



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 1

(2001, chapter 2)

An Act to amend the Election Act and other legislative provisions

Introduced 27 March 2001

Passage in principle 28 March 2001

Passage 28 March 2001

Assented to 28 March 2001

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EXPLANATORY NOTES

This bill contains various amendments to facilitate the administration of the Election Act.

As concerns the financing of political parties, independent Members and independent candidates, the bill simplifies how election contributions may be made by allowing electors to make contributions by credit card or transfer of funds. The bill modifies the time limits within which a party authority must file its financial report and the amount of the audit costs that may be reimbursed to a political party.

As concerns the provisions governing the election period, the bill clarifies the provisions that deal with the transmission of the revised list of electors and those pertaining to cases where a candidate withdraws or dies. The bill provides that the official agent of an authorized party may obtain leave without pay from employment, and modifies the composition of the poll personnel by providing for the appointment of officers assigned to the list of electors.

The bill modifies the provisions concerning the control of election expenses by providing that remuneration paid to a representative in a polling station no longer constitutes an election expense, and by doing away with advances and reimbursements of sums based on the results of the preceding election. Authorized parties will, however, be entitled to an advance on the reimbursement of the election expenses they have incurred. The bill raises the ceiling on the amount of the election expenses a party or candidate may incur.

Lastly, the bill contains various technical amendments and consequential amendments to ensure concordance between the Election Act and the Referendum Act.

LEGISLATION AMENDED BY THIS BILL :

- Referendum Act (R.S.Q., chapter C-64.1);
- Election Act (R.S.Q., chapter E-3.3);
- Act to harmonize public statutes with the Civil Code (1999, chapter 40).

Bill 1

AN ACT TO AMEND THE ELECTION ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 40.7.1 of the Election Act (R.S.Q., chapter E-3.3) is amended by striking out “, as such information appears in the register kept under section 54 of the Public Curator Act (chapter C-81)” at the end.
2. Section 69 of the said Act is amended by adding “except where such situation results from the death of an official candidate” at the end of the first paragraph.
3. Section 88 of the said Act, amended by section 116 of chapter 40 of the statutes of 1999, is again amended by inserting “des” before “contributions” in the first lines of the first and second paragraphs of the French text.
4. Section 95 of the said Act, amended by section 647 of chapter 29 of the statutes of 2000, is again amended by adding the following sentence at the end: “However, such a contribution may also be made, in accordance with the directives of the chief electoral officer, by means of a credit card or a transfer of funds to an account held by the official representative of the authorized entity for which it is intended.”
5. Section 101 of the said Act is amended by replacing “Twice a year, on the dates fixed” in the first line by “Every year, on the date fixed”.
6. Section 112 of the said Act is amended by replacing “\$5 500” in the first and second paragraphs by “\$15,000”.
7. Section 113 of the said Act is amended by replacing “1 April” in the second line of the first paragraph by “30 April”.
8. Section 118 of the said Act is amended by inserting “as well as sufficient vouchers to enable compliance with the provisions of sections 90 and 95 to be verified” after “received” in the fourth line.
9. Section 119 of the said Act is amended by adding “as regards the report provided for in section 117 and to the one hundred and twentieth day as regards the report provided for in section 113” at the end.
10. Section 120 of the said Act is replaced by the following section:

“120. Where the time limit fixed in section 113 or 117 expires during the period in which a return of election expenses must be filed, it is deferred to the thirtieth day after the date on which the return is filed as regards the report provided for in section 117 and to the sixtieth day as regards the report provided for in section 113.”

11. Section 122 of the said Act is amended by striking out “at the office or residence of the returning officer or” in the second and third lines of the first paragraph.

12. Section 123 of the said Act is amended by striking out “at the office or residence of the returning officer or” in the fourth and fifth lines of the first paragraph.

13. Section 137 of the said Act is amended by striking out the second paragraph.

14. Section 195 of the said Act is amended by replacing “entre 11 et” in the third line of the first paragraph of the French text by “de 11 à”.

15. Section 218 of the said Act is amended

(1) by adding the following sentence at the end of the first paragraph: “The list must enable the changes that have been made during revision to be identified.”;

(2) by replacing the second paragraph by the following paragraph:

“The returning officer shall also transmit to each candidate the list of the electors who have become entitled to exercise their right to vote outside Québec since the issue of the order instituting the election.”;

(3) by replacing “The revised list of electors shall be transmitted” in the third paragraph by “Such lists shall be transmitted”;

(4) by adding the following paragraph at the end:

“The chief electoral officer shall transmit the lists in computer form and in duplicate to each authorized party.”

16. Section 229 of the said Act is amended by adding “and shall receive applications of electors from 11:00 a.m. to 9:00 p.m. during that period” at the end of the first paragraph.

17. The said Act is amended by inserting the following section after section 231.2:

“231.2.1. The chief electoral officer shall, not later than Saturday of the week preceding that of the poll, transmit to each authorized party the

revised list of electors containing the changes made to it following the special revision; the list shall be transmitted in computer form and in duplicate.”

18. Section 231.6 of the said Act is amended by replacing “entre le lundi de la troisième semaine qui précède celle du scrutin et le” in the first and second lines of the first paragraph of the French text by “du lundi de la troisième semaine qui précède celle du scrutin au”.

19. Section 249 of the said Act is amended by inserting the following paragraph after the first paragraph :

“Every employer shall, upon written request, grant a leave without pay to an employee who acts as the official agent of an authorized party. The request may be made at any time from the date of the order instituting the election.”

20. Section 256 of the said Act is amended by adding the following paragraph at the end :

“The candidate of an authorized party may not withdraw unless he files with the returning officer proof that the leader of the party or one of the officers referred to in paragraph 5 of section 48 was duly informed in writing of the candidate’s intention at least 48 hours before the filing of the declaration under the first paragraph.”

21. Section 259 of the said Act is amended

(1) by replacing “a candidate” in the first line of the first paragraph by “the candidate of an authorized party”;

(2) by adding “unless the leader of the party informs the chief electoral officer in writing, within 48 hours after the day of the death of the candidate, that the leader does not intend to endorse any other person as a candidate” at the end of the first paragraph;

(3) by replacing the second paragraph by the following paragraph :

“If the polling day is postponed, nomination papers must be filed not later than the second Monday after the day of the death of the candidate if that day is a Monday, Tuesday or Wednesday, or the third Monday after the day of the death of the candidate if that day is another day. The poll shall take place on the second subsequent Monday.”;

(4) by adding the following paragraphs at the end :

“If the polling day is not postponed, sections 257 and 258 apply with the necessary modifications.

The death of an independent candidate does not entail the postponement of the polling day and sections 257 and 258 apply with the necessary modifications.”

22. Section 263 of the said Act, amended by section 9 of chapter 15 of the statutes of 1999, is again amended by adding the following paragraph at the end:

“However, there shall be no officer assigned to the list of electors during the advance polling. In addition, the deputy returning officer and the poll clerk may act as members of the identity verification panel in polling stations for inmates and mobile polling stations.”

23. Section 264 of the said Act is amended by adding the following paragraph at the end:

“If the polling cannot begin at the prescribed time, or if the polling is interrupted by irresistible force or cannot be concluded for a lack of ballot papers, the polling shall be continued until it has lasted seven hours.”

24. Section 272 of the said Act is amended by replacing “8:00” in the first line of the first paragraph by “8:30”.

25. Section 274 of the said Act is amended by replacing “surname, given name” in the third line of the first paragraph by “name”.

26. Section 308 of the said Act, amended by section 11 of chapter 15 of the statutes of 1999, is again amended by inserting “, officers assigned to the list of electors” after “clerks” in the first line.

27. The said Act is amended by inserting the following section after section 310:

“310.1. In every polling station, the returning officer shall appoint two persons to act as officers assigned to the list of electors, one recommended by the candidate of the authorized party whose candidate came first at the last election or by the independent Member elected as such if the Member is again a candidate, and the other recommended by the candidate of the authorized party whose candidate came second at that election.”

28. Section 311 of the said Act is amended

(1) by replacing “or poll clerk” in the fifth line by “, poll clerk or officer assigned to the list of electors”;

(2) by inserting “or 310.1” after “310” in the last line.

29. Section 313 of the said Act, amended by section 13 of chapter 15 of the statutes of 1999, is again amended by replacing “and poll clerks” in the last line of the first paragraph by “, poll clerks and officers assigned to the list of electors”.

30. The said Act is amended by inserting the following section after section 315:

“315.1. The officers assigned to the list of electors shall have, in particular, the duty of informing the poll runners, in accordance with the directives of the chief electoral officer, as to the electors who have exercised their right to vote.”

31. Section 328 of the said Act is amended by replacing “and the poll clerk” in the second line of the first paragraph by “, the poll clerk, the officers assigned to the list of electors and the members of the identity verification panel”.

32. Section 343 of the said Act is amended by replacing “with the” in the first line by “with a”.

33. Section 347 of the said Act is amended by replacing “any other elector during the poll” in the third line of subparagraph 2 of the first paragraph by “, during the poll, any other elector who is not a spouse or relative within the meaning of section 205”.

34. Section 353 of the said Act is amended by replacing “ten” in the third line by “eleven”.

35. Section 358 of the said Act is amended by striking out “representative,” in the first line.

36. Section 364 of the said Act is amended by replacing “with the” in the first line of subparagraph 9 of the second paragraph by “with a”.

37. Section 401 of the said Act is amended by replacing “at midnight on” in the first line of subparagraph 1 of the first paragraph by “the day after”.

38. Section 404 of the said Act, amended by section 116 of chapter 40 of the statutes of 1999, is again amended

(1) by inserting “des” before “dépenses” in the first line of the French text;

(2) by adding the following paragraph at the end:

“(14) the remuneration paid to a representative referred to in section 316.”

39. Section 414 of the said Act, amended by section 649 of chapter 29 of the statutes of 2000, is again amended by striking out “or advances paid under section 449” in the second line of the second paragraph.

40. Section 419 of the said Act is amended

(1) by striking out “for an amount not exceeding \$4 000” in the last two lines of the first paragraph;

(2) by adding the following paragraph at the end:

“If the expenses incurred under this section include publicity, they shall be identified by the name and title of the official representative of the party authority, the official agent of the party or his deputy, or the official agent of the candidate and, where applicable, the name and address of the printer.”

41. Section 420 of the said Act is amended

(1) by striking out “; in no case may the expenses exceed the amount of \$4 000” in the last line of the first paragraph;

(2) by inserting “of the party authority or the official agent of the candidate” after “representative” in the second line of the third paragraph.

42. Section 422.1 of the said Act is amended by adding the following paragraph at the end:

“The expenses incurred under this section must be identified by the name and title of the official agent of the party or the official agent of the candidate.”

43. Section 426 of the said Act is amended

(1) by replacing “\$0.50” in the second line of the first paragraph by “\$0.60”;

(2) by replacing “\$0.50” in the second line of the third paragraph by “\$0.60”;

(3) by adding the following paragraph at the end:

“The amounts provided for in this section shall be adjusted on 1 April each year according to the change in the average Consumer Price Index for the preceding year, based on the index established for the whole of Québec by Statistics Canada. If the amount computed on the basis of the index includes a decimal, the decimal shall be rounded off to the higher digit where it is greater than 5 and, if not, to the lower digit. The chief electoral officer shall publish the results of the adjustment in the *Gazette officielle du Québec*.”

44. Section 435 of the said Act is amended by replacing “60” in the second line by “90”.

45. Sections 449 and 450 of the said Act are repealed.

46. Section 451 of the said Act is amended by striking out “and has received no advance on the reimbursement of election expenses under section 449” in the third and fourth lines.

47. Section 456 of the said Act is amended by replacing “sections 449 and” in the first line by “section”.

48. The said Act is amended by inserting the following section after section 456:

“456.1. On receipt of an attestation from the official agent of an authorized party of the estimated amount of election expenses incurred, the chief electoral officer shall, if the attestation is accepted by the chief electoral officer, pay without delay to the party entitled to reimbursement under section 457.1 an advance equal to 35% of the lesser of the amount corresponding to the limit fixed for election expenses under the first paragraph of section 426 and the estimated amount of the expenses incurred by the party.

Any overpayment under the first paragraph must be reimbursed to the chief electoral officer within the thirty days following a notice transmitted to the official representative by the chief electoral officer. Any amount not so reimbursed may be recovered by the chief electoral officer out of the allowance provided for in section 81, or otherwise.”

49. Section 457 of the said Act is amended by striking out subparagraphs 3, 4 and 5 of the first paragraph.

50. Section 457.5 of the said Act is amended by replacing “entre le vingt-septième et le” in the first line of the second paragraph of the French text by “durant la période du vingt-septième au”.

51. Section 488 of the said Act is amended by adding “, omitting, if the information is published on a website on the Internet, the addresses of the electors who have made a contribution; however, in such a case, a copy in paper form that contains the addresses of those electors must be available” at the end of paragraph 2.

52. Section 489.1 of the said Act is amended by replacing “or the advance poll” in the fifth line by “, the advance poll or the establishment of an identity verification panel”.

53. Section 501 of the said Act is amended by replacing “and, in the latter two cases” in the fourth line by “or by a returning officer and, in the last three cases”.

54. Section 549 of the said Act, amended by section 25 of chapter 15 of the statutes of 1999, is again amended by replacing “third” in the second line of paragraph 3 by “second”.

55. Section 550 of the said Act is amended by replacing the second paragraph by the following paragraph :

“The regulations shall be submitted to the Committee on the National Assembly or to any other committee designated by the National Assembly, which may approve them with or without amendment.”

56. Appendix 2 to the Referendum Act (R.S.Q., chapter C-64.1), amended by section 94 of chapter 52 of the statutes of 1998, by section 30 of chapter 15 of the statutes of 1999 and by section 87 of chapter 40 of the statutes of 1999, is again amended

(1) by inserting “des” before “contributions” in the French text of the first paragraph of section 88 ;

(2) by replacing section 95 by the following section :

“95 Replace “official representative of the authorized entity” by “official agent of the national committee”.”;

(3) by replacing section 137 by the following section :

“137 Replace “an election period” in the second paragraph by “a referendum period”.”;

(4) by replacing section 218 by the following section :

“218 Replace “candidate” in the first and second paragraphs by “official delegate”.

Replace “authorized party” in the fourth paragraph by “national committee”.”;

(5) by inserting the following section after section 231.2 :

“231.2.1 Replace “authorized party” by “national committee”.”;

(6) by replacing the first line of section 249 by the following :

“249 Replace the first, second and third paragraphs by the following paragraphs:”;

(7) by replacing section 259.7 by the following section :

“259.7 Replace “Election” in the first paragraph by “Referendum”.

Replace “candidate or, where applicable, the authorized party” in the third paragraph by “official delegate”, and “election” in that paragraph by “referendum”.”;

(8) by replacing section 271 by the following section:

“271 Replace “candidate or his mandatary; the latter may attend and may affix their” in the third paragraph by “official delegate; the latter may attend and affix his”.”;

(9) by inserting the following section after section 310:

“310.1 Replace the section by the following section:

“310.1. For every polling station, the returning officer shall appoint two persons to act as officers assigned to the list of electors, respectively recommended by the official delegate of a national committee.”.”;

(10) by inserting the following section after section 315:

“315.1”;

(11) by striking out “representative,” in section 358;

(12) by replacing “declared them as regulated expenses” in paragraph 8 of section 404 by “paid them and declared them as regulated expenses”;

(13) by inserting the following subparagraph after subparagraph 10 of the first paragraph of section 404:

“(11) the remuneration paid to a representative referred to in section 316.”

57. Section 116 of the Act to harmonize public statutes with the Civil Code (1999, chapter 40) is amended by replacing “second” in the first line of paragraph 4 by “third”.

58. The hourly remuneration to which an officer assigned to the list of electors is entitled, for a maximum of 12-1/2 hours, shall be, until it is determined by regulation of the Government, equal to 75% of the remuneration payable to the deputy returning officer.

59. Until the criteria to be determined by regulation under section 311 for the purposes of section 310.1 are determined by regulation, the criteria determined by regulation under section 311 for the purposes of section 310 shall also apply for the purposes of section 310.1.

60. The hourly remuneration to which the members of the identity verification panel are entitled, for a maximum of 12-1/2 hours, shall be, until it is determined by regulation of the Government, equal, in the case of the chair of the panel, to 40% of the remuneration payable to the assistant returning officer and, in the case of the other members, to 75% of the remuneration payable to the chair.

61. The provisions of this Act come into force on the date or dates to be fixed by the Government, except sections 13, 22, 26 to 31, paragraph 2 of section 38, sections 39, 45 to 47, 49 and 58 to 60, which come into force on 28 March 2001.