



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 101

**An Act to give effect to the Charbonneau
Commission recommendations on
political financing**

Introduction

**Introduced by
Madam Rita L.C. de Santis
Minister responsible for Access to Information and the
Reform of Democratic Institutions**

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EXPLANATORY NOTES

This bill amends the Election Act in order to give effect to the recommendations of the Commission of Inquiry on the Awarding and Management of Public Contracts in the Construction Industry mainly regarding political financing.

Under the bill, volunteer work for an authorized entity must be performed personally, voluntarily, without compensation and for no consideration, and contribution slips must from now on specify the name of the contributor's employer.

The provisions of the Election Act regarding loans and sureties are strengthened through the introduction of a new declaration intended to prevent name-lending and of a \$25,000 ceiling on loans granted and sureties contracted by an elector.

Under the bill, official representatives, delegates, official agents and deputies must undergo training prepared by the Chief Electoral Officer. In addition, financial reports and expense returns must be signed by the party leader, candidate, Member or, as applicable, the highest ranking official designated by the authorized party authority and must be accompanied by a declaration regarding the rules regarding financing and election expenses. The same obligations apply in the case of reports and returns in the context of a party leadership campaign.

The Chief Electoral Officer must prepare an annual report on the application of the financing rules set out in the Election Act and the Act respecting elections and referendums in municipalities and on the advisability of modifying those rules.

The bill introduces a penal offence for electors who make a false declaration regarding a loan or surety and makes that offence a corrupt electoral practice.

The prescription period for penal proceedings, and consequently the retention period for documents, is increased from five to seven years. In addition, the bill withdraws the time limit after which a contributor is no longer required to remit to the Chief Electoral Officer a contribution or part of a contribution made contrary to the Election Act and provides that all such contributions must from now on be paid over to the Minister of Finance.

Lastly, consequential amendments are made to the Act respecting elections and referendums in municipalities and the Act respecting school elections.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting elections and referendums in municipalities (chapter E-2.2);
- Act respecting school elections (chapter E-2.3);
- Election Act (chapter E-3.3).

Bill 101

AN ACT TO GIVE EFFECT TO THE CHARBONNEAU COMMISSION RECOMMENDATIONS ON POLITICAL FINANCING

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ELECTION ACT

1. The Election Act (chapter E-3.3) is amended by inserting the following section after section 45:

“45.1. Within 30 days after being appointed, official representatives and delegates shall undergo training given by the Chief Electoral Officer on political financing rules.

Official representatives and delegates shall also undergo any refresher training given by the Chief Electoral Officer.

The Chief Electoral Officer shall, by directive, determine the other particulars regarding all such training.”

2. Section 65 of the Act is amended by adding the following sentences at the end of the first paragraph: “The name, address and telephone number of the official agent of each authorized party and candidate and, if applicable, the official agent’s deputies shall also be set out in the registers. In addition, an entry shall be made in the registers to indicate whether or not the persons subject to section 45.1 or 408.1 have undergone the training required under the first paragraph of those sections.”

3. Section 88 of the Act is amended

(1) by replacing subparagraph 1 of the second paragraph by the following subparagraph:

“(1) volunteer work performed personally and voluntarily, the result of such work and the use of a personal vehicle for that purpose, provided they are performed or provided without compensation and for no consideration;”;

(2) by inserting “, in accordance with sections 105 and 105.1,” after “by an elector” in subparagraph 4 of the second paragraph;

(3) by striking out “, or a guarantee granted by an elector as surety” in subparagraph 4 of the second paragraph;

(4) by inserting the following subparagraph after subparagraph 4 of the second paragraph:

“(4.1) a guarantee granted by an elector as surety in accordance with sections 105 and 105.1;”.

4. Section 95.1 of the Act is amended by inserting “the name of the contributor’s employer,” after “domiciliary address,” in the second paragraph.

5. Section 100 of the Act is replaced by the following section:

“100. If a contribution or part of a contribution was made contrary to this division, the authorized entity shall, as soon as the fact is known, remit such a contribution to the Chief Electoral Officer.

The sums remitted must be paid over to the Minister of Finance.”

6. The Act is amended by inserting the following section after section 104:

“104.1. Any loan granted by an elector shall be made by cheque or other order of payment signed by the elector and drawn on the elector’s account in a bank, trust company or financial service cooperative having an office in Québec.”

7. Section 105 of the Act is amended by inserting the following paragraph after the second paragraph:

“The deed of loan or of suretyship shall also include a declaration by the elector stating that the loan is granted or the suretyship contracted out of the elector’s own property, voluntarily, without compensation and for no consideration, and that it has not nor will not be reimbursed in any other way than as stipulated in the deed.”

8. The Act is amended by inserting the following section after section 105:

“105.1. For the same elector, the total of the following amounts may not exceed \$25,000:

(1) the outstanding principal of any loan granted for the benefit of one or more authorized entities; and

(2) any sum for which the elector remains surety in connection with loans contracted by one or more authorized entities.”

9. Section 106 of the Act is amended by replacing “comply with section 100, adapted as required” in the second paragraph by “remit them to the Chief Electoral Officer, who shall pay them over to the Minister of Finance”.

10. Section 115 of the Act is amended by inserting “in accordance with subparagraph 4.1 of the second paragraph of section 88” after “who became surety” in subparagraph 4 of the first paragraph.

11. The Act is amended by inserting the following section after section 115:

“115.1. The financial report of an authorized party shall be signed by the leader of the party and accompanied by a declaration by the party leader in the form prescribed by the Chief Electoral Officer.

The declaration shall state, in particular, that the party leader has been informed of the financing rules, that he has reminded the persons authorized to solicit contributions of their obligation to comply with those rules, that he has been informed of the party’s solicitation practices and considers that they comply with the law, that he has read the report and that he has obtained any clarification he wished to receive regarding its content.

The report shall also be accompanied by a declaration by the official representative in the form prescribed by the Chief Electoral Officer.”

12. Section 117 of the Act is amended by replacing the second paragraph by the following paragraph:

“The financial report shall contain

(1) an income statement made in accordance with section 114;

(2) the information prescribed in section 115;

(3) the signature of the authorized independent Member, the Member or, failing that in the latter case, the highest ranking official designated in writing by the authorized party authority;

(4) a declaration by the person subject to subparagraph 3, made in accordance with section 115.1, applied with the necessary modifications; and

(5) a declaration by the official representative in the form prescribed by the Chief Electoral Officer.”

13. Section 122 of the Act is amended by replacing “, and the information provided for in section 115” in the second paragraph by “, the information prescribed in section 115, the candidate’s signature, a declaration by the candidate made in accordance with section 115.1, applied with the necessary modifications, and a declaration by the official representative in the form prescribed by the Chief Electoral Officer”.

14. The Act is amended by inserting the following section after section 127.16:

“127.16.1. The return of leadership campaign income and expenses shall be signed by the candidate and accompanied by a declaration by the candidate in the form prescribed by the Chief Electoral Officer.

The declaration shall state, in particular, that the candidate has been informed of the rules regarding financing and campaign expenses, that he has reminded the persons authorized to solicit contributions and those authorized to incur or authorize expenses of their obligation to comply with those rules, that he has been informed of the solicitation practices and considers that they comply with the law, that he has read the return and that he has obtained any clarification he wished to receive regarding its content.

The return shall also be accompanied by a declaration by the financial representative in the form prescribed by the Chief Electoral Officer.”

15. Section 127.17 of the Act is amended by adding the following sentence at the end of the first paragraph: “Section 127.16.1 applies, with the necessary modifications, to the latter report.”

16. The Act is amended by inserting the following section after section 127.19:

“127.19.1. The return of leadership campaign expenses shall be signed by the person holding the office of leader of the party or interim leader on the day of the vote and accompanied by a declaration by that person in the form prescribed by the Chief Electoral Officer.

The declaration shall state, in particular, that the person has been informed of the rules regarding campaign expenses, that he has reminded the persons authorized to incur or authorize expenses of their obligation to comply with those rules, that he has read the return and that he has obtained any clarification he wished to receive regarding its content.

The return shall also be accompanied by a declaration by the official representative in the form prescribed by the Chief Electoral Officer.”

17. The Act is amended by inserting the following section after section 408:

“408.1. Within 10 days of being appointed, official agents and their deputies shall undergo training given by the Chief Electoral Officer on the control of election expenses.

Official agents and deputies shall also undergo any refresher training given by the Chief Electoral Officer.

The Chief Electoral Officer shall, by directive, determine the other particulars regarding all such training.”

18. Section 417 of the Act is amended by replacing the second paragraph by the following paragraph:

“A person may nevertheless personally and voluntarily, without compensation and for no consideration, do volunteer work and provide the use of his personal vehicle for that purpose.”

19. The Act is amended by inserting the following section after section 432:

“432.1. The return of election expenses of the official agent of a candidate shall be signed by the candidate and accompanied by a declaration by the candidate in the form prescribed by the Chief Electoral Officer.

The declaration shall state, in particular, that the candidate has been informed of the rules regarding campaign expenses, that he has reminded the persons authorized to incur or authorize expenses of their obligation to comply with those rules, that he has read the return and that he has obtained any clarification he wished to receive regarding its content.”

20. The Act is amended by inserting the following section after section 434:

“434.1. The return of election expenses of the official agent of an authorized party shall be signed by the leader of the party and accompanied by a declaration by the party leader in the form prescribed by the Chief Electoral Officer.

The declaration shall state, in particular, that the party leader has been informed of the rules regarding election expenses, that he has reminded the persons authorized to incur or authorize expenses of their obligation to comply with those rules, that he has read the return and that he has obtained any clarification he wished to receive regarding its content.”

21. Section 542 of the Act is amended by striking out “or new rules regarding the financing of political parties” at the end of the second paragraph.

22. The Act is amended by inserting the following section after section 542.1:

“542.2. The Chief Electoral Officer shall prepare a report on the application of the financing rules set out in Title III and Chapter VI of Title IV of this Act and Chapters XIII and XIV of Title I of the Act respecting elections and referendums in municipalities (chapter E-2.2) and on the advisability of modifying them.

The report shall be submitted before 1 April to the President of the National Assembly, who shall table it in the Assembly within 15 days or, if the Assembly is not sitting, within 15 days of resumption. The competent committee of the National Assembly shall subsequently examine the report.”

23. Section 564 of the Act is amended by replacing “102 to 106” by “102 to 104.1, the first and second paragraphs of section 105, sections 105.1, 106”.

24. The Act is amended by inserting the following section after section 564.1:

“564.1.1. An elector who falsely declares that a loan is granted or a suretyship contracted out of the elector’s own property, voluntarily, without compensation and for no consideration, and that it has not nor will not be reimbursed in any way other than as stipulated in the deed of loan is liable to a fine of \$5,000 to \$20,000 for a first offence and of \$10,000 to \$30,000 for every subsequent offence within 10 years.”

25. Section 567 of the Act is amended by inserting “, in section 564.1.1” after “in section 564.1” in the first paragraph.

26. Sections 118, 127.16, 127.17, 127.19, 436 and 569 of the Act are amended by replacing all occurrences of “five years” by “seven years”.

ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

27. Section 428 of the Act respecting elections and referendums in municipalities (chapter E-2.2) is amended by replacing paragraph 1 by the following paragraph:

“(1) volunteer work performed personally and voluntarily and the result of such work, without compensation and for no consideration;”.

28. Section 434 of the Act is amended by inserting “the name of the contributor’s employer,” after “domiciliary address,” in the third paragraph.

29. Section 440 of the Act is replaced by the following section:

“440. If a contribution or part of a contribution was made contrary to this chapter, the party or independent candidate shall, not later than 30 days after the fact is known, remit such a contribution to the treasurer.

The sums remitted shall be paid into the general fund of the municipality.”

30. Section 614 of the Act is replaced by the following section:

“614. Every person holding a contribution made contrary to Chapter XIII of Title I who fails to remit the amount of the contribution or the amount at which the contribution is evaluated to the treasurer within 30 days after becoming aware of the fact is guilty of an offence.”

ACT RESPECTING SCHOOL ELECTIONS

31. Section 206.26 of the Act respecting school elections (chapter E-2.3) is replaced by the following section:

“206.26. If a contribution or part of a contribution was made contrary to this chapter, the authorized candidate shall, not later than 30 days after the fact is known, remit such a contribution to the director general of the school board.

The sums remitted shall be paid into the general fund of the school board.”

TRANSITIONAL AND FINAL PROVISIONS

32. Sections 5, 29 and 31, insofar as they strike out the third paragraph of, respectively, section 100 of the Election Act (chapter E-3.3), section 440 of the Act respecting elections and referendums in municipalities (chapter E-2.2) and section 206.26 of the Act respecting school elections (chapter E-2.3), apply from 10 December 2010.

33. This Act comes into force on (*insert the date of assent to this Act*).

