

THIRD SESSION

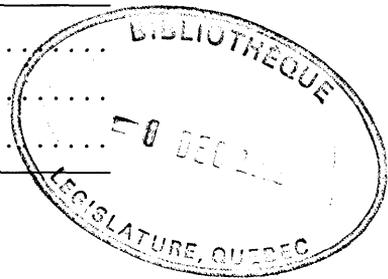
THIRTY-SECOND LEGISLATURE

NATIONAL ASSEMBLY OF QUÉBEC

Bill 96

**An Act respecting the integration of the administration
of the electoral system**

First reading
Second reading
Third reading



M. MARC-ANDRÉ BÉDARD

Minister of Justice

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EXPLANATORY NOTES

The object of this bill is to bring the whole administration of the electoral system under the authority of the Director General of Elections, vesting him with additional powers.

To that end, Division I of Chapter I abolishes the position of Director General of the Financing of Political Parties and the two attached positions of assistant, and transfers responsibility for the administration of the financing of political parties to the Director General of Elections. It therefore provides transitional measures to ensure continuity between the two Director General's offices, and to determine what will become of the staff of the abolished office.

Division II of Chapter I empowers the Director General of elections, in consideration of his enlarged duties, to appoint assistants and delegate certain of his powers to them. The legislation on the Conseil consultatif is transferred to the Election Act and the Conseil's duties are expanded to allow it to give its opinion on all matters relating to the Acts assigned to the administration of the Director General of Elections. Representation of the political parties on the Conseil is increased from 2 to 3 members each, and a majority of members will be a quorum.

To ensure that the administration of the electoral system is effectively integrated, Chapter II provides that the Director General will be ex officio the President of the Commission de la représentation and will have an assistant. It also provides that the Commission will have no staff but what the Director General of Elections lends to it. For this reason, the Commission's staff will be attached to the Director General's office on the coming into force of this bill.

Chapter III provides amendments to the Act respecting elections in certain municipalities. It provides, in particular,

(1) that the present responsibilities of the Director General for Representation regarding the division of municipal electoral districts will be vested in the Commission de la représentation. The President of the Commission will name one or more commissioners to sit, according to the size of the municipalities or the particular circumstances;

(2) that the present responsibilities of the Director General of Financing of Political Parties regarding the financing of municipal political parties will be vested in the Director General of Elections.

Chapter V confers the necessary powers and means on the Director General of Elections to reorganize his personnel as he will inevitably have to do as a result of this bill.

ACTS AMENDED BY THIS BILL

(1) the Act to govern the financing of political parties (R.S.Q., chapter F-2);

(2) the Election Act (R.S.Q., chapter E-3.1);

(3) the Act respecting electoral representation (R.S.Q., chapter R-24.1);

(4) the Act respecting elections in certain municipalities (R.S.Q., chapter E-2.1);

(5) the Referendum Act (R.S.Q., chapter C-64.1);

(6) the Labour Code (R.S.Q., chapter C-27);

(7) the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10).

Bill 96

An Act respecting the integration of the administration
of the electoral system

HER MAJESTY, with the advice and consent of the National
Assembly of Québec, enacts as follows:

CHAPTER I

INTEGRATION OF THE ADMINISTRATION OF THE FINANCING OF POLITICAL PARTIES

DIVISION I

ACT TO GOVERN THE FINANCING OF POLITICAL PARTIES

1. The Act to govern the financing of political parties (R.S.Q., chapter F-2) is amended by inserting, before section 3, the following section:

“2.1 The director general of elections is responsible for seeing to the administration of this Act.”

2. Divisions III and IV of Chapter I of the said Act, comprising sections 4 to 32, are repealed.

3. Section 121 of the said Act, amended by section 56 of chapter 31 of the statutes of 1982, is again amended by replacing the first paragraph by the following paragraph:

“121. Proceedings under this chapter are brought pursuant to the Summary Convictions Act (R.S.Q., chapter P-15) by the director general or by any person generally or specially authorized by him for such purpose.”

4. Sections 122, 123 and 124 of the said Act are repealed.

5. Schedule A to the said Act is repealed.

6. The directives, records and other documents of the director general of financing of political parties are and always have been the directives, records and documents of the director general of elections.

7. Every authorization granted before (*insert here the date of the coming into force of this section*) are and always have been granted by the director general of elections pursuant to the Act to govern the financing of political parties.

8. Matters pending at the office of the director general of financing of political parties on (*insert here the date of the coming into force of this section*) are continued and decided by the director general of elections.

9. The director general of elections is hereby authorized to use any document or means of identification already prepared by the director general of financing of political parties, or on his behalf, until he can have them replaced by documents or means of identification prepared by the director general of elections.

10. The rights and obligations resulting from contracts entered into by the director general of financing of political parties are assumed by the director general of elections.

11. The members of the personnel of the director general of financing of political parties who are permanent members on (*insert here the date of the coming into force of this section*) become members of the personnel of the director general of elections.

However, the permanent members of the personnel may, within a period of 90 days following (*insert here the date of the coming into force of this section*), elect to become permanent members of the personnel of the director general of elections and to work at his main office or accept severance pay determined by him. For that purpose, the director general may call upon any expert's assistance and, after having paid the severance pay, table a report in the National Assembly of Québec.

During that period, the permanent members of the personnel shall continue to be remunerated according to the terms of the work contract that was binding between them and the director general of financing of political parties on (*insert here the date of the coming into force of this section*) and the government and public employees

retirement plan continues to be applicable to them. They shall also continue to enjoy the other benefits that were attached to that employment.

At the expiry of the period, the Civil Service Act (R.S.Q., chapter F-3.1) becomes applicable without further formality to the persons who have then elected to become permanent members of the personnel of the director general of elections and to work at his main office; however, the director general of elections may, pursuant to section 55, determine to what extent and according to what terms and conditions the relocation and assignment of the personnel are to be conducted.

DIVISION II

ELECTION ACT

12. Section 3 of the Election Act (R.S.Q., chapter E-3.1) is replaced by the following section:

“3. The director general of elections does not have the right to vote.

The director general, the judges of the courts of justice, the Public Protector and the members of the Commission de la représentation shall not engage in partisan work.”

13. Section 12 of the said Act is replaced by the following section:

“12. A person who has held the office of director general of elections or member of the Commission de la représentation shall not be a candidate at an election, unless he had ceased to hold that office at least three months before the date on which the Government instituted the election.”

14. Section 19 of the said Act is replaced by the following section:

“19. The returning officer shall send to every dwelling in his electoral division, not later than the twenty-second day preceding that of the polling, a notice indicating the place, the dates and the hours of the polling for advance polling, and a manual prepared by the director general of elections. This manual informs citizens on the right to vote, the electoral list and its revision, the financing of political parties and of candidates and the terms and conditions of participation in the vote.”

15. Section 182 of the said Act is amended by adding the following paragraph:

“The designated person shall also act as chairman of the Commission de la représentation.”

16. Section 183 of the said Act is replaced by the following sections:

“**183.** The function of the director general of elections is to see to the application of this Act, the Act respecting electoral lists (R.S.Q., chapter L-4.1) and the Act to govern the financing of political parties.

In respect of the said Acts, he may conduct an analysis and assessment of the electoral process and studies on the financing of political parties, and carry out or cause any research he considers advisable to be carried out.

“**183.1** In respect of the Election Act and the Act respecting electoral lists, he must, in particular,

- (1) ensure the training of the election personnel and officers;
- (2) supervise the conduct of the enumeration, the revision and the voting;
- (3) issue directives for the administration of the said Acts;
- (4) receive complaints and make inquiries where he considers it advisable.

“**183.2** With respect to the Act governing the financing of political parties, he must, in particular,

- (1) authorize parties, associations and independent candidates;
- (2) verify if the parties, associations and candidates are complying with the said Act;
- (3) draw up the forms and documents for use in the administration of this Act;
- (4) issue directives on the bookkeeping of the parties, associations and independent candidates he has authorized;
- (5) receive and examine the returns of the official representatives of the parties, associations and independent candidates he has authorized;
- (6) inquire into the legality of contributions and expenditures and on any other matter relating to the administration of this Act.

“**183.3** With respect to informing the public, he must, in particular,

(1) provide any person applying therefor with advice and information regarding the administration of the Acts under his responsibility;

(2) give public access to the information, reports or documents relating to the Acts under his responsibility;

(3) maintain a public information centre on the Acts under his responsibility and on the Act respecting electoral representation;

(4) regularly hold information meetings and conferences for political parties, regional and municipal bodies and the public;

(5) furnish, at the request of a political party, the information required for the training of representatives of candidates while allowing the other parties to delegate observers;

(6) make any publicity he considers necessary.”

17. Section 185 of the said Act is replaced by the following section:

“**185.** The director general, of his own initiative or at the request of another person, may inquire into the application of this Act, the Act respecting electoral lists and the Act to govern the financing of political parties.”

18. Section 188 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**188.** In respect of his inquiries, the director general or any person designated by him is vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37). He cannot, however, punish a person for contempt of court.”

19. Section 189 of the said Act is repealed.

20. The said Act is amended by inserting, after section 190, the following section:

“**190.1** The director general may appoint two assistants to assist him in the carrying out of his functions. He shall determine their status. Where the Civil Service Act is not then applicable to an assistant, it is hereby made applicable to him without any other formality.

The director general may delegate generally or specially the exercise of the powers and duties conferred on him by this Act, the Act respecting electoral lists and the Act to govern the financing of political parties. The act of delegation shall be published in the *Gazette officielle du Québec*.”

21. Section 191 of the said Act is repealed.

22. The said Act is amended by inserting, after Title VIII, the following title:

“TITLE VIII.1

“ADVISORY COMMITTEE

“**215.1** An advisory committee on the administration of this Act, the Act respecting electoral lists and the Act to govern the financing of political parties is hereby established.

“**215.2** The committee shall be composed of the director general and of three representatives of each authorized political party represented in the National Assembly of Québec.

The leader of each party shall designate the representatives of the party; at least one representative must be a Member of the National Assembly of Québec.

“**215.3** The committee shall be presided over by the director general, who shall direct its activities and coordinate its work.

“**215.4** The quorum of the committee is the majority of the members, including the chairman.

“**215.5** The chairman and the members of the committee are not remunerated.

However, those members who are not Members of the National Assembly of Québec are entitled to the reimbursement of reasonable expenses incurred by them in the performance of their duties and shall receive an attendance allowance fixed by the Government.

“**215.6** At the request of the chairman or of one-third of its members, the committee may meet as often as necessary for the exercise of its duties and functions.

“**215.7** It is the duty of the committee to give its opinion on any question relating to this Act, the Act respecting electoral lists and the Act to govern the financing of political parties.

“**215.8** The committee may make the results of its work public.

“**215.9** The director general must consult the committee periodically with regard to the administration of this Act, the Act respecting electoral lists and the Act to govern the financing of political parties.

“**215.10** The director general must previously submit to the committee every directive he is authorized to issue under the Act to govern the financing of political parties.”

23. The said Act is amended by inserting, after Title X, the following title:

“TITLE X.1

“ANNUAL REPORT AND FINANCIAL PROVISIONS

“DIVISION I

“REQUIRED SUMS

[[“**232.1** The sums required for the administration of this Act, the Act respecting electoral lists and the Act to govern the financing of political parties, as well as the sums required for the carrying out of responsibilities assigned to the director general by the Act respecting elections in certain municipalities and the Referendum Act, are taken out of the consolidated revenue fund.]]

“DIVISION II

“ANNUAL REPORT

“**232.2** Not later than 30 September each year, the director general shall make a report of his activities for the preceding fiscal period to the President of the National Assembly of Québec.

The report must, in particular, contain a statement of the complaints received and how each was dealt with, and the informational and training activities carried on and, where appropriate, recommend new electoral procedures or new rules regarding the financing of political parties. The report must also include a financial report.

“DIVISION III

“BUDGET ESTIMATES

“**232.3** Each year, the director general shall prepare the budget estimates and file them with the President of the National Assembly of Québec before 1 April.

Where, during the fiscal period, the director general foresees that he will be required to exceed the estimates for purposes other than those contemplated in section 232.6, he must prepare supplementary estimates and file them with the President of the Assembly.

“232.4 The National Assembly of Québec shall refer the study of the estimates or supplementary estimates, as the case may be, prepared by the director general to a parliamentary committee.

“232.5 To facilitate the study of his estimates, the director general shall furnish the committee with a preliminary financial report for the preceding fiscal period.

“232.6 The committee may also study the expenditures made with a view to a polling or at the time of a polling, and the expenditures made for any mandate assigned to it by the National Assembly of Québec and that it was impossible to include in the estimates for the preceding fiscal period.

“232.7 The committee shall approve the budget estimates and table its report in the National Assembly of Québec.”

24. Section 313 of the said Act is repealed.

CHAPTER II

COMPOSITION AND ORGANIZATION OF THE COMMISSION DE LA REPRÉSENTATION

25. Section 1 of the Act respecting electoral representation (R.S.Q., chapter R-24.1) is replaced by the following section:

“1. The “Commission de la représentation” is hereby constituted under this Act.”

26. Section 9 of the said Act is repealed.

27. Section 12 of the said Act is amended by striking out paragraph *b*.

28. Divisions II and III of the said Act, including sections 13 to 24, are replaced by the following:

“DIVISION II

“COMPOSITION OF THE COMMISSION

“13. The Commission shall consist of the director general of elections, who shall be its chairman, and of two other members

chosen from among persons qualified as electors under section 2 of the Election Act (R.S.Q., chapter E-3.1).

“14. On a motion of the Prime Minister, the National Assembly of Québec, by a resolution approved by two-thirds of its members, shall appoint the other members of the Commission.

[[**“15.** The members of the Commission are entitled, for each day of sittings held under this Act, to a payment equal to 1% of the minimum salary received annually by an administrator, Class V. The chairman of the Commission shall receive an annual remuneration equal to 25% of that minimum salary.

The Government shall determine the allowances to which the members are entitled by using as a basis allowances granted to persons holding similar offices.]]

“16. The other members of the Commission shall be appointed for a term of office of five years.

At the expiry of their terms, those members shall remain in office until they are reappointed or replaced.

“17. Before taking office, the other members of the Commission shall make the oath or solemn affirmation provided for in Schedule A, before the President of the National Assembly of Québec.

“18. The other members of the Commission may resign, at any time, by notifying the President of the National Assembly of Québec in writing.

No member may be dismissed except by a resolution of the National Assembly of Québec approved by two-thirds of its members.

“DIVISION III

“ORGANIZATION OF THE COMMISSION

“19. The Commission may appoint a secretary and fix his salary or his additional salary in the case where the person appointed is a civil servant under the Civil Service Act (chapter F-3.1). It may also retain the services of any person.

“20. Before taking office, the secretary shall make the oath or solemn affirmation provided for in Schedule A, before the chairman of the Commission.

“21. The chairman shall direct the Commission and shall be responsible for its administration.

“**22.** The director general of elections shall, in the discharge of his duties, provide the Commission with all required assistance, including that of his personnel.

The chairman shall supervise and direct his personnel.

The Commission has no other personnel than that provided by the director general of elections.

“**23.** The chairman shall have an assistant. He shall choose him and determine his level of employment. If the Civil Service Act is not then applicable to the assistant, it hereby becomes applicable to him without any other formality.

“**24.** No member of the Commission or of the staff placed at its disposal may be prosecuted for any official act performed in good faith in the exercise of his functions.

“**24.1** The minutes of the sittings of the Commission, if approved by it and certified by the chairman or the secretary, are authentic. The same holds true for documents or copies emanating from the Commission, if signed by the chairman or the secretary.”

29. Permanent members of the personnel working for the Commission de la représentation on (*insert here the date of the coming into force of this section*) become permanent members of the personnel of the director general of elections; however, the director general of elections may, under section 55, determine to what extent and according to what terms and conditions the transfer and appointment of the members of the personnel must be made.

30. The director general for representation becomes a permanent member of the personnel of the director general of elections. The Civil Service Act becomes applicable to him without any other formality.

Furthermore, the government and public employees retirement plan is deemed to have applied to him from 1 January 1980.

CHAPTER III

DIVISION OF MUNICIPAL ELECTORAL DISTRICTS

31. Section 2 of the Act respecting elections in certain municipalities (R.S.Q., chapter E-2.1) is amended

(1) by replacing paragraph *d* by the following paragraph:

“(d) “Commission” means the Commission de la représentation constituée par la Loi respectant la représentation électorale (R.S.Q., chapitre R-24.1);”;

(2) by replacing paragraph *g* by the following paragraph:

“(g) “authorized party” or “authorized political party” means a party holding an authorization, in conformity with this Part, from the director general of elections;”.

32. Sections 13.5 and 13.6 of the said Act are replaced by the following sections:

“**13.5** For the purposes of this chapter, the chairman of the Commission shall coordinate and distribute the work of the members of the Commission.

The duties and responsibilities devolved upon the Commission may be carried out by one or several members of the Commission designated by the chairman for that purpose.

Where a municipality has a by-law under section 1.4, the Commission may delegate the carrying out of its duties and responsibilities to any person it may designate. The act of delegation shall be published in the *Gazette officielle du Québec*.

[[“**13.6** The members of the Commission are entitled, for each day of sittings held under this Act, to a payment equal to 1% of the minimum salary received annually by an administrator, Class V.

The Government shall determine the allowances to which the members are entitled by using as a basis allowances granted to persons holding similar offices.”]]

33. The said Act is amended by inserting, after section 19, the following section:

“**19.1** The director general of elections may generally or specially delegate the exercise of the powers conferred on him under sections 18 and 19 to any person he may designate.”

34. Section 34 of the said Act is amended by replacing paragraph *e* by the following paragraph:

“(e) “director general” means the director general of elections;”.

35. Section 34.1 of the said Act is replaced by the following sections:

“**34.1** Sections 183.2, 183.3 and 185 to 188 of the Election Act apply to this chapter, *mutatis mutandis*.”

“**34.2** The director general may generally or specially delegate the exercise of the powers and the discharge of the duties conferred on him by this chapter to any person he may designate. The act of delegation shall be published in the *Gazette officielle du Québec*.”

He may also delegate the exercise of the powers and the discharge of the duties conferred on him under sections 43, 46 and 47 to the returning officer or to the clerk of the municipality concerned.”

36. Section 57.1 of the said Act is repealed.

37. Section 75 of the said Act is amended by striking out subparagraph *e*.

38. Sections 122 and 122.1 of the said Act are replaced by the following sections:

“**122.** The director general of elections and the Commission de la représentation must, not later than 30 September of each year, give the President of the National Assembly of Québec a report of their respective activities under this Act for the preceding year.”

“**122.1** The Minister of Municipal Affairs is responsible for the administration of this Act, except regarding the powers and responsibilities it confers or imposes on the director general of elections and on the Commission de la représentation.”

39. The said Act is amended by replacing the expressions “director general for representation”, “director general” and “director” by the word “Commission” wherever they appear in sections 1.4, 3, 3.9, 6, 7, 8, 9, 11, 13, 13.1, 13.2 and 13.4, *mutatis mutandis*.

40. All acts performed by the director general for representation or by the director general of financing of political parties under the Act respecting elections in certain municipalities are assumed by the Commission de la représentation and the director general of elections, respectively.

CHAPTER IV

CONCORDANCE AMENDMENTS

41. Section 28 of the Referendum Act (R.S.Q., chapter C-64.1), amended by section 105 of chapter 31 of the statutes of 1982, is again amended,

(1) by replacing subparagraph *f* of the first paragraph by the following subparagraph:

“(f) the reasonable expenses usually incurred for the current operation of the permanent office of an authorized party on the island of Montréal and in the city of Québec, if the leader of such party, before the seventh day following the issue of the writs, has given written notice to the director general of elections of the existence of such office, of its exact address and of any change of address;”;

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

“For the purposes of subparagraph *f* of the first paragraph, the permanent office of an authorized party is the office where, in order to ensure dissemination of the political program of such party and to coordinate the political activity of its members, employees of the party or of a body associated therewith work on a permanent basis outside the referendum period, for the attainment of its objects, and which the leader of the party has recognized for such purpose by a letter sent to the director general of elections not over six days after the issue of the writs.”

42. Section 30 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Such official agent is appointed by the chairman of the national committee, who shall notify the director general of elections of the appointment. The director general shall then give notice of it in the *Gazette officielle du Québec*.”

43. Section 33 of the said Act is amended by replacing the second paragraph by the following paragraph:

“No person may accept or execute an order for regulated expenses not given or authorized by such an official agent, deputy or local agent or in his name by his publicity agency recognized by the director general of elections.”

44. Section 35 of the said Act, amended by section 107 of chapter 31 of the statutes of 1982, is again amended by replacing the second paragraph by the following paragraph:

“Such number is established by the director general of elections, who shall prepare a certificate and send a copy of it to the chairman and the official agent of each national committee.”

45. Section 43 of the said Act is amended by replacing the third paragraph by the following paragraph:

“The director general of elections has with respect to national committees and their agents powers similar to those granted to him by the Act to govern the financing of political parties with respect to political parties, their authorities and their representatives.”

46. Section 45 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**45.** The director general of elections must cause special versions of the Election Act, the Act respecting electoral lists and the Act to govern the financing of political parties to be printed, striking out therefrom the sections not appearing in Appendix 2, incorporating therein the sections of the said Acts appearing in the said Appendix and making the amendments indicated in the said Appendix.”

47. Section 46 of the said Act is repealed.

48. Section 47 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**47.** The director general of elections must make, in addition to the obligations imposed by section 45, such measures of concordance as are necessary for the carrying out of this Act, in the versions of the Acts contemplated in those sections.”

49. Section 19 of Division 1 of Appendix 2 of the said Act is replaced by the following section:

“19 Replace the words “political parties and of candidates” in the eighth line by the words “national committees”.”

50. Sections 17 to 24 of Division 2 of Appendix 2 of the said Act are struck out.

CHAPTER V

MISCELLANEOUS AND FINAL PROVISIONS

51. Section 1 of the Labour Code (R.S.Q., chapter C-27) is amended by adding, after subparagraph 5 of paragraph *l*, the following subparagraph:

“(6) a member of the personnel of the director general of elections;”.

52. Sections 205 and 206 of the Election Act are replaced by the following sections:

“205. The director general of elections shall appoint a returning officer for each electoral division.

“206. The appointment of a returning officer is made after a public competition is held among the persons qualified as electors that are domiciled in the electoral division or in a contiguous electoral division provided, in this latter case, that the person is able to carry out his duties in a satisfactory manner as if he were domiciled in the electoral division for which he is appointed.

The competition must be designed to allow impartial consideration of the merits of the candidates.

The selection shall be based on criteria of qualifications and competence and the appointment must be made according to the order of the candidates' merit.”

53. Section 214 of the said Act is replaced by the following section:

“214. The director general may dismiss a returning officer who neglects his duties, engages in partisan work or is not qualified to hold the office or who does not comply with one of the requirements of the office.”

54. Section 2 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by striking out paragraph 30 of the first paragraph.

55. The director general of elections may, until 30 September 1983, with respect to any personnel he may require, including the personnel referred to in sections 11 and 27, and without any other formalities than those prescribed by the standards and scales he determines by regulation approved by the Government, exercise all the powers granted to an incumbent minister, a minister in charge of an agency, a deputy minister or a chief executive officer of an agency pursuant to the Civil Service Act.

56. 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).

57. This Act will come into force on a date to be fixed by proclamation of the Government, saving the provisions excluded in the proclamation which will come into force on any later dates fixed by proclamation of the Government.