



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 33

(2009, chapter 11)

An Act to amend the Act respecting elections and referendums in municipalities and other legislative provisions

**Introduced 22 April 2009
Passed in principle 7 May 2009
Passed 28 May 2009
Assented to 1 June 2009**

**Québec Official Publisher
2009**

EXPLANATORY NOTES

This Act amends the Act respecting elections and referendums in municipalities to facilitate its application.

It includes amendments pertaining to the organization and holding of polls, the financing rules applicable to political parties and independent candidates, and the control of election expenses. It also contains amendments relating to penal matters.

As well, the Act makes consequential amendments to the Election Act and the Act respecting municipal territorial organization.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);
- Election Act (R.S.Q., chapter E-3.3);
- Act respecting municipal territorial organization (R.S.Q., chapter O-9).

Bill 33

AN ACT TO AMEND THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

- 1.** The heading of Chapter II of Title I of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by striking out “REGULAR”.
- 2.** Section 2 of the Act is amended by striking out the last three paragraphs.
- 3.** Section 3 of the Act is amended by striking out “for a regular election”.
- 4.** Section 12.1 of the Act is amended by replacing the last three paragraphs by the following paragraph:

“The document shall specify, for each immovable or business establishment in the municipality, the number of electors whose names are on the permanent list of electors according to the data provided by the Chief Electoral Officer not later than 15 January of the year for which the division is required, and the number of electors whose names are on the list of electors of the municipality as owners of the immovable or occupants of the business establishment.”

- 5.** The Act is amended by inserting the following section after section 55.1:

“**55.2.** Before 1 September of the calendar year in which a general election is to be held, the returning officer shall send owners of immovables whose names are not already on the list of electors a notice stating that they are entitled to have their names entered on the list and setting out the rules governing the entry of names on the list. The notice must include the same particulars as the public notice prescribed in section 56 and must be accompanied by an entry application form and a power of attorney form.”

- 6.** Section 56 of the Act is amended by replacing “40” in the first paragraph by “22”.
- 7.** Section 63 of the Act is amended by replacing paragraph 4 by the following paragraph:

“(4) the persons acting as official agents or official representatives of parties holding an authorization under Chapter XIII that is valid in respect of the municipality, their assistants and the persons acting as official agents and official representatives of independent candidates in the current election, except independent candidates who act in that capacity themselves.”

8. Section 64 of the Act is amended by inserting “or the office of leader is vacant” after “no longer exists” in the second paragraph.

9. Section 81.1 of the Act is amended by replacing “If there is only one polling station” in the third paragraph by “If there are three or fewer polling stations”.

10. Section 104 of the Act is amended

(1) by inserting “of not more than 500 electors” after “polling subdivisions” in the first paragraph;

(2) by striking out the second paragraph.

11. Section 110 of the Act is amended by adding the following paragraph at the end:

“If no revision is to be carried out or if the revision is interrupted, the returning officer shall notify the Chief Electoral Officer in writing without delay.”

12. Section 122 of the Act is amended

(1) by replacing “extend the hours of sittings of the board of revisors” in the last paragraph by “extend the board’s sitting hours and add sitting days”;

(2) by adding the following sentence at the end of the last paragraph: “The chairman shall inform the returning officer of his decision and the returning officer shall notify the authorized parties, the recognized tickets and the independent candidates concerned.”

13. Section 126 of the Act is amended

(1) by replacing “contained in the public notice” in the fourth and fifth lines and in the eighth line of the first paragraph by “specified in subparagraphs 3 and 4 of the first paragraph of section 125”;

(2) by replacing “residential address” in the fifth line of the first paragraph by “address provided by the Chief Electoral Officer under the second paragraph of section 100.1”.

14. Section 134.1 of the Act is amended by inserting “a residence for the elderly listed in the register established under the Act respecting health services and social services (chapter S-4.2) or in” after “domiciled in” in the first paragraph.

15. Section 153 of the Act is amended by replacing “23” in the first paragraph and “Twenty-three” in the second paragraph by “30” and “Thirty” respectively.

16. Section 154 of the Act is amended by adding the following paragraph at the end:

“The nomination paper filed by an independent candidate seeking an authorization must, in addition, include his telephone number and the information specified in subparagraphs 2 to 5 of the first paragraph of section 400.”

17. Section 160 of the Act is amended

(1) by inserting “or borough mayor” after “mayor” in the first paragraph;

(2) by inserting “or borough” after “municipality” in subparagraphs 1 to 4 of the first paragraph.

18. Section 165 of the Act is amended by adding the following sentence at the end of the first paragraph: “The returning officer may not reject a nomination paper on the ground that it does not contain all the information required to grant an authorization to the independent candidate.”

19. The Act is amended by inserting the following section after section 166:

“**166.1.** A new nomination paper must be filed if a candidate ceases to be recognized as a candidate for an authorized party or a recognized ticket, if the candidate wishes to change his authorized party or recognized ticket affiliation, if an independent candidate wishes to become a recognized candidate for an authorized party or recognized ticket or if the candidate wishes to run for another office than that for which the original nomination paper was filed.”

20. Section 174 of the Act is amended by adding the following paragraph at the end:

“Despite the first two paragraphs, the returning officer may decide that a mobile polling station is to receive electors’ votes on one or more of the eighth, seventh or sixth days before polling day.”

21. Section 175 of the Act is amended

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

175. Any elector whose name is entered on the list of electors may vote in an advance poll.”;

(2) by inserting “a residence for the elderly listed in the register established under the Act respecting health services and social services (chapter S-4.2) or in” after “domiciled in” in the second paragraph.

22. Section 178 of the Act is amended

(1) by replacing “The” at the beginning of the second paragraph by “The operator of a residence for the elderly listed in the register established under the Act respecting health services and social services (chapter S-4.2) or the”;

(2) by adding the following paragraph after the second paragraph:

“Despite subparagraph 2 of the second paragraph of section 175, when in an institution or residence, a mobile polling station may go to the room or apartment of an elector who is unable to move about, on the elector’s request.”

23. Section 179 of the Act is amended by replacing “from 8:00 a.m. to 11:00 a.m.” in the second paragraph by “during the hours fixed by the returning officer”.

24. Section 180 of the Act is amended by striking out “under oath” in the first paragraph.

25. Section 191 of the Act is repealed.

26. Section 219 of the Act is amended by adding the following subparagraphs after subparagraph 2 of the first paragraph:

“(3) the name of the elector does not appear on any document referred to in subparagraph 1 but the elector sent, within the time prescribed in section 55.1, an application for entry on the list of electors as the sole owner of an immovable or sole occupant of a business establishment or a power of attorney as undivided co-owner of an immovable or co-occupant of a business establishment;

“(4) the name of the elector does not appear on any document referred to in subparagraph 1 but does appear on the list of electors sent by the Chief Electoral Officer in accordance with section 100, and has not been struck off by a board of revisors.”

27. Section 226 of the Act is amended

(1) by striking out “under oath” in the first paragraph;

(2) by adding the following subparagraph after subparagraph 2 of the first paragraph:

“(3) by the deputy returning officer in the presence of the poll clerk.”

28. Section 276 of the Act is amended by replacing “twenty-seven” in paragraph 4 by “34”.

29. Section 277 of the Act is amended

(1) by striking out the second paragraph;

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

“It is not necessary to give the public notice prescribed in section 56 if it was given for the purposes of the original election.”

30. Section 314.1 of the Act is amended

(1) by replacing “regular” in the portion before subparagraph 1 of the first paragraph by “general”;

(2) by striking out “for a seat open for nominations at that election” in subparagraph 1 of the first paragraph;

(3) by striking out “for seats open for nominations at the election” in the second paragraph.

31. Section 314.2 of the Act is amended

(1) by replacing “twenty-three” in the first paragraph by “30”;

(2) by replacing “regular” in the first paragraph by “general”;

(3) by striking out “for seats open for nominations at that election” in the first paragraph;

(4) by striking out “for seats open for nominations at the election” in the second paragraph.

32. Section 334 of the Act is amended by striking out “regular”.

33. Section 335 of the Act is amended by replacing “regular election in which the office is to be open for nominations” in the first paragraph by “general election”.

34. Section 336 of the Act is amended by replacing “regular election in which the office is to be open for nominations” in the first paragraph by “general election”.

35. Section 337 of the Act is amended

(1) by replacing “regular election in which the office is to be open for nominations” in the first paragraph by “general election”;

(2) by replacing “until that regular” in the first paragraph by “until that general”.

36. Section 340 of the Act is repealed.

37. Section 342 of the Act is amended by adding the following sentence at the end: “Moreover, a member of the council of a municipality is not eligible to run for office as warden of a regional county municipality in an election held in accordance with section 210.29.2 of the Act respecting municipal territorial organization (chapter O-9).”

38. Section 364 of the Act is amended

(1) by inserting the following definition before the definition of “**election period**” in the first paragraph:

““**election fund**” means the sums made available to an official agent to cover election expenses;”;

(2) by striking out “or, in the case of a by-election, on the day following the day of the publication of the notice of election” in the definition of “**election period**” in the first paragraph.

39. Section 368 of the Act is amended by adding the following paragraph at the end:

“The Chief Electoral Officer shall have access to all the books, accounts and documents relating to the financial business of the parties and candidates.”

40. Section 375 of the Act is replaced by the following section:

“375. Under the authority of the Chief Electoral Officer, the returning officer and, during an election period, the assistant designated by the returning officer to receive nomination papers, may grant an authorization to an independent candidate who files an application for authorization in accordance with sections 400 and 400.1.

On granting an authorization, the returning officer or the assistant shall inform the Chief Electoral Officer.”

41. Section 391 of the Act is amended by replacing “as soon as practicable” by “within 30 days after its occurrence”.

42. Section 392 of the Act is amended by replacing “as soon as possible” in the first paragraph by “within 30 days”.

43. Section 393 of the Act is amended by replacing “as soon as practicable” in the first paragraph by “within 30 days”.

44. Section 394 of the Act is amended by replacing “the list of the official agents of the parties and of the independent candidates” in the first paragraph by “a list of the official agents of the parties, including any deputy official agents, and of the official agents of the independent candidates”.

45. Section 400 of the Act is amended by inserting the following paragraph after the first paragraph:

“During the period for filing nomination papers, the application for authorization may be filed at the same time as a nomination paper.”

46. Section 404 of the Act is amended

(1) by replacing “Division II or” in the first paragraph by “Division II,”;

(2) by replacing “section 424,” in the first paragraph by “section 424 or to give the Chief Electoral Officer access to all the books, accounts and documents relating to the party’s or candidate’s financial business, which or who”.

47. Section 415 of the Act is amended by adding the following paragraph at the end:

“The application must be accompanied with the balance sheet of each of the applying parties as at the date of the application.”

48. Section 416 of the Act is amended by adding “and have its balance sheet audited by an auditor” at the end.

49. Section 423 of the Act is amended

(1) by replacing “in a newspaper having general circulation in the municipality” in the first paragraph by “on the Chief Electoral Officer’s website”;

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

“The Chief Electoral Officer shall also give notice, on the website, of any replacement of an official representative or delegate or of any change in the name of an authorized party.”

50. Section 425 of the Act is amended by replacing “as soon as practicable” in the first paragraph by “within 30 days”.

51. Section 440 of the Act is replaced by the following section:

“**440.** Every contribution made contrary to this chapter shall, not later than 30 days after the fact is known, be returned to the contributor.

Despite the first paragraph, if the contributor cannot be found or has been convicted of contravening any of sections 429 to 431 and 436, the contribution or the amount at which it is evaluated shall be remitted to the treasurer to be paid into the general fund of the municipality.”

52. Section 463 of the Act is amended

(1) by striking out “and the name of the party or independent candidate in whose behalf he is acting” in the second and third paragraphs;

(2) by inserting the following paragraph after the third paragraph:

“Any advertising copy, object or material, advertisement or publicity that relates to an election and is used jointly by authorized independent candidates must include the information required under the first three paragraphs and the name of each independent candidate in whose behalf the official agent is acting, with the words “independent candidate” next to it.”

53. Section 465 of the Act is amended

(1) by inserting “or borough mayor” after “mayor” in subparagraph 1 of the first paragraph;

(2) by replacing “above 1,000 but not above” in subparagraph *a* of subparagraph 1 of the first paragraph by “up to”;

(3) by striking out “above 1,000 electors” in subparagraph 2 of the first paragraph;

(4) by inserting the following paragraph after the first paragraph:

“For the purposes of an election to the office of borough mayor, the combined lists of electors of all the electoral districts in the borough concerned is considered to be the list of electors of the municipality.”

54. Section 479 of the Act is amended by replacing “statement of changes in the financial position of the party” by “cash flow statement” and sections 484 and 485 of the Act are amended by replacing “statement of changes in financial position” by “cash flow statement”.

55. Section 492 of the Act is amended by striking out “, supported by his oath,” in the second paragraph.

56. Section 495 of the Act is amended by replacing “a trust account” by “the general fund of the municipality”.

57. Section 500 of the Act is amended by replacing “as soon as practicable, transmit to the Chief Electoral Officer a copy” by “on request, send the Chief Electoral Officer a copy”.

58. The heading of Division VIII.1 of Chapter XIII of Title I of the Act is replaced by the following heading:

“AUTHORIZATION AND EXPENSES OF PRIVATE INTERVENORS”.

59. Section 512.1 of the Act is amended

(1) by inserting the following paragraph before the first paragraph:

“**512.1.** A person may not incur expenses described in paragraph 9 of section 453 unless the person holds an authorization issued in accordance with this division.”;

(2) by replacing both occurrences of “treasurer” in the second paragraph by “returning officer”.

60. Sections 512.4, 512.5, 512.7, 512.9, 512.10 and 512.20 of the Act are amended by replacing “treasurer” by “returning officer”.

61. Section 512.17 of the Act is amended by striking out “sworn” in the second paragraph.

62. Section 513 of the Act is amended by replacing “not later than 30 September” in the first paragraph by “if applicable, not later than 1 April”.

63. The Act is amended by inserting the following section after the heading of Chapter XIV of Title I:

“**513.0.1.** The Chief Electoral Officer shall see to the enforcement of this chapter.”

64. The Act is amended by inserting the following section after section 513.1:

“**513.1.1.** Only a natural person may make a gift of money to a person described in the first paragraph of section 513.1.”

65. Section 532 of the Act is amended by replacing the last sentence of the last paragraph by the following sentence: “If a list of electors whose names are on the permanent list of electors has been transmitted by the Chief Electoral Officer under section 546, the clerk or the secretary-treasurer shall also inform the Chief Electoral Officer, in writing, of the referendum poll waiver and of the date of the sitting at which the council was informed of it”.

66. Section 533.1 of the Act is amended by striking out “under oath” in the first paragraph.

67. Section 535 of the Act is amended by adding the following sentence at the end of the first paragraph: “The places must be accessible to handicapped persons.”

68. Section 556 of the Act is amended by striking out the second paragraph.

69. Section 557 of the Act is amended by adding the following paragraph at the end:

“If a list of electors whose names are on the permanent list of electors has been transmitted by the Chief Electoral Officer under section 546, the clerk or the secretary-treasurer shall send the Chief Electoral Officer a copy of the certificate showing the date on which the certificate was tabled before the council.”

70. Section 558 of the Act is amended by adding the following paragraph at the end:

“The clerk or the secretary-treasurer shall inform the Chief Electoral Officer in writing of the date of the poll.”

71. Section 559 of the Act is amended by replacing the last sentence of the second paragraph by the following sentence: “The clerk or the secretary-treasurer shall send the Chief Electoral Officer a copy of the notice showing the date on which the notice was published.”

72. Section 574 of the Act is repealed.

73. Section 586 of the Act is amended by adding the following paragraphs at the end:

“(13) every person who signs a referendum poll waiver notice without being entitled to do so;

“(14) every clerk or secretary-treasurer who accepts the signature of a person on a referendum poll waiver notice despite knowing that the person is not entitled to sign the notice.”

74. Section 588.1 of the Act is amended by replacing “with the knowledge that” by “although”.

75. Section 592 of the Act is amended

(1) by inserting “sign a referendum poll waiver notice or” after “induce a qualified voter to” in subparagraph 1 of the first paragraph;

(2) by replacing “or incites him to abstain from doing so” in subparagraph 1 of the first paragraph by “, or incites him to abstain from doing so,”;

(3) by replacing subparagraph 2 of the first paragraph by the following subparagraph:

“(2) in order to obtain or because he has obtained a gift, loan, office, employment or other benefit, agrees to sign a referendum poll waiver notice or make an application demanding that a referendum poll be held, or abstain from doing so, signs such a notice or makes such an application, or abstains from doing so, or incites a person to sign such a notice or make such an application, or abstain from doing so.”

76. The Act is amended by inserting the following section after section 610:

“**610.1.** The following persons are guilty of an offence:

(1) a candidate at an election for the office of member of the council of a municipality to which Divisions II to IX of Chapter XIII of Title I do not apply and who collects a gift of money from, or another person who, on that candidate’s behalf, collects a gift of money from, a legal person;

(2) a legal person who knowingly makes a gift of money to a candidate or person described in paragraph 1.”

77. Section 614 of the Act is amended by inserting “or has been convicted of contravening any of sections 429 to 431 and 436” after “cannot be found”.

78. Section 624 of the Act is replaced by the following section:

“**624.** The following persons are guilty of an offence:

(1) every printer, manufacturer, owner of a newspaper or other publication, radio or television broadcaster or other person using another medium or information technology who manufactures, prints or disseminates any advertising copy, object or material, advertisement or publicity relating to an election that does not contain the information required under section 463 or 463.1;

(2) every official agent, deputy official agent, private intervenor or representative of a private intervenor who allows the information required under section 463 or 463.1 to be omitted from any advertising copy, object or material, advertisement or publicity relating to an election.”

79. Section 624.1 of the Act is amended by inserting “512.1,” after “463.1,”.

80. Section 631 of the Act is amended by replacing paragraph 3 by the following paragraph:

“(3) every owner, administrator, operator, caretaker, custodian or person in charge of an immovable or a residence for the elderly listed in the register established under the Act respecting health services and social services (chapter S-4.2) and every executive director of an institution referred to in the second paragraph of section 50 who limits, restricts or does not facilitate access to the immovable, residence or facilities of the institution by a mobile polling station or a person in charge of distributing a notice or document issued by the Chief Electoral Officer or the returning officer;”.

81. Section 641 of the Act is amended by inserting “or 610.1” after “610” in the second paragraph.

82. Section 645 of the Act is amended by replacing “586 to 598” in the first paragraph by “586 to 588 and 589 to 598”.

83. Section 659 of the Act is amended by adding the following sentences at the end of the first paragraph: “Despite section 9 of that Act, there is no right of access to the documents required to be filed under Division VI of Chapter XIII of Title I before the date on which the time or period prescribed for their filing expires. Documents filed after that date may be accessed from the date they are filed.”

84. Sections 54, 55, 58, 61, 150, 314 and 341 of the Act are amended by replacing “regular” by “general”.

ELECTION ACT

85. Section 40.12.22 of the Election Act (R.S.Q., chapter E-3.3) is amended

(1) by replacing “regular” in the first paragraph by “general”;

(2) by replacing “reading referred to in section 556” in subparagraph 1 of the second paragraph by “sitting referred to in section 557”.

ACT RESPECTING MUNICIPAL TERRITORIAL ORGANIZATION

86. Section 210.29.2 of the Act respecting municipal territorial organization (R.S.Q., chapter O-9) is amended by inserting “, have ballot papers printed” after “receive nomination papers” in the third paragraph.

87. Section 9 of Schedule I to the Act is amended by replacing “must comprise close to 300 electors” in the first paragraph of section 104 by “must comprise not more than 500 electors”.

88. Section 14 of Schedule I to the Act is amended

(1) by replacing “as soon as practicable” in the second paragraph of section 122 by “not later than 44 days before polling day”;

(2) by replacing “hours of sitting” in the third paragraph of section 122 by “sitting hours and add sitting days”;

(3) by adding the following sentence at the end of the third paragraph of section 122: “The chairman shall inform the returning officer of his decision and the returning officer shall notify each of the candidates for the office of warden.”

89. Section 25 of Schedule I to the Act is amended by striking out “192, 196,”.

FINAL PROVISION

90. This Act comes into force on 1 June 2009.