

Modernized Municipal Government Act

Alberta School Boards Association
Submission

July 2016



We believe in public education

The Alberta School Boards Association represents the 61 locally-elected public, separate and francophone school boards that are responsible for the governance, operation and administration of Alberta's public education system.

The Alberta School Boards Association and its member school boards believe in public education.

Public education is the cornerstone of democracy. Alberta's public education system develops creative thinkers and active, engaged citizens who contribute to their communities, participate in the economy and work to build an inclusive society.

Public education develops the potential and gifts of each child and provides a foundation for lifelong learning.

Every child in Alberta has the right to free, accessible education. Every Albertan has a stake in the public education system.

Stewards of public education

As locally-elected representatives, Alberta's school boards are entrusted with the responsibility to foster excellence in public education.

In fulfilling this crucial governance role, school boards are connected with and responsive to their local communities, ensuring all students – each of whom has the fundamental right to be educated – receive the *best* education.

The voices of locally-elected school board trustees best reflect their community with respect to the education of the students they serve. They make decisions in the best interests of the students and communities they serve, always mindful that the dollars allocated to public education come from all Albertans.

Building on the solid foundation of what is already a world-class education system, school boards are uniquely placed to ensure the very best outcomes for all students.

School boards are stewards of public education. In preparing for a future where all students are engaged thinkers and ethical citizens with an entrepreneurial spirit, in an education system centred on the learner and increasingly responsive to local direction, this stewardship role has never been more important.

Commentary on the draft *Modernized Municipal Government Act*

The Alberta School Boards Association (ASBA) is pleased to provide our perspective on the *Modernized Municipal Government Act (MMGA)*. ASBA supports the tone and spirit of the preamble to the *Act* as well as the *Act* itself, which emphasizes collaboration among all provincial stakeholders.

As the provincial association which represents all 61 publicly-funded school boards in Alberta, we are very interested in those amendments which have the potential to impact education. As such, we appreciate the opportunity to contribute our feedback.

We have identified several opportunities which relate to education and could directly impact student learning and the autonomy of school boards, details of which are included in this submission.

The ASBA looks forward to continued full and ongoing collaboration between the government and our Association to ensure the creation of legislation that will support municipalities, while creating the optimal learning environment for all students.

Municipal Reserve (MR) land uses – Section 671

In the *MMGA*, no changes are proposed to MR land uses.

Currently, up to ten per cent of development land is required to be set aside for MR. MR may be used as schools, parks and buffers, but may not be sufficient in providing enough land to build high schools.

However, in the public input and key stakeholder review process, it is anticipated that municipalities will advocate for amendments to the current MR language, to allow for expanded usage of municipal reserve land to include “other public uses”.

ASBA Considerations

MR land is in short supply and high demand. It is frequently a challenge to have enough land to meet the needs of building new schools, while addressing the demand for other uses to MR land. Additionally, school boards have expressed concern that, within the ten percent envelope, there is often a significant challenge in accessing land suitable for school site development. The ASBA believes consideration for the expansion of acceptable uses for MR land should only be contemplated after the needs for appropriate school sites are met.

Contingent upon the above condition being met, there may be opportunities for municipalities and school boards to have the ability to pursue mutually beneficial opportunities for additional uses which enhance the student learning environment through a consensus model (Joint Use Agreement or JUA). This approach would ensure that resources are effectively utilized while not compromising learning.

Given the significant challenge encountered in accessing suitable school site land, a number of school boards have suggested that consideration should be given to greater than ten per cent of land (or cash in lieu) being used to support school sites.

ASBA Recommendation

Changes to MR land should only occur once the needs for adequate school sites are met. There should be flexibility for school boards to work with municipalities on a consensus basis through a vehicle such as a JUA, to pursue ways of using resources more effectively while enhancing student learning.

Amalgamations – Section 103(1) (c)

The status is unchanged in the *MMGA*.

ASBA Considerations

Under the *MMGA*, there is an opportunity to enhance communication between municipalities and school boards. Currently, when two or more municipalities choose to amalgamate, part of the process for amalgamation stipulates that local stakeholders receive notice.

The *MMGA* is silent on the involvement of school boards in the amalgamation process; school boards are not identified as stakeholders. As a result, it is possible that school boards could be overlooked in this process, even though they are important community partners who work directly with municipalities. This legislation would be strengthened if school boards were identified as stakeholders who would be notified as part of the amalgamation process.

ASBA Recommendation

Consider including school boards as a stakeholder who should be notified prior to a voluntary amalgamation within this section.

Education Property Tax collection – Sections 259 and 326

The status is unchanged in the *MMGA*.

ASBA Considerations

The *MMGA* has maintained the collection of education property taxes as per current practice. The collection of this tax remains a municipal responsibility; municipalities collect and submit education property tax to the Alberta School Foundation Fund.

It is important that education property tax continue to be collected at no cost to school board jurisdictions. If the *MMGA* were to contemplate a framework allowing government to offset the cost of collection, such costs cannot be passed on to school jurisdictions.

ASBA supports the language within the *MMGA*, protecting the current structure, for the following reasons:

- Education property tax provides a vital connection between school boards and their electors;
- Education property tax serves as a means of direct accountability for publicly-elected school board trustees to provide quality education to their local communities;
- The requisition of education property tax provides a stable source of funding for publicly-funded education;
- The collection of education property taxes provides a clear link between taxation and representation, which is the most fundamental principle of any democratically-elected organization;
- Education property tax collection supports capital planning by school boards through its support of population projections.

ASBA Recommendation

ASBA supports maintaining the language – specific to education property taxes within the *MMGA* – as it currently exists.

Joint Use Agreements (JUAs) – Section 670

ASBA Considerations

Joint Use Agreements (JUAs) facilitate collaborative decision-making and provide a vehicle that ensures that municipalities and school jurisdictions work together to promote mutually beneficial outcomes. JUAs are critical for ensuring that sites are available for building new schools, and that these school sites are used and operated effectively.

ASBA Recommendation

Consider an amendment to Section 670, or the development of accompanying regulation, which strengthens JUAs by requiring that all municipalities have a JUA with their respective school board(s).

Criteria for JUAs should include:

- Processes for acquiring land for future schools;
- Standards for school sites;

- Responsibilities for site development and maintenance;
- Stipulations regarding joint use of facilities and playing fields;
- Processes for dispute resolution;
- Collaboration and consensus among the parties;
- Processes for disposition of surplus school land within the legislative framework;
- Mechanisms for regular review of the agreement.

ASBA believes that this amendment would support collaboration between school boards and municipalities, and would ensure that municipal reserves are utilized efficiently and effectively.

Off-site levies

ASBA Considerations

There is both a challenge and an opportunity with broadening of potential uses of off-site levies within the *MMGA*.

The challenge: municipalities often see school boards as developers, which leaves boards vulnerable to being assessed off-site levies that are not funded by the provincial government. This is a critical consideration, as school boards do not receive funding for levies, taking away critical dollars that would be better used in the classroom. Additionally, monies collected for school site preparation, bus lanes and development could be potentially used for other purposes that would not benefit students.

ASBA would not oppose the off-site levy, but would ask the government to expand the definition of eligibility to include land for high schools, as there is often not enough land in the current reserves structure. We also advocate that public institutions, such as school jurisdictions, must be exempt from off-site levies. This position has been recently clarified as a result of a stakeholder meeting hosted by Minister Larivee on July 7th, 2016. At this meeting, Minister Larivee clarified that the contemplation regarding off site levies is intended to be confined to municipal structures such as fire halls and libraries. As education is a provincial responsibility, the consideration of an off- site levies does not apply.

The opportunity: As previously mentioned, MR land is in great demand, and is often in short supply. In particular, there is frequently not enough land to develop high school sites. The consideration of defining high schools as regional facilities would allow them to be eligible recipients of off -site levy funds which would then support land acquisition to support high schools.

ASBA Recommendation

That the amendment to off-site levies include:

- Amending the *MMGA* to ensure that school boards would not be defined as developers and therefore subject to the payment of off-site levies when building schools;
- Expanding the scope of uses of off-site levies to be assessed for the purchase of land for high school sites through the classification of them as regional facilities.

City charters – Section 141

There are no changes in the *MMGA*.

ASBA Considerations

ASBA may be supportive of a city's request to form a City Charter, with the acknowledgement that elements sought within a particular city's request for a City Charter support student success through the provision of optimal learning environments. School boards bring a perspective which ensures that a critical group of a municipality's residents (parents and children) needs are met. ASBA supports the following considerations:

- Changes to a City Charter must, at the least, be neutral, and ideally enhance student learning
- That a collaborative, consensus-based model be used to ensure maximum benefit of both the school jurisdiction and the municipality

It is critical that school boards be involved in conversations with a city forming a charter early in the process, in order to ensure that there is the opportunity to address challenges efficiently and effectively, as well as to identify opportunities for all parties.

ASBA believes that city charters must protect the autonomy of locally-elected school board trustees who have the authority, knowledge and obligation to ensure the best learning outcomes for students.

This is an important consideration in light of the observation that a City Charter, as currently written in the *Municipal Government Act*, Section 141.5(3) (c) “*authorizes the charter city to modify or replace, by bylaw, a provision of this Act or any other enactment.*” This includes the *School Act* (soon to be the *Education Act*). Language within the City Charter must protect the authority of local school boards to make decisions as provided under the *School Act* and pending *Education Act*.

ASBA Recommendation

Consider mitigating this concern, possibly through an amendment to Section 141 or the accompanying regulation(s), stipulating that cities must come to a consensus with school boards regarding sections which directly relate to education prior to a City Charter being submitted.

This amendment would ensure that communication, collaboration and transparency are embedded within the process of developing a City Charter, thus protecting the learning environment for students and the autonomy of locally-elected school boards.

Code of Conduct for elected officials

ASBA Considerations

ASBA recognizes the imperative in providing public assurance specific to the conduct of elected officials. ASBA notes that there is consideration for a Code of Conduct for school board trustees within the *Education Act*, yet to be proclaimed.

ASBA Recommendation

If the new *MMGA* is to include a Code of Conduct for elected officials, it is important that it be aligned with other legislation and expectations for elected officials – including school board trustees. In anticipation of the proclamation of the new *Education Act*, the Code of Conduct provisions for this and the *MMGA* need to be aligned.

In closing, ASBA is appreciative of the opportunity to help shape the creation of the MMGA through recent consultations and, in particular, the provision of this, our submission. We look forward to supporting the success of this important legislation, which will serve to strengthen Alberta's communities, while at the same time supporting the success of the students whom we both serve.

