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Legislative Assembly of British Columbia

BILL 22

SCHOOL AMENDMENT ACT, 2022

Honourable Jennifer Whiteside
Minister of Education and Child Care

Explanatory Notes

CLAUSE 1: *[School Act, section 96]* provides that a board must not use a power under section 96 to expropriate land from a francophone education authority.

CLAUSE 2: *[School Act, section 98.1]* requires boards and francophone education authorities to provide records and information to the minister regarding land and improvements owned or leased by the boards or francophone education authorities.

CLAUSE 3: *[School Act, Division 1.1 of Part 7]* adds a new Division regarding the transfer of land to a francophone education authority.

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SCHOOL AMENDMENT ACT, 2022

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

1 Section 96 of the School Act, R.S.B.C. 1996, c. 412, is amended

(a) in subsection (2) (c) by adding “subject to subsection (2.1),” before “expropriate land”, and

(b) by adding the following subsection:

(2.1) A board must not exercise a power under subsection (2) (c) to expropriate land or improvements from a francophone education authority.

2 The following section is added:

Reports to minister

98.1 A board or a francophone education authority must, in accordance with the orders of the minister, provide records and information to the minister respecting land and improvements owned or leased by the board or the francophone education authority.

3 The following Division is added to Part 7:

Division 1.1 – Transfer of Land to Francophone Education Authority

Definitions

101.1 In this Division:

“**designated land**” means land that has been designated by the minister under section 101.2;

“**designation order**” means an order made under section 101.2 (1);

“**land title office**” has the same meaning as in the *Land Title Act*;

“**register**” has the same meaning as in the *Land Title Act*;

“**registrar**” has the same meaning as in the *Land Title Act*;

“**transfer**” has the same meaning as in the *Land Title Act*.

CLAUSE 3: *[School Act, Division 1.1 of Part 7 – continued]*

Minister may designate land for transfer

- 101.2** (1) The minister may, with the prior approval of the Lieutenant Governor in Council, make an order designating for transfer to a francophone education authority land that is owned by a board in fee simple.
- (2) The minister must not make a designation order unless the minister is satisfied that the transfer of the designated land is necessary to give effect to section 23 of the *Canadian Charter of Rights and Freedoms* by providing space and facilities for francophone educational programs.
- (3) The minister may file notice of a designation order with the registrar of the land title office.
- (4) If the minister makes a designation order, or rescinds a designation, in respect of land owned by a board, the minister must notify the board.

Registrar must make notation against title

- 101.3** (1) If the minister files notice of a designation order with the registrar of the land title office under section 101.2 (3), the registrar must make a notation of the filing in the proper register against the title to the designated land.
- (2) The minister must notify the registrar without delay if the minister rescinds a designation made under section 101.2 (1) in respect of which a notation has been made.
- (3) If the registrar receives notice from the minister that a designation has been rescinded, the registrar must cancel the notation.

No disposition of interest in designated land without minister's consent

- 101.4** If the minister has filed notice of a designation order under section 101.2 (3), then, unless the designation is rescinded or written consent of the minister is filed in the land title office,
- (a) a board must not transfer, lease or otherwise dispose of the board's interest in the designated land, and
- (b) the registrar must not register a transfer, lease or other disposition of the designated land.

Transfer of title

- 101.5** (1) The minister may apply to the registrar of land titles to transfer to a francophone education authority indefeasible title to the designated land.
- (2) An application under subsection (1) does not require the consent of the board that owns the designated land.

CLAUSE 3: *[School Act, Division 1.1 of Part 7 – continued]*

CLAUSE 4: *[School Act, heading to Division 1 of Part 9]* updates a ministry reference.

CLAUSE 5: *[School Act, section 167]* updates a ministry reference.

CLAUSE 6: *[School Act, section 168]* adds a power for the minister to make orders

- requiring a board to close a school located on land that has been designated for transfer to a francophone education authority, and
- respecting policies and procedures that are to be followed by a board or a francophone education authority after a designation order is made.

- (3) In making an application under subsection (1), the minister may act as if the minister were the owner of the designated land, including by taking all steps that are required to convey and transfer the designated land to the francophone education authority.
- (4) If the registrar receives an application from the minister under subsection (1), the registrar may act on the application as if the minister were the owner of the designated land.
- (5) For the purposes of applying provisions of the *Land Title Act* or its regulations to an application under this section,
 - (a) a reference in section 187 [*registration of transferee*] of the *Land Title Act* to the applicant is to be read as a reference to the francophone education authority, and
 - (b) a reference in Part 12 [*Transfers*] of that Act to a transferor is to be read as a reference to the board that owns the designated land.

Compensation

- 101.6** (1) If property owned by a board in fee simple is transferred to a francophone education authority under section 101.5, the government must pay compensation in accordance with the regulations.
- (2) Compensation is not payable by the government in relation to the filing of notice of a designation order under section 101.2 (3) [*minister may designate land for transfer*].

4 *The heading to Division 1 of Part 9 is repealed and the following substituted:*

Division 1 – Ministry of Education and Child Care .

5 *Section 167 (1) is amended by striking out “Ministry of Education” and substituting “Ministry of Education and Child Care”.*

6 *Section 168 (2) is amended by adding the following paragraphs:*

- (f.1) requiring a board to close a school if the land on which the school is located is designated for transfer to a francophone education authority under section 101.2 [*minister may designate land for transfer*],
- (f.2) respecting policies and procedures that are to be followed by a board or a francophone education authority after an order is made under section 101.2 (1), .

CLAUSE 7: *[School Act, section 168.021]* adds authority for the minister to make regulations respecting compensation for the transfer of land to a francophone education authority.

CLAUSE 8: *[Expropriation Act, section 2]* clarifies that the Act does not apply to the designation or transfer of land under section 101.2 or 101.5 of the *School Act*, as added to the *School Act* by this Bill.

7 *The following section is added:*

Minister's regulations – compensation for transfer of land

- 168.021** (1) The minister may make regulations as follows:
- (a) respecting the calculation and determination of an amount of compensation to be paid under section 101.6 [*compensation*], including establishing a method for determining the amount of compensation;
 - (b) respecting the manner in which compensation under section 101.6 may be paid;
 - (c) identifying persons, or classes of persons, to whom compensation may be paid under section 101.6;
 - (d) prescribing fees or other expenses related to the designation and transfer of land under Division 1.1 [*Transfer of Land to Francophone Education Authority*] of Part 7 [*School Property*] that may be the subject of compensation for the purposes of section 101.6.
- (2) In making a regulation under subsection (1), the minister may make different regulations for different classes of persons or different circumstances.

Related Amendments

Expropriation Act

8 *Section 2 of the Expropriation Act, R.S.B.C. 1996, c. 125, is amended by adding the following subsection:*

- (8) This Act does not apply to
- (a) a designation of land under section 101.2 of the *School Act*, or
 - (b) a transfer of title, or an application to transfer title, under section 101.5 of the *School Act*.

Commencement

- 9** The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 Provisions of Act	Column 2 Commencement
1	Anything not elsewhere covered by this table	By regulation of the Lieutenant Governor in Council
2	Sections 4 and 5	April 1, 2022
