

**EDUCATION STATUTES AMENDMENT ACT, 1998**

**EXPLANATORY NOTES**

# EDUCATION STATUTES AMENDMENT ACT, 1998

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

## *Islands Trust Act*

*Section 29 (1) (a) of the Islands Trust Act, R.S.B.C. 1996, c. 239, is amended by striking out "Division 10" and substituting "Division 10 and sections 937.2, 937.3 and 937.5 to 937.91".*

## *Municipal Act*

*The Municipal Act, R.S.B.C. 1996, c. 323, is amended by adding the following Division to Part 26:*

### **Division 10.1 -- School Site Acquisition Charges**

#### **Definitions**

**937.2** In this Division:

**"approved capital plan"** means the current capital plan of a school board as approved under section 142 of the *School Act*;

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### *Islands Trust Act*

Section 29(1)(a) is amended to provide a local trust committee, established under the *Islands Trust Act*, with the authority of a regional district board under certain provisions of the *Municipal Act*, and then to provide exceptions to that authority.

A local trust committee has land use planning responsibilities for the Islands under its jurisdiction. Local trust committees are included as a “local government” in section 937.4 of the *Municipal Act*, the provision under which local governments are consulted and eligible school site requirements are proposed by the school board. The other provisions of the legislation are listed in the exclusions to local trust committee powers such that the local trust committees will not have any responsibilities with respect to collecting the school site acquisition charge.

### *Municipal Act*

#### **Division 10.1 -- School Site Acquisition Charges**

##### **Section 937.2 - Definitions**

Section 937.2 contains the definitions of terms used in Division 10.1.

“**approved capital plan**” is defined as the current capital plan of a school board that has been approved by the Minister of Education under section 142 of the *School Act*. School boards are required by that section to prepare a capital plan when required to do so by the Minister. The plan must set out any proposals for the purchase and development of school sites. Capital plans are required from school boards annually and plans for school site acquisitions are generally required to cover a ten-year planning horizon.

The significance of ministerial approval of the capital plan for school site acquisition charges is that the Minister of Education has the authority to approve, reject, or approve with modifications a capital plan of a school board. A needed school site must be included in the plan as a result of following the procedures set out in section 937.4 and be approved in the capital plan by the Minister before it becomes an eligible school site requirement. Only the values of eligible school site requirements are included in the calculation of the school site acquisition charge.

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**"eligible development"** means

- (a) a subdivision of land in a school district, or
- (b) any new construction, alteration or extension of a building in a school district that increases the number of self-contained dwelling units on a parcel;

**"eligible development unit"** means a self-contained dwelling unit

- (a) authorized by a zoning bylaw or any other enactment, for a parcel created by a subdivision of land in a school district, or
- (b) created by any new construction, alteration or extension of a building in a school district that increases the number of self-contained dwelling units on a parcel;

**"eligible school district"** means a school district for which the school board has indicated an eligible school site requirement in its approved capital plan;

**"eligible school site requirement"** means a requirement for a school site that is set out in

- (a) the final resolution of a school board under section 937.4 (5) (a), and
- (b) the approved capital plan of the school board;

**"school board"** means a board as defined in section 1 of the *School Act*;

**"school site acquisition charge"** means the charge set under section 937.5.

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**“eligible development”** is defined to mean the subdivision of land in a school district or any new construction, alteration or extension of a building in a school district that increases the number of self-contained dwelling units on the particular parcel of land.

Inclusion of the subdivision of land captures the situation where an owner of land subdivides for the purpose of selling individual building lots. Otherwise, if the lots were used by purchasers to erect buildings containing fewer than four self-contained dwellings units, then the individual building lots would be exempt from the school site acquisition charge under section 937.3(3)(c).

**“eligible development unit”** is defined as each self-contained dwelling unit authorized by the zoning bylaw applicable to a parcel of land created by subdivision or a self-contained dwelling unit created under the authority a building permit. The school site acquisition charge is a per-unit charge. It is the projection of the number of eligible development units that will be created in the school district that the school board will use to calculate the increase in the number of school-aged children that will have to be accommodated in schools in the school district. If that number is sufficient to require one or more new school sites in the school district, then the school board will set a school site acquisition charge and each eligible development unit created in the school district will be subject to the charge. For subdivisions of land where the owner does not intend to develop the lots, reference will be made to the applicable zoning bylaw to determine the number of units for which a school site acquisition charge must be paid.

**“eligible school district”** is defined as one for which the school board has indicated an eligible school site requirement in its approved capital plan. An “eligible school site requirement” is a requirement for a school site caused by eligible development. A school board of an eligible school district will be required to set a school site acquisition charge.

**“eligible school site requirement”** is defined as a school site requirement that is included in the final resolution of a school board under section 937.4(5)(a) and is included in the school board’s approved capital plan. Section 937.4 legislates a process whereby the school board calculates the demand for school site needs that will be generated by development over the 10-year period specified by the Minister for school site requirements in the approved capital plan. If a particular site is required because of demands imposed by development and if the minister approves the site as part of the school board’s capital plan, the site becomes an eligible school site requirement and the value of the site is included in the calculation of the school site acquisition charge.

**“school site acquisition charge”** is defined as the per-unit charge set by the school board under section 937.5. Section 937.5 sets out the formula the school board must follow in order to calculate the school site acquisition charge and then sets out a limitation on the amount of the school site acquisition charge, as prescribed by regulation.

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### School site acquisition charge payable

- 937.3** (1) Every person who obtains subdivision approval or a building permit in respect of an eligible development in an eligible school district must pay to the local government, for each eligible development unit that is authorized or will be created, the school site acquisition charge applicable to that category of eligible development.
- (2) A school site acquisition charge is imposed under subsection (1) for the purpose of providing funds to assist school boards to pay the capital costs of meeting eligible school site requirements.
- (3) A school site acquisition charge is not payable under subsection (1) if any of the following applies:
- (a) the eligible development is within a category that is exempt from school site acquisition charges under the regulations;
  - (b) a school site acquisition charge has previously been paid for the same eligible development unless, as a result of a further subdivision or issuance of a building permit, more eligible development units are authorized or will be created on the parcel;
  - (c) the eligible development is authorized by a building permit and will, after the construction, alteration or extension, contain fewer than 4 self-contained dwelling units.
- (4) A school site acquisition charge payable under this section must be paid at the applicable time as follows:
- (a) if a development cost charge is payable under Division 10 in respect of the eligible development, at the same time as the development cost charge is paid;
  - (b) if no development cost charge is payable under Division 10, at the time of approval of the subdivision if subdivision is required in respect of the eligible development;
  - (c) if neither paragraph (a) nor (b) applies, at the time that a building permit is issued in respect of the eligible development.
- (5) As an exception to subsection (4), the minister may, in respect of all or different categories of eligible development, by regulation
- (a) authorize the payment of school site acquisition charges in instalments, and
  - (b) prescribe conditions under which the instalments may be paid.

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### Section 937.3 -- School site acquisition charge payable

Section 937.3(1) imposes the obligation to pay a school site acquisition charge. Any person who obtains approval of a subdivision or a building permit in a school district that has a school site acquisition charge bylaw is required to pay the applicable per-unit charge for each eligible development unit that will be authorized or created by eligible development.

Section 937.3(2) states the purpose of the school site acquisition charge. A school site acquisition charge is imposed to assist school boards to pay the capital costs of acquiring school sites that are required to meet the demand created by residential development.

Section 937.3(3) provides exceptions to the requirement to pay a school site acquisition charge.

Paragraph (3)(a) specifies that the school site acquisition charge does not apply to a development that is in a category of development exempted by regulation.

Paragraph (3)(b) exempts an eligible development for which a school site acquisition charge has already been paid unless further development creates additional eligible development units. This will have application in phased developments where subdivision or building permits are obtained successively as the development proceeds.

Paragraph (3)(c) exempts eligible development that is authorized by a building permit and which will, after the construction, alteration or extension, contain less than 4 self-contained dwelling units.

Section 937.3(4) sets out the time of payment of a school site acquisition charge. If a development cost charge is payable, the school site acquisition charge is payable at the time the development cost charge is payable.

Where a development cost charge bylaw is in effect, the school site acquisition charge is payable whenever the bylaw requires that a development cost charge be paid.

Where there is no development cost charge bylaw in effect, the school site acquisition charge is payable at the time that approval for subdivision is given by an approving officer and, if subdivision is not required for the development to proceed, the charge is payable when a building permit is issued in respect of the development.

Section 937.3(5) provides for an exception to the time of payment rules in section 937.3(4) by regulation.

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### Eligible school site requirements

- 937.4** (1) In this section, "**local government**" includes a local trust committee established under the Islands Trust Act.
- (2) Before submitting a capital plan for approval under section 142 of the School Act, a school board must consult with each local government in the school district, and the school board and local government must make all reasonable efforts to reach agreement on the following:
- (a) a projection of the number of eligible development units to be authorized or created in the school district in the time frame specified by the minister under section 142 of the School Act for school site acquisition planning;
  - (b) a projection of the number of children of school age, as defined in the School Act, that will be added to the school district as the result of the eligible development units projected under paragraph (a);
  - (c) the approximate size and the number of school sites required to accommodate the number of children projected under paragraph (b);
  - (d) the approximate location and value of school sites referred to in paragraph (c).
- (3) Following the consultation under subsection (2) with each local government in the school district, the school board must make a written proposal that sets out its projections on each matter referred to in subsection (2) (a) to (d) for the school district.
- (4) The school board must
- (a) consider the proposal referred to in subsection (3) at a public meeting of the school board, and
  - (b) provide written notice of the date, time and place of the meeting to each local government in the school district.



## EXPLANATORY NOTES

### **Section 937.4 -- Eligible School Site Requirements**

Section 937.4 provides a consultative process for school boards and local governments to work together to determine whether and by how much, new residential development will create a demand for new or expanded school sites. Failing agreement between the applicable local governments and the school board, the section provides a dispute resolution mechanism which leaves the final decision with respect to any dispute to the Minister of Education as part of the section 142 of the *School Act* capital plan approval process.

Section 937.4(1) defines “local government” for the purpose of the section as including a local trust committee established under the *Islands Trust Act*. Local trust committees are the land planning authorities for the Islands and will have the same input into proposed eligible school site requirements as a municipal council or regional district board.

Section 937.4(2) requires that, before a school board submits a capital plan to the Minister of Education for approval under section 142 of the *School Act*, the school board must consult with each local government in the school district. All reasonable efforts must be made to reach agreement regarding:

- the number of eligible development units projected to be built over the 10-year planning horizon for school site planning;
- the number of school-aged children that will be added to the school district from those units;
- the number and approximate size of school sites that will be required to accommodate those additional students; and
- the approximate location and value of the required school sites.

Section 937.4(3) directs the school board to make a written proposal that sets out the school board’s projections on each matter on which it consulted with local governments under section 937.4(2). This proposal reflects the school board’s projected eligible school site requirements (i.e., those school sites that the school board considers will be required to meet the increased demand for school sites created by eligible development.)

Section 937.4(4) directs the school board to provide written notice to each local government in the district of the time and place of a public school board meeting at which the eligible school site requirements proposal made under 937.4(3) will be considered.

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- (5) After considering the proposal referred to in subsection (3) at one or more meetings under subsection (4), the school board must
  - (a) pass a resolution setting out its decisions respecting the matters referred to in subsection (3), and
  - (b) forward a copy of the resolution to each local government in the school district and request that the local government consider the proposed eligible school site requirements.
  
- (6) A local government that has received a request under subsection (5) (b) must consider the school board's resolution at a regular council meeting and, within 60 days of receiving the request,
  - (a) pass a resolution accepting the school board's resolution of proposed eligible school site requirements for the school district, or
  - (b) respond in writing to the school board indicating that it does not accept the school board's proposed school site requirements for the school district and indicating
    - (i) each proposed eligible school site requirement to which it objects, and
    - (ii) the reasons for the objection.
  
- (7) If a local government fails to respond within the time required by subsection (6), it is deemed to have agreed to the proposed eligible school site requirements for the school district set out in the school board's resolution.
  
- (8) If the local government provides notice under subsection (6) that it does not accept the proposed eligible school site requirements for the school district, the minister responsible for the School Act must appoint a facilitator, whose responsibilities are to
  - (a) advise all local governments in the school district of his or her appointment, and
  - (b) assist the school board and the local governments to reach an agreement on proposed eligible school site requirements.
  
- (9) If the school board and the local governments reach an agreement under subsection (8), the school board must
  - (a) amend the resolution under subsection (5) or pass a new resolution under that subsection to reflect the agreement, and
  - (b) forward a copy of the new or amended resolution to each local government in the school district.

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Section 937.4(5) requires that the school board, after one or more public meetings as required under section 937.4(4), pass a resolution setting out its decisions on the matters contained in the proposal developed under section 937.4(3) and send a copy of the resolution to each local government in the school district. The school board must ask each local government to consider the proposed eligible school site requirements contained in the school board's resolution.

Section 937.4(6) requires that each local government consider the school board's resolution of proposed eligible school site requirements at a regular local government council meeting. Each local government must, within 60 days of receiving the school board's resolution, pass a resolution accepting the proposed eligible school site requirements for the school district or send the school board, in writing, a statement indicating each proposed eligible school site to which it objects and the reason for the objections.

Section 937.4(7) deems that a local government that neither passes a resolution nor objects within the 60 days provided under 937.4(6) to have accepted the school board's proposed eligible school sites.

Section 937.4(8) provides for the appointment of a facilitator to assist the school board and local governments to reach agreement on proposed school site requirements if a local government makes an objection to the school board's proposed eligible school site requirement resolution. The facilitator will be appointed by the Minister of Education and must advise each local government in the school district that he or she has been appointed so that local governments other than the one that objected can be heard in the dispute.

Section 937.4(9) requires that, if the local governments and the school board reach agreement on proposed eligible school site requirements with the assistance of the facilitator, the school board must either amend the proposed eligible school site requirements resolution passed under section 937.4(5) or pass a new resolution to reflect the new agreement. Any new or amended proposed eligible school site requirement resolution must be forwarded by the school board to each local government in the school district. No further action is required by the local governments at this time.

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- (10) If no agreement is reached under subsection (8), the facilitator must
- (a) make a report to the minister and the minister responsible for the *School Act* setting out the disagreement between the parties and must make recommendations as to the resolution of the disagreement, and
  - (b) provide a copy of the report to the school board and each local government in the school district.
- (11) The school board must attach a copy of the facilitator's report to its capital plan submitted under section 142 of the *School Act*.

### Setting school site acquisition charges

- 937.5** (1) Subject to the regulations, within 60 days of receiving approval of its capital plan under section 142 of the *School Act*, the school board of an eligible school district must, by bylaw, set the school site acquisition charges applicable to the prescribed categories of eligible development for the school district in accordance with the following formula:

$$\text{SSAC} = [(A \times B) \div C] \times D$$

where

- SSAC = the school site acquisition charge applicable to each prescribed category of eligible development;
- A = the value of land required to meet the school board's eligible school site requirements;
- B = 35%, or, if another percentage is set by regulation, that other percentage;
- C = the number of eligible development units set out in the final resolution of the school board under section 937.4;
- D = a factor set by regulation for the prescribed categories of eligible development.

- (2) The amount of a school site acquisition charge set under subsection (1) may not exceed the maximum charge prescribed by regulation for each prescribed category of eligible development.

## EXPLANATORY NOTES

Section 937.4(10) requires the facilitator to make a report to the Minister of Municipal Affairs and the Minister of Education in the event that no agreement is reached between the school board and the local governments with the assistance of the facilitator. The facilitator's report must set out the nature of the disagreement between the parties and make recommendations as to an appropriate resolution of the disagreement. The facilitator must send a copy of his or her report to the school board and each local government.

Section 937.4(11) requires that a school board that has received a facilitator's report because of unresolved differences with one or more local governments on the issue of proposed eligible school site requirements, attach a copy of the facilitator's report to its capital plan submitted to the Minister of Education under section 142 of the *School Act*.

### **Section 937.5 -- Setting school site acquisition charges**

Section 937.5(1) requires that a school board whose approved capital plan indicates an eligible school site requirement (i.e., a school site required because of eligible development) set a school site acquisition charge for the school district, by bylaw, within 60 days of receiving ministerial approval of the plan. School boards must use the formula set out in this provision to set the school site acquisition charge.

#### **School Site Acquisition Charge Calculation**

The per-unit school site acquisition charge is equal to:

- A. the value of eligible school site requirements;
- B. multiplied by the percentage of the value of those sites that the school board requires to meet the local contribution portion of the estimated cost of school site acquisition;
- C. divided by the number of eligible development units that the school board has included in its proposed eligible school site requirements proposal as the basis for determining whether eligible development will give rise to a need for new school sites; and
- D. multiplied by a factor set by regulation for different the categories of development defined in the regulation by density of housing.

The Lieutenant Governor-in-Council may, by regulation, permit or require a school district to calculate a different school site acquisition charge for different local government jurisdictions.

Section 937.5(2) limits the amount of a school site acquisition charge to an amount set by regulation for each category of development.

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- (3) Subject to subsection (4), a school site acquisition charge does not come into effect until 60 days after the day on which the bylaw setting the charge is adopted by the school board.
- (4) If, after an application for a subdivision of land or for the issuance of a building permit in respect of an eligible development has been submitted to an approving officer or a local government, as the case may be, and the applicable fee has been paid,
- (a) a school site acquisition charge comes into effect with respect to that eligible development, or
  - (b) the school site acquisition charge applicable to that eligible development is increased,
- the charge or increase does not apply to that eligible development for a period of 12 months after the school site acquisition charge bylaw comes into effect.

### **Provision of land for school sites**

**937.6** A person who is required to pay a school site acquisition charge under section 937.3 may, in place of the charge, or in partial payment of the charge, provide land to the local government or to the school board but only if all of the following agree to the provision of that land:

- (a) the local government;
- (b) the school board having responsibility for the school district in which the land is located;
- (c) the person otherwise required to pay the school site acquisition charge.

### **No subdivision or building permit unless charge paid**

**937.7** If a school site acquisition charge is payable under section 937.3 in respect of a subdivision approval or the issuance of a building permit, final subdivision approval must not be given and a building permit must not be issued unless one or more of the following has occurred:

- (a) the applicable school site acquisition charge has been paid to the local government;

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Section 937.5(3) provides a 60 day grace period before a school site acquisition bylaw becomes effective. This allows developers who have commenced planning for a development to complete the planning and submit their plans for approval for subdivision or a building permit without have to revise their business plan to take into account a new school site acquisition charge. This provision is subject to section 937.5(4) which provides a 12-month grace period to developers who have already submitted an application for subdivision or a building permit.

Section 937.5(4) provides a further grace period to developers who have already submitted an application for approval of a subdivision or issuance of a building permit and paid any applicable application fee. A new or increased school site acquisition charge does not apply to the development if approval of the subdivision or building permit is obtained within 12 months after a school site acquisition charge comes into effect. This ensures that developers who have completed their development plans and submitted their applications do not have to refinance a project because of a new or increased school site acquisition charge.

### **Section 937.6 -- Provision of land for school sites**

Section 937.6 provides a land-in-lieu of the charge option. Where it is in the best interests of the school board, the local government and the developer, as evidenced by agreement of all three parties, a developer may provide land to the school board or the local government instead of paying the school site acquisition charge.

### **Section 937.7 -- No subdivision or building permit unless charge paid**

Section 937.7 provides local governments, who will be administering the charge on behalf of school boards, with the authority to withhold subdivision or building permit approval until the developer pays the charge, transfers land or makes some other arrangement for payment or provision of security that is acceptable to the local government. The section prohibits the local government from issuing a building permit or providing final approval of a subdivision unless one of the listed conditions have been met as follows:

- (a) the school site acquisition charge has been paid to the local government;

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- (b) if land is to be provided in the place of a school site acquisition charge under section 937.6,
  - (i) a registrable transfer of land has been provided to the local government or the school board, as the case may be, or
  - (ii) in the case of an application for approval of a subdivision, the approving officer has endorsed on the subdivision plan a statement that final approval to the subdivision is given on the condition that the registrable transfer of land will accompany the application to deposit the subdivision plan in the land title office;
- (c) the person otherwise required to pay the charge has provided to the local government, in a form satisfactory to the local government, security for payment of the school site acquisition charge or security for the provision of the land referred to in paragraph (b).

### **Credit for previous contributions**

- 937.8** (1) If a person who is required to pay a school site acquisition charge under section 937.3 has already
- (a) provided land for a school site in the school district, or
  - (b) paid all or part of the cost of a school site in the school district,
- the local government may, with the agreement of the school board, deduct the value of that land or the amount paid or a portion of either from the school site acquisition charge that is payable in respect of an eligible development.
- (2) A deduction may not be made under subsection (1)
- (a) for land or money provided to the local government under an agreement entered into under section 942 as it read before this section comes into force, or
  - (b) for land or money provided to the local government or the school board under a bylaw made under section 937.5.

### **Transfer to school board**

- 937.9** (1) The local government to which a school site acquisition charge has been paid must, promptly after receiving payment, provide the money to the school board of the school district in which the eligible development is located.
- (2) If land is provided to a local government under section 937.6, the local government to which the land is provided must, promptly after receiving title to the land, transfer title to the land to the school board having responsibility for the school district in which the eligible development is located.
- (3) Despite subsection (1) or (2), a local government may charge a school board administration fees and disbursements authorized by the regulations.



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- (b) if land is being provided in lieu of the charge, a registrable transfer of the land has been provided to the school board or the local government or, if the land is being subdivided, the approving officer has endorsed on the subdivision plan that final approval is given only on condition that a registrable transfer of the land in lieu will accompany the application to deposit the subdivision plan at the land title office; or
- (c) The developer has provided security to the local government for payment of the charge or provision of the land as the case may be. Under the regulations respecting installment payments of the charge, a developer will be required to provide security for the two other installments upon payment of the first installment.

### **Section 937.8 -- Credit for previous contributions**

Section 937.8(1) addresses the situation where a developer has, in the past and without a legal obligation to do so, provided land for a school or funds for a school site in the school district. If this has occurred, the local government, with the agreement of the school board, may deduct the value of the land or the amount paid, or a portion of either from the amount of a school site acquisition charge that is payable on an eligible development under this legislation.

Section 937.8(2) disallows any deduction under section 937.8(1) if the land or money was provided under an agreement made under the former school sites acquisition legislation (section 942 of *Municipal Act*-repealed) or under this legislation.

### **Section 937.9 - Transfer to school board**

Section 937.9(1) directs a local government to transfer school acquisition charges paid to it to the school board promptly.

Section 937.9(2) directs a local government to transfer property it has received in-lieu of a school site acquisition charge to the school board promptly. Land provided in-lieu of the school site acquisition charge may be transferred to the school board directly (which will save the cost of two transfers), or to the local government.

Section 937.9(3) permits a local government to charge a school board the fees authorized by regulation for the administration of the school site acquisition charge. Those fees may be taken from the school site acquisition charges collected prior to transfer of the charges to the school board.

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### Regulations for this Division

**937.91** The Lieutenant Governor in Council may make regulations as follows:

- (a) prescribing categories of eligible development that are exempt from school site acquisition charges under section 937.3 (1);
- (b) requiring a local government or school board to supply information for the purpose of section 937.4;
- (c) prescribing categories of eligible development for the purposes of this Division;
- (d) prescribing a percentage for the value "B" in the formula set out in section 937.5 (1);
- (e) prescribing factors for each prescribed category of eligible development for the value "D" in the formula set out in section 937.5 (1);
- (f) establishing maximum school site acquisition charges payable with respect to the different categories of eligible development;
- (g) respecting the setting of school site acquisition charges under section 937.5 and, without limitation, enabling or requiring a school district to calculate different school site acquisition charges for one or more local governments in the school district;
- (h) governing the procedure a local government or a school board must follow for the purpose of the calculation referred to in paragraph (g);
- (i) respecting administration fees and disbursements that may be charged under section 937.9 (3).

*Section 941 (4) is amended by striking out "Subject to section 942 (6), the amount" and substituting "The amount".*

*Section 942 is repealed.*

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### **Section 937.91 - Regulations for this division**

Section 937.91 provides specific regulatory powers to the Lieutenant Governor in Council for the purposes of Division 10.1.

Section 937.91(a) authorizes regulations exempting categories of eligible development from the school site acquisition charge.

Section 937.91(b) authorizes regulations requiring the school board and the local government to provide information for the purpose of section 937.4, the section under which a school board determines its proposed eligible school site requirements.

Section 937.91(c) authorizes regulations establishing categories of eligible development.

Section 937.91(d) authorizes a regulation changing the percentage contribution of school boards towards the cost of school site acquisition from the 35 percent currently set in section 937.5(1) to any other appropriate percentage.

Section 937.91(e) authorizes regulations prescribing the factor that will be applied to the school site acquisition charge for each category of development based on housing density.

Section 937.91(f) provides the authority to set an upper limit to the school acquisition charge for each category of eligible development.

Section 937.91(g) provides the authority to permit or require a school board to calculate a different school site acquisition charge for one or more local governments in the school district. The authority to set individual charges for local governments within a school district would be exercised on an individual basis where a school board or a local government provides evidence that setting the charge for the whole district would result in unfairness to one or more local government jurisdictions within the school district.

Section 937.91(h) authorizes regulations governing the procedures that the local government or school board must follow to have a regulation enacted under 937.91(g) for the particular school district.

Section 937.91(i) authorizes regulations setting the amount of the fees that local government may charge school boards for administering the school site acquisition charge.

Section 941(4) is amended to strike out references to the former school site acquisition scheme which was contained in section 942.

Section 942 which contained the former enabling school site acquisition scheme is repealed.

# EDUCATION STATUTES AMENDMENT ACT, 1998

## *School Act*

*Section 101 is repealed and the following substituted:*

### **School sites under the *Municipal Act***

- 101** (1) If money is provided to a board by a local government under section 937.9 (1) of the *Municipal Act*, or money is received as proceeds of a sale of land provided to the school board under section 937.6 or transferred to the board under section 937.9 (2) of that Act, the board must, immediately after receipt of the money, deposit it in a land capital reserve trust fund in the board's name established for that purpose.
- (2) The land capital reserve trust fund established under subsection (1) must be kept separate from the other accounts held in the board's name.
- (3) A board may only use money provided from a local government under section 937.9 (1) of the *Municipal Act*, or received as proceeds of a sale of land provided to the school board under section 937.6 or transferred to the board under section 937.9 (2) of that Act,
- (a) for the acquisition of land to meet the board's eligible school site requirements, as defined in section 937.2, of that Act,
  - (b) to pay administration fees and disbursements authorized by a regulation made under section 937.91 (i) of that Act, and
  - (c) to pay any disbursements related to the sale, transfer or subdivision of land received under Division 10.1 of Part 26 of that Act.

## EXPLANATORY NOTES

### *School Act*

Section 101 which supported the former enabling school site acquisition scheme is repealed and replaced.

#### **Section 101 - School sites under the *Municipal Act***

Section 101(1) imposes the obligation on school boards to deposit funds received from local governments for school site acquisition charges and for the proceeds from the sale of land which was transferred to the school board or the local government in-lieu of a school site acquisition charge into a land capital reserve trust account in the school board's name.

Section 101(2) requires that the board keep funds received as school site acquisition charges in an account separate from other board accounts.

Section 101(3) restricts school boards to using funds in the separate land capital reserve trust fund for certain purposes, namely:

- a) acquisition of "eligible school site requirements" -- sites set out in the final resolution of the school board under section 937.4(5) and approved in the school board's capital plan;
- b) payment of administration fees charged by local governments for administering the school site acquisition charge; and
- c) payment of costs for transferring land to or by the school board under Division 10.1 of the *Municipal Act*.

