



NATIONAL ASSEMBLY

FIFTH SESSION

THIRTY-SECOND LEGISLATURE

Bill 29

An Act to amend the Education Act and various legislation

Introduction

**Introduced by
Mr Francois Gendron
Minister of Education**



**Québec Official Publisher
1985**

EXPLANATORY NOTES

The main object of this bill is to give effect to the Supreme Court decision rendered on 20 December 1984 respecting certain taxation powers of the school boards. It is designed to ensure that government subsidies to school boards are distributed fairly, and to require school boards to hold referendums if they impose tax rates higher than the limit prescribed in the bill. It recognizes certain rights of confessional school boards relating to elections, taxation, and adopting the budget. It withdraws the confessional school boards of the island of Montréal from the jurisdiction of the school council of the Island of Montréal and provides for a new composition of the school council.

This bill amends the Act respecting public elementary and secondary education (1984, chapter 39) to allow for a greater number of electoral wards in some school boards. It allows certain exemptions from the rules on certification of studies.

ACTS AMENDED BY THIS ACT

- (1) The Act respecting municipal taxation (R.S.Q., chapter F-2.1);
- (2) The Education Act (R.S.Q., chapter I-14);
- (3) The Act respecting public elementary and secondary education (1984, chapter 39).

Bill 29

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THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

EDUCATION ACT

1. Section 1 of the Education Act (R.S.Q., chapter I-14) is amended by inserting in the first paragraph, after subparagraph 3, the following subparagraph:

“(3.1) The words “confessional school board” mean the Commission des écoles catholiques de Montréal, the Protestant School Board of Greater Montréal, the Commission des écoles catholiques de Québec and the School Board of Greater Québec;”.

2. Section 15.1 of the said Act is replaced by the following section:

“**15.1** The Minister shall each year, after consultation with the school boards, the corporations of trustees, the regional boards and the confessional school boards, make and submit to the approval of the Conseil du trésor budgetary rules to determine the amount of expenses allowable for grants to be paid to school boards, to corporations of trustees, to regional boards, to confessional school boards and to the Conseil scolaire de l'Île de Montréal. These budgetary rules shall be made in such a manner as to provide for an equitable, non-discriminatory distribution of grants.

The Minister must, in the budgetary rules contemplated in the first paragraph, provide for the payment of equalization grants to school boards, corporations of trustees, regional boards, confessional school boards or the Conseil scolaire de l'Île de Montréal. These equalization grants shall be paid according to the difference between the standardized

assessment of taxable property per student of a school board, of a corporation of trustees, of a regional board, of a confessional school board or of the Conseil scolaire de l'Île de Montréal, as the case may be, and that per student of the aggregate of the school boards, of the corporations of trustees, of the regional boards, of the confessional school boards or of the Conseil scolaire de l'Île de Montréal, as the case may be, taking into account the size of the revenue from real estate taxes collected within the limits fixed by section 354.1, 558.1 or 567.12.”

3. The said Act is amended by inserting, after section 39, the following section:

“39.1 Notwithstanding section 39, no person of a different religious confession than that of a confessional school board where he has enrolled his children or of which he is a ratepayer may vote at an election of commissioners of the confessional school board or on the occasion of a referendum, nor may he be elected to the office of commissioner.”

4. Section 52.1 of the said Act is amended by adding, at the end of the second paragraph, the following sentence: “Section 39.1 applies *mutatis mutandis* to the election.”

5. Section 78 of the said Act is amended by inserting, after the words “Subject to” in the first line of the first paragraph, the words “section 39.1 and”.

6. Section 82 of the said Act is amended by adding, after the second paragraph, the following paragraph:

“No person contemplated in section 39.1 may be entered on the electoral list of a confessional school board.”

7. Section 339 of the said Act is amended by adding, after the second paragraph, the following paragraph:

“In the case of confessional school boards and corporations of school trustees, approval of the budget by the Minister is not required.”

8. Section 494 of the said Act is amended by replacing paragraphs *a* and *b* by the following paragraphs:

“(a) “island of Montréal”: all the school municipalities established under section 1 of the Act to promote school development on the island of Montréal (1972, chapter 60), except school municipalities under the authority of confessional school boards;

“(b) “school board”: any school corporation contemplated in section 2 of the Act to promote school development on the island of Montréal, except confessional school boards;

“(b.1) “confessional school board”: the Commission des écoles catholiques de Montréal and the Protestant School Board of Greater Montréal;”.

9. Section 498 of the said Act is replaced by the following section:

“498. The Council shall consist of members designated or appointed in the following manner:

(a) the school boards on the island of Montréal each shall designate, within thirty days following the election of their members, two persons from among their members;

(b) the Government, on the recommendation of the Minister, shall appoint to the Council, within thirty days following the election of the school commissioners, three other members from among persons domiciled on the island of Montréal.

If a school board fails to designate such members within the delay prescribed, the Government may, on the recommendation of the Minister, make the appointment from among the members of that school board.

Section 145 applies *mutatis mutandis* to the members of the Council.”

10. Section 499 of the said Act is amended by striking out, in the second line, the words “and of substitutes”.

11. Section 504 of the said Act is amended by inserting, after the fourth paragraph, the following paragraph:

“The Council shall, in fixing its rate of taxes, take into account the sums it is required to levy for the account of the confessional school boards pursuant to section 567.11. These sums shall be paid to them within thirty days following the receipt by the Council of the proceeds of the taxes.”

12. Section 535 of the said Act is amended by striking out, in the first paragraph, the words « ; however, the Protestant School Board of Greater Montréal shall consist of at least eleven and not more than fifteen school commissioners and La Commission des écoles catholiques de Montréal shall consist of at least fifteen and not more than nineteen school commissioners”.

13. Section 557 of the said Act is amended by replacing, in the first paragraph, the words “on the island of Montréal” by the words “in a school municipality established under section 1 of the Act to promote school development on the island of Montréal”.

14. Section 558 of the said Act is amended by striking out, in the third paragraph, the words “situated on the island of Montréal”.

15. Sections 558.1 and 558.2 of the said Act are replaced by the following sections:

“558.1 Where the total amount of expenses provided for the attainment of the objects of the council and of the school boards, and the carrying out of the obligations of the council set forth in section 567.11, for the payment of which a tax must be levied under section 504, exceeds six per cent of the net expense of the council, or the taxation rate of that tax exceeds 25 cents per hundred dollars of the standardized assessment of the taxable property, the tax must be submitted to the approval of the electors in accordance with sections 567 and following.

“558.2 For the purposes of section 558.1, the “net expense” is the total amount of operating expenses allowable for purposes of grants, by the council, the school boards and the confessional school boards, under the budgetary rules contemplated in section 15.1, without regard to the debt service of the capitalization fund.”

16. The said Act is amended by inserting, after section 558.4, the following section:

“558.5 Where a tax is approved by the electors in accordance with sections 567 to 567.4, the tax levied on the immovables contemplated in section 567.13 is the limit prescribed in section 567.12.”

17. Section 567.3 of the said Act is replaced by the following section:

“567.3 The following shall be printed on the ballot papers:

Do you approve the levy of a tax at the rate of (x) cents per hundred dollars of the standardized assessment of the taxable property of the island of Montréal and of the territory of the confessional school boards?

| | |
|---|-----|
| 1 | YES |
| 2 | NO |

NOTE: That rate corresponds to (y) per cent of the net expenses of the Conseil scolaire de l'île de Montréal, of the school boards of the island of Montréal and of the confessional school boards for the school year (*insert here the school year*)."

18. The said Act is amended by inserting, after section 567.4, the following division:

“DIVISION V

“CONFESSIONAL SCHOOL BOARDS

“567.5 The Protestant School Board of Greater Montréal shall consist of at least eleven and not more than fifteen school commissioners and the Commission des écoles catholiques de Montréal shall consist of at least fifteen and not more than nineteen school commissioners. In addition, each school board shall consist of one representative elected for each of the elementary and secondary levels in accordance with section 52.1 or the second paragraph of section 544.

“567.6 To be entered on the electoral list of a confessional school board, a person must:

- (1) be of full age on polling day;
- (2) on the last juridical day before the date of deposit of the electoral list, be a Canadian citizen domiciled in the school municipality and have full legal capacity; and
- (3) be of the same religious confession as the school board.

“567.7 A confessional school board may enter into any agreement with the council for school purposes.

“567.8 Subject to any inconsistent provision of this Part and notwithstanding any provision to the contrary of any special Act, the provisions of this Act apply *mutatis mutandis* to confessional school boards, except sections 48, 108, 111, 144, 146, 226, 231, 250 to 254, 358, 366, 367, 391 to 395, 423 to 449, 487 to 493, 495 to 534, the first paragraph of section 535 and sections 537, 543 and 545 to 567.4.

“567.9 The bonds or other evidences of indebtedness or securities forming part of the debt of the council on *(insert here the date of coming into force of the Act to amend the Education Act and various legislation)* constitute a direct, general and unconditional undertaking of the council, the school boards and the confessional school boards; the bonds or other evidences of indebtedness or securities issued by a confessional school board must rank concurrently and *pari passu* with all other undertakings of the Conseil scolaire de l'île de Montréal and of the school boards of the island of Montréal in respect of loans of money not secured by hypothec or other encumbrance.

“567.10 Every confessional school board shall, before the date fixed by the council, adopt its budget for the ensuing school year and transmit it to the council.

“567.11 The council shall collect for the confessional school boards, out of the proceeds of its taxes the rate of which is to be fixed in accordance with section 504, and remit to them the amount of taxes payable to them up to an amount equal to six per cent of their net expenses or to a taxation rate of 25 cents per hundred dollars of the standardized assessment of the taxable property included in the real estate base of each confessional school board.

“567.12 Where the total amount of expenses of a confessional school board exceeds six per cent of the net expense of the confessional school board, or the taxation rate of that tax exceeds 25 cents per hundred dollars of the standardized assessment of the taxable property included in the real estate base of the confessional school board, the confessional school board shall itself collect the excess amount by means of a surtax.

Before collecting the surtax, the confessional school board shall submit it to the approval of its electors. Sections 354.1 to 355 and sections 396 to 399.5 apply *mutatis mutandis* to the levy of the surtax. The electoral list shall be prepared in accordance with section 567.6.

“567.13 The surtax shall be levied by a confessional school board on every taxable immovable situated in its territory, except on immovables whose owners, according to an enumeration made by a confessional school board, have elected to be taxed by another school board having jurisdiction over the same territory.

Where an immovable is owned by a legal person, a partnership or an owner who has not made the election, the tax shall be levied by the confessional school board on part of the standardized assessment of the taxable immovable established in proportion to the number of students who, on 30 September of the preceding school year, are under the jurisdiction of the confessional school board in relation to the number of students, under the jurisdiction of another school board, who attend schools situated in the common territory of that school board and of the confessional school board.

Section 226 applies *mutatis mutandis* to the levy of the surtax.

“567.14 Confessional school boards shall collect the surtaxes they impose. Such a board may, however, enter into an agreement with the municipal corporation having jurisdiction over the sending of municipal tax accounts in the territory or part of the territory of the confessional school board in order to have the surtax collected on its behalf by the municipal corporation.

Where an agreement has been made, the municipal corporation shall collect, on behalf of the school board, the amount of the surtax in the manner it sees fit and with the same rights and obligations as for the collection of the municipal real estate taxes. In such a case, section 367 applies.

Notwithstanding the foregoing, the payment of the surtax of a confessional school board shall be demanded in one payment and there is no obligation to demand payment of it in the same account as the municipal tax where the surtax is collected by a municipal corporation.

In the case of a suit for recovery of the surtaxes, the clerk of the Provincial Court and the prothonotary of the Superior Court have the same powers as in the case of a suit for recovery of municipal taxes.

“567.15 The surtax levied pursuant to section 567.13 applies to the school year for which it was levied.

The delays for prescription, the charges attached to the surtax and the rights and obligations of persons with respect to the surtax shall be the same as those attached to municipal real estate taxes.”

19. The texts of sections 226, 354.1 to 354.3, 396 to 399.5, 441 to 443, 558.3, 558.4, 567 to 567.2 and 567.4 of the said Act, are replaced, respectively, by the texts of each of those sections as published in the Revised Statutes of Québec on 20 December 1984.

Formalities relating to the printing and distribution of Acts do not apply to the texts of the said sections since they have already been complied with in respect of those sections.

ACT RESPECTING MUNICIPAL TAXATION

20. The Act respecting municipal taxation (R.S.Q., chapter F-2.1) is amended by replacing section 495 by the following section:

“495. No school board or regional board may exercise a taxation power except within the limits provided by this Act and the Education Act (R.S.Q., chapter I-14), notwithstanding any general law or special Act or any charter conferring such power upon it.”

ACT RESPECTING PUBLIC ELEMENTARY AND SECONDARY EDUCATION

21. Section 118 of the Act respecting public elementary and secondary education (1984, chapter 39) is amended by replacing the sentence introducing the second paragraph by the following:

"Notwithstanding the foregoing, on the application of the council of commissioners, the Government, by order, may authorize a school board to establish two, four or six electoral wards more than the number prescribed in this section, where it considers the application justified by reason of".

22. Section 120 of the said Act is amended

(1) by replacing the figure "7", in the sentence introducing the second paragraph, by the figure "10";

(2) by adding, at the end of the second paragraph, the following paragraphs:

"(6) four parents from the councils of elementary schools and four from the councils of secondary schools, if there are eighteen wards;

"(7) five parents from the councils of elementary schools and four from the councils of secondary schools, if there are twenty wards;

"(8) five parents from the councils of elementary schools and five from the councils of secondary schools, if there are twenty-two wards."

23. Section 346 of the said Act is amended by inserting the expression "language-based" in the first line of the first paragraph before the words "school board situated on the".

24. Section 404 of the said Act is amended by inserting, before the words "school boards" in the second paragraph, the words "language-based".

25. Section 421 of the said Act is amended by inserting, at the end, the following paragraph:

"The bonds or other evidences of indebtedness or securities that form part of the bonded debt of the Council on (*insert here the date of coming into force of the Act to amend the Education Act and various legislation*) also constitute a direct, general and unconditional undertaking of the confessional school boards on the island of Montréal; the bonds or other evidences of indebtedness or securities issued by a confessional school board must rank concurrently and *pari passu* with all other undertakings of the Conseil scolaire de l'île de Montréal and of the school boards of the island of Montréal in respect of loans of money not secured by hypothec or other encumbrance."

26. Section 428 of the said Act is amended by inserting, after the first paragraph, the following paragraph:

“The Council shall also levy the tax to collect the sums that it is required to pay to the confessional school boards on the island of Montréal in accordance with sections 504 and 567.11 of the Act respecting education in confessional school boards and northern communities (R.S.Q., chapter I-14).”

27. Section 429 of the said Act is amended by replacing

(1) the words “on the island of Montréal” in the first paragraph by the words “situated in the territory of the language-based school boards and confessional school boards on the island of Montréal”;

(2) the second paragraph by the following paragraph:

“The Council shall inform the clerk of each interested municipal corporation of the tax rate within ten days of its adoption or of its approval by the electors.”

28. Section 430 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**430.** Every municipal corporation whose territory includes all or part of the territory of a language-based school board or a confessional school board on the Island of Montréal shall collect the school tax levied by the Council.”

29. Section 432 of the said Act is amended by inserting, before the word “school” in the third line, the words “language-based”.

30. Section 433 of the said Act is amended

(1) by inserting, after the words “the objects of the Council and school boards” in the second line, the words “and the obligations of the Council set out in the second paragraph of section 428”;

(2) by replacing, in the third and fourth lines, the words “subsidies to the Council and school boards” by the words “subsidies to the Council, language-based school boards and confessional school boards”.

31. Section 447 of the said Act is amended by adding, after the third paragraph, the following paragraph:

“The regulations on the official school policy may also allow the Minister to establish the modalities of application of the rules of certification of studies and to exempt a category of students he indicates from the application of some of those rules.”

32. Section 468 of the said Act is replaced by the following section:

"468. The rules on the allocation of financial resources may provide that the allocation of financial resources may be made on the basis of general or specific standards and be subject to the authorization of the Minister. The rules shall also be established in such a manner as to provide a fair and non-discriminatory apportionment of grants and subsidies."

33. The said Act is amended by inserting, after section 491, the following section:

"491.1 The election of the first commissioners of the confessional school boards contemplated in section 480 shall be held on the third Monday of June 1985 in the manner prescribed in section 495. Section 489 applies to the school boards in this section.

The first parent-members of the council of commissioners of the confessional school boards in this section shall be designated by the first commissioners of these school boards. They shall remain in office until they are replaced by the parents elected before the third Sunday of October 1986 in accordance with section 121 of this Act."

34. The said Act is amended by inserting, after section 494, the following section:

"494.1 The trustees of dissentient schools shall exercise the functions vested in a provisional council under Division II of this chapter, to the extent that they are necessary for the administration of this Act in their territories from 1 July 1986.

The election of the first commissioners of dissentient school boards contemplated in section 484 shall be held on the second Monday of June 1986. Section 489 applies to those school boards.

The election of the first parent-members of the council of commissioners of the dissentient school boards in this section shall be held not later than the second Monday of June 1986. The secretary-general of the corporation of trustees shall convene the members of the school councils to designate their representatives to the council of commissioners.

The first parent-members of the council of commissioners shall remain in office until they are replaced by the parents elected before the third Sunday of October 1986 in accordance with section 121 of this Act."

35. Section 495 of the said Act is amended

(1) by adding, at the end of the first paragraph, the words "and the territories contemplated in section 491.1";

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

"In preparing the list of electors, the census takers shall ask each elector for which school board he elects to vote and if he is Catholic, Protestant or of another confession.";

(3) by adding, at the end of the fifth paragraph, the following: " , as well as for the contestation of the election. These rules come into force on the date of their adoption and shall be published in the *Gazette officielle du Québec*.";

(4) by inserting, after the fifth paragraph, the following paragraphs:

"Every person who contravenes a provision of the rules established by the Chief Electoral Officer is guilty of an offence and liable, in addition to costs, to a fine of not more than \$2 000.

Proceedings for contravention of the rules established by the Chief Electoral Officer are instituted in accordance with the Summary Convictions Act (R.S.Q., chapter P-15) by the Chief Electoral Officer or any person generally or specially authorized by him for that purpose."

36. Section 592 of the said Act is replaced by the following section:

"**592.** Section 495 of the said Act is replaced by the following section:

"**495.** No school board may exercise a taxation power except within the limits provided by this Act, the Act respecting public elementary and secondary education and the Act respecting education in confessional school boards and northern communities (R.S.Q., chapter I-14), notwithstanding any general law or special Act or any charter conferring such power upon it.""

37. Section 655 of the said Act is amended by replacing the figures "1 to 446" by the figures "1 to 109, 111 to 446".

Order No. 310-85 dated 21 February 1985, published in the *Gazette officielle du Québec* of 22 February 1985, providing for the establishment of the territory of certain new school boards, is deemed to have been passed under section 110 of the said Act.

This section has effect from 21 December 1984.

TRANSITIONAL AND FINAL PROVISIONS

38. The consultations on budget rules relating to the amount of expenses eligible for subsidies or grants, held by the Minister of Education from 1 January 1985, are deemed to have been held under

section 15.1 of the Education Act, as replaced by section 2 of this Act, and are valid for the school year 1985-86.

39. The members of the Conseil scolaire de l'Île de Montréal, except those appointed by confessional school boards, as well as the chairman, in office at the time of the coming into force of section 9 of this Act, shall remain in office for a period of 30 days. At the end of that period, they shall be replaced by members designated by the school boards on the Island of Montréal and by the members appointed by the Government in the proportion provided for in section 9. The terms of office of the new members expire on the date the terms of office of the members they replace were to expire.

40. The commissioners of confessional school boards on the Island of Montréal, the chairman and vice-chairman thereof, the members of the executive committee thereof and the representatives elected for the elementary and secondary levels, in office at the time of the coming into force of this Act, shall remain in office until the day on which their terms of office were to expire.

41. The provisions of by-laws made by the confessional school boards contemplated in section 18 of this Act and the provisions of the regulations made by the Government under section 499 of the Education Act shall remain in force, to the extent that they are consistent with this Act, until they are replaced or repealed.

42. Taxes levied from and since 21 December 1979 under section 226 of the Education Act are deemed to have been levied pursuant to section 226 of the Education Act as enacted by section 19 of this Act.

Where such taxes have been levied without following the formalities prescribed in the first paragraph of section 354.1 of the Education Act, they are valid only up to the limit prescribed in that paragraph.

43. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

44. This Act comes into force on (*insert here the date of assent to this Act*) except sections 25, 26, 28 and 36, which come into force on 1 July 1986.