1986

c 29 Education Amendment Act, 1986 (No. 2)

Ontario
CHAPTER 29

An Act to amend the Education Act and the Municipality of Metropolitan Toronto Act

Assented to July 10th, 1986

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

1. Part XI of the Education Act, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 32, sections 62 to 67 and 1984, chapter 60, sections 17 to 25, is further amended by adding thereto the following section:

257a. In this Part,

“board” means,

(a) a board of education the members of which are elected under the Municipal Elections Act,

(b) a county or district combined separate school board,

(c) the Metropolitan Separate School Board, or

(d) The Windsor Roman Catholic Separate School Board,

and includes,

(e) for the purposes of section 258, a district school area board, a protestant separate school board, a rural separate school board and a combined separate school board,

(f) for the purposes of section 261, a secondary school board and a board of education formed under section 69, and
(g) for the purposes of sections 274 to 277b, a board described in clause (e) or (f);

“committee”, except in sections 274 to 277b, means a French-language advisory committee formed under section 262;

“French-language instructional unit” means a class, group of classes or school in which French is the language of instruction but does not include a class, group of classes or school established under clause 8 (1) (y) (French-language instruction for English-speaking pupils);

“French-speaking person” means a child of a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the Canadian Charter of Rights and Freedoms to have his or her children receive their primary and secondary school instruction in the French language in Ontario;

“French-speaking ratepayer” means a person who is entitled to vote at an election of members of the board and who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the Canadian Charter of Rights and Freedoms to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

2. Subsection 258 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 60, section 17, is repealed.

3. Section 259 of the said Act is repealed and the following substituted therefor:

259. Where a board has established a French-language advisory committee under section 262, or an English-language advisory committee under section 272, the committee has the same duties and responsibilities in respect of the French-language schools and classes or English-language schools and classes, as the case may be, that are provided in the elementary schools operated by the board as it has in respect of French-language instructional units or English-language schools and classes, as the case may be, for secondary school purposes.

4. Section 260 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 60, section 18, is repealed.

5.—(1) Subsections 262 (1), (2) and (3), subsection 262 (3a), as enacted by the Statutes of Ontario, 1982, chapter 32, section 63, subsection 262 (4), as amended by the Statutes of Ontario,
1982, chapter 32, section 63, and subsection 262 (5) of the said Act are repealed and the following substituted therefor:

(1) A board by resolution shall establish a French-language advisory committee and provide for the holding of elections of members of the committee if,

(a) the board does not operate a French-language instructional unit;

(b) the board enters or has entered into an agreement or agreements with another board or boards to enable one or more resident pupils of the board to receive instruction in one or more French-language instructional units operated by the other board or boards;

(c) the calculated enrolment of resident pupils in respect of whom the agreement or agreements are entered into is less than 300 and is less than 10 per cent of the total calculated enrolment of resident pupils of the board; and

(d) ten or more French-speaking ratepayers apply in writing to the board for the establishment of the French-language advisory committee.

(1a) In this section, "calculated enrolment", "resident pupil" and "total calculated enrolment" have the same meaning as in Part XI-A.

(1b) Clause (1) (c) does not apply until the 1st day of December, 1988.

(1c) The board shall pass the resolution and the elections shall be held within two months after receiving the application.

(1d) The committee shall consist of,

(a) not more than three persons appointed by the board from among the members of the board; and

(b) six French-speaking ratepayers who are not members of the board but have the qualifications to be elected to the board, elected by French-speaking ratepayers.
Qualifications

(1e) A person is qualified to be appointed or elected to the committee if the person is a French-speaking ratepayer and is qualified to be elected to the board.

Disqualification

(1f) A person who ceases to be qualified to be elected to a board is not qualified to act as a member of a committee.

Committee of less than nine members

(2) A committee may meet and conduct business notwithstanding that fewer than three persons are appointed to it under clause (1d) (a) or that fewer than six persons are elected to it under clause (1d) (b).

Application of s. 206

(3) Section 206 applies with necessary modifications to a member of a committee under clause (1d) (b).

Term of office

(4) A member of a committee shall hold office during the term of the members of the board and until a new board is organized and a successor is appointed or elected, as the case may be.

Apportionment of members

(5) The board, subject to subsections (8) and (9), shall apportion the number of members under clause (1d) (b) among the municipalities and the localities, or among parts or groups of such municipalities or localities, within the jurisdiction of the board as nearly as is practicable in the proportion that the number of French-speaking persons who elect to receive their education in a French-language instructional unit from each such municipality, locality or part or group thereof bears to the total number of such pupils within the area of jurisdiction of the board.

(2) Section 262 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 63, is further amended by adding thereto the following subsections:

Idem

(9) Where a board has a committee that was established before the coming into force of this section and the board is required to establish a new committee under subsection (2), the board, for the purpose of making the first apportionments under subsection (5) for the new committee, shall consult with the existing committee before making the apportionment.

Dissolution

(10) A committee is dissolved on the 1st day of December in a year, if no resident pupil of the board has received instruction in a French-language instructional unit operated by another board at some time in October or November of that year pursuant to an agreement described in clause (1) (b).
6. Subsection 266 (1) of the said Act is amended by inserting after “board” in the second line “from among the members of the board”.

7. Section 268 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 60, section 20, is further amended by renumbering subsection (1) as subsection (1c) and by adding thereto the following subsections:

(1) The chairman of the committee has the right,

(a) to attend meetings of the board in the same manner as a member of the board; and

(b) to participate in the discussion at a meeting of the board in respect of any matter that is within the jurisdiction of the committee under subsection 267 (1).

(1a) The chairman of the committee has the right to present recommendations of the committee to the board and to speak to the recommendations.

(1b) The chairman of the committee may designate a member of the committee to act in the place of the chairman at any meeting of the board.

(1d) The chairman of the committee or a member of the committee designated by the chairman of the committee to attend a meeting of the committee of the whole board is subject to the same rule of confidentiality that applies to members of the board.

(5) Every person elected to a committee, on or before the day of the first meeting of the committee that he or she attends, shall make and subscribe a declaration in the same form with necessary modifications as subsections 185 (1) and (2) require of a person elected to a board and, for the purpose,

(a) a reference to a person elected to a board shall be deemed to be a reference to a person elected to a committee;
(b) a reference to a person elected to fill a vacancy on a board shall be deemed to be a reference to a person elected to fill a vacancy on a committee;

(c) a reference to a meeting shall be deemed to be a reference to a meeting of the committee or, if the person is a member of the committee designated by the chairman to attend a meeting of the board, a meeting of the committee or of the board; and

(d) a reference to the office of trustee shall be deemed to be a reference to the office of member of the committee.

Resignation

(6) A member of a committee who fails to comply with subsection (5) shall be deemed to have resigned from the committee.

Filing

(7) A member of a committee shall file his or her declaration with the secretary of the board within eight days after making and subscribing the declaration.

8. Subsection 272 (2) of the said Act is repealed and the following substituted therefor:

(2) A board by resolution shall establish an English-language advisory committee and provide for the holding of elections of members of the committee if,

(a) the board does not operate an English-language instructional unit;

(b) the board enters or has entered into an agreement or agreements with another board or boards to enable one or more resident pupils of the board to receive instruction in one or more English-language instructional units operated by the other board or boards;

(c) the calculated enrolment of resident pupils in respect of whom the agreement or agreements are entered into is less than 300 and is less than 10 per cent of the total calculated enrolment of resident pupils of the board; and

(d) ten or more ratepayers apply in writing to the board for the establishment of the English-language advisory committee.
(3) Sections 260 to 273 apply with necessary modifications in respect of English-language advisory committees.

(4) In this section, "calculated enrolment", "resident pupil" and "total calculated enrolment" have the same meanings as in Part XI-A.

(5) Clause (2) (c) does not apply until the 1st day of December, 1988.

9.—(1) Section 274 of the said Act is amended by striking out "In this Part" in the first line and inserting in lieu thereof "In this section and in sections 275 to 277b".

(2) Clause 274 (b) of the said Act is amended by adding at the end thereof "and includes a French-language education council and an English-language education council under Part XI-B".

10.—(1) Within two months after the date on which this section comes into force, every board that has a French-language advisory committee or an English-language advisory committee under Part XI of the Education Act and that is not required to establish a French-language education council or an English-language education council under Part XI-B shall establish by resolution a new French-language advisory committee or a new English-language advisory committee, as the case requires, in accordance with the Education Act, as amended by this Act, and when the new committee takes office, the previous committee is dissolved.

(2) In subsection (1),

"board" has the same meaning as in Part XI-A of the Education Act, as enacted by section 11 of this Act;

"Part XI-B" means Part XI-B of the Education Act, as enacted by section 11 of this Act.

(3) For the purposes of subsection (1), at least ten French-speaking ratepayers shall be deemed to have applied to the board for the establishment of the new French-language advisory committee.

11. The said Act is amended by adding thereto the following Parts:
Definitions

277c. In this Part,

"board" means,

(a) a board of education, other than a board of education for an area municipality in The Municipality of Metropolitan Toronto, the members of which are elected under the Municipal Elections Act,

(b) a county or district combined separate school board,

(c) the Metropolitan Separate School Board, or

(d) The Windsor Roman Catholic Separate School Board;

"calculated enrolment", in relation to resident pupils of a board, means the number of French-language resident pupils or the number of resident pupils other than French-language resident pupils, as the case requires, calculated by the Ministry under this Part;

"estimated revenues" means revenues from all sources receivable by a board as set out in the estimates prepared and adopted by the board;

"French-language", in relation to a resident pupil, means a resident pupil enrolled in a French-language instructional unit;

"French-language instructional unit" means a class, group of classes or school under Part XI in which French is the language of instruction but does not include a class, group of classes or school established under clause 8 (1) (y) (French-language instruction for English-speaking pupils);

"regular election" has the same meaning as in the Municipal Elections Act;

"resident pupil", in respect of a board, means a pupil who is registered on a register or registers prescribed by the Minister for the purposes of this Part and who,

(a) is qualified to be a resident pupil of the board and is enrolled in a school,
(i) operated by the board, or

(ii) operated by another board to which the first-mentioned board pays fees in respect of the pupil, or

(b) is not qualified by residence to be a resident pupil of a board but is enrolled in a school operated by the board,

(i) pursuant to section 45, or

(ii) where fees are required to be paid by or on behalf of the pupil by or under this Act other than by another board, notwithstanding that the payment of all or a part of the fees is waived by the board that operates the school at which the pupil is enrolled;

"total calculated enrolment", in relation to resident pupils of a board, means the total number of resident pupils of the board calculated by the Ministry under this Part.

277d.—(1) Every board that operates a French-language instructional unit shall have a French-language section of the board.

(2) Every board that enters or has entered into an agreement or agreements with another board or boards to enable a calculated enrolment of at least 300 resident pupils of the board to receive instruction in one or more French-language instructional units operated by the other board or boards shall have a French-language section of the board.

(3) Every board that enters or has entered into an agreement or agreements with another board or boards to enable a calculated enrolment of at least 10 per cent of the resident pupils of the board to receive instruction in one or more French-language instructional units operated by the other board or boards shall have a French-language section of the board.

(4) Subsections (1) to (3) apply only if the calculated enrolment of French-language resident pupils of the board is a minority of the total calculated enrolment of resident pupils of the board.

(5) Subsections (1) to (3) apply only in respect of boards elected in and after the regular election in the year 1988.
(6) Notwithstanding any other provision of this Part, a French-language section of a board shall not be established if on the first day of the school year in which a regular election is to be held, the board is not operating a French-language instructional unit and it is not providing education for at least 285 of its resident pupils or at least 9.50 per cent of its resident pupils pursuant to an agreement as described in subsection (2) or (3).

277e. The French-language section of a board shall govern for the board the French-language instructional units of the board.

277f. The number of members of the French-language section of a board shall be determined according to the following rules, which shall be applied in order beginning with rule 1:

1. The number of members of the French-language section shall bear the same ratio to the total number of elected members of the board that the calculated enrolment of French-language resident pupils of the board bears to the total calculated enrolment of resident pupils of the board.

2. In rules 1 and 3, the "total number of elected members of the board" means the total number of members as determined under section 57 or 58 or subsection 59 (2), without regard to subsection 59 (4), (5) or (6), or subsection 113 (2), without regard to subsection 113 (4), or subsection 116 (2) or as determined by or under another Act, as may be appropriate.

3. The total number of elected members of the board shall not be increased by the creation of the French-language section; the number of other members of the board shall be decreased by a number of members equal to the number of members of the French-language section.

4. If the number of members of the French-language section determined according to rule 1 is less than three, the French-language section shall be composed of three members.

5. If rule 4 applies to determine the number of members of the French-language section, the total number of members of the board shall be increased by the number of members equal to the difference
between three members and the number of members of the French-language section determined according to rule 1.

6. The number of members of the French-language section determined according to rules 1 to 5 shall be corrected to the nearest integer, the fraction one-half being raised to the next higher integer.

277g. A person is qualified to be elected as a member of the French-language section of a board if,

(a) the person is qualified to be elected as a member of the board;

(b) the person has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the Canadian Charter of Rights and Freedoms to have his or her children receive their primary and secondary school instruction in the French language in Ontario; and

(c) the person chooses to vote only for members of the French-language section of the board and not for any other member of the board.

277h.—(1) A person is qualified to be an elector in respect of a member of the French-language section of a board if,

(a) the person is qualified to vote in a regular election of members of the board;

(b) the person has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the Canadian Charter of Rights and Freedoms to have his or her children receive their primary and secondary school instruction in the French language in Ontario; and

(c) the person chooses to vote only for members of the French-language section of the board and not for any other member of the board.

(2) No person is entitled to vote in a regular election for both members of the French-language section of a board and other members of the board.

277i.—(1) The members of the French-language section of a board shall be elected in accordance with this section by
the persons qualified to vote for members of the French-language section of the board.

(2) Subject to subsections (3) to (7), the members of the French-language section of a board shall be elected by general vote.

(3) For the purposes of electing the members of the French-language section of a board at the regular election to be held in 1988 and for filling vacancies before the 1st day of December, 1991, where a board has a French-language advisory committee or a French-language education council, the committee or the council, as the case may be, may divide the area of jurisdiction of the board into electoral areas and determine the representation for each electoral area.

(4) For a regular election to be held in 1991, or thereafter, where a board has a French-language section, the section may divide the area of jurisdiction of the board into electoral areas for the purposes of electing the members of the next section and for filling vacancies therein and determine the representation for each electoral area.

(5) Before passing a resolution under subsection (3) or (4), the French-language advisory committee, French-language education council or French-language section of a board, as the case may be, shall hold at least one public meeting at which French-speaking ratepayers shall be given an opportunity to make representations on the proposed electoral areas.

(6) Following the public meeting or meetings held under subsection (5), the electoral areas may be fixed as originally proposed or with such amendments as the committee, council or section of a board, as the case may be, considers appropriate and without holding any further public meetings.

(7) Where electoral areas have been established for an election, the members of the French-language section shall be elected by general vote in each electoral area.

(8) A resolution to establish electoral areas is of no effect unless it is passed before the 1st day of August in the year of the regular election to which it relates and unless before that date a certified copy of the resolution is delivered to the clerks of the municipalities responsible for conducting the nominations of the other members of the board.

(9) The clerk of a municipality shall adjust a boundary of an electoral area so as to prevent the division of polling subdivisions established for the election.
(10) The election of members of a French-language section of a board shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

(11) Where the area of jurisdiction of a board includes more than one municipality or includes territory without municipal organization, the nominations of the members of the French-language section of the board shall be conducted by the same municipal clerk as conducts the nominations for the other members of the board and the clerks of the municipalities shall perform the same function as returning officers as they do with respect to the election of the other members of the board.

(12) For the purpose of performing the function of returning officer, the secretary of the board shall be the clerk of each part of territory without municipal organization in the area of jurisdiction of the board that is deemed to be a district municipality for school purposes.

(13) A clerk described in subsection (8) shall provide to the clerks of the other municipalities, if any, in the area of jurisdiction of the board such information as is required by them to conduct the election of the members of the French-language section of the board.

277j. Sections 183 and 184, except subsection 184 (11), apply with necessary modifications to a French-language section of a board.

277k.—(1) Where a board is required to have a French-language section and the areas to be represented by members of the board are fixed by or under this or any other Act, the Minister, after considering the recommendations, if any, of the board, may by order,

(a) change the areas to be represented by one or more members of the board who are not members of the French-language section; and

(b) prescribe a different method of determining the areas to be represented by one or more members of the board who are not members of the French-language section.

(2) A member of a French-language education council or a French-language section of a board shall not vote on any recommendations that the board proposes to make under subsection (1).
277-1.—(1) If the office of a member of the French-language section of a board becomes vacant and the remaining members of the section constitute a majority of the members elected to the section, the remaining members of the section shall, at the first regular meeting of the section after the vacancy occurs, appoint to the office a person who is qualified to be elected as a member of the section.

(2) If the office of a member of the French-language section of a board becomes vacant and the remaining members of the section do not constitute a majority of the members elected to the section, a new election shall be held to fill the vacancy or vacancies.

(3) A member of the French-language section of a board appointed under subsection (1) or elected under subsection (2) shall hold office for the remainder of the term of office of the membership of the board.

277m.—(1) The following matters are within the exclusive jurisdiction of the French-language section of a board:

1. The planning and establishment of French-language instructional units, including the preparation and submission of capital expenditure forecasts in respect of such units to the board for submission to the Ministry.

2. The administration and the closing of French-language instructional units.

3. Admissions committees under subsection 258 (6a) and section 273.

4. The planning, establishment, implementation and maintenance of programs and courses for pupils enrolled in a French-language instructional unit.

5. The recruitment and assignment of teachers and administrative and supervisory personnel for French-language instructional units.

6. Entering into agreements under section 159 (provision of accommodation or services to another board), 161 (furnishing or obtaining education for pupils), 162 (public and separate school boards), 163 (furnishing or obtaining secondary school education for pupils) or 165a (adult basic education) in respect of pupils in French-language instructional units.
(2) The following matters are outside the jurisdiction of the French-language section of a board and its members:

1. The planning and establishment of schools that are not French-language instructional units, including the preparation and submission of capital expenditure forecasts to the board for submission to the Ministry in respect of such schools.

2. The administration and the closing of schools that are not French-language instructional units.

3. The planning, establishment, implementation and maintenance of programs and courses for pupils enrolled in a school or class that is not a French-language instructional unit.

4. The recruitment and assignment of teachers and administrative and supervisory personnel for schools and classes mentioned in paragraph 3.

5. Entering into agreements under section 159 (provision of accommodation or services to another board), 161 (furnishing or obtaining education for pupils), 162 (public and separate school boards), 163 (furnishing or obtaining secondary school education for pupils) or 165a (adult basic education) in respect of pupils in a school or class that is not under Part XI.

(3) In respect of any matter not referred to in subsection (1) or (2), including the employment of the director of education, a member of the French-language section of a board has the same powers, duties, rights and responsibilities as a member of the board who is not a member of the French-language section.

(4) The following rules apply with respect to quorums where a board has a French-language section:

1. The presence of a majority of all the members constituting the board is necessary to form a quorum when dealing with a matter that is not a matter to which paragraph 2 or 3 applies.

2. The presence of a majority of all the members of a French-language section of a board is necessary to form a quorum when dealing with matters within the exclusive jurisdiction of the French-language section of the board.
3. The presence of a majority of all members of a board who are not members of the French-language section of the board is necessary to form a quorum when dealing with matters outside the jurisdiction of the French-language section of the board.

4. Where the board is a board of education and the board, other than the French-language section, is composed, in part, of members who are elected by separate school electors, for the purposes of paragraph 3, when dealing with matters that affect public schools exclusively, the presence of a majority of the members elected to the board by the public school electors is necessary to form a quorum.

5. Subsection 184 (11) does not apply.

Change of jurisdiction

(5) If a majority of the members of the French-language section of a board and a majority of the other members of the board each resolve that a matter that is a centralized service, as defined in subsection 277n (6), shall be within the exclusive jurisdiction of the French-language section of the board or outside the jurisdiction of the French-language section of the board and its members, subsections (1) and (2) shall be deemed to be modified accordingly in respect of the board, and the secretary of the board shall transmit to the Minister notice of the change of jurisdiction.

Reversion of jurisdiction

(6) A resolution passed under subsection (5) shall cease to have effect at the end of the term of the members in office when the resolution was passed unless a majority of the members of the French-language section of the board and a majority of the other members of the board resolve that it shall cease to have effect at an earlier date.

Application

277n.—(1) This section applies to every board that has a French-language section under this Part.

Idem

(2) This section applies in respect of the year 1989 and every subsequent year.

Allocation of estimated revenues

(3) After the estimates of the board in respect of a year are approved or adopted, as the case requires, the board shall allocate the amounts of its estimated revenues for the year as follows:

1. Firstly, to the specific educational programs or specific schools or classes that generated a portion of the estimated revenues, in amounts equal to the amounts generated.
2. Secondly, to the centralized services of the board, in amounts equal to the amounts set out for the centralized services in the estimates.

3. Thirdly, to all the schools and classes operated by the board.

(4) The board shall allocate the estimated revenues under paragraph 3 of subsection (3) to the schools and classes that are French-language instructional units in the ratio that the average daily enrolment in those schools and classes is to the average daily enrolment of the board in all schools and classes mentioned in the paragraph.

(5) The board shall allocate the estimated revenues under paragraph 3 of subsection (3) to the balance of the schools and classes that are not French-language instructional units in the ratio that the average daily enrolment in those schools and classes is to the average daily enrolment of the board in all schools and classes mentioned in the paragraph.

(6) In this section, "centralized services" means,

(a) salaries, benefits and professional development of employees but excluding employees whose recruitment and assignment is specified in this Part as either within the exclusive jurisdiction of the French-language section of the board or outside the jurisdiction of the French-language section of the board and its members;

(b) normal maintenance of and operational services and equipment required for school sites;

(c) school supplies other than instructional and learning materials;

(d) transportation of pupils to and from school and from school to school;

(e) allocation to reserve funds and the reserve for working funds;

(f) establishment and maintenance of the head office of the board, including services operated therefrom;

(g) permanent improvements other than the replacement for schools and classes of furniture, furnishings, library books and instructional equipment and apparatus; and
(h) expenditures that are not within clauses (a) to (g) but that are approved from time to time by the board.

277o.—(1) Every board shall ensure that the matters that are within the exclusive jurisdiction and the matters that are outside the jurisdiction of the French-language section of the board are provided for when the board prepares and adopts its estimates and when the board allocates its estimated revenues.

(2) Subject to subsection (1), a board may vary an allocation in order to accommodate a change in circumstances or assumptions upon which the estimates of the board were made.

277p.—(1) Every board shall file annually with the Ministry a report in the prescribed form in respect of the enrolment of resident pupils of the board in schools and classes operated as French-language instructional units and in respect of the enrolment of resident pupils of the board in schools and classes not operated as French-language instructional units.

(2) Every board shall compile the data mentioned in subsection (1) as of the 30th day of September in each year, commencing as of the 30th day of September, 1986.

277q.—(1) The Ministry shall calculate the calculated enrolment of French-language resident pupils, the calculated enrolment of resident pupils other than French-language resident pupils and the total calculated enrolment of resident pupils of each board.

(2) From the enrolments calculated under subsection (1), the Ministry shall calculate the number of members to be elected to the French-language section of each board in the next regular election.

(3) In order to allow for statistical inaccuracies, the Ministry shall calculate a calculated enrolment of French-language resident pupils,

(a) that is not less than 9.50 per cent and not more than 10 per cent of the calculated enrolment of resident pupils of a board as 10 per cent of the calculated enrolment of resident pupils of the board; and

(b) that is not less than 285 and not more than 300 resident pupils of the board as 300 resident pupils of the board.
(4) For the purposes of the regular election in the year 1988, the calculations under subsections (1) and (2) shall be based upon the enrolment of resident pupils of the board as of the 30th day of September, 1987.

(5) For the purposes of a regular election held after 1988, the calculations under subsections (1) and (2) shall be based upon the enrolment of resident pupils of the board as of the 30th day of September in the year immediately preceding the year in which the regular election is held.

(6) Where members are to be elected to the French-language section of a board, the Minister, before the 1st day of July in the year in which the election is to be held,

(a) shall notify the board and the Commission of the results of the calculations under subsections (1) and (2);

(b) shall notify the proper returning officer of the number of members to be elected to the French-language section of the board;

(c) shall notify the appropriate assessment commissioners; and

(d) shall give public notice that the board qualifies under this Part to have a French-language section and of the number of members to be elected to the French-language section of the board.

(7) A board or the Commission or a committee may appeal the accuracy of the calculations under subsections (1) and (2) to the Minister by application made not later than the 15th day of July in the year in which the election is to be held.

(8) The Minister shall appoint a person to hear and consider the matter and report to the Minister, and the Minister shall make such changes in the calculations as are recommended in the report.

(9) The Minister,

(a) shall notify the board of any changes in the results of the calculations;

(b) shall notify the proper returning officer of any change in the number of members to be elected to the French-language section of the board;
(c) shall notify the appropriate assessment commissioners; and

(d) shall give public notice of any change in the qualification of the board to have a French-language section or in the number of members of the French-language section of the board,

consequent upon the report to the Minister.

(10) In this section, "Commission" and "committee" have the same meanings as in section 274.

**Liaison committee**

277r.—(1) Any two or more committees established by boards under Part XI or French-language sections of boards, or any combination of such committees and French-language sections, may establish a liaison committee which shall be known as a regional committee for French-language education.

(2) A regional committee for French-language education may consider and make recommendations to the French-language section of a board or to the committee established by a board under Part XI on any matter that affects French-language education.

**Notice to Minister**

277s.—(1) If before the 30th day of June in any year the French-language section becomes aware that on the first day of the following school year it will not be operating a French-language instructional unit and it will not be providing education for at least 285 resident pupils of the board or at least 9.50 per cent of the resident pupils of the board pursuant to an agreement as described in subsection 277d (2) or (3), the French-language section shall forthwith notify, in writing, the full board of such fact and the board shall forthwith notify, in writing, the Minister.

(2) Unless the notice to the Minister under subsection (1) is revoked, the French-language section of a board in respect of which a notice is required to be given to the Minister is dissolved on the 1st day of December next following the time at which the notice was required to be given and the members shall cease to hold office on that date.

(3) A board may revoke a notice given under subsection (1) at any time before the dissolution of the French-language section of the board if after the 1st day of September in the year in which the notice was given, the board has any French-language instructional units or it provides education to resi-
dent pupils as described in subsection (1) and the revocation shall be by notice, in writing, delivered to the Minister.

(4) Where a French-language section of a board is dissolved, at least ten French-speaking ratepayers, within the meaning of Part XI of the Act, shall be deemed to have applied to the board on the day of the dissolution for the establishment of a French-language advisory committee.

277t.—(1) There shall be an English-language section of a board and this Part shall apply with necessary modifications in respect of the board and in respect of the English-language section of the board if the calculated enrolment of English-language resident pupils of the board is a minority of the total calculated enrolment of the resident pupils of the board and,

(a) the board operates an English-language instructional unit under Part XI;

(b) the board enters or has entered into an agreement or agreements with another board or boards to enable a calculated enrolment of at least 300 resident pupils of the board to receive instruction in one or more English-language instructional units operated by the other board or boards; or

(c) the board enters or has entered into an agreement or agreements with another board or boards to enable a calculated enrolment of at least 10 per cent of the resident pupils of the board to receive instruction in one or more English-language instructional units operated by the other board or boards.

(2) For the purposes of subsection (1),

(a) a reference in this Part to French, other than in this subsection and subsection (3), shall be deemed to be a reference to English;

(b) a reference in this Part, other than in subsection (3), to French language shall be deemed to be a reference to English language; and

(c) a reference in this Part, other than in subsection (3), to a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the Canadian Charter of Rights and Freedoms to have his or her children receive their primary and secondary school instruction in the French language in Ontario shall be deemed to be a reference to a
person who does not have that right and to be a reference to a person who has but elects not to exercise that right.

(3) Where a board has an English-language section, the other members of the board must have the qualifications to be elected as a member of a French-language section of a board as described in section 277g and an elector of such other members must have the qualifications to be an elector in respect of a French-language section of a board as described in section 277h.

277u.—(1) The Minister may prescribe the form of the report under subsection 277p (1) and require its use for the purposes of this Part.

(2) An act of the Minister under subsection (1) is not a regulation within the meaning of the Regulations Act.

PART XI-B

INTERIM GOVERNANCE OF FRENCH-LANGUAGE INSTRUCTION

277v. In this Part, “board”, “calculated enrolment”, “French-language”, in relation to a resident pupil, “French-language instructional unit”, “resident pupil” and “total calculated enrolment” have the same meanings as in Part XI-A.

277w.—(1) Every board that on the first school day in September, 1986, operates a French-language instructional unit shall have a French-language education council if the calculated enrolment of French-language resident pupils of the board is a minority of the total calculated enrolment of resident pupils of the board.

(2) The French-language education council of a board shall govern for the board the French-language instructional units of the board.

277x.—(1) The number of members of the French-language education council of a board shall be determined according to the following rules, which shall be applied in order beginning with rule 1:

1. The number of members of the French-language education council shall bear the same ratio to the total number of elected members of the board that the calculated enrolment of French-language resident pupils of the board bears to the total calculated enrolment of resident pupils of the board.
2. The French-language education council shall be composed of those members of the board who are eligible to be members of and who elect in writing to sit as members of the French-language education council.

3. All of the members of the board who are eligible to be and who elect in writing to sit as members of the French-language education council are entitled to do so even if the number of such members is greater than the number of members determined according to rule 1.

4. If the number of eligible members of the board who elect in writing to be members of the French-language education council is less than the number of members determined according to rule 1 or if there are no such eligible members, the additional membership or the membership, as the case may be, of the French-language education council shall be made up by members elected in accordance with subsection (6).

5. If the number of members of the French-language education council determined according to rule 1 is less than three, it shall be composed of three members or such greater number as have elected to be members under rule 2.

6. Where the number of members of the French-language education council determined according to rule 1 is less than three and the number of members who elect to be members under rule 2 is less than three, the total number of members of the board shall be increased by the difference between three members and the number of members who elect to be members under rule 2 and the additional members shall be members of the French-language education council and shall be elected in accordance with subsection (6).

7. The number of members of the French-language education council determined according to these rules shall be corrected to the nearest integer, the fraction one-half being raised to the next higher integer.

(2) If a board is required to have a French-language education council, every member of the board who has the right under subsection 23 (1) or (2), without regard to subsection 23 (2), shall be eligible to be members of the French-language education council and to elect in writing to sit as members of the French-language education council.
23 (3), of the Canadian Charter of Rights and Freedoms to have his or her children receive their primary and secondary school instruction in the French language in Ontario is eligible to be a member of the French-language education council.

(3) A person is qualified to be elected as a member of the French-language education council if,

(a) the person is eligible to be elected as a member of the board; and

(b) the person has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the Canadian Charter of Rights and Freedoms to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

(4) For the purpose of this Part, the calculated enrolment of French-language resident pupils of the board and the total calculated enrolment of resident pupils of the board are the numbers determined in accordance with subsections 277q (1) and (3), using data compiled as of the 30th day of September, 1985, as required by the Ministry before the coming into force of this section.

(5) From the enrolments calculated under subsection (4), the Ministry shall calculate the number of members of the French-language education council of each board.

(6) A board that is required to have a French-language education council shall, if necessary, make provision for a meeting of its French-speaking ratepayers, as defined in section 257a, for the purpose of electing by general vote members of the council who shall be members of the board.

(7) A board shall advertise in each of its schools and in the public media serving the local population, the place, date and time of a meeting under subsection (6) and take such additional action to publicize the meeting as it considers expedient and section 264 applies with necessary modifications to the election.

(8) An election under rule 2 of subsection (1) must be delivered to the secretary of the board within fourteen days of the day this section comes into force.

(9) Where after the expiry of the fourteen-day period referred to in subsection (8), an election is required under sub-
section (6), the election shall be held within thirty days of the coming into force of this section.

(10) Where following an election under subsection (6), there are fewer than three members on the French-language education council of a board, the Minister, by order, shall appoint such number of qualified persons as members of the council as are necessary to provide for three members on the council.

(11) If a board is required to have a French-language education council and the board has a French-language advisory committee under Part XI, the French-language advisory committee is dissolved on the day the council is constituted.

277y.—(1) A French-language education council shall be deemed to be constituted on the 1st day of December, 1986 and it shall hold its first meeting not later than the 7th day of December, 1986.

(2) Section 183 and subsections 265 (1), (3) and (4) apply with necessary modifications to a French-language education council.

(3) If the office of a member of the French-language education council becomes vacant and the remaining members of the council constitute a majority of the council's members, the remaining members shall, at the first regular council meeting after the vacancy occurs, appoint to the office a person who is eligible to be a council member.

(4) If the office of a member of the French-language education council becomes vacant and the remaining members of the council do not constitute a majority of the council’s members, a new election shall be held under subsection 277x (6) to fill the vacancy or vacancies.

277z.—(1) Sections 277m, 277o, 277r and 277s apply with necessary modifications where a board has a French-language education council as if a reference therein to a French-language section were a reference to a French-language education council.

(2) Notwithstanding subsection 277s (2), a person who elected under rule 2 of subsection 277x (1) to be a member of a French-language education council of a board shall remain as a member of the board if the council is dissolved before the 1st day of December, 1988.
(3) Notwithstanding subsection 277n (2), section 277n applies to a board that has a French-language education council in respect of the years 1987 and 1988.

277za.—(1) There shall be an English-language education council of a board and this Part shall apply with necessary modifications in respect of the board and in respect of the English-language education council of the board if the calculated enrolment of English-language resident pupils of the board is a minority of the total calculated enrolment of the resident pupils of the board and the board operates an English-language instructional unit under Part XI.

Interpretation

(2) For the purposes of subsection (1),

(a) a reference in this Part to French, other than in this subsection, shall be deemed to be a reference to English;

(b) a reference in this Part to French language shall be deemed to be a reference to English language; and

(c) a reference in this Part to a person who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the Canadian Charter of Rights and Freedoms to have his or her children receive their primary and secondary school instruction in the French language in Ontario shall be deemed to be a reference to a person who does not have that right and to be a reference to a person who has but elects not to exercise that right.

12.—(1) Section 19 of the Municipal Elections Act, being chapter 308 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

(f) who is a separate school elector or a public school elector, that the elector has chosen to vote to elect members of the French-language section, or the English-language section, of a board under Part XI-A of the Education Act.

(2) Subsection 49 (1) of the said Act is amended by adding thereto the following paragraph:

6a. Where the election is to the French-language section, or the English-language section, of a board under Part XI-A of the Education Act, an elector is entitled to as many votes as there are members of the French-language section or the English-language
section, as the case may be, of the board but may not give more than one vote to any one candidate.

13.—(1) Subsection 116 (1) of the Municipality of Metropolitan Toronto Act, being chapter 314 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1983, chapter 9, section 1 and 1984, chapter 18, section 9, is further amended by relettering clause (ba) as clause (bb), by relettering clauses (bb) and (bc) as clauses (bd) and (be) respectively and by adding thereto the following clauses:

(ba) "Council" means the council established by section 120b;

(bc) "French-speaking ratepayer" means a person who is entitled to vote at an election of members of a board of education and who has the right under subsection 23 (1) or (2), without regard to subsection 23 (3), of the Canadian Charter of Rights and Freedoms to have his or her children receive their primary and secondary school instruction in the French language in Ontario.

(2) The said Act is amended by adding thereto the following sections:

120a.—(1) Within two months after the date this section comes into force, the boards of education that have a French-language advisory committee under Part XI of the Education Act shall establish by resolution a new French-language advisory committee in accordance with the Education Act and when the new committee takes office the previous committee is dissolved.

(2) Subsection (1) applies notwithstanding that the board of education operates a French-language instructional unit.

(3) For the purposes of subsection (1), at least ten French-speaking ratepayers shall be deemed to have applied to the board of education for the establishment of the new French-language advisory committee.

(4) This section is repealed on the 1st day of December, 1988.

120b.—(1) There is established on the 1st day of December, 1988, a council to be known in French as "Le conseil des écoles françaises de la communauté urbaine de Toronto" and
in English as "The Metropolitan Toronto French-Language School Council".

(2) Subject to section 120f, beginning on the 1st day of January, 1989, the Council shall operate all French-language instructional units under Part XI of the Education Act in the Metropolitan Area other than those operated by the Metropolitan Separate School Board.

(3) The Council is a body corporate and shall be composed of nine members.

(4) The Council may be legally designated by either or both versions of its name.

(5) Beginning with the regular election in 1988, the members of the Council shall be elected at the same time and for the same term of office as the boards of education and, subject to this Part, shall be elected in the same manner as members of a board of education.

(6) For the purpose of electing members to the Council, the Metropolitan Area is divided into the four electoral areas named in column 1 of the following table and each electoral area shall be represented on the Council by the number of members set out opposite thereto in column 2:

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electoral Area</td>
<td>Number of members</td>
</tr>
<tr>
<td>1. the City of Toronto</td>
<td>3</td>
</tr>
<tr>
<td>2. the City of North York</td>
<td>3</td>
</tr>
<tr>
<td>3. the City of Scarborough and the Borough of East York</td>
<td>2</td>
</tr>
<tr>
<td>4. the Cities of Etobicoke and York</td>
<td>1</td>
</tr>
</tbody>
</table>

(7) The members of the Council to be elected in an electoral area shall be elected by general vote in the electoral area.

(8) A person is qualified to be elected as a member of the Council if,

(a) the person is qualified to be elected as a member of the board of education for the area municipality in which the person resides;

(b) the person is a French-speaking ratepayer; and
(c) the person chooses to vote only for members of the Council and not for a member of the board of education for the area municipality in which the person resides.

(9) A person is qualified to be an elector in respect of a member of the Council if,

(a) the person is qualified to vote in a regular election of members of the board of education for the area municipality in which the person resides;

(b) the person is a French-speaking ratepayer; and

(c) the person chooses to vote only for members of the Council and not for a member of the board of education for the area municipality in which the person resides.

(10) No person is entitled to vote in a regular election for both members of the Council and members of the board of education for the area municipality in which the person resides.

(11) The election of members of the Council for an electoral area shall be conducted by the same officers and in the same manner as elections of members of the boards of education in the same electoral area except that in the case of an election in the electoral area of the City of Scarborough and the Borough of East York and the electoral area of the Cities of Etobicoke and York,

(a) the nominations in each case shall be submitted to the returning officer of the area municipality in the electoral area having the greatest equalized residential and farm assessment for public school purposes, who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(b) the clerk of each area municipality shall be the returning officer for the vote to be recorded in the clerk's area municipality and the clerk shall report forthwith the vote recorded to the returning officer referred to in clause (a), who shall prepare the final summary and announce the result of the vote.
(12) For the purposes of subsection (11), “equalized residential and farm assessment” shall have the same meaning as in clause 59 (1) (a) of the Education Act.

120c.—(1) Except as provided in this Part, the Council, for the purposes of every Act, shall be deemed to be a board of education in the Metropolitan Area.

(2) The Council may set and pay allowances to its members for the term of office that expires the 1st day of December, 1991 despite subsection 167 (1a) of the Education Act.

120d.—(1) The Council shall assume, on the 1st day of January, 1989, the operation of all schools and classes established before that day by the boards of education under Part XI of the Education Act in which French is the language of instruction.

(2) Subject to subsection (3), possession of the facilities used in relation to schools and classes described in subsection (1) vests in the Council on the 1st day of January, 1989 at such rent as the board of education concerned and the Council may agree and the board of education concerned and the Council shall agree upon the allocation and disposition, without compensation, of all other property situate upon or used in connection with the facilities.

(3) Where possession of all of the lands and premises used as a school site vests in the Council under subsection (2), the ownership of the lands and premises vests in the Council at the same time, without compensation, but subject to all existing debts, contracts, agreements and liabilities of the board of education that pertain to such school site.

(4) Any dispute as to possession of any facilities or the allocation or disposition of property under subsection (2) or the transfer of ownership under subsection (3) may be referred by the Council and the board of education, or either of them, to the Ontario Municipal Board, which shall determine the matters in dispute, and its decision is final.

(5) On the 1st day of January, 1989, the employment contract of every employee of a board of education who was employed immediately before the coming into force of this section in a school or class established under Part XI of the Education Act is vested in and becomes an obligation of the Council.
120e. Beginning on the 1st day of January, 1989, no board of education shall operate a school or class under Part XI of the Education Act.

120f. Notwithstanding subsection 120b (2), the School Board shall continue to operate schools and classes for trainable retarded pupils in the Metropolitan Area in which French is the language of instruction and the Council shall not operate such schools or classes.

120g. A person who is qualified to be a resident pupil in respect of a board of education in the Metropolitan Area and exercises his or her right under subsection 258 (2) or 261 (1) of the Education Act is also qualified to be a resident pupil of the Council.

120h. Subsections 127 (4) to (6b), section 130j, clause 133 (1) (e) and subsections 133 (4) to (6) do not apply in respect of the Council.

120i. In December, 1988 and in 1989, the Council may borrow from the School Board, notwithstanding that the estimates have not been approved by the School Board.

(3) Subsection 121 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 11, is further amended by inserting after “Area” in the third line “and the chairman of the Council”.

(4) Subsection 121 (3) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 9, section 3 and 1984, chapter 18, section 11, is repealed and the following substituted therefor:

(3) The Board of Education for the Borough of East York. The Board of Education for the City of Etobicoke. The Board of Education for the City of York and the Council may each appoint one of its members as an alternate member of the School Board, and such alternate member may attend the meetings of the School Board and of its committees, but shall not vote in the meetings of the School Board or of its committees except in the absence of the chairman of the board of education or of the Council, as the case may be, to which such member belongs or of the member appointed in place of the chairman under subsection (6).

14. Part XI-B, as enacted by section 11 of this Act, is repealed on the 1st day of December, 1988.
15.—(1) This Act, except subsections 13 (3) and (4), comes into force on the 1st day of October, 1986.

(2) Subsections 13 (3) and (4) come into force on the 1st day of December, 1988.

16. The short title of this Act is the *Education Amendment Act, 1986* (No. 2).