

THIRD SESSION

THIRTY-FIRST LEGISLATURE

# ASSEMBLÉE NATIONALE DU QUÉBEC

---

## Bill 96

**An Act to again amend the Education Act and to  
amend the Superior Council of Education Act**

---

First reading .....

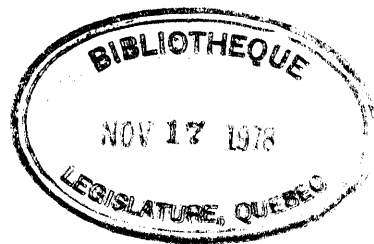
Second reading .....

Third reading .....

---

M. JACQUES-YVAN MORIN

Ministre de l'éducation



---

L'ÉDITEUR OFFICIEL DU QUÉBEC

1 9 7 8



## EXPLANATORY NOTES

*The greatest part of this bill amends the Education Act for the purposes of:*

*(a) specifying the powers granted to school commissioners and trustees to engage, supervise, dismiss or suspend the teaching staff and the personnel required for administration; and*

*(b) stating that the school commissioners or trustees may transfer to another class, school or position a member of the staff provided that his or her salary, except where provided to the contrary in a collective agreement or a regulation made under this act, is not reduced.*

*The bill repeals also certain provisions of the act respecting:*

*(a) the deed of engagement of a teacher and its duration, and the arbitration of grievances in cases of dismissal or non re-engagement;*

*(b) the obligation of a person employed in a public school to undergo a pulmonary examination;*

*(c) the obligation of a school board to insure its moveable and immoveable property.*

*The bill gives also the Government the power to determine by regulation rules and conditions for the alienation of moveable or immoveable property of school boards.*

*Moreover, it gives the Minister the power to determine by regulation standards respecting the term of office of the auditor to a school board or regional school board and determine terms and conditions governing the discharge of that office.*

Sec. 1. *Paragraphs 1 and 2 of section 203 of the act presently read as follows:*

**“203.** It shall be the duty of school boards:

(1) To engage teachers duly qualified to teach in the schools under their control, but they shall not engage as a teacher the consort of a member of the school board;

(2) After mature deliberation at a meeting called for that purpose, to cancel the engagements of persons holding pedagogical or educational positions on account of incapacity, negligence in the performance of their duties, insubordination, misconduct or immorality;”.

Sec. 2. *Section 203a of the act enables any person who holds a pedagogical or educational position and is dismissed under this act to submit his grievance to arbitration. That provision overlaps the provisions of the collective labour agreements.*

Sec. 3. *Section 204b of the act presently reads as follows:*

**“204b.** The school trustees may appoint the necessary administrative staff.”

*The amendment proposed provides concordance.*

Sec. 4. *Sections 212 to 216 of the act presently read as follows:*

## Bill 96

### An Act to again amend the Education Act and to amend the Superior Council of Education Act

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

R.S.,  
c. 235,  
s. 203, am.

**1.** Section 203 of the Education Act (Revised Statutes, 1964, chapter 235), amended by section 1 of chapter 62 of the statutes of 1966/1967, section 2 of chapter 67 and section 2 of chapter 9 of the statutes of 1969, section 43 of chapter 67 of the statutes of 1971, section 109 of chapter 6 of the statutes of 1974 and by section 218 of chapter 5 of the statutes of 1977, is again amended:

(a) by replacing paragraphs 1 and 2 by the following paragraphs:

Engage-  
ment of  
teaching  
staff;

“(1) To engage and supervise the teaching staff and the personnel required for administration;

cancellation or  
suspension;

“(2) To cancel or suspend, for just and sufficient cause, the engagement of the persons contemplated in paragraph 1;”;

(b) by striking out paragraph 17.

R.S.,  
c. 235,  
s. 203a,  
repealed.

**2.** Section 203a of the said act, enacted by section 3 of chapter 67 of the statutes of 1969, is repealed.

R.S.,  
c. 235,  
s. 204b,  
repealed.

**3.** Section 204b of the said act, enacted by section 44 of chapter 67 of the statutes of 1971, is repealed.

R.S.,  
c. 235,  
ss. 212,  
212a,  
213-216,  
repealed.

**4.** Sections 212, 212a enacted by section 4 of chapter 67 of the statutes of 1969, and 213 to 216 of the said act are repealed.

**“212.** The engagement of a teacher shall be for a school year, or to complete a year already begun, or for more than one school year in special cases approved by the Minister.

**“212a.** The engagement of any person other than a teacher who holds a pedagogical or educational position must be made for at least one year, or to terminate a school year already begun.

**“213.** The engagement shall be in writing in virtue of a resolution adopted by the school board.

The deed of engagement may be drawn up according to form 18.

In the deed of engagement the school board shall be represented by its chairman or in his absence by the secretary-treasurer.

**“214.** Engagements of teachers shall be made in triplicate.

Within fifteen days from the execution of the deed, a copy shall be sent to the Minister, another given to the teacher, and the third deposited in the archives of the school board.

**“215.** The fact that a teacher is a minor shall not affect the validity of his engagement, and he may sue and be sued for any purpose connected with such engagement, as if he had attained his majority.

**“216.** In all school municipalities, the school commissioners and trustees shall pay to each of their male or female teachers, an annual salary of not less than fifteen hundred dollars.»

Sec. 5. *Section 218 of the act presently reads as follows:*

**“218.** No person may hold an engagement in a public school unless he produces, every year:

(1) A physician's certificate stating that he suffers from no infirmity or disease which renders him unfit to occupy the employment he holds;

(2) A certificate from a phtisiologist attesting that a clinical and radiological pulmonary examination shows that such person is free from tubercular disease.

Such examination must be made within two months following the engagement or appointment. In the case of re-engagement, the radiological examination shall not be required unless the commissioners exact it.

If it be proved by a medical certificate that a person holding an employment in a public school is suffering from tubercular disease, such person must immediately cease to perform his duties.”

Sec. 6. *Sections 219 to 222 provide for the procedure of non re-engagement of a teacher. These provisions overlap the provisions of the collective labour agreements.*

Sec. 7. *Section 223 of the said act presently reads as follows:*

R.S.,  
c. 235,  
s. 218,  
replaced.

**5.** Section 218 of the said act, amended by section 6 of chapter 67 of the statutes of 1969 and by section 92 of chapter (*insert here the chapter number of Bill 9*) of the statutes of 1978, is replaced by the following section:

Physi-  
cian's cer-  
tificate.

**“218.** No person may hold an engagement in a public school unless he produces a physician's certificate stating that he suffers no infirmity or disease which renders him unfit to occupy the employment he holds. In the case of re-engagement, such examination shall not be required unless the school commissioners or trustees exact it.”

R.S.,  
c. 235,  
ss. 219-  
222,  
repealed.

**6.** Sections 219 to 222 of the said act are repealed.

R.S.,  
c. 235,  
s. 223,  
replaced.

**7.** Section 223 of the said act, replaced by section 8 of chapter 67 of the statutes of 1969, is again replaced by the following section:

**“223.** The school commissioners or trustees may, at any time during the school year, transfer to another class, school or pedagogical or educational position a person who holds such a position, provided that his or her salary is not reduced.”

Sec. 8. *Paragraph 5 of section 224 presently reads as follows:*

**“224.** It shall be the duty of the school boards in each municipality,—

(5) To have the buildings and furniture belonging to their school corporation insured for the greater of the two following amounts:

(a) the amount of the bonded debt;

(b) the amount representing one-half of the value of such buildings and furniture.”

Sec. 9. *Section 228 of the act presently reads as follows:*

**“228.** No school corporation shall, without the approval of the Minister, hypothecate, sell, lease, exchange or alienate in any manner the property belonging to it or borrow money thereon, if the market value of such property exceeds one thousand dollars or if the term of the lease exceeds one year or if the annual rent exceeds one thousand two hundred dollars, as the case may be.

All sales of school property authorized by this section shall be made after a call for tenders made by a public notice, unless the Minister has permitted such sale to be made by private agreement for a fixed sum, in such manner and after such notices as he may deem proper.”

Sec. 10. *Section 241 of the act presently reads as follows:*

**“241.** The school commissioners or trustees shall collect from the rate-payers in their municipality, a sum sufficient to pay the salaries of the teachers at the expiration of each month of teaching, and their report to the Minister shall show that this has been done.”

Sec. 11. *The amendment proposed is meant to authorize the Minister to determine by regulation standards respecting the term of office of the auditor of a school board and terms and conditions governing the discharge of that office.*

Sec. 12. *The amendment proposed provides concordance with section 350 of the act amended by section 11 of the bill.*



Change of  
employ-  
ment.

**“223.** The school commissioners or trustees may, at any time during the school year, transfer to another class, school or position a person contemplated in paragraph 1 of section 203, provided that his or her salary, except where provided to the contrary in a collective agreement or a regulation made under paragraph 1 of section 16, is not reduced.”

R.S.,  
c. 235,  
s. 224, am.

**8.** Section 224 of the said act, amended by section 4 of chapter 61 of the statutes of 1966/1967, is again amended by striking out paragraph 5 of the first paragraph.

R.S.,  
c. 235,  
s. 228, am.

**9.** Section 228 of the said act, replaced by section 5 of chapter 61 of the statutes of 1966/1967, is amended by replacing the second paragraph by the following paragraphs:

Rules and  
conditions  
for  
alienation.

“The Lieutenant-Governor in Council may, by regulation, determine rules and conditions for the alienation of moveable or immoveable property of a school board.

Coming  
into force.

Every regulation made under this section comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein.”

R.S.,  
c. 235,  
s. 241,  
repealed.

**10.** Section 241 of the said act is repealed.

R.S.,  
c. 235,  
s. 350, am.

**11.** Section 350 of the said act, amended by section 64 of chapter 67 of the statutes of 1971, is again amended by adding at the end the following paragraph:

Regulation  
on office  
of auditor.

“The Minister may, by regulation, determine standards respecting the term of office of the auditor or auditors and terms and conditions governing the discharge of that office.”

R.S.,  
c. 235,  
s. 486,  
replaced.

**12.** Section 486 of the said act, replaced by section 83 of chapter 67 of the statutes of 1971, is again replaced by the following section:

Provisions  
applicable.

**“486.** The provisions of this act and of the regulations respecting the auditor of a school board and his report apply *mutatis mutandis* to the regional board.”

Sec. 13. *Section 573a of the act presently reads as follows:*

**“573a.** A school board or a regional board may with the authorization of the Minister provide for courses of study for persons other than those contemplated by section 43.

For such purpose, the engagement of a teacher may, notwithstanding section 212, be made for less than one school year.”

*The amendment proposed provides concordance.*

Sec. 14. *The third and fourth paragraphs of section 620 of the act presently read as follows:*

“It shall not acquire, alienate, build, enlarge, alter or demolish an immovable without the authorization of the Council, which must obtain the approval of the Minister if the cost of the operation exceeds \$100,000.

For the purposes of the preceding paragraph, the Minister may grant a general authorization on such terms and conditions as he may determine. The Council may in the same manner grant a general authorization to any school board.”

Sec. 15. *Section 629 of the act presently reads as follows:*

**“629.** The clerk of a municipal corporation shall, if he receives, in accordance with section 66 of the Real Estate Assessment Act, a complaint respecting and entry contemplated in the preceding section, make a copy of the complaint and deliver or mail it forthwith to the Council, which may then intervene in the dispute. The notice of hearing contemplated in section 69 of the Real Estate Assessment Act must also be sent to the Council.”

Sec. 16. *Section 742 of the act presently reads as follows:*

**“742.** It shall be the duty of the school board to engage teachers duly qualified to teach in the schools under its control. Paragraph 1 of section 203 does not apply.”

*The amendment proposed provides concordance with section 1 of the bill and is meant for the Kativik school board.*

Sec. 17. *The amendment proposed provides concordance.*

Sec. 18. *This provision is a transitional provision.*

R.S.,  
c. 235,  
s. 573a,  
am.

**13.** Section 573a of the said act, enacted by section 92 of chapter 67 of the statutes of 1971, is amended by striking out the second paragraph.

R.S.,  
c. 235,  
s. 620, am.

**14.** Section 620 of the said act, enacted by section 4 of chapter 60 of the statutes of 1972 and amended by section 4 of chapter 39 of the statutes of 1976, is again amended by replacing the third and fourth paragraphs by the following paragraphs:

Rules and  
conditions  
for  
alienation.

“The Lieutenant-Governor in Council may, by regulation, determine rules and conditions for the alienation of moveable or immoveable property of a school board.

Coming  
into force.

Every regulation made under this section comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein.”

R.S.,  
c. 235,  
s. 629, am.

**15.** Section 629 of the said act, enacted by section 4 of chapter 60 of the statutes of 1972, is amended by replacing the words “The clerk of a municipal corporation” in the first two lines by the words “The secretary of the division of the Bureau de révision de l'évaluation foncière du Québec.”

R.S.,  
c. 235,  
s. 742,  
replaced.

**16.** Section 742 of the said act, enacted by section 1 of chapter (insert here the chapter number of Bill 2) of the statutes of 1978, is replaced by the following:

Vote  
prohibited.

**“742.** No commissioner may vote on any question regarding a member of his family.”

R.S.,  
c. 235,  
s. 749, am.

**17.** Section 749 of the said act, enacted by section 1 of chapter (insert here the chapter number of Bill 2) of the statutes of 1978, is amended by striking out the words “Notwithstanding the first paragraph of section 219,” in the first line.

Effect  
continued  
for  
purposes of  
collective  
agree-  
ments.

**18.** Every provision of the Education Act repealed by this act and referred to in a collective agreement made in conformity with the Act respecting collective bargaining in the sectors of education, social affairs and government agencies (1974, chapter

Sec. 19. *The first paragraph of section 14 of the Superior Council of Education Act presently reads as follows:*

“**14.** The Council and its committees and boards shall have their secretarial office in the city of Québec.”

Sec. 20. *The amendment proposed provides concordance. It is meant to repeal section 92 of Bill 9 assented to 23 June 1978, which has not come into force as there has been no proclamation by the Government, and the terms of which are overlapped by section 5 of this bill.*

8) continues to have effect for the purpose of interpreting or applying that collective agreement until its expiry.

R.S.,  
c. 234,  
s. 14, am.

**19.** Section 14 of the Superior Council of Education Act (Revised Statutes, 1964, chapter 234) is amended by replacing the first paragraph by the following paragraph:

Secretarial  
office.

**“14.** The Council and its committees and boards have their secretarial office in the territory of the Communauté urbaine de Québec.”

1978, B. 9,  
s. 92,  
repealed.

**20.** Section 92 of the Act to secure the handicapped in the exercise of their rights (1978, chapter *insert here the chapter number of Bill 9*) is repealed.

Coming  
into force.

**21.** This act comes into force on the day of its sanction.