



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 114

(2010, chapter 35)

An Act to increase the powers of oversight of the Chief Electoral Officer

**Introduced 6 October 2010
Passed in principle 2 November 2010
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Assented to 10 December 2010**

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EXPLANATORY NOTES

This Act amends the Election Act and other legislative provisions to increase the powers of oversight of the Chief Electoral Officer.

Under the new provisions, a framework governing the payment of contributions to authorized entities, whether political parties, party authorities, independent Members or independent candidates, is introduced into the Election Act. Any contribution of \$100 or more intended for an authorized entity is to be paid to the Chief Electoral Officer for remittal to the entity concerned. The amount of contributions that must be made by means of a cheque or other negotiable instrument is reduced to \$100, and the name of every contributor and the amount of the contribution are to be made public.

Prescription for penal proceedings is set at five years, or ten years in the case of certain offences, from the date the offence was committed. The period for keeping the receipts and other vouchers used to prepare the financial reports of authorized entities, and the declarations, invoices, receipts and other vouchers on which returns of election expenses are based is also increased to five years. The powers of the Chief Electoral Officer are more specifically defined with regard to the financial affairs of authorized entities. The same measures are introduced into the Act respecting elections and referendums in municipalities and the Act respecting school elections.

The Act respecting elections and referendums in municipalities is amended to provide that municipalities with a population of 5,000 or less are to send to the Chief Electoral Officer at the latter's request a list of persons who made an election contribution of more than \$100.

Lastly, the Act respecting the Ministère du Revenu is amended to allow the Chief Electoral Officer to have access to information contained in a tax record for verification, examination and inquiry purposes.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);
- Act respecting school elections (R.S.Q., chapter E-2.3);
- Election Act (R.S.Q., chapter E-3.3);
- Taxation Act (R.S.Q., chapter I-3);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).

Bill 114

AN ACT TO INCREASE THE POWERS OF OVERSIGHT OF THE CHIEF ELECTORAL OFFICER

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ELECTION ACT

1. Section 91 of the Election Act (R.S.Q., chapter E-3.3) is amended

(1) by replacing “to each” in the first paragraph by “for the benefit of each”;

(2) by replacing “to one or another” in the first paragraph by “for the benefit of one or another”.

2. Section 93 of the Act is replaced by the following section:

“93. A contribution shall be paid to no one except the Chief Electoral Officer for the benefit of an authorized entity.

However, a cash contribution of less than \$100 or a contribution described in the second or third paragraph of section 91 may be paid or made to the official representative of the authorized entity or the persons designated in writing by the official representative in accordance with section 92.”

3. The Act is amended by inserting the following section after section 93:

“93.1. As soon as the Chief Electoral Officer receives a contribution, the Chief Electoral Officer shall inform the authorized entity for whose benefit the contribution has been paid.

Not later than 30 working days after a contribution is cashed, the Chief Electoral Officer shall post on the Chief Electoral Officer’s website the name of the elector, the city and postal code of the elector’s domicile, the amount paid and the name of the authorized party, the authorized independent Member or the authorized independent candidate for whose benefit the contribution was paid.”

4. Section 95 of the Act is amended

(1) by replacing “over \$200” by “\$100 or more”;

(2) by striking out “or a transfer of funds to an account held by the official representative of the authorized entity for which it is intended” at the end.

5. Section 96 of the Act is amended by replacing the first paragraph by the following paragraph:

“96. For every contribution paid in accordance with section 93, the Chief Electoral Officer shall issue a receipt annually to the contributor.”

6. Section 97 of the Act is replaced by the following section:

“97. The cheque or order of payment must be made to the order of the Chief Electoral Officer and specify the authorized entity for whose benefit it is made.”

7. Section 99 of the Act is replaced by the following section:

“99. The contributions cashed by the Chief Electoral Officer for the benefit of an authorized entity are deposited in a single account held by the official representative of the authorized party, authorized independent Member or authorized independent candidate, as applicable, at a Québec branch of a bank, trust company or financial services cooperative.

The contributions paid for the benefit of a party authority may, however, be deposited in another single account held for that purpose by the official representative of the authorized party.

The contributions described in the second paragraph of section 93 and the funds collected in accordance with this division must be deposited at a Québec branch of a bank, trust company or financial services cooperative.

Any contribution made by means of a cheque or order of payment without sufficient funds may be recovered by the Chief Electoral Officer out of the contributions deposited under the first paragraph.”

8. Section 100 of the Act is amended by replacing the first paragraph by the following paragraph:

“100. The Chief Electoral Officer shall return to the contributor any contribution or part of a contribution made contrary to this division. For that purpose, the authorized entity must, as soon as the fact is known, remit such a contribution to the Chief Electoral Officer.”

9. The Act is amended by inserting the following section after the heading of Division V of Chapter II of Title III:

“112.1. The Chief Electoral Officer shall have access to all books, accounts and documents pertaining to the financial affairs of the authorized entities.

At the request of the Chief Electoral Officer, an authorized entity must furnish any information required for the purposes of this division within 30 days.”

10. Section 113 of the Act is amended by replacing the first paragraph by the following paragraph:

“**113.** The official representative of every authorized party must, not later than 30 April each year, submit to the Chief Electoral Officer a financial report for the preceding fiscal year in the form prescribed by the Chief Electoral Officer. The report must include a balance sheet, an income statement and a cash flow statement prepared in accordance with generally recognized accounting principles.”

11. Section 114 of the Act is amended

(1) by striking out paragraph 4;

(2) by replacing paragraph 5 by the following paragraph:

“(5) the number of electors having paid a contribution and the total sum of contributions.”

12. Section 115 of the Act is amended by replacing subparagraph 3 of the first paragraph by the following subparagraph:

“(3) the name and full domiciliary address of each elector having paid one or more contributions and the total amount of those contributions;”.

13. Section 118 of the Act is amended

(1) by replacing “two years” by “five years”;

(2) by striking out “the receipts issued for contributions received as well as”;

(3) by replacing “sections 90 and 95” by “section 90, the second paragraph of section 93 and sections 95 and 95.1”.

14. Section 126 of the Act is amended by striking out the third paragraph.

15. Section 414 of the Act is amended in the third paragraph in the French text

(1) by inserting “d’une succursale québécoise” after “compte”;

(2) by striking out “ayant un bureau au Québec”.

16. Section 436 of the Act is amended by replacing “two years” in the first paragraph by “five years”.

17. Section 487 of the Act is amended by inserting the following paragraph after paragraph 3:

“(3.1) receive, and verify the compliance of, the contributions of electors and remit them to the authorized entity concerned;”.

18. Section 569 of the Act is amended by replacing the second paragraph by the following paragraph:

“Such proceedings are prescribed five years after the date the offence was committed. However, proceedings relating to an offence under section 551.1 or 553.1, paragraph 1 or 3 of section 554, paragraph 3 of section 555, paragraph 4 of section 556 or section 557 or 558 are prescribed 10 years after the date the offence was committed.”

ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

19. Section 368 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by adding the following paragraph at the end:

“At the request of the Chief Electoral Officer, parties or candidates must furnish any information required for the purposes of this chapter within 30 days.”

20. Section 436 of the Act is amended by replacing “over \$100” in the first paragraph by “\$100 or more”.

21. Section 480 of the Act is amended

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

“(2) the total amount of contributions of less than \$100 and the number of contributors;”;

(2) by replacing paragraph 5 by the following paragraph:

“(5) the total amount of contributions of \$100 or more and the number of contributors.”

22. Section 481 of the Act is amended by replacing “the sum of which exceeds \$100” in subparagraph 3 of the first paragraph by “totalling \$100 or more”.

23. The heading of Division VII of Chapter XIII of Title I of the Act is replaced by the following heading:

“KEEPING AND TRANSMISSION OF DOCUMENTS BY THE TREASURER”.

24. Section 500 of the Act is amended by replacing “\$100 or less” by “less than \$100”.

25. Section 501 of the Act is amended

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

“**501.** The treasurer shall keep the reports, returns, invoices, receipts and other vouchers necessary to ascertain compliance with sections 430 and 436 for five years after they are received.”;

(2) by replacing “two years” in the first paragraph by “five years”.

26. Section 512.4.1 of the Act is amended by replacing “more than \$100” in the first paragraph by “\$100 or more”.

27. Section 513.1 of the Act is amended

(1) by replacing “more than \$100” in the second paragraph by “\$100 or more”;

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

“The treasurer shall send the lists received in accordance with this section to the Chief Electoral Officer, at the request of and in the manner prescribed by the Chief Electoral Officer.”

28. Section 612 of the Act is amended by replacing “over \$100” in paragraph 2 by “\$100 or more”.

29. Section 648 of the Act is replaced by the following section:

“**648.** Penal proceedings for an offence referred to in section 647 are prescribed five years after the date the offence was committed. However, proceedings relating to an offence under any of sections 586 to 588 and 589 to 594 are prescribed 10 years after the date the offence was committed.”

30. Section 659 of the Act is amended by replacing “\$100 or less” in the second paragraph by “less than \$100”.

ACT RESPECTING SCHOOL ELECTIONS

31. Section 206.3 of the Act respecting school elections (R.S.Q., chapter E-2.3) is amended by adding the following paragraphs at the end:

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

At the request of the Chief Electoral Officer, candidates must provide any information required for the purposes of this chapter within 30 days.”

32. Section 206.23 of the Act is amended by replacing “over \$100” by “\$100 or more”.

33. Section 209 of the Act is amended by replacing “amounting to more than \$100” in the second paragraph by “totalling \$100 or more”.

34. Section 209.1 of the Act is amended

(1) by replacing “\$100 or less” in paragraph 2 by “less than \$100”;

(2) by replacing “over \$100” in paragraph 4 by “\$100 or more”.

35. Section 209.7 of the Act is amended by replacing “\$100 or less” by “less than \$100”.

36. Section 209.8 of the Act is amended

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

“**209.8.** The director general of the school board shall keep the reports, returns and other documents required by this chapter for five years following their receipt.”;

(2) by replacing “two years” in the first sentence by “five years”.

37. Section 219.9 of the Act is amended by replacing “exceeding \$100” in paragraph 2 by “of \$100 or more”.

38. Section 223.4 of the Act is replaced by the following section:

“**223.4.** Penal proceedings for an offence under this chapter are prescribed five years after the date the offence was committed. However, proceedings relating to an offence under any of paragraphs 1 to 4.1 of section 212, paragraph 4 of section 213, paragraphs 1, 2, 3, 4 and 10 of section 214, paragraphs 1 and 3 of section 215 and sections 216, 217 and 219 are prescribed 10 years after the date the offence was committed.”

39. Section 282 of the Act is amended by replacing “\$100 or less” in the sixth paragraph by “less than \$100”.

TAXATION ACT

40. Section 776 of the Taxation Act (R.S.Q., chapter I-3) is amended by replacing “to the official representative” in subparagraph *b* of the first paragraph by “for the benefit”.

ACT RESPECTING THE MINISTÈRE DU REVENU

41. Section 69.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by inserting the following subparagraph after subparagraph *w* of the second paragraph:

“(x) the Chief Electoral Officer, in respect of verifications, examinations and inquiries under the Election Act (chapter E-3.3), the Referendum Act (chapter C-64.1), the Act respecting elections and referendums in municipalities (chapter E-2.2) and the Act respecting school elections (chapter E-2.3). A request for information by the Chief Electoral Officer is subject to the rules provided in section 69.0.0.6.”

42. Section 69.6 of the Act is amended by replacing “*i* or *s*” by “*i*, *s* or *x*”.

43. Section 69.8 of the Act is amended by replacing “*i* and *s*” in the first paragraph by “*i*, *s* and *x*”.

FINAL PROVISION

44. With the exception of sections 18, 29, 38 and 41 to 43, which come into force on 10 December 2010, this Act comes into force on 1 May 2011, unless the Government sets an earlier date for its coming into force.