing in that municipality who are under the jurisdiction of the board of the public school district.*

*(2) Where*

*(a) a separate school district is situated wholly or partly within a municipality,*

*12 Section 65(4) is amended by striking out “and” at the end of clause (j), by adding “and ” at the end of clause (k) and by adding the following after clause (k):*

(l) provide for an early childhood services program in accordance with the regulations under *The Department of Education Act* and charge tuition fees and transportation fees for children attending the program.

*13 Section 76.2 is amended by striking out “or” at the end of clause (a), by adding “or” at the end of clause (b) and by adding the following after clause (b):*

(c) was employed by that board in the previous year under a contract that terminated under section 77(1)(c).

*(b) there is property situated in that district that is*

*(i) owned by the Government of Alberta or an agency of the Government of Alberta, and*

*(ii) given a valuation under The Municipal and Provincial Properties Valuation Act,*

*and*

*(c) in respect of that property, grants may be paid to that municipality under The Crown Property Municipal Grants Act, The Alberta Home Mortgage Corporation Act, The Liquor Control Act, The Alberta Housing Act, The Alberta Government Telephones Act, or The Treasury Branches Act,*

*the proper officer for the municipality shall, for the purposes of enabling the council of that municipality to establish its mill rates for school purposes, designate a portion of the valuation of that property to be allocated for separate school purposes which shall bear the same ratio to the total valuation of that property under The Municipal and Provincial Properties Valuation Act as the number of resident pupils residing in that municipality who are under the jurisdiction of the board of the separate school district bears to the total number of*

*(d) resident pupils residing in that municipality who are under the jurisdiction of the board of the separate school district, and*

*(e) resident pupils residing in that municipality who are under the jurisdiction of the board of the public school district.*

*(3) For the purposes of subsections (1) and (2), a board shall, not later than December 31 of each year, give to the proper officer of the municipality a notice stating the total number of resident pupils residing in that municipality who are under the jurisdiction of that board.*

**12** Allows school boards to offer early childhood services programs.

**13** Section 76.2(1) presently reads:

*76.2(1) 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.*

14 Section 87(3.1) is amended by adding the following after clause (d):

(e) an order determining whether there have been any procedural or technical irregularities in respect of the matters referred to in section 85.

15 Section 101 is amended by adding the following after subsection (5):

(6) Part 2 of *The Local Authorities Board Act* does not apply to borrowings under this section.

16 Section 129 is amended

(a) in subsection (5)

(i) by striking out “one-third” and substituting “1/2”, and

(ii) by striking out “May,”,

(b) in subsection (13) (b) by striking out “60 per cent” and substituting “75%”.

17 Section 142 is amended

(a) in subsection (2) by adding “or the board of the district or division in which he resides” after “parent”, and

(b) by adding the following after subsection (2):

(3) If

(a) the boundaries of a district or division are changed under section 18 or 19 so that the district or division in which a parent resides is different from the one in which he resided before the boundaries were changed, and

(b) the parent makes an application under subsection (1) for the admission of his child to a school

**14** Section 87(3.1) presently reads:

*(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 specified period.*

**15** Exempts short term borrowing from The Local Authorities Board Act.

**16** Section 129 presently reads in part:

*(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 May, August and November.*

*(13) Notwithstanding anything contained in this section or the regulations, in the event of a cessation of services by teachers or other employees of a board by reason of a strike or lockout, the Minister shall*

- (b) reduce the amount payable to the board by any sum up to and including 60 per cent of the amount calculated pursuant to clause (a).*

**17** Section 142 presently reads:

*142(1) A parent of a pupil may apply to the board of a district or division in which he is not a resident for the admission of his child as a pupil to a school controlled by the board.*

*(2) Where there is sufficient accommodation in a school and if the parent agrees to pay the fees authorized by this Act, the board shall admit the pupil to its school.*

controlled by the board of the district or division in which the parent resided before the boundaries were so changed,

the Minister may direct that the board of the district or division in which the parent resides shall pay the board to which the parent has applied all or some of the fees authorized by this Act with respect to that child in accordance with any terms and conditions that the Minister may impose.

*18 Section 146 is amended*

*(a) in subsection (4) by striking out “seven days” and substituting “5 school days”, and*

*(b) in subsection (5) by striking out “14 days” and substituting “10 school days”.*

*19 Section 168(1) is repealed and the following is substituted:*

**168(1)** No board shall knowingly employ as a teacher a person who does not hold a certificate of qualification as a teacher issued under *The Department of Education Act*.

(1.1) No person who is employed by a board shall teach unless he holds the certificate referred to in subsection (1).

(1.2) A board or person who contravenes this section is guilty of an offence and liable on summary conviction to a fine of not more than \$500.

*20 Section 173 is amended*

*(a) by striking out “or” at the end of clause (a), by adding “or” at the end of clause (b) and by adding the following after clause (b):*

*(c) loiters or trespasses in a school building or on property owned by a board,*

*(b) by striking out “\$200” and substituting “\$1000”.*

*21 Section 17(b) of this Act is repealed and the following is substituted:*

*(b) by adding the following after subsection (2):*

**18** Section 146(4) and (5) presently read:

*(4) Where a pupil is not to be reinstated within seven days of the date of his suspension, the principal shall immediately report in writing all the circumstances of the suspension to the board, together with his recommendations.*

*(5) Upon receiving a report from a principal pursuant to subsection (4), the board shall, within 14 days of receiving the report, either reinstate or expel the pupil.*

**19** Section 168(1) presently reads:

*168(1) Any person who is not permitted to teach pursuant to section 73 and who teaches and any board that knowingly employs that person is guilty of an offence and liable on summary conviction to a fine not exceeding \$500.*

**20** Section 173 presently reads:

*173 A person who*

*(a) disturbs or interrupts the proceedings of a school meeting, or*

*(b) disturbs or interrupts the proceedings of a school,*

*is guilty of an offence and liable on summary conviction to a fine not exceeding \$200.*

**21** Amends section 17(b) of this Bill.

(3) If a parent makes an application under subsection (1) for the admission of his child to a school controlled by an adjacent district or division

(a) the boundaries of which were changed under section 18 or 19 so that the parent no longer resides in the district or division in which he resided before the boundaries were so changed, or

(b) that offers a language instruction program authorized under section 150 that is not offered by the district or division in which the parent resides

the Minister may direct that the board of the district or division in which the parent resides shall pay the board to which the parent has applied all or some of the fees authorized by this Act with respect to that child in accordance with any terms and conditions that the Minister may impose.

*22 The School Election Act is amended by repealing section 11(2) (e) and (f) and substituting the following:*

(e) of the sale of goods, merchandise or services to the board or to persons contracting with the board made at competitive prices by a dealer in those goods, merchandise or services incidental to and in the ordinary course of his business, or

*23(1) This Act, except sections 10, 11(1)(a) and 21, comes into force on the day upon which it is assented to.*

*(2) Sections 10 and 11(1)(a) come into force on January 1, 1980.*

*(3) Section 21 comes into force on a date to be fixed by Proclamation.*



**22** Consequential amendment to chapter 331 of the Revised Statutes of Alberta 1970. Section 11(2) of The School Election Act presently reads in part:

*(2) Subsection (1) does not apply to a person by reason only*

*(e) of the sale of goods, merchandise or services to the board made at competitive prices by a dealer in those goods, merchandise or services incidental to and in the ordinary course of his business provided that the fair market value of the goods, merchandise and services does not exceed \$1000 in any one year, or*

*(f) of the sale of goods, merchandise or services to persons contracting with the board made at competitive prices by a dealer in those goods, merchandise or services incidental to and in the ordinary course of his business provided that the fair market value of the goods, merchandise and services which accrue to the benefit of or ultimately become the property of the board does not exceed \$1000 in any one year, or*