



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 102

**An Act respecting the conditions of
employment in the public sector
and the municipal sector**

Introduction

**Introduced by
Mr Daniel Johnson
Minister for Administration and the Public Service
and Chairman of the Conseil du trésor**

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EXPLANATORY NOTES

The object of this bill is to postpone the date of expiration of collective agreements of public bodies and agencies by two years and maintain, during that period, the salary rates and scales and the premiums that are effective on the original date of expiration. The bill proposes to effect a reduction of 1 %, from 1 October 1993, in expenses arising out of the application of the collective agreements through the allotment of a maximum of three days of unpaid leaves or through the implementation of an equivalent measure. The parties to a collective agreement may, however, agree on other measures that would set a similar limit or achieve an equivalent reduction.

The bill also provides that equivalent measures will be implemented in respect of administrators of state, chief executive officers, officers and management personnel and other personnel members of public bodies or agencies who are not governed by a collective agreement. Similar measures will also apply in respect of the Members of the National Assembly and health professionals.

Finally, the bill provides that the ceiling on remuneration and the reduction of expenses will also apply to municipal entities unless, by resolution, they waive the application of the provisions of this bill.

Bill 102

An Act respecting the conditions of employment in the public sector and the municipal sector

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

INTERPRETATION

1. For the purposes of this Act, the following bodies are public bodies:

(1) the Government, its departments and the government agencies whose personnel is appointed or remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1);

(2) school boards, colleges, establishments or institutions, any body which is similar to a school board or classified as an establishment or institution and government agencies to which the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2) applies, as well as regional health and social services boards, regional health and social services councils and the Conseil scolaire de l'Île de Montréal;

(3) any other body of which the personnel is remunerated according to standards and scales which are, by law, determined or approved by the Government or stipulated in a collective agreement negotiated and agreed with the concurrence of the Government;

(4) educational institutions at the university level referred to in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (R.S.Q., chapter E-14.1);

(5) educational institutions accredited for purposes of subsidies in accordance with the Act respecting private education (1992, chapter 68).

2. The National Assembly, persons designated by the National Assembly under an Act, and persons designated by the Government under an Act, where their personnel is appointed or remunerated in accordance with the Public Service Act, shall be regarded as public bodies.

Holders of ambulance service permits shall also be regarded as public bodies.

3. Municipalities, mandatory bodies of municipalities and supramunicipal bodies within the meaning of sections 18 and 19 of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3) are municipal bodies.

4. For the purposes of this Act, the date of expiration of a collective agreement or an agreement under section 19 or 19.1 of the Health Insurance Act (R.S.Q., chapter A-29) is the date on which the agreement terminates, regardless of this Act and taking into account, where applicable, the Act respecting the placing of a temporary ceiling on remuneration in the public sector (1991, chapter 41) and the Act respecting the prolongation of collective agreements and the remuneration in the public sector (1992, chapter 39).

The term “collective agreement” means a collective agreement or that which is in lieu thereof within the meaning of the Labour Code (R.S.Q., chapter C-27) or a labour contract within the meaning of the Act respecting the Syndical Plan of the Sûreté du Québec (R.S.Q., chapter R-14).

CHAPTER II

PUBLIC BODIES

DIVISION I

PROLONGATION OF COLLECTIVE AGREEMENTS

5. The date of expiration of a collective agreement which is binding on a public body and an association of employees and in force on (*insert here the date of coming into force of this Act*) shall be deferred for two years, subject to section 7.

The same applies to a first collective agreement taking effect before the end of the year 1995 in respect of a group of employees of a public body having obtained certification.

6. The date of expiration of a collective agreement between a public body and an association of employees which expires before *(insert here the date of coming into force of this Act)* shall also be deferred for two years if, on that date, no agreement for its renewal or replacement has been entered into.

Where the date of expiration of a collective agreement to which the Act respecting the placing of a temporary ceiling on remuneration in the public sector and the Act respecting the prolongation of collective agreements and the remuneration in the public sector apply has not been deferred by agreement in conformity with either of those Acts, the provisions concerning the date of expiration and the ceiling on remuneration contained in either or both of those Acts, as the case may be, shall apply to the collective agreement from its original date of expiration, and the provisions of this division shall apply from the date of expiration thus deferred.

7. The date of expiration of a collective agreement governed by the "Entente sur la prolongation jusqu'au 30 juin 1994 des conventions collectives se terminant le 30 juin 1992" entered into between the Gouvernement du Québec and the Centrale de l'enseignement du Québec on 29 June 1992, shall be deferred for one year.

8. The salary rates and scales and the premiums in force on the date of expiration of a collective agreement referred to in section 5 or 6 shall remain in force, without increases, for the period during which the collective agreement is prolonged.

9. In the case of a collective agreement referred to in section 7, the salary rates and scales and the premiums in force on 30 June 1993 shall remain in force, without increases, until the new date of expiration of the collective agreement, notwithstanding any inconsistent stipulation.

10. Sections 5 to 9 shall not apply or shall cease to apply to employees governed by a collective agreement if the agreement contains a stipulation causing a ceiling similar to that resulting from the application of section 8 or 9, as the case may be, to become applicable to such employees for a period of not less than two years from the year 1993, 1994 or 1995.

The same applies to employees governed by a first collective agreement who, prior to the coming into force of the collective

agreement, were subject to the provisions of section 23 or 24, if the application of such provisions and those of the collective agreement results in setting a ceiling on remuneration that is similar to that resulting from the application of section 8 or 9.

The term of a collective agreement referred to in this section may exceed three years.

11. In all cases where the date of expiration of a collective agreement is deferred, the period provided for in paragraph *d* of section 22 and sections 73, 111.3 and 111.4 of the Labour Code is determined on the basis of the original term of the collective agreement.

12. Notwithstanding section 61 of the Labour Code, no association of employees may terminate a collective agreement the date of expiration of which has been deferred, or declare it null before its new date of expiration.

13. Where an association of employees governed by a collective agreement the date of expiration of which has been deferred by agreement is a new association certified following an application made between the two hundred and seventieth day and the two hundred and fortieth day before the date of expiration, the standard collective agreement of the new association shall apply from the thirtieth day following the date of the agreement or, if later, the date of the decision granting the certification.

14. For the negotiation of a collective agreement which renews or replaces a collective agreement the date of expiration of which has been deferred, the negotiation stage provided for in section 111.7 of the Labour Code shall begin on the day following the new date of expiration. The parties may, however, by agreement, fix another date for the beginning of the negotiation stage.

For the application of the Labour Code to the negotiation of such a collective agreement, the day referred to in the first paragraph or fixed thereunder by the parties is considered to be the one hundred and eightieth day preceding the date of expiration, and the time limits prescribed in section 111.8 shall be calculated accordingly.

15. Notwithstanding any inconsistent stipulation, the employees of the public bodies referred to in paragraph 1 of section 1 and those referred to in paragraph 2 of the said section, except government agencies to which paragraph 2 applies, who are members of bargaining committees shall be granted union leave only from the new date on which the negotiation stage will begin and the conditions

concerning salary maintenance and the number of persons on union leave shall be determined at that time by agreement between the parties. Any stipulation contained in an agreement in force on (*insert here the date of coming into force of this Act*) which fixes a date from which salaried persons who are members of bargaining committees will be granted union leave is deemed never to have been effective.

16. For the purposes of the Labour Code, strikes are prohibited during the term of a collective agreement referred to in section 5, 6 or 7, even if the agreement contains a clause permitting a review thereof by the parties.

DIVISION II

REDUCTION OF THE AMOUNT OF EXPENSES ARISING OUT OF THE APPLICATION OF COLLECTIVE AGREEMENTS

17. Every public body, for the purpose of reducing by 1 % the amount of its expenses arising out of the application of a collective agreement must, before 31 March 1994 and every twelve-month period thereafter, allot to each employee who belongs to a bargaining unit such number of unpaid leaves as is determined by the Government not in excess of three days.

For such groups of employees as are determined by the Government, the public body must take, however, as an alternative to the allotment of unpaid leaves, any measure prescribed by the Government from among the following measures:

(1) an equivalent reduction of the number of sick-leaves credited, insofar as they are refundable each year, or a reduction of the indemnity standing in lieu of sick-leaves;

(2) an equivalent number of unpaid holidays or days of vacation;

(3) an equivalent reduction of the indemnity pertaining to the annual vacation.

18. The date of and the conditions applicable to unpaid leaves or other measures provided by section 17 shall be determined by each public body.

The public body shall, where applicable, deduct the salary pertaining to each day of unpaid leave, holiday or vacation at the rate of not more than one day's salary per period of pay.

In the case of public bodies which provide instruction, the dates of the employees' unpaid leaves must be determined without reduction in the number of days of instruction.

19. For the purposes of the provisions of section 17, the Government may, in respect of any group of employees it determines,

(1) establish the number of unpaid leaves to be allotted by a public body to its employees;

(2) prescribe rules for the determination by public bodies of the dates of and the conditions applicable to the unpaid leaves;

(3) prescribe the implementation of any of the alternative measures set out in the second paragraph of section 17.

20. The parties to a collective agreement may negotiate and agree on stipulations entailing a reduction of at least 1 % of the annual amount of expenses arising out of the application of the conditions of employment of the employees, as remuneration and social benefits.

For the purposes of a reduction to which the first paragraph applies, any stipulation of a collective agreement may, in the sectors of education and social affairs to which the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors applies, be negotiated and agreed for the whole of Québec or at the local level. In the latter case, the stipulation shall be negotiated and agreed with the approval of the Minister of Education, the Minister of Higher Education and Science or the Minister of Health and Social Services, as the case may be, within the scope of a mandate authorized by the Conseil du trésor.

21. Where an agreement is reached on stipulations causing the reduction provided for in section 20 to be effected, the stipulations negotiated and agreed by the parties shall replace the provisions of sections 17 to 19 in respect of the employees to whom they apply.

22. Sections 17 to 20 apply, notwithstanding any inconsistent provision or stipulation of an Act or collective agreement.

DIVISION III

PERSONS NOT GOVERNED BY A COLLECTIVE AGREEMENT

§ 1.—*Members and personnel of public bodies*

23. Administrators of state and chief executive officers and members of public bodies shall be remunerated, for the period beginning on 1 July 1993 and ending on 30 June 1995, according to the salary rates and scales and the premiums in force on 30 June 1993.

The same applies to the remuneration of the management personnel and other members of the personnel of the public service not governed by a collective agreement.

24. Every person empowered to determine the salary rates and scales and the premiums of the management personnel and other members of the personnel of a public body who are not governed by a collective agreement and not part of the public service shall, for a two-year period beginning in 1993, 1994 or 1995, fix those rates, scales and premiums subject to the same ceiling as that applicable to employees of the public body to whom Division I applies.

25. Notwithstanding any inconsistent provision of an Act, every public body shall apply to its chief executive officers, officers and management personnel and to the other members of its personnel who do not belong to a bargaining unit, the measures set out in sections 17 to 19; the same applies to the Government in respect of administrators of state.

The public body may, however, adopt another measure in respect of the remuneration or social benefits of the persons referred to in the first paragraph which causes a reduction equivalent to that provided for in the first paragraph to be effected. The provisions of the said paragraph shall, in that case, cease to apply to those persons.

26. The total amount payable as remuneration each year to the members of the office staff of a minister, the staff of an office to which section 124.1 of the Act respecting the National Assembly (R.S.Q., chapter A-23.1) applies and the staff of the Members of the National Assembly shall be reduced by 1 % from 1 July 1993 and shall not be increased for a period of two years thereafter.

§ 2.—*Members of the National Assembly*

27. The increase of the annual indemnity of the Members of the National Assembly taking effect on 1 October 1993 pursuant to section

16 of the Act respecting the prolongation of collective agreements and the remuneration in the public sector is cancelled.

§ 3.—*Health professionals*

28. In any agreement under section 19 of the Health Insurance Act (R.S.Q., chapter A-29) in force on (*insert here the date of coming into force of this Act*) and in any agreement which renews or replaces such an agreement, the amounts of the general tariff objectives applicable to medical specialists, general practitioners and optometrists and the tariffs applicable for the provision of insured services under that Act shall be reduced by 1 % from 1 December 1993 and shall not, thereafter, be increased before 1 December 1995.

29. The tariffs applicable to specialists in oral and maxillo-facial surgery, dental surgeons and proprietary pharmacists for the provision of insured services under the Health Insurance Act, in force on 30 November 1993, shall be reduced by 1 % from 1 December 1993 and shall not, thereafter, be increased before 1 December 1995.

30. Where the chairman of the Conseil du trésor is of the opinion that the stipulations of an agreement result in setting a limit on the remuneration to be paid to the professionals concerned in a manner comparable to that provided for in section 28 or 29 and in effecting an equivalent reduction in cost, he may so advise the parties. Section 28 or 29, as the case may be, does not, in that case, apply to the health professionals concerned by the agreement.

31. The salary rates and scales and the premiums in force on 30 November 1993 and applicable to medical specialists, general practitioners and dental surgeons for the provision of insured services under the Health Insurance Act shall be maintained in force, without increases, until 30 November 1995.

Sections 17 to 22, adapted as required, apply to professionals referred to in the first paragraph who receive a salary or fixed fees.

32. Sections 5, 6, 8 and 10 to 22, adapted as required, apply from 1 July 1993 to every agreement binding on pharmacists practising in an establishment or institution, entered into under section 432 of the Act respecting health services and social services and amending various legislation (1991, chapter 42) or under section 3 of the Hospital Insurance Act (R.S.Q., chapter A-28).

The same applies, from 1 January 1994, to every agreement binding on medical residents, entered into under section 19.1 of the Health Insurance Act.

CHAPTER III

MUNICIPAL BODIES

DIVISION I

PROLONGATION OF COLLECTIVE AGREEMENTS

33. The date of expiration of a collective agreement between a municipal body and an association of employees, in force on (*insert here the date of coming into force of this Act*), shall be deferred for two years.

The same applies to a first collective agreement taking effect before the end of the year 1995 in respect of a group of employees of a municipal body having obtained certification.

34. The date of expiration of a collective agreement which expires before (*insert here the date of coming into force of this Act*) shall also be deferred for two years if, on that date, no agreement for its renewal or replacement has been entered into.

35. The salary rates and scales and the premiums in force on the date of expiration of a collective agreement to which section 33 or 34 applies shall remain in force, without increases, for the period during which the collective agreement is prolonged.

In the case of employees who, prior to the date on which a first collective agreement took effect, were subject to the first paragraph of section 41, the rates, scales and premiums shall be maintained during the unexpired portion of the period during which the collective agreement is prolonged.

36. Sections 10 to 12 and 16, adapted as required, apply in respect of a collective agreement the date of which is deferred pursuant to section 33 or 34.

DIVISION II

REDUCTION OF THE AMOUNT OF EXPENSES ARISING OUT OF THE APPLICATION OF THE COLLECTIVE AGREEMENTS

37. Every municipal body shall, in order to reduce by 1 % the amount of its expenses arising out of the application of a collective agreement, allot, each year from 1 January 1994, to each employee concerned, a maximum of three unpaid leaves fixed by the municipal

body, or take, in respect of those employees, any of the measures it determines from among the measures provided for in the second paragraph of section 17.

The first and second paragraphs of section 18, adapted as required, apply.

38. A municipal body and an association of employees may agree on stipulations entailing a reduction of at least 1 % of the annual amount of expenses arising out of the application of the conditions of employment of the employees, as remuneration and social benefits. In such a case, the stipulations shall replace the provisions of section 37 in respect of the employees to whom they apply.

39. Sections 37 and 38 apply, notwithstanding any inconsistent provision or stipulation of an Act or collective agreement.

DIVISION III

ELECTED MUNICIPAL OFFICERS AND PERSONS NOT GOVERNED BY A COLLECTIVE AGREEMENT

40. The remuneration attaching to the offices of elected municipal officers, fixed in accordance with the Act respecting the remuneration of elected municipal officers (R.S.Q., chapter T-11.001) and applicable in a municipality on 31 December 1993, shall be reduced by 1 % from 1 January 1994 and shall not be increased, thereafter, before 1 January 1996.

41. The municipal body which determines the salary rates and scales and the premiums of its chief executive officers, officers and management personnel or any member of its personnel not governed by a collective agreement shall, for a period of two years beginning in 1993, 1994 or 1995, fix those rates, scales and premiums, subject to the same ceiling as that applicable to the other employees of the municipal body.

The municipal body shall, in addition, apply, in respect of such employees, the measures set out in section 37. It may, however, adopt, in respect of the remuneration or social benefits of the persons referred to in the first paragraph, another measure which causes the reduction provided for in section 37 to be effected. The provisions of that section shall, in that case, cease to apply to those persons.

DIVISION IV

WITHDRAWAL

42. A municipal body may, by a resolution adopted before *(insert here the date occurring 60 days after the date of coming into force of this Act)*, waive the application of Divisions I to III of this chapter. Where such is the case, the provisions of those divisions are deemed never to have had effect in respect of that municipal body.

43. Where a municipal body adopts a resolution under section 42, it shall transmit a copy thereof to each association of employees certified to represent its employees.

It shall, in addition, file a copy of the resolution at the office of the labour commissioner-general. The filing of such a copy has the effect of a filing under section 72 of the Labour Code.

CHAPTER IV

MISCELLANEOUS AND FINAL PROVISIONS

44. Every amendment to the conditions of employment of employees which results from the provisions of sections 5 to 9, 20 and 33 to 35 is considered to form part of the collective agreements that are binding on those employees.

45. Notwithstanding any inconsistent provision of any Act, regulation, order in council, order, budgetary rule, directive or instruction, the Government may, without further formality, fix or change the amount or date of payment of any subsidy that the Government or a minister pays to a public body so that the provisions of this Act may be complied with.

46. Any order made by the Government under section 19 or 45 takes effect on the date on which it is made or on any prior or later date fixed therein. The Regulations Act (R.S.Q., chapter R-18.1) does not apply to such an order, if any.

47. This Act does not dispense the parties to collective agreements and agreements to which this Act applies from the obligation to comply with the provisions of the Act respecting the placing of a temporary ceiling on remuneration in the public sector and the Act respecting the prolongation of collective agreements and the remuneration in the public sector which are applicable to them.

48. Sections 6 and 34 apply to a collective agreement even if its renewal or replacement is the subject of a dispute which has been referred to arbitration. In such a case, the arbitrator is bound by the provisions of those sections and of sections 8 and 35 for the period during which the collective agreement is prolonged.

49. Sections 6 and 34 are without effect as regards offences under the Labour Code with respect to acts committed before the date on which those sections take effect.

50. Section 1 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly (R.S.Q., chapter C-52.1) is amended by inserting the words "an amount corresponding to 99 % of" after the word "on" in the second line.

51. This Act comes into force on (*insert here the date of assent to this Act*), except sections 17 to 22, 25 and 50, which will come into force on 1 October 1993.