

1992 BILL 41

Fourth Session, 22nd Legislature, 41 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 41

SCHOOL AMENDMENT ACT, 1992

THE MINISTER OF EDUCATION

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 41

1992

SCHOOL AMENDMENT ACT, 1992

(Assented to _____, 1992)

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 1(1) is amended*

- (a) *in clause (b) by adding “, a board of education under the Municipal and School Administration Act” after “division”;*
- (b) *by adding the following after clause (b):*
 - (b.1) “co-ordinating council” means a co-ordinating council of a Francophone Education Region;
- (c) *in clause (d) by adding “or regional division” after “school division”;*
- (d) *by adding the following after clause (f):*
 - (f.1) “Francophone” means an individual referred to in section 5(1);
- (e) *by adding the following after clause (o):*
 - (o.1) “region” means a Francophone Education Region established pursuant to this Act;
 - (o.2) “regional authority” means a regional authority established pursuant to this Act;

Explanatory Notes

1 This Bill will amend chapter S-3.1 of the Statutes of Alberta, 1988.

2 Section 1(1) presently reads in part:

1(1) In this Act,

- (b) "board" means a board of trustees of a district or division or, subject to the County Act, a board of education of a county under that Act;*
- (d) "division" means a school division established pursuant to this Act or any predecessor Act;*
- (p) "resident student" means a resident student as determined in accordance with section 27;*

(o.3) “regional division” means a regional division established pursuant to this Act;

(f) *by repealing clause (p) and substituting the following:*

(p) “resident student” means an individual who is entitled to have access to an education program under section 3 and who is a resident student as determined under section 27;

(g) *by adding the following after clause (s):*

(s.1) “school division” means a school division established pursuant to this Act;

3 The following is added after section 2:

Application to
Francophone
Education
Regions

2.1(1) The following apply to a Francophone Education Region and its regional authority, if any, as if the region were a district and the regional authority were a board:

sections 1 to 2.1;
Part 1;
Part 2 except section 22;
Part 3 except sections 27 and 28;
Part 4;
Part 5;
sections 125 to 130, 160, 162, 167, 168, 170,
171 and 173 to 181;
Part 7;
sections 209 to 216 and 218 to 223;
Part 9.

(2) If a provision of this Act applies to a region, a reference to a board in the provision is deemed to include a reference to the regional authority, if any.

(3) If a provision of this Act applies to a region, a reference to a trustee in the provision is deemed to include a reference to a member of the regional authority, if any.

(4) If a provision of this Act applies to a region, a reference to a resident student of a board in the provision as it applies to the region is deemed to be a

3 Application of Act to Francophone Education Regions.

reference to a student enrolled in a school operated by the regional authority, if any.

(5) If a provision of this Act applies to a region, a reference to an elector in the provision as it applies to the region is deemed to be a reference to an individual referred to in section 223.4(1).

(6) If in any other Act a reference is made

- (a) to a school district or division, the reference is deemed to include a region governed by a regional authority, or
- (b) to a school board or the trustees of a school board, the reference is deemed to include a regional authority or the members of a regional authority, as the case may be.

(7) Subsection (6) does not apply to a reference in the following Acts:

Condominium Property Act;
County Act;
Crown Cultivation Leases Act;
Drainage Districts Act;
Electric Power and Pipe Line Assessment Act;
Health Insurance Premiums Act;
Hospitals Act;
Local Tax Arrears Consolidation Act;
Municipal and Provincial Properties Valuation Act;
Municipal and School Administration Act;
Municipal Taxation Act;
Municipalities Assessment and Equalization Act;
Northland School Division Act;
Parks Towns Act;
Property Tax Reduction Act;
Tax Recovery Act.

(8) Notwithstanding subsections (1) and (6), the Minister may exempt a region or a regional authority from the application of a provision of this or any other Act.

Application to regional divisions

2.2 If in any other Act a reference is made to a school division, the reference is deemed to include a regional division.

Enrolment in Francophone school

2.3(1) If a student's parent is a Francophone who requests that the student be enrolled in a school operated by a regional authority and the student resides in the region within the distance from the school prescribed by regulation, the student is entitled to attend that school and the regional authority shall enrol the student in that school.

(2) If a student's parent is a Francophone who requests that the student be enrolled in a school operated by a regional authority and the student does not reside in the region within the distance from the school prescribed by regulation, the regional authority may enrol the student in that school under the terms set by the regional authority.

(3) If a student referred to in subsection (1) or (2) is enrolled in a school operated by a regional authority, the board of which that student is a resident student, or the Minister if section 27(6) applies to the student, shall give the amount of money calculated in accordance with the regulations in respect of that student to the regional authority.

(4) If a student is the child of a Francophone and is enrolled in a school operated by a regional authority, the student continues to be a resident student of a board of a district or division, but section 28 does not apply to that board with respect to that student while the student is enrolled in a school operated by a regional authority.

(5) The Minister may make regulations

- (a) respecting the distance from a school operated by an authority referred to in subsections (1) and (2);
- (b) respecting the amount of money referred to in subsection (3).

4 *Section 5 is amended*

- (a) *by repealing subsection (2) and substituting the following:*

4 Section 5 presently reads:

5(1) If an individual has rights under section 23 of the Canadian Charter of Rights and Freedoms to have his children receive school

(2) The Lieutenant Governor in Council may make regulations

- (a) respecting the education generally of students whose parents are Francophones;
- (b) respecting co-ordinating councils;
- (c) respecting any matter required to give effect to subsection (1).

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

(3) A student who is enrolled in a school operated by a regional authority is entitled to receive school instruction in French.

(4) A regional authority shall provide to each student enrolled in a school operated by it an education program consistent with the requirements of this Act and the regulations.

5 *Section 19(8) is amended by adding “immediately” after “notify”.*

6 *Section 23(1)(b) is amended by adding “or a private school accredited under section 22(2)” after “board”.*

7 *Section 27(6) is amended*

- (a) *in clause (b) by adding “who resides in an institution or a group home prescribed by the Minister as an institution or a group home to which this clause applies” after “(Canada) or the Young Offenders Act”;*

instruction in French, his children are entitled to receive that instruction in accordance with those rights wherever in the Province those rights apply.

(2) The Lieutenant Governor in Council may make regulations respecting anything that may be required to give effect to subsection (1).

5 Section 19(8) presently reads:

(8) If a student is expelled, the board shall notify, in writing, the parent and, in the case of a student who is 16 years of age or older, the student of their right to request that the Minister review the matter.

6 Section 23(1) presently reads:

23(1) A parent of a student may provide, at home or elsewhere, a home education program for the student if the program

(a) meets the requirements of the regulations, and

(b) is under the supervision of a board.

7 Section 27(6) presently reads:

(6) The following students are resident students of the Government:

(a) a student who resides in unorganized territory and who is not an Indian residing on a reserve pursuant to the Indian Act (Canada);

- (b) *in clause (d) by adding “who resides” after “medical care”.*

8 *Section 29(2) is repealed and the following is substituted:*

(2) A student who is determined by a board to be in need of a special education program is entitled to have access to a special education program

- (a) provided in accordance with section 28 if the board is not a regional authority, or
- (b) provided in accordance with this Act other than under section 30 if the student is enrolled in a school operated by a regional authority.

9 *Section 30(1) is repealed and the following is substituted:*

Special
Needs
Tribunal

30(1) A board may determine that a student has special needs that cannot be met in an education program that can be provided by the board

- (a) under section 28 if the board is not a regional authority, or
- (b) except under this section if the student is enrolled in a school operated by a regional authority.

10 *Section 32(3) is repealed and the following is substituted:*

(b) *a student in custody under the Corrections Act, the Penitentiary Act (Canada), the Young Offenders Act (Canada) or the Young Offenders Act;*

(c) *a student*

(i) *who*

(A) *is in the custody of a director, or*

(B) *has a guardian appointed,*

under the Child Welfare Act, and

(ii) *who resides in an institution or a group home prescribed by the Minister as an institution or a group home to which this clause applies that is operated or approved by the Government;*

(d) *a student who is under long term medical care in an institution that is under the control, direction or administration of the Government.*

8 Section 29(2) presently reads:

(2) A student who is determined by a board to be in need of a special education program is entitled to have access to a special education program provided in accordance with section 28.

9 Section 30(1) presently reads:

30(1) A board may determine that a student has special needs that cannot be met in an education program that can be provided by the board under section 28.

10 Section 32 presently reads:

(3) A tuition fee charged under subsection (2)

- (a) in respect of an individual who is a resident student of another board shall not exceed the amount of the net average local cost per student of maintaining the education program in which the individual is enrolled, or
- (b) in respect of an individual who is not a resident student of another board shall not exceed the cost to the board of having that individual enrolled in a school operated by the board.

11 Section 44(2)(i) is amended by adding “a parent of a student” after “charge”.

12 Section 55 is amended by adding the following after subsection (3):

- (4)** Notwithstanding subsection (1), when the number of trustees at a meeting is less than a quorum because one or more trustees have declared a conflict of interest with respect to a matter before the board at the meeting, the Minister may order that the remaining trustees shall be deemed to be a quorum for the purpose of deciding that matter.

13 Section 105(1) is amended by adding “and may review the matter” after “Act”.

14 Section 109 is amended

- (a) *in subsection (1)(i) by adding “counsel or” before “agent”;*
- (b) *by adding the following after subsection (3):*

32(1) A board shall not charge any tuition fees in respect of the attendance of its resident students at a school operated by the board.

(2) A board may charge tuition fees in respect of an individual who attends a school operated by the board and who is not a resident student of the board.

(3) A tuition fee charged under subsection (2) shall not exceed the amount of the net average local cost per student of maintaining the education program in which the individual is enrolled.

11 Section 44(2)(i) presently reads:

(2) A board may

(i) charge fees with respect to instructional supplies or materials;

12 Section 55(1) presently reads:

55(1) No act or proceeding of a board is binding unless it is adopted at a meeting at which a quorum of the board is present.

13 Section 105(1) presently reads:

105(1) The Minister may review a matter as requested in accordance with this Act in any manner he considers appropriate in the circumstances.

14 Section 109 presently reads in part:

109(1) For the purpose of conducting a hearing before the Attendance Board, the following apply:

(b) the Attendance Board has, with respect to the holding of a hearing, the same power as is vested in the Court of Queen's Bench for the trial of civil actions

(4) Notice under this section may be served personally on the person required to be served or by being sent to that person by registered or certified mail.

15 Section 110 is amended by adding the following after subsection (4):

(5) An order filed under subsection (2) is confidential and not available to the public if in the opinion of the Attendance Board it is in the public interest to keep it so.

16 Section 190(2) is amended by striking out “the board shall, before construction” and substituting “the school jurisdiction shall, before construction”.

- (i) *to summon and enforce the attendance of witnesses,*
 - (ii) *to compel witnesses to give evidence on oath or otherwise, and*
 - (iii) *to compel witnesses to produce documents, records and things;*
- (i) *a person on whom notice of the hearing is served and his agent are entitled to examine the record;*
 - (k) *a hearing shall be held in public;*
 - (l) *notwithstanding clause (k), a hearing or any portion of it may be held in private if in the opinion of the Attendance Board it is in the public interest to do so;*
 - (m) *a person who is likely to be affected by a hearing before the Attendance Board is entitled*
 - (i) *to appear before the Attendance Board,*
 - (ii) *to be represented by counsel or an agent, and*
 - (iii) *to make representations to the Attendance Board;*

15 Section 110 presently reads in part:

(2) A copy of an order of the Attendance Board made under subsection (1) may be filed with the clerk of the Court of Queen's Bench in the judicial district in which the cause of the proceedings before the Attendance Board arose.

(3) On the filing of a copy of an order with the clerk of the Court of Queen's Bench pursuant to subsection (2), the order of the Attendance Board has the same force and effect as if the order were an order of that Court.

16 Section 190(2) presently reads:

(2) Where a school jurisdiction

- (a) *wishes to engage in a school building project that involves the construction of or the addition to a school building, and*
- (b) *intends to use capital funds available under the School Foundation Program Fund for the purpose of paying the cost of that construction in whole or in part,*

17 Sections 195, 196 and 197 are amended by adding “school” before “division” wherever it occurs.

18 Section 203(2)(b) is amended by striking out “the 2 weeks” and substituting “2 of the 3 weeks immediately”.

19 Section 205(e) and (f) are repealed.

20 The following is added after section 208:

**Division 2.1
Establishment and Dissolution of Regional Division**

Regional
agreements

208.1 In this Division, “regional agreement” means an agreement respecting the establishment of a regional division and, subject to this Act and the regulations, the operation of the board of the regional division, including, but not limited to, the appointment by the

the board shall, before construction begins on the school building or addition, submit a copy of the plans respecting the area and capacity of the building or addition to the School Buildings Board.

17 Amendments consequential to the establishment of regional divisions.

18 Section 203(2) presently reads:

(2) The notice referred to in subsection (1) shall be

- (a) posted in 5 or more conspicuous places in the proposed separate school district for a period of at least 14 days immediately prior to the date set out in the notice for the public meeting,*
- (b) published in a newspaper circulating within the proposed separate school district once a week for at least the 2 weeks prior to the week containing the date set out in the notice for the public meeting, and*
- (c) served on the board of the public school district or division within the boundaries of which the proposed separate school district would be established at least 10 days prior to the date set out in the notice for the public meeting.*

19 Section 205(e) and (f) presently read:

205 The chairman of a meeting shall, within 10 days from the date of the meeting, send to the Minister the following:

- (e) a certificate of the chairman stating
 - (i) the number of separate school electors present at the meeting, and*
 - (ii) the number of separate school electors required for a quorum;**
- (f) the results of any poll taken at a meeting.*

20 Establishment of regional divisions.

Establishment
of regional
division

Minister of the first trustees of the board and establishing a ward system for the regional division.

208.2(1) The Minister may establish a regional division consisting of 2 or more districts, divisions, counties or other areas governed by boards.

(2) The Minister shall not establish a regional division unless

- (a) each of the boards, in the case of a county, the county council and, if the *Municipal and School Administration Act* applies, the council of the city or town by by-law approves the establishment of the regional division and the inclusion of its area in the regional division, and
- (b) all of the boards have entered into a regional agreement approved by the Minister.

(3) The order establishing a regional division shall give the regional division a name and number in the following form:

The _____ Regional Division No. _____

(4) A regional agreement is binding in accordance with its terms on the board of the regional division that is the successor to the boards that are parties to it.

Establishment
of wards

208.3(1) The board of a regional division shall by by-law provide for the nomination and election of trustees by wards and determine the boundaries of the wards before the first general election is held after the board is established.

(2) Section 225 does not apply to a regional division or its board.

Effect of
establishment

208.4 When a regional division is established, in accordance with the regional agreement,

- (a) the boards of all the districts and divisions and any board of education of an area included in the regional division are dissolved,

- (b) all assets and liabilities of the dissolved boards are transferred to the board of the regional division, and
- (c) all employees of the dissolved boards become employees of the board of the regional division.

Dissolution

208.5(1) Not less than 4 years after the establishment of a regional division, the electors in a ward in the regional division may petition the Minister to provide for a plebiscite to determine whether or not the ward should be withdrawn from the regional division and the regional agreement should cease to affect it.

(2) A petition under subsection (1) must be signed in accordance with the regulations.

(3) The Minister, on receipt of a petition under subsection (1), shall

- (a) provide for a plebiscite to be conducted at the next general election if the petition complies with subsections (1) and (2), and
- (b) specify the question that the plebiscite shall determine.

(4) If the majority of the electors residing in the ward who vote in the plebiscite vote in favour of withdrawing from the regional division, the Minister may by order

- (a) take the land in the ward from the regional division,
- (b) re-establish the area that constituted the ward as a district, division, county or other area, as the case may be,
- (c) establish a board of trustees for the district or division or a board of education with respect to an area under the *County Act* or the *Municipal and School Administration Act*, as the case may be, and
- (d) deal with any matter respecting the regional division and the newly established district, division, county or other area, as the case may be, that the Minister considers necessary.

(5) If the majority of the electors residing in the ward who vote in the plebiscite do not vote in favour of withdrawing from the regional division, no petition on the same matter in the same ward may be given to the Minister until 6 years after the date of the plebiscite.

(6) The Minister may make regulations respecting petitions under this section.

21 *Section 217 is amended*

(a) *in subsection (3) by adding “school” after “For each”;*

(b) *by adding the following after subsection (3):*

(4) For each regional division, the Minister shall by order establish a board and the members of the board are a corporation under the name of:

The Board of Trustees of _____
Regional Division No. _____

22 *Section 218(2) is amended by adding “school” before “division”.*

23 *The following is added after section 223:*

PART 8.1

ESTABLISHMENT AND DISSOLUTION OF FRANCOPHONE EDUCATION REGIONS

Establishment
of region

223.1(1) The Minister may establish any portion of Alberta as a Francophone Education Region.

(2) The order establishing a Francophone Education Region shall describe the boundaries of the region and give it a name and number in the following form:

The ____ Francophone Education Region No. ____

21 Section 217(3) presently reads:

(3) For each division, the Minister shall by order establish a board and the members of the board are a corporation under the name of:

*The Board of Trustees of _____ School Division
No. _____.*

22 Amendments consequential to the establishment of regional divisions.

23 Francophone education regions.

Effect of establishment

223.2 The establishment of a Francophone Education Region does not affect a public school district or division or a separate school district established in respect of all or part of the portion of Alberta in which the Francophone Education Region is established.

Regional authority

223.3(1) The Minister may by order establish a regional authority for a region, and the members of the regional authority are a corporation under the name of:

The Regional Authority of _____ Francophone Education Region No. _____

(2) The Minister may appoint no fewer than 3 Francophones as the first members of a regional authority.

(3) Members of a regional authority appointed under subsection (1) hold office until the first organizational meeting of the regional authority held after the first general election held after the regional authority is established.

(4) An order under subsection (1) may include any terms and conditions respecting any matter the Minister considers necessary including, but not limited to, dealing with assets and liabilities and the transfer of employees.

Electors for region

223.4(1) For the purposes of this Act and the *Local Authorities Election Act*, an individual is eligible to vote in an election of members of a regional authority if

(a) the individual

- (i) is a Francophone,
- (ii) has a child who is a student enrolled in a school operated by the regional authority,
- (iii) is 18 years of age or older,
- (iv) is a Canadian citizen, and
- (v) has been a resident of Alberta for the 6 consecutive months immediately preceding nomination day,

or

- (b) the individual is a member of a class of individuals prescribed by the Lieutenant Governor in Council as being eligible to vote.

(2) For the purposes of this Act and the *Local Authorities Election Act* and notwithstanding section 21 of the *Local Authorities Election Act*, an individual who may vote in an election of members of a regional authority may nominate an individual as a candidate for election as a member of the regional authority.

(3) For the purposes of this Act and the *Local Authorities Election Act*, an individual is eligible to be elected as a member of a regional authority if the individual

- (a) is 18 years of age or older,
- (b) is a Canadian citizen,
- (c) has been a resident of Alberta for the 6 consecutive months immediately preceding nomination day, and
- (d) is not otherwise ineligible under the *Local Authorities Election Act*.

(4) A person who is eligible to vote in an election for a board other than a regional authority and in an election for a regional authority may exercise the right to vote in both elections.

(5) No person shall be a member of a regional authority and of a board at the same time.

Dissolution of
regional
authority

223.5(1) A regional authority may pass a resolution requesting the Minister to dissolve the regional authority.

(2) The Minister, subject to any terms or conditions the Minister imposes, may dissolve a regional authority whether or not the Minister receives a resolution requesting the dissolution.

(3) If on the dissolution of a regional authority the Minister considers an adjustment of assets or liabilities to be necessary, the Minister shall, by order, give

directions with respect to the assets or liabilities of the regional authority.

Co-ordinating
councils

223.6(1) The Minister may by order establish a co-ordinating council for a region, and the members of the co-ordinating council are a corporation under the name of:

The _____ Regional Francophone
Co-ordinating Council

(2) The Minister may appoint no fewer than 3 individuals as members of a co-ordinating council.

Powers of
co-ordinating
councils

223.7(1) A co-ordinating council shall

- (a) facilitate the education in French of the children of Francophones by advocacy or by entering into agreements, including agreements with boards or regional authorities respecting the purchase of services;
- (b) advise boards, regional authorities and the Minister respecting all matters relating to the education in French of the children of Francophones;
- (c) carry out any other task, inquiry or investigation requested by the Minister.

(2) A co-ordinating council shall not act as if it were a board.

Dissolution of
co-ordinating
council

223.8(1) A co-ordinating council may pass a resolution requesting the Minister to dissolve the co-ordinating council.

(2) The Minister, subject to any terms or conditions the Minister imposes, may dissolve the co-ordinating council

- (a) of the Minister's own volition, or
- (b) on receiving the resolution of the co-ordinating council passed pursuant to subsection (1).

(3) If, on the dissolution of a co-ordinating council, the Minister considers an adjustment of assets or liabilities

is necessary, the Minister shall, by order, give directions with respect to the assets or liabilities of the co-ordinating council.

(4) The Minister may establish a regional authority for the region under section 223.3 and dissolve any co-ordinating council.

(5) If the Minister dissolves a co-ordinating council under subsection (4), the Minister may also make an order under subsection (3).

24(1) This Act except section 11 comes into force on Proclamation.

(2) Section 11 is deemed to have come into force on December 31, 1988.

24 Coming into force.