



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-EIGHTH LEGISLATURE

Bill 88

(2008, chapter 29)

An Act to amend the Education Act and other legislative provisions

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EXPLANATORY NOTES

This Act amends the Education Act and the Act respecting school elections in order to introduce various measures with respect to school board governance.

It provides that the council of each school board, while having fewer commissioners, will include a greater number of parents' representatives and, if the parents' representatives and elected commissioners consider it necessary, co-opted members. Furthermore, the chair will in the future be elected by all the electors of the school board.

The Act also introduces new accountability rules. In particular, each school board will have to agree with the Minister of Education, Recreation and Sports on measures to achieve the goals and measurable objectives it has set through strategic planning. The school board will in turn make an agreement on similar measures with each of its educational institutions.

The Act clarifies the mission of school boards, the responsibilities of commissioners and the rules governing relations between school boards and governing boards.

Under the new provisions, school boards will be required to establish a procedure for examining complaints from students or parents. The procedure will enable complainants who are dissatisfied with the way their complaint has been handled to refer the complaint to a Student Ombudsman designated by the council of commissioners to give an opinion and recommend any appropriate corrective measures.

Lastly, the Act removes the possibility for school boards to enter into an agreement of association with a private educational institution and, consequently, for the latter to enjoy the advantages granted to public schools. The Act does, however, provide for transitional measures in this regard.

LEGISLATION AMENDED BY THIS ACT:

- General and Vocational Colleges Act (R.S.Q., chapter C-29);
- Act respecting school elections (R.S.Q., chapter E-2.3);
- Education Act (R.S.Q., chapter I-13.3).

Bill 88

AN ACT TO AMEND THE EDUCATION ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

EDUCATION ACT

- 1.** Section 37.1 of the Education Act (R.S.Q., chapter I-13.3) is amended by inserting “reflect the strategic plan of the school board and” after “shall” in the first line of the first paragraph.
- 2.** Section 45 of the Act is amended by replacing “a commissioner, if so authorized by the governing board,” in the second paragraph by “when carrying out a mandate under paragraph 4 of section 176.1, a commissioner”.
- 3.** Section 47 of the Act is amended by replacing “During the month of September each year” in the first sentence of the first paragraph by “Each year during the period beginning on the first day of the school year and ending on the last day of September”.
- 4.** Section 74 of the Act is amended by replacing “the strategic plan” in the second sentence of the first paragraph by “taking into account the strategic plan”.
- 5.** Section 96.24 of the Act is amended by inserting the following paragraph after the third paragraph:

“At the end of every fiscal year, the school’s surpluses shall be transferred to the school board. However, the surpluses must be added to the school’s appropriations for the following fiscal year if the management and educational success agreement entered into under section 209.2 so provides.”
- 6.** Section 97.1 of the Act is amended by inserting “reflect the strategic plan of the school board and” after “shall” in the first line of the first paragraph.
- 7.** Section 104 of the Act is amended by replacing “a commissioner, if so authorized by the governing board,” in the second paragraph by “when carrying out a mandate under paragraph 4 of section 176.1, a commissioner”.

8. Section 109 of the Act is amended by replacing “and the strategic plan” in the second sentence of the first paragraph by “and taking into account the strategic plan”.

9. Section 118.1 of the Act is amended

(1) by replacing “establish” in the first paragraph by “form”;

(2) by adding the following sentences at the end of the second paragraph: “Furthermore, only the chair from the school board in whose territory the greatest number of electors are resident shall become a member of the council of commissioners, as chair of that council. However, if more than 12 months remain before the end of that person’s term of office, an election must be held to fill the office of chair of the council within the time and on the terms prescribed in section 200 of the Act respecting school elections (chapter E-2.3), with the necessary modifications.”

10. Section 118.3 of the Act is amended by inserting “the co-opted commissioners and” after “However,” in the second sentence of the second paragraph.

11. Section 143 of the Act is replaced by the following sections:

“143. Every school board shall be administered by a council of commissioners composed of the following persons as and when they are appointed or elected:

(1) 8 to 18 commissioners, including a chair, elected or appointed under the Act respecting school elections (chapter E-2.3);

(2) three commissioners or, if the number of commissioners referred to in paragraph 1 is greater than 10, four commissioners representing the parents’ committee, at least one of whom is chosen from among the representatives of elementary schools, another from among the representatives of secondary schools and another from among the parents of handicapped students or students with social maladjustments or learning disabilities, elected under this Act;

(3) if the members of the council of commissioners referred to in paragraphs 1 and 2 consider it necessary, a maximum of two commissioners co-opted by a majority of at least two thirds of the council members, after consulting with the groups most representative of the social, cultural, business and labour sectors in the region.

“143.1. Co-optation under paragraph 3 of section 143 must enable persons whose competence and qualifications are considered complementary to those of the commissioners or useful for the administration of the school board to sit on the council of commissioners. The persons must meet any selection criteria determined by regulation by the Minister.

“**143.2.** The term of office of commissioners appointed under paragraph 3 of section 143 shall not exceed four years.

They shall remain in office until re-appointed or replaced.

However, their term shall end on the date of the first meeting of the council of commissioners following a general election held under the Act respecting school elections (chapter E-2.3). Furthermore, their term may be revoked at any time by a vote of at least two thirds of the members of the council of commissioners referred to in paragraphs 1 and 2 of section 143.”

12. Section 145 of the Act is amended

(1) by replacing the first paragraph by the following paragraphs:

“**145.** Every two years, before the first Sunday in November, the chair of the parents’ committee or, in the chair’s absence, the secretary general of the school board shall convene the members of the parents’ committee or of the parents’ central committee, as the case may be, to elect from among their members a commissioner for each of the positions provided for in paragraph 2 of section 143.

However, the commissioner representing the parents of handicapped students or students with social maladjustments or learning disabilities is elected from among the parents who are members of the advisory committee on services for handicapped students and students with social maladjustments or learning disabilities.

A member of the personnel of the school board may not be elected as a representative under this section.”;

(2) by replacing “one year” in the second sentence of the third paragraph by “two years”.

13. Section 148 of the Act is amended

(1) by inserting “co-opted commissioner or” after “Every” in the first line of the first paragraph;

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

“However, subject to paragraph 3 of section 143 and the third paragraph of section 143.2, the commissioner is not entitled to vote at meetings of the council of commissioners or of the executive committee, or to be appointed vice-chair of the school board.”

14. Section 149 of the Act is amended by adding the following sentences at the end of the second paragraph: “Furthermore, only the chair from the school board in whose territory the greatest number of electors are resident shall become a member of the council of commissioners, as chair of that council. However, if more than 12 months remain before the end of that person’s term of office, an election must be held to fill the office of chair of the council within the time and on the terms prescribed in section 200 of the Act respecting school elections (chapter E-2.3), with the necessary modifications.”

15. Section 155 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

“**155.** The chair shall see to the proper operation of the school board and shall in particular, with due regard for everyone’s role and responsibilities, ensure that all applicable legislative and regulatory provisions and all decisions of the council of commissioners are carried out faithfully and impartially. The chair shall convey all relevant information to the council and shall submit to the council any matter brought to the chair’s attention with regard to the improvement of educational services.”;

(2) by striking out the third paragraph.

16. The Act is amended by inserting the following section after section 155:

“**155.1.** The council of commissioners shall appoint, from among its members, the vice-chair of the school board.

The term of office of the vice-chair, unless removed by a vote of not less than two-thirds of the members of the council of commissioners who are entitled to vote, expires at the same time as the vice-chair’s term as commissioner.”

17. Section 156 of the Act is repealed.

18. Section 157 of the Act is amended by striking out “chairman or” in the first line.

19. The Act is amended by inserting the following section after section 176:

“**176.1.** The members of the council of commissioners shall exercise their functions and powers with a view to improving the educational services provided for by this Act and by the basic school regulations made by the Government. To that end, the role of the members of the council of commissioners includes

(1) informing the council of the needs and expectations of the population of their electoral division or their sector, as part of their contribution to defining the school board's directions and priorities;

(2) seeing to the relevance and quality of the educational services offered by the school board;

(3) making sure that the school board's human, material and financial resources are managed effectively and efficiently;

(4) carrying out any mandate entrusted to them by the council of commissioners, on a proposal by the chair, for the purpose of providing information to the other council members on any specific matter.”

20. The Act is amended by inserting the following section after section 177.2:

“**177.3.** The school board shall ensure that an initiation and ongoing training program is offered to the members of the council of commissioners and the members of the governing boards, and that it meets their needs.”

21. Section 179 of the Act is amended by replacing the first paragraph by the following paragraph:

“**179.** The council of commissioners shall establish an executive committee composed of the number of voting members of the council it determines, including the chair of the school board, and a co-opted commissioner, if any, and a commissioner representing the parents' committee.”

22. The Act is amended by inserting the following section after section 193:

“**193.1.** The council of commissioners must establish the following committees:

- (1) a governance and ethics committee;
- (2) an audit committee; and
- (3) a human resources committee.

The governance and ethics committee shall, among other things, assist the commissioners, if necessary, in selecting persons whose competence and qualifications are considered to be useful for the administration of the school board for the purposes of co-optation under paragraph 3 of section 143, and in developing and updating the code of ethics and professional conduct provided for in section 175.1.

The audit committee shall, among other things, assist the commissioners in seeing to the establishment of internal control mechanisms and the optimal use of the school board's resources. The committee must secure the assistance of at least one person who has competency in accounting or financial matters.

The human resources committee shall, among other things, assist the commissioners in developing an expertise and experience profile and selection criteria for persons to be appointed by the school board under sections 96.8, 110.5 and 198.

The council of commissioners may establish other committees to assist it in the exercise of its functions or the examination of specific matters.”

23. The Act is amended by inserting the following section after the heading of subdivision 2 of Division VI of Chapter V:

“207.1. The mission of a school board is to organize, for the benefit of the persons who come under its jurisdiction, the educational services provided for by this Act and by the basic school regulations made by the Government.

The mission of a school board is also to promote and enhance the status of public education within its territory, to see to the quality of educational services and the success of students so that the population may attain a higher level of formal education and qualification, and to contribute, to the extent provided for by law, to the social, cultural and economic development of its region.”

24. Section 209.1 of the Act is amended

(1) by replacing “of several years” in the second line of the portion of the first paragraph before subparagraph 1 by “of up to five years”;

(2) by adding “as well as the other directions, goals or measurable objectives determined by the Minister under section 459.2” at the end of subparagraph 3 of the first paragraph;

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

“A draft strategic plan shall be presented to the public during a public information meeting.

Public notice specifying the date, time and place of the meeting must be given at least 15 days before the meeting.

The strategic plan must be updated to take into account any change in the school board's situation that could render any part of the strategic plan inaccurate or outdated. A draft of the updated strategic plan must be presented to the public in the manner provided for in the second and third paragraphs.”

25. The Act is amended by inserting the following section after section 209.1:

“209.2. Every year, the school board and the principal of each of its educational institutions shall agree, within the scope of a management and educational success agreement, on the measures required to achieve goals and measurable objectives set out in the partnership agreement between the school board and the Minister.

A draft of the management and educational success agreement must be submitted to the governing board for approval after consultation with the personnel of the institution.

The management and educational success agreement shall take into account the institution’s success plan and particular situation. It shall include

- (1) the terms of the institution’s contribution;
- (2) the resources to be allocated by the school board specifically to enable the institution to achieve goals and measurable objectives;
- (3) the support and assistance measures to be made available to the institution;
- (4) the monitoring and accountability mechanisms to be put in place by the institution.”

26. Section 214 of the Act is amended by replacing the second paragraph by the following paragraph:

“A school board may also enter into an agreement with a department or agency of the Government or, with the authorization of the Government and subject to the conditions it determines, with a department or agency of the Government of Canada or the government of another province of Canada.”

27. Section 215 of the Act is repealed.

28. Section 220 of the Act is amended

- (1) by adding the following sentence at the end of the first paragraph: “It shall make public a service statement setting out its objectives with regard to the level and quality of the services it provides.”;
- (2) by adding “and the results obtained with regard to the goals and measurable objectives set out in the partnership agreement entered into with the Minister” at the end of the second paragraph;
- (3) by replacing the fourth paragraph by the following paragraph:

“The school board shall send a copy of the report to the Minister and make the report public.”

29. The Act is amended by inserting the following sections after section 220:

“220.1. Every school board must invite the public to an information meeting at least once a year. The meeting may be held concurrently with one of the meetings provided for in section 162.

Public notice specifying the date, time and place of the meeting must be given not less than 15 days before it is held.

During the meeting, the commissioners must present the content of the annual report provided for in section 220 and answer any questions concerning the report.

“220.2. After consulting with the parents’ committee, every school board shall establish, by by-law, a procedure for the examination of complaints from students or their parents.

The complaint examination procedure must enable a complainant who is dissatisfied with the handling of a complaint or with the outcome to refer the complaint to a person designated by the school board as the Student Ombudsman. The Student Ombudsman is designated after consultation with the parents’ committee and on the recommendation of the governance and ethics committee. Neither a member of the council of commissioners nor a member of the personnel of the school board may act as Student Ombudsman.

In addition to the measures the Minister may establish by regulation, the complaint examination procedure must provide that the Student Ombudsman must refuse or cease to examine a complaint upon becoming aware or being informed that the complaint concerns a fault or an act for which a complaint has been filed with the Minister under section 26. The procedure must also provide that, within 30 days after the complaint is referred, the Student Ombudsman must give the council of commissioners an opinion on the merits of the complaint and recommend any appropriate corrective measures.

The Student Ombudsman must send the school board an annual report stating the number of complaint referrals received and their nature, the corrective measures recommended and any action taken. The report must be attached to the school board’s annual report.

The school board may enter into an agreement with another school board to designate the same person as Student Ombudsman and determine how to share the expenses incurred.”

30. Section 255 of the Act is amended by adding the following subparagraph after subparagraph 3 of the first paragraph:

“(4) collaborate with government departments and agencies and any other partners to carry out specific agreements for the implementation of regional priorities, in particular by adapting its activities to regional characteristics and by paying a financial contribution.”

31. Section 275 of the Act is replaced by the following section:

“**275.** After consulting with the governing boards and the parents’ committee, the school board shall establish objectives and principles governing the allocation of subsidies, school tax proceeds and its other income among its educational institutions.

The allocation shall be carried out in an equitable manner and reflect the needs expressed by the institutions and the social and economic disparities with which they must contend, the partnership agreement between the school board and the Minister and the management and educational success agreements between the school board and the institutions.

The allocation shall include amounts for the operation of governing boards and amounts to meet the needs of the school board and its committees.

The school board shall make public the objectives and principles governing the allocation and the criteria used to determine the amounts allocated.”

32. The Act is amended by inserting the following sections after section 457.2:

“**457.3.** The Minister may determine by regulation the standards or conditions for the complaint examination procedure to be established by a school board and the nature of the complaints to which the procedure may apply, as well as the measures it must include.

“**457.4.** The Minister may, by regulation, require a school board to draw up documents to inform the population in its territory of its activities or administration.

The Minister may also make rules governing the publication or distribution by the school board of any type of document determined by the Minister. The rules may specify, among other things, when and how the publication or distribution must be carried out.”

33. The Act is amended by inserting the following sections after section 459.1:

“**459.2.** The Minister may determine, based on the situation of each school board, the ministerial directions and the goals and measurable objectives it must incorporate into its strategic plan.

“**459.3.** The Minister and the school board, within the scope of a partnership agreement, shall agree on the measures required to implement the school board’s strategic plan.

The partnership agreement shall include

(1) the terms of the school board’s contribution toward achieving the goals and measurable objectives determined by the Minister under section 459.2;

(2) the means the school board intends to use to achieve the specific objectives it established under subparagraph 3 of the first paragraph of section 209.1;

(3) the monitoring and accountability mechanisms to be put in place by the school board.

”**459.4.** The Minister shall evaluate the results obtained under each school board’s strategic plan, at intervals determined by the Minister, and send the evaluation to the school board concerned.

The Minister and the school board shall agree on any corrective measures to be put in place to ensure that the goals and measurable objectives set out in the partnership agreement between the school board and the Minister are achieved.

If, despite the corrective measures, the Minister considers it unlikely that the school board will be able to achieve those goals or measurable objectives, the Minister may prescribe any additional measures to be put in place by the school board within a specified period.”

34. The Act is amended by replacing “chairman” and “vice-chairman” wherever they appear by “chair” and “vice-chair”, respectively.

GENERAL AND VOCATIONAL COLLEGES ACT

35. Section 6.0.1 of the General and Vocational Colleges Act (R.S.Q., chapter C-29) is amended by adding the following subparagraph after subparagraph *d* of the first paragraph:

“(e) collaborate with government departments and bodies and any other partners in carrying out specific agreements for the implementation of regional priorities, in particular by adapting its activities to regional characteristics and providing a financial contribution.”

ACT RESPECTING SCHOOL ELECTIONS

36. Section 2 of the Act respecting school elections (R.S.Q., chapter E-2.3) is amended by replacing “for all the seats of” in the first line by “to elect a chair and all the other”.

37. Section 6 of the Act is replaced by the following section:

“**6.** The number of electoral divisions shall vary from 7 to 12 according to the number of electors of the school board set out in the document referred to in section 7.4. There shall be

- (1) 7 divisions if there are fewer than 10,000 electors;
- (2) 8 divisions if there are 10,000 electors or more but fewer than 30,000;
- (3) 9 divisions if there are 30,000 electors or more but fewer than 70,000;
- (4) 10 divisions if there are 70,000 electors or more but fewer than 150,000;
- (5) 11 divisions if there are 150,000 electors or more but fewer than 250,000;
- (6) 12 divisions if there are 250,000 electors or more.”

38. Section 7 of the Act is amended, in the first paragraph,

- (1) by replacing the portion before subparagraph 1 by the following:

“**7.** The Minister may, on request, authorize a school board to establish one to five more electoral divisions than provided for in section 6, if the Minister considers this warranted among other things by”;

- (2) by striking out “or particularly limited” in subparagraph 1.

39. Section 38 of the Act is amended by replacing “for a seat of commissioner” in the first and second lines of subparagraph 3 of the first paragraph by “for the office of chair or for another seat on the council”.

40. Section 60 of the Act is amended by adding “or, if the candidate is running for the office of chair, a copy of the list of electors for the school board” at the end.

41. Section 69 of the Act is amended by inserting “, except in the case of a candidate for the office of chair,” after “a candidate” in the second line.

42. Section 71 of the Act is amended by adding “or, in the case of a candidate for the office of chair, by at least 50 electors from the territory of the school board for which the nomination paper is filed” at the end of the first paragraph.

43. Section 72 of the Act is amended by adding “or, in the case of a candidate for the office of chair, electors from the territory of the school board” at the end of the first paragraph.

44. Section 85 of the Act is amended by inserting “the office of chair and for” after “for” in subparagraph 1 of the first paragraph.

45. Section 99 of the Act is amended by inserting “for the election of the chair and ballot papers for the election of the other commissioners” after “ballot papers” in the first line of the first paragraph.

46. Section 102 of the Act is amended by adding “or, in the case of a ballot paper for the election of the chair, a mention of the office of chair” at the end of subparagraph 4 of the first paragraph.

47. Section 116 of the Act is amended by inserting “for the election of the chair and a ballot paper for the election of the other commissioner” after “ballot paper” in the second line.

48. Section 156 of the Act is amended by inserting “or for the office of chair” after “division concerned” in the second paragraph.

49. Section 175 of the Act is amended by replacing “in which all or part of the electoral division where the election was held is situated” by “in which all or part of the territory of the school board is situated”.

50. Section 206.7 of the Act is amended by adding the following sentence at the end of subparagraph 4 of the first paragraph: “The minimum number of electors is raised to 50 when the candidate filing an application for authorization is running for the office of chair.”

51. Section 210 of the Act is amended by adding the following sentence at the end of the first paragraph: “The rules may vary depending on whether the candidate is running for the office of chair or another seat on the council.”

52. Section 213 of the Act is amended

(1) by adding “or, if the nomination is filed for the office of chair of a school board, is not an elector of the school board” before the comma at the end of paragraph 2;

(2) by adding “or, if the nomination is filed for the office of chair of the school board, that they are electors of the school board” before the comma at the end of paragraph 6.

53. Section 214 of the Act is amended by replacing paragraph 1 by the following paragraph:

“(1) votes more often than he is entitled to vote.”

TRANSITIONAL AND FINAL PROVISIONS

54. Before 1 July of the calendar year following the calendar year in which section 24 comes into force, each school board must adopt a strategic plan or revise any strategic plan it adopted before the coming into force of this section.

55. The private educational institutions that enjoyed, for either of the two fiscal years prior to 1 July 2008, the advantages granted under an agreement of association entered into under section 215 of the Education Act (R.S.Q., chapter I-13.3) are deemed to have been accredited for subsidy purposes by the Minister of Education, Recreation and Sports in accordance with Division I of Chapter V of the Act respecting private education (R.S.Q., chapter E-9.1).

The budget rules established annually by the Minister of Education, Recreation and Sports under section 84 of the Act respecting private education may provide for the allocation of supplementary subsidies to those educational institutions for every fiscal year ending before 1 July 2014.

The allocation of the subsidies, which must be reduced proportionally from fiscal year to fiscal year, may be subject to general conditions applicable to all the educational institutions concerned or to specific conditions applicable to one or some of those institutions.

56. The provisions of this Act come into force on the date or dates to be set by the Government, except sections 27 and 55, which come into force on 1 July 2008.