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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 109

**An Act to amend the Education Act, the Act  
respecting school elections and other legislative  
provisions**

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**Introduction**

**Introduced by  
Madam Pauline Marois  
Minister of Education**

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## **EXPLANATORY NOTES**

*This bill amends the provisions of the Education Act to provide for the establishment of French language and English language school boards.*

*The bill introduces changes to the provisions governing the establishment of such school boards, particularly to the rules dealing with the formation, composition and operation of the provisional councils which will be responsible for implementing the preparatory measures required to allow French language and English language school boards to begin operating on 1 July of the year following the year of publication of the territorial division order establishing the new school boards.*

*The bill also introduces new rules concerning the transfer of the personnel of the existing school boards to and their reassignment in the new French language and English language school boards, as well as new rules governing their representation by unions.*

*In addition, a system of provisional governance is instituted as regards confessional and dissentient school boards which will apply during the period extending from 1 July of the year following the year of publication of the territorial division order establishing French language and English language school boards until 30 June of the year following the year of publication of a proclamation of the Governor General under the Great Seal of Canada declaring that paragraphs 1 to 4 of section 93 of the Constitution Act, 1867 do not apply in respect of Québec.*

*During the provisional governance period, the territories of the confessional school boards of Montréal and Québec will coincide with the territories of the cities of Montréal and Québec. The Protestant School Board of Greater Montréal will be known as the “Protestant School Board of Montréal”, and the Greater Québec School Board will be known as the “Protestant School Board of Québec”. A language council will be established within every confessional school board for the minority of students who have been declared eligible to receive instruction in English where the majority of students have not been declared so eligible or, conversely, for the minority of students who have not been declared eligible to receive instruction in English where the majority of students have been declared so eligible.*

*The bill terminates the five existing dissentient school boards, but maintains, for the Catholic and Protestant minorities, the right to dissent upon or after the establishment of French language and English language school boards. The bill also simplifies the rules governing the exercise of the right to dissent and specifies that a Catholic or Protestant dissentient school board will be either a French language or an English language school board. It empowers the Government to amalgamate dissentient school boards of the same religious confession, Catholic or Protestant, and of the same category, French language or English language, even if their territories are not contiguous, and to terminate any dissentient school board that does not itself provide any educational services.*

*The provisions dealing with regional school boards are repealed.*

*As regards the Act respecting school elections, the bill establishes new rules governing participation in the election of commissioners and the drawing up of lists of electors of French language and English language school boards.*

*The bill also contains a schedule that proposes further amendments to the Education Act to apply in the event of a constitutional amendment occurring before 1 January of the year following the year of publication of the territorial division order establishing French language and English language school boards.*

*Lastly, the bill proposes consequential amendments and transitional and final provisions.*

#### **LEGISLATION AMENDED BY THIS BILL :**

- Labour Code (R.S.Q., chapter C-27);
- Act respecting the Conseil supérieur de l'éducation (R.S.Q., chapter C-60);
- Act respecting school elections (R.S.Q., chapter E-2.3);
- Education Act (R.S.Q., chapter I-13.3);
- Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2).



## **Bill 109**

### **AN ACT TO AMEND THE EDUCATION ACT, THE ACT RESPECTING SCHOOL ELECTIONS AND OTHER LEGISLATIVE PROVISIONS**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

#### **EDUCATION ACT**

1. Section 95 of the Education Act (R.S.Q., chapter I-13.3) is amended

(1) by striking out the words “or schools under the jurisdiction of a confessional school board or a Catholic dissentient school board” in the second, third and fourth lines ;

(2) by striking out the words “or schools under the jurisdiction of a confessional school board or a Protestant dissentient school board” in the fifth, sixth and seventh lines.

2. Section 111 of the said Act is amended

(1) by replacing the third paragraph by the following paragraph :

“The order shall assign a name temporarily to each school board ; the name may contain a number.” ;

(2) by replacing the words “between 1 January and 1 March” in the first and second lines of the fourth paragraph by the words “not later than 31 August”.

3. The said Act is amended by inserting, after section 111, the following section :

“111.1. After consulting each school board established by the territorial division order, the Government shall determine its name.

The order comes into force 10 days after the date of its publication in the *Gazette officielle du Québec* or on any later date indicated therein.”

4. Division II of Chapter V of the said Act, containing sections 122 to 142, is repealed.

5. Section 143 of the said Act is amended by striking out paragraph 3.

6. Section 146 of the said Act is repealed.

7. Section 147 of the said Act is amended

(1) by striking out the words “or representing the parents of the minority of students described in section 146” in the second line of the first paragraph;

(2) by striking out the words “or 146” in the second line of the second paragraph.

8. Section 148 of the said Act is amended

(1) by striking out the words “or the parents of the minority of students described in section 146” in the first and second lines of the first paragraph;

(2) by striking out the words “, or to be a member of the council of commissioners of the regional school board of which the school board is a member” in the third, fourth and fifth lines of the second paragraph.

9. Section 149 of the said Act is amended by striking out the words “or of the parents of the minority of students described in section 146” in the third and fourth lines of the first paragraph.

10. Section 153 of the said Act is amended

(1) by striking out the second sentence of the first paragraph;

(2) by striking out the words “or 146” in the second line of the third paragraph.

11. Section 179 of the said Act is amended

(1) by replacing the words “of any commissioner representing the parents’ committee and, where such is the case, of any commissioner representing the parents of the minority of students described in section 146” in the third, fourth and fifth lines of the first paragraph by the words “and of any commissioner representing the parents’ committee”;

(2) by striking out the second paragraph.

12. Section 189 of the said Act is replaced by the following section:

“189. A parents’ committee, composed of one representative from each school committee, shall be established within each school board.”

13. Section 191 of the said Act is amended by striking out the words “and any commissioner representing the parents of the minority of students contemplated in section 146” in the fourth, fifth and sixth lines of the first paragraph.

14. Section 193 of the said Act is amended by striking out the words “or, as the case may be, the school board’s integration into the regional school board or its withdrawal therefrom” in the second and third lines of paragraph 1.

15. Section 198 of the said Act is amended by striking out the second paragraph.

16. Section 206 of the said Act is repealed.

17. Section 207 of the said Act is amended by replacing the words “, a confessional school board or a dissentient school board shall be made on the” in the second and third lines of the first paragraph by the words “is made upon an”.

18. Section 209 of the said Act is amended by replacing subparagraph 2 of the first paragraph by the following subparagraph:

“(2) provide educational services itself or entrust the provision of educational services to a school board, body or person with which or whom it has entered into an agreement pursuant to any of sections 213 to 215;”.

19. Section 210 of the said Act is replaced by the following section:

“210. A French language school board shall provide educational services in French; an English language school board shall provide educational services in English.

However, adult education services shall be provided in French or in English according to law; the same applies in respect of educational services provided to persons coming under the jurisdiction of a school board of another category pursuant to section 213, 467 or 468.

Nothing in this section shall prevent the teaching of a second language in that language.”

20. Section 213 of the said Act is amended by replacing the fourth paragraph by the following paragraph:

“A school board may, pursuant to an agreement under this section, provide services to persons who do not come under its jurisdiction.”

21. Section 218 of the said Act is amended

(1) by striking out the words “, unless it is a confessional or dissentient school board,” in the third and fourth lines of the second paragraph;

(2) by adding, after the second paragraph, the following paragraph:

“The school board must apply for such a withdrawal where the orientation committee and the school committee so request after ascertaining the opinions of the parents of the students attending the school.”

22. Section 233 of the said Act is amended by striking out the second paragraph.

23. Section 262 of the said Act is amended by striking out the words “other than a confessional or dissentient school board” in the first and second lines.

24. Section 263 of the said Act is amended by striking out the words “other than a confessional or dissentient school board” in the first and second lines.

25. Sections 305 and 306 of the said Act are replaced by the following sections :

“305. An immovable owned by a natural person to whom section 304 does not apply and whose name is entered on the latest list of electors of a school board having jurisdiction over the territory where the immovable is situated is taxable exclusively by that school board.

“306. An immovable owned by a natural person to whom sections 304 and 305 do not apply, who would be entitled to have his name entered on the list of electors of a school board having jurisdiction over the territory where the immovable is situated if an election were held during the school year for which the tax is levied and who has elected to pay the tax to that school board is taxable exclusively by that school board.

An election as to the levy of school taxes shall be made by way of a notice transmitted before 1 April to the school board in whose favour the election is made ; that school board must, without delay and in writing, inform any other school board which has jurisdiction over the territory where the immovable is situated.

Such an election remains in force until the person revokes it in the manner provided in the second paragraph, until he applies for admission of one of his children to the educational services of another school board having jurisdiction over the territory where the immovable is situated or until his name is entered on the list of electors of another school board.”

26. Division VIII of Chapter V of the said Act, containing sections 354 to 391, is repealed.

27. Section 425.1 of the said Act is repealed.

28. Chapter IX of the said Act is replaced by the following chapter :



## **“CHAPTER IX**

### **“PROVISIONAL GOVERNANCE OF CONFESSIONAL SCHOOL BOARDS AND DISSENTIENT SCHOOL BOARDS**

#### **“DIVISION I**

##### **“INTRODUCTORY PROVISIONS**

“493. The purpose of this chapter is, in the context of the application in respect of Québec of paragraphs 1 to 4 of section 93 of the Constitution Act, 1867, to provide that educational services are provided under this Act in the cities of Montréal and Québec within confessional school boards alone and to maintain, elsewhere in Québec, the right to dissent in respect of French language and English language school boards.

This chapter shall apply during the period beginning on 1 July of the year following the year of publication of the territorial division order made pursuant to section 111 and ending on 30 June of the year following the year of publication of the proclamation of the Governor General under the Great Seal of Canada declaring that paragraphs 1 to 4 of section 93 of the Constitution Act, 1867 do not apply in respect of Québec.

#### **“DIVISION II**

##### **“PROVISIONAL CONFESSIONAL SCHOOL BOARDS**

“§ 1. — *Continuance of existence*

“494. During the provisional governance period, the Commission des écoles catholiques de Montréal, under the same name, and the Protestant School Board of Greater Montréal, under the name of “Protestant School Board of Montréal”, shall continue to exist under this Act with respective territories corresponding to the territory of the city of Montréal.

Likewise, the Commission des écoles catholiques de Québec, under the same name, and the Greater Québec School Board, under the name of “Protestant School Board of Québec”, shall continue to exist under this Act with respective territories corresponding to the territory of the city of Québec.

“495. If the boundaries of the territory of the city of Montréal or Québec are changed, the boundaries of the territory of each confessional school board concerned shall be changed accordingly as of 1 July of the year following the year of coming into force of the change.

“496. If the boundaries of the territory of a confessional school board are reduced, any French language school board or English language school board whose territory wholly or partly coincides with the removed portion shall, if it receives a notice of intention to establish a dissentient school board under section 508.5 and if it does not recognize that the persons who wish to establish a dissentient school board are of a religious minority, Catholic or

Protestant, draw up, before 30 November of the year preceding the year of coming into force of the reduction, a list of the persons whose names are entered on its latest list of electors and of the persons whose names are entered on the latest list of electors of the confessional school board who are domiciled in the removed portion and would be qualified electors of the school board if an election were held on 31 December of the same year.

The list drawn up shall be substituted for the latest list of electors referred to in sections 508.5 and 508.6 as regards the exercise of the right to dissent in the territory of the school board or in the part of its territory outside the city of Montréal or Québec before 31 December of the same year.

“497. If the boundaries of the territory of a confessional school board are extended, any dissentient school board whose entire territory is situated within the added portion shall cease to exist on the same date ; if the dissentient school board’s territory is situated only partly within the added portion, the boundaries of its territory shall be changed to exclude such portion.

“498. Before the coming into force of a reduction of the boundaries of the territory of a confessional school board, the confessional school board and the school boards, other than confessional school boards, whose territories wholly or partly coincide with the removed portion shall apportion among themselves the rights and obligations of the confessional school board.

Before the coming into force of an extension of the boundaries of the territory of a confessional school board, the confessional school board and the school boards, other than confessional school boards, whose territories wholly or partly coincide with the added portion shall apportion among themselves the rights and obligations of the latter school boards.

The Minister shall rule on any dispute among the school boards concerned except disputes respecting the transfer and reassignment of employees who are members of a certified association within the meaning of the Labour Code (chapter C-27) or of employees for whom a regulation of the Government under section 451 provides a special recourse. The Minister shall ensure that his decision does not deprive the confessional school board or the new dissentient school board, if any, of the property necessary for its operation.

Section 121 applies to the transfer of ownership of immovables.

## “§ 2. — *Language councils*

### “1. Establishment

“499. A language council shall be established within every confessional school board for the minority of students who have been declared eligible to receive instruction in English while the majority of students have not been declared so eligible or, conversely, for the minority of students who have not been declared eligible to receive instruction in English while the majority of students have been declared so eligible.

Students enrolled in adult education shall be disregarded for the purposes of this section.

“500. A language council shall be composed of three parents of students of the minority concerned, elected by a majority vote of the parents of such students assembled in a general meeting.

“501. Each year, the secretary general of the school board shall call the parents of the students of the minority to a meeting to elect, before the third Sunday in November, from among such parents who are not employees of the school board, the members of the language council.

The secretary general shall preside over the election of the members of the language council; the election procedure shall be determined by the secretary general.

The elected representatives shall take office on the third Sunday of November following their election. Their term of office shall be one year.

The first language council must be formed in the month of March of the year following the year of publication of the territorial division order and replaces, upon its formation, the commissioners referred to in section 146.

If the secretary general fails to fulfil all or any of his obligations under this section, the Minister shall appoint a person to carry out the unfulfilled formalities at the expense of the school board.

“502. The members of a language council shall be members of the council of commissioners referred to in section 143.

Notwithstanding section 179, the executive committee of a confessional school board shall consist of not less than five members and not more than the number of members which is equal to one-third of the voting members of the council of commissioners and shall include a member of the language council.

“503. The office of member of a language council becomes vacant in the same cases as those provided for commissioners elected under the Act respecting school elections (chapter E-2.3).

Such a vacancy shall be filled in accordance with the procedure prescribed in section 501, but only for the unexpired portion of the term.

“504. Within 35 days from taking office, every commissioner who is a member of a language council shall swear before the director general, or the person designated by the director general, that he will fulfill his duties faithfully and to the best of his judgment and ability.

The oath shall be recorded in the Minutes of Proceedings of the school board.

“505. A commissioner who is a member of a language council shall have the same rights, powers and obligations as other commissioners.

Notwithstanding the foregoing, a commissioner who is a member of the language council may not be appointed chairman or vice-chairman of the school board.

## “2. Functions and powers

“506. A confessional school board which provides educational services itself to students of the minority referred to in section 499 shall establish, pursuant to section 211 and after consulting the language council, one or more schools for the student minority concerned, and the board is required to enrol in those schools the students of that minority who choose to be enrolled therein pursuant to section 4.

The criteria, referred to in section 239, for the enrollment of students in such schools are subject to the approval of the language council.

“507. The deed of establishment of a school of a confessional school board shall state, in addition to that which is prescribed by section 38, the English or French language status of the school.

A revocation of the deed of establishment of a school for the student minority or any amendment of a deed of establishment to withdraw the language status of such a school shall be approved by the language council.

“508. A confessional school board shall ensure that schools for the student minority receive an equitable allocation of

- (1) the educational services referred to in section 236;
- (2) the personnel referred to in section 261;
- (3) the movable and immovable property referred to in section 266;
- (4) the financial resources referred to in section 275.

The Minister shall rule on any dispute between the confessional school board and the language council concerning the allocation of the resources referred to in the first paragraph.

“508.1. Resolutions of the school board concerning the following matters are inoperative in respect of schools for the student minority so long as they have not been approved by the language council:

- (1) the by-laws for the management of schools, referred to in section 212 ;
- (2) the enrichment and adaptation of the programs of studies established by the Minister, referred to in section 222 ;
- (3) the development of local programs of studies, referred to in section 223 ;
- (4) the criteria for the selection of textbooks and instructional material required for the programs of studies established by the Minister and for the programs of studies adopted by the school board, referred to in section 229.

At the request of the language council, the school board shall make such changes to resolutions concerning matters mentioned in the first paragraph as are considered necessary for the application of the resolutions in schools for the student minority.

“508.2. The following are subject to the approval of the language council :

- (1) the rules of conduct and safety rules, referred to in section 78, adopted by the orientation committee of a school for the student minority ;
- (2) an agreement, referred to in section 213, for the provision of educational services to a student of the minority ;
- (3) the enrolment of a student of the minority in another school or the expulsion of such a student from the schools pursuant to section 242 ;
- (4) the criteria for the assignment of personnel in schools for the student minority.

“508.3. In addition, the language council

- (1) may, notwithstanding the first paragraph of section 223, develop and offer, in the schools under its jurisdiction, local programs of studies to meet special needs of the students and attribute to such programs, with the authorization of the Minister, a number of credits greater than that provided for in the basic school regulation ; to that end, the language council may avail itself of the services of the school board in the manner agreed with the council of commissioners ;
- (2) shall examine any request concerning a student of the minority pursuant to section 11 ;
- (3) shall establish the criteria, referred to in section 41, for the selection of the principal of a school for the student minority.

### **“DIVISION III**

#### **“PROVISIONAL DISSENTIENT SCHOOL BOARDS**

“508.4. Any dissentient school board established pursuant to Division II.1 of Chapter X shall be governed by this chapter.

“508.5. Any number of natural persons of full age domiciled in the territory of a school board, except persons domiciled in the city of Montréal or Québec, who are of a religious confession, Catholic or Protestant, different from that of the majority of persons whose names are entered on the school board’s latest list of electors may serve on the school board a notice in writing stating their dissatisfaction with the measures taken by the school board for the management of its schools and informing the school board of their consequent intention to establish a dissentient school board.

Before serving the notice of dissent, the persons who wish to establish a dissentient school board shall request the school board to recognize that they are of a religious minority, Catholic or Protestant.

“508.6. Where the school board does not recognize that the persons who wish to establish a dissentient school board are of a religious minority, Catholic or Protestant, it shall without delay contact the persons entered on its latest list of electors to verify whether they are of the religious confession of the persons who wish to establish a dissentient school board.

The list of electors is the list which was used at the last general election of commissioners, subject to applications for entry, striking off or correction. The director general shall deposit the latest list of electors at the head office of the school board and give public notice thereof. The provisions of the Act respecting school elections (chapter E-2.3) concerning the revision of the list of electors apply; for that purpose, the director general shall exercise the functions and powers of the returning officer.

Persons who refuse to answer or who cannot be contacted are deemed not to be of the religious confession of the persons who wish to establish a dissentient school board.

As soon as the results of the verification are known, the school board shall inform the persons wishing to establish a dissentient school board thereof.

“508.7. When effecting the verification under section 508.6, the school board shall inform each elector

(1) of the fact that persons domiciled in the territory of the school board have served a notice of their intention to establish a Catholic or Protestant dissentient school board;

(2) of the rule whereby persons who refuse to answer or who cannot be contacted are deemed not to be of the religious confession of the persons who wish to establish a dissentient school board ;

(3) of the fact that the persons who wish to establish a Catholic or Protestant dissentient school board may serve a notice of dissent as soon as it is confirmed by the results of the verification that they are of a religious minority, Catholic or Protestant.

“508.8. If the school board fails to fulfil all or any of its obligations under sections 508.6 and 508.7, the Minister shall appoint a person to carry out the unfulfilled formalities at the expense of the school board.

“508.9. The notice of dissent may be served when the school board has recognized that the persons wishing to establish a dissentient school board are of a religious minority, Catholic or Protestant or, as the case may be, when the results of the verification indicate such as fact.

“508.10. The notice of dissent must be served on the school board and on the Minister before 31 December.

The dissentient school board is established as of the date of service of the notice in all or part of the territory of the school board as described in the notice of dissent.

“508.11. The notice of dissent shall contain

(1) the name of the dissentient school board ;

(2) the description of the territory of the dissentient school board ;

(3) the names of three persons who will form a provisional council ;

(4) the name of the person who will act as director general of the dissentient school board until the council of commissioners appoints a person to that office.

In addition, each person concerned shall indicate, in the notice, his name, address, age and religious confession and affix his signature opposite such information.

“508.12. A dissentient school board belongs either to the French language category or to the English language category.

“508.13. Where a notice of dissent is served on more than one new school board of the same category by persons of the same religious minority, Catholic or Protestant, the Government may, by order, establish a single dissentient school board responsible for providing educational services in the territory determined by the Government.

The order shall determine the name of the new dissentient school board. It comes into force on the date of its publication in the *Gazette officielle du Québec*.

The members of the provisional councils of the dissentient school boards concerned form, from the publication of the order, the provisional council of the new dissentient school board.

However, the Minister may limit the number of members from the provisional council of each dissentient school board ; the members shall, in such a case, be designated by their respective provisional councils.

“508.14. The provisional council shall be responsible for taking such preparatory measures as are required for the operation of the dissentient school board in its territory from 1 July of the year following the year of service of the notice of dissent as well as such measures as are required for the organization of the first school year beginning on the same date.

For that purpose, the provisional council shall exercise the functions and powers of the dissentient school board as if it were the council of commissioners.

Not later than 1 March of the year following the year of service of the notice of dissent, the provisional council shall, in co-operation with the school boards concerned, proceed with admissions to educational services provided in schools for the school year beginning in the same year.

“508.15. The provisional council of the dissentient school board and the school board on which the notice of dissent has been served shall apportion the rights and obligations of the latter school board between that school board and the dissentient school board.

In the case provided for in section 508.13, each school board on which the notice of dissent has been served shall be a party to the apportionment.

The Minister shall rule on any dispute among the school boards concerned except disputes respecting the transfer and reassignment of employees who are members of a certified association within the meaning of the Labour Code (chapter C-27) or of employees for whom a regulation of the Government under section 451 provides a special recourse. The Minister shall ensure that his decision does not deprive the dissentient school board of the property necessary for its operation.

Section 121 applies to the transfer of ownership of immovables.

“508.16. The Act respecting school elections (chapter E-2.3) applies to the election of the first commissioners of the dissentient school board.



Between 1 January and 1 March of the year following the year of service of the notice of dissent, the provisional council shall divide the territory of the dissentient school board into electoral divisions in accordance with the rules provided in the Act respecting school elections. The date of the poll shall be the second Sunday of the following month of June.

The first commissioners shall take office on the following 1 July and shall exercise the functions of the council of commissioners on their own until the representatives of the parents' committee are elected. The first commissioners shall remain in office until the date fixed for the next general election.

“508.17. For the purposes of the Act respecting school elections (chapter E-2.3),

(1) notwithstanding section 6 of the said Act, the number of electoral divisions shall be three unless the Government authorizes the provisional council, at its request, to establish a greater number of divisions;

(2) the date of admission to educational services referred to in the first paragraph of section 15 of the said Act is 1 March;

(3) an elector who, as of 1 March preceding polling day, does not have a child admitted to educational services provided in schools of any school board having jurisdiction over the territory in which the elector is domiciled may, in addition to what is provided for in the second paragraph of section 15 of the said Act, choose to vote at the election of the commissioners of the dissentient school board; the provisions of section 17 and of the first and second paragraphs of section 18 and, in the case of an English language dissentient school board, of section 16, adapted as required, are applicable;

(4) the list of electors of the dissentient school board shall be drawn up, pursuant to section 40 of the said Act, by drawing from the list transmitted by the chief electoral officer the name of every elector who, as of 1 March preceding polling day, has a child admitted to educational services provided in schools of that school board and the name of every elector who has exercised his voting option in favour of that school board, and the list of electors of the French language school board or English language school board shall be modified accordingly, if need be.

However, the only electors who may choose to vote at the election of the commissioners of an English language dissentient school board are those who meet a condition set out in one of paragraphs 1 to 4 of section 16 of the said Act.

If the elector chooses to vote at the election of the commissioners of the dissentient school board, the notice referred to in section 18 of the said Act must be accompanied by a statement of the elector to the effect that he is of the same religious confession as the dissentient school board; if the dissentient school board is an English language school board, the notice must also be

accompanied by a statement of the elector to the effect that he meets a condition set out in one of paragraphs 1 to 4 of section 16 of the said Act.

“508.18. At the request of dissentient school boards of the same category or of a majority of electors of such dissentient school boards, the Government may, by order, amalgamate their territories to form a new school board or extend the boundaries of the territory of one of the school boards by annexing the whole territory of the other school board.

In the case of amalgamation, a new dissentient school board shall be established in the territory determined by the order and the school boards whose territories are amalgamated shall cease to exist.

Where the whole territory of a school board is annexed, the school board shall cease to exist.

Sections 119 and 121, adapted as required, apply to these changes.

“508.19. The Government may, by order, divide the territory of any dissentient school board upon request by the school board and establish a new dissentient school board territory or annex part of its territory to that of another dissentient school board of the same category that consents thereto.

In the case of a division for the purpose of establishing a new territory, a new dissentient school board shall be established in the territory determined in the order.

Sections 120 and 121, adapted as required, apply to these changes.

“508.20. The Government may, of its own initiative and without the consent referred to in section 508.19, make an order under section 508.18 or 508.19.

“508.21. An order under section 508.18, 508.19 or 508.20 shall, where applicable, determine the name of the new dissentient school board.

The order comes into force on 1 July following the date of its publication in the *Gazette officielle du Québec* or on any later date indicated therein.

“508.22. Where the territories of dissentient school boards are amalgamated, the commissioners of such school boards form, from the publication of the order, the provisional council of the new dissentient school board resulting from the amalgamation of the territories.

However, the Minister may limit the number of commissioners from each dissentient school board; the members of the provisional council shall, in such a case, be designated by their respective councils of commissioners.

“508.23. Where the territory of a dissentient school board is divided to allow for the establishment of new dissentient school boards, the provisional council of a new dissentient school board shall, from the publication of the order, consist of every commissioner whose entire electoral division has been incorporated into the territory of the new dissentient school board and of every commissioner part of whose electoral division in which the majority of electors reside has been incorporated into that territory.

“508.24. The provisional council shall be responsible for taking such preparatory measures as are required for the operation of the new dissentient school board in its territory from the date of coming into force of the order as well as such measures as are required for the organization of the first school year beginning on the same date.

For that purpose, the provisional council shall exercise the functions and powers of the new dissentient school board as if it were the council of commissioners. However, the representatives of parents’ committees are not entitled to vote at meetings of the provisional council.

“508.25. The Government may, by order, terminate any dissentient school board which does not itself provide any educational services.

The order comes into force on 30 June following the date of its publication in the *Gazette officielle du Québec* or on any later date indicated therein.

Before the coming into force of the order, the Minister shall apportion the rights and obligations of the dissentient school board among the school boards of the same category whose territories wholly or partly coincide with that of the dissentient school board.

Section 121 applies to the transfer of ownership of immovables.

#### **“DIVISION IV**

#### **“GENERAL PROVISIONS**

“508.26. During the provisional governance period, a French language or English language school board whose territory wholly or partly coincides with the territory of a confessional school board shall not exercise any of its functions or powers in respect of the part of its territory within the territory of the confessional school boards of Montréal or Québec.

During that period, the list of electors of the French language or English language school board shall be drawn up only in respect of the part of its territory outside the territory of the confessional school boards.

“508.27. Confessional and dissentient school boards are governed, as though they were French language or English language school boards, by the provisions of Chapters I to VIII, except the provisions of the second and third paragraphs of section 218 and sections 262 and 263.

The Government shall grant to a confessional or dissentient school board a subsidy equal to any amount it may be required to pay pursuant to section 424 or 425 for the purposes of the other school boards on the island of Montréal or of the Conseil scolaire de l'île de Montréal.

“508.28. As regards the application of Division VI of Chapter V, persons of a religious confession, Catholic or Protestant, other than the religious confession of a confessional school board do not come under the jurisdiction of that confessional school board.

This section shall not operate to prevent a confessional school board from providing, pursuant to an agreement under section 213, educational services to persons not coming under its jurisdiction.

“508.29. As regards the application of Division VI of Chapter V in respect of educational services provided in schools, the only persons coming under the jurisdiction of a dissentient school board are persons of the same religious confession as the dissentient school board who elect to come under the jurisdiction of that school board.

In addition, in the case of an English language dissentient school board, only those persons who, according to law, may receive instruction in English come under the jurisdiction of that school board.

The election to come under the jurisdiction of a dissentient school board is made upon an application for admission to the educational services of the school board.

The election remains in force until the person makes a new election.

This section shall not operate to prevent a confessional school board from providing, pursuant to an agreement under section 213, educational services to persons not coming under its jurisdiction.

“508.30. The regulations made by the Catholic committee or the Protestant committee to ensure the confessional character of educational institutions recognized as Catholic or Protestant apply to the educational institutions of confessional and dissentient school boards.

“508.31. A confessional school board shall provide educational services in French or in English according to law.

A French language dissentient school board shall provide educational services in French ; an English language dissentient school board shall provide educational services in English. However, adult education services shall be provided in French or in English according to law ; the same applies in respect of educational services provided to persons coming under the jurisdiction of a school board of another category pursuant to section 213, 467 or 468.

Nothing in this section shall prevent the teaching of a second language in that language.

“508.32. As regards the application of the Act respecting school elections (chapter E-2.3) in the territory of the city of Montréal or Québec, an elector who, as of 30 September preceding polling day, does not have a child admitted to educational services provided in schools of any school board having jurisdiction over the territory in which the elector is domiciled may, as he chooses, vote at the election of the commissioners of the Catholic confessional school board or of the Protestant confessional school board having jurisdiction over the territory in which he is domiciled; the provisions of section 17 and of the first and second paragraphs of section 18, adapted as required, are applicable.

If the option is effected in favour of a Catholic confessional school board, the notice referred to in section 18 of the said Act must be accompanied by a statement of the elector to the effect that he is of a religious confession other than Protestant or of no religious confession.

If the option is effected in favour of a Protestant confessional school board, the notice referred to in section 18 of the said Act must be accompanied by a statement of the elector to the effect that he is of a religious confession other than Catholic or of no religious confession.

The list of electors of a confessional school board shall be drawn up, pursuant to section 40 of the said Act, by drawing from the list transmitted by the chief electoral officer the name of every elector who, as of 30 September preceding polling day, has a child admitted to educational services provided in schools of that school board and the name of every elector who has exercised his voting option in favour of that school board.

“508.33. As regards the application of the Act respecting school elections (chapter E-2.3) in the territory of a dissentient school board,

(1) notwithstanding section 6 of the said Act, the number of electoral divisions shall be three unless the Government authorizes the provisional council, at its request, to establish a greater number of divisions;

(2) an elector who, as of 30 September preceding polling day, does not have a child admitted to educational services provided in schools of any school board having jurisdiction over the territory in which the elector is domiciled may, in addition to what is provided for in the second paragraph of section 15 of the said Act, choose to vote at the election of the commissioners of the dissentient school board; the provisions of section 17 and of the first and second paragraphs of section 18 and, in the case of an English language dissentient school board, of section 16, adapted as required, are applicable;

(3) the list of electors of the dissentient school board shall be drawn up, pursuant to section 40 of the said Act, by drawing from the list transmitted by the chief electoral officer the name of every elector who, as of 30 September

preceding polling day, has a child admitted to educational services provided in schools of that school board and the name of every elector who has exercised his voting option in favour of that school board, and the list of electors of the French language school board or English language school board shall be modified accordingly, if need be.

However, the only electors who may choose to vote at the election of the commissioners of an English language dissentient school board are those who meet a condition set out in one of paragraphs 1 to 4 of section 16 of the said Act.

If the elector chooses to vote at the election of the commissioners of the dissentient school board, the notice referred to in section 18 of the said Act must be accompanied by a statement of the elector to the effect that he is of the same religious confession as the dissentient school board; if the dissentient school board is an English language school board, the notice must also be accompanied by a statement of the elector to the effect that he meets a condition set out in one of paragraphs 1 to 4 of section 16 of the said Act.

“508.34. The management negotiating committee for French language school boards established under section 30 of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2) is deemed to be the management negotiating committee for Catholic confessional school boards and French language dissentient school boards.

Likewise, the management negotiating committee for English language school boards is deemed to be the management negotiating committee for Protestant confessional school boards and English language dissentient school boards.

## **“DIVISION V**

### **“END OF PROVISIONAL GOVERNANCE**

“508.35. The right to dissent shall be abolished on the date of publication of the proclamation referred to in section 493.

Confessional school boards and dissentient school boards shall cease to exist on 1 July of the year following that date.

From 1 July of the year following that date, a French language or English language school board whose territory wholly or partly coincides with the territory of a confessional school board shall exercise all its functions and powers in the part of its territory that is within the city of Montréal or Québec.

Not later than 1 March of the year following that date, the school boards concerned shall proceed jointly with admissions to educational services provided in schools for the school year beginning that year.

“508.36. Before a confessional school board ceases to exist, the Minister shall determine the apportionment of the rights and obligations of the confessional school board among the school boards whose territory wholly or partly coincides with the territory of the confessional school board.

Before a dissentient school board ceases to exist, the Minister shall determine the apportionment of the rights and obligations of the dissentient school board among the school boards of the same category whose territories wholly or partly coincide with the territory of the dissentient school board.

Section 121 applies to the transfer of ownership of immovables.

“508.37. An immovable premises of which are, on the date of publication of the proclamation referred to in section 493, at the disposal of one or more schools which provide instruction exclusively in French shall become the property of the French language school board having jurisdiction over the territory where the immovable is located; likewise, the immovable shall become the property of the English language school board having jurisdiction over the territory where the immovable is located if instruction is provided exclusively in English.

“508.38. A school established in premises or immovables that were under the jurisdiction of a confessional or dissentient school board is deemed to be a school recognized as Catholic or Protestant according to the confession of the confessional or dissentient school board. The school shall retain this recognition until the Catholic committee or the Protestant committee revokes it of its own initiative or at the request of the school board.

The French language or English language school board is required, during the first school year in which it provides educational services in such a school, to consult the persons and bodies referred to in section 218 on the advisability of maintaining such recognition.

“508.39. Before a confessional school board ceases to exist, an election shall be held in respect of all commissioners’ seats on every French language and English language school board whose territory wholly or partly coincides with the territory of the city of Montréal or Québec.

The Act respecting school elections (chapter E-2.3) applies to such election.

For the purposes of the scale prescribed by section 6 of the said Act, the number of electoral divisions shall vary from 9 to 21 according to the number of students admitted to educational services provided in schools of the school board.

For the purposes of section 15 of the said Act, the date of admission to educational services is 1 March.

“508.40. Notwithstanding section 3 of the Act respecting school elections (chapter E-2.3), the Government shall determine, by order, the polling date and the dates of the various steps leading to the polling.

The order comes into force on the date of its publication in the *Gazette officielle du Québec*.

“508.41. The commissioners elected shall take office on 1 July of the year following the year of publication of the proclamation referred to in section 493 and shall exercise the functions of the council of commissioners on their own until the representatives of the parents’ committee are elected.

They shall remain in office until the date fixed for the next general election or, if the next general election is to be held within two years, until the following general election.”

29. The heading of Chapter X of the said Act is amended by replacing the word “ORGANIZATION” by the word “ESTABLISHMENT”.

30. Section 509 of the said Act, amended by section 13 of chapter 78 of the statutes of 1990, is replaced by the following section :

“509. In this chapter,

(1) “existing school board” means any school board as it exists on the date of publication of the territorial division order made pursuant to section 111 ;

(2) “new school board” means any French language or English language school board established by the territorial division order or any dissentient school board established pursuant to Division II.1 of this chapter.”

31. Divisions II and II.1 of Chapter X of the said Act are replaced by the following divisions :

## **“DIVISION II**

### **“PROVISIONAL COUNCILS OF FRENCH LANGUAGE AND ENGLISH LANGUAGE SCHOOL BOARDS**

“510. A provisional council shall be established for each new French language or English language school board.

All existing school boards, other than regional school boards, to the educational services of whose schools at least 100 students residing or placed in the territory of the new school board or in the part of its territory outside the city of Montréal or Québec were admitted as of the preceding 30 September to receive instruction in the language of the new school board, shall be concerned by the establishment of the provisional council.

“511. If a single school board is concerned by the establishment of the provisional council, its commissioners as a group shall form the provisional council.



“512. If more than one school board is concerned, the members of the provisional council shall be designated as follows:

(1) commissioners elected by universal suffrage to the school boards concerned shall be designated by their respective councils of commissioners according to the scale prescribed by section 513;

(2) two commissioners representing the parents’ committees of the school boards concerned shall be elected by a majority vote of their peers present at the general meeting called pursuant to section 514.3.

“513. The number of commissioners elected by universal suffrage to be assigned to the provisional council by each school board concerned shall be a function of the ratio between the number of its students residing or placed in the territory of the new school board or in the part of its territory outside the city of Montréal or Québec who, as of the preceding 30 September, were admitted to the educational services provided in its schools to receive instruction in the language of the new school board and the total number of such students of all the school boards concerned. The number shall be fixed by the Minister, according to the following scale:

- (1) one commissioner if the ratio is less than 10% ;
- (2) two commissioners if the ratio is from 10% to 18% exclusive ;
- (3) three commissioners if the ratio is from 18% to 26% exclusive ;
- (4) four commissioners if the ratio is from 26% to 34% exclusive ;
- (5) five commissioners if the ratio is from 34% to 42% exclusive ;
- (6) six commissioners if the ratio is from 42% to 50% exclusive ;
- (7) seven commissioners if the ratio is from 50% to 58% exclusive ;
- (8) eight commissioners if the ratio is from 58% to 66% exclusive ;
- (9) nine commissioners if the ratio is from 66% to 74% exclusive ;
- (10) ten commissioners if the ratio is from 74% to 82% exclusive ;
- (11) eleven commissioners if the ratio is from 82% to 90% exclusive ;
- (12) twelve commissioners if the ratio is 90% or over.

“514. The commissioners elected by universal suffrage who may be designated to the provisional council by their respective councils of commissioners are the commissioners who would be entitled to have their names entered on the list of electors of the new school board on the date of designation.

The commissioners representing parents' committees who may be elected to the provisional council are those who have children residing or placed in the territory of the new school board and who are receiving instruction in the language of the new school board.

"514.1. Where the number of persons on the council of commissioners of a school board concerned or among the commissioners representing the parents' committees of the school boards concerned who may be designated or elected to the provisional council falls short of the required number, the council of commissioners or the general meeting called pursuant to section 514.3 shall complete its representation by designating or electing persons domiciled in the territory of the new school board or in the part of its territory outside the city of Montréal or Québec who have the required status.

"514.2. For the purposes of section 15 of the Act respecting school elections (chapter E-2.3), in the cases described in the first paragraph of section 514 and in section 514.1, children admitted to educational services provided in schools of an existing school board are deemed to be admitted to the educational services of a French language school board or, if they receive instruction in English, they are deemed to be admitted to the educational services of an English language school board; furthermore, the date of admission to educational services shall be 30 September of the year preceding the year of publication of the territorial division order.

"514.3. The meetings of the councils of commissioners and the general meeting called to designate or elect the members of the provisional council shall be held within 30 days after the date of publication of the territorial division order. Such meetings and general meeting shall be called by a person appointed in writing by the Minister, by means of a notice of at least seven clear days transmitted to each person concerned by such provisions.

The person appointed by the Minister shall preside over the election of the members referred to in paragraph 2 of section 512; the election procedure shall be determined by that person.

"514.4. The person appointed by the Minister shall call the members of the provisional council to the first meeting of the council within 15 days after the date on which the designation and election of members are completed.

The provisional council shall choose its chairman and its vice-chairman from among the commissioners elected by universal suffrage.

"514.5. Before the calling of the meetings and general meeting referred to in section 514.3, the Minister shall publish in the *Gazette officielle du Québec* a notice indicating, opposite the name of each new school board, the number of commissioners elected by universal suffrage to be assigned to the provisional council by each school board concerned, the name of the person appointed to exercise the functions specified in sections 514.3 and 514.4 and the address for service of a notice of intention to establish a dissentient school board under section 515.1.

Within the same time, the Minister shall send a copy of the notice to the council of commissioners and parents' committee of each school board concerned.

“515. The operation of a provisional council shall be governed by sections 158 to 178, except section 174, adapted as required; for that purpose, the word “commissioner” shall designate a member of the provisional council.

The commissioners representing the parents' committees referred to in paragraph 2 of section 512 shall have the same rights, powers and obligations as the other members of the provisional council, except the right to vote.

## **“DIVISION II.1**

### **“EXERCISE OF THE RIGHT TO DISSENT**

“515.1. Any number of natural persons of full age domiciled in the territory of a new school board, except persons domiciled in the city of Montréal or Québec, who are of a religious confession, Catholic or Protestant, different from that of the majority of the persons who would be entitled to have their names entered on the list of electors of that school board if an election were held on 31 December of the year of publication of the territorial division order may, before 15 October of the year of publication of the territorial division order, serve on the provisional council of the new school board a notice in writing informing the provisional council of their intention to establish a dissentient school board.

Before serving the notice of dissent, the persons shall request that the provisional council recognize that they are of a religious minority, Catholic or Protestant.

“515.2. Where the provisional council does not recognize that the persons wishing to establish a dissentient school board are of a religious minority, Catholic or Protestant, it shall, not later than the following 30 November, draw up the list of electors of the new school board, according to the rules prescribed by the Act respecting school elections (chapter E-2.3) as if an election was to be held on 31 December of the same year.

“515.3. For the purposes of section 15 of the Act respecting school elections (chapter E-2.3), children admitted to educational services provided in schools of an existing school board are deemed to be admitted to educational services of a French language school board or, if they receive instruction in English, they are deemed to be admitted to educational services of an English language school board.

“515.4. In drawing up the list of electors or the part of that list which corresponds to the school board's territory outside the city of Montréal or Québec, the provisional council shall verify whether the electors are of the religious confession of the persons who wish to establish a dissentient school board.

Electors who refuse to answer or who cannot be contacted are deemed not to be of the religious confession of the persons who wish to establish a dissentient school board.

As soon as the results of the verification are known, the provisional council shall inform the persons who wish to establish a dissentient school board thereof.

“515.5. When drawing up the list of electors, the provisional council shall inform each elector

(1) of the fact that persons domiciled in the territory of the new school board have served a notice of their intention to establish a Catholic or Protestant dissentient school board ;

(2) of the rule whereby persons who refuse to answer or who cannot be contacted are deemed not to be of the religious confession of the persons who wish to establish a dissentient school board ;

(3) of the fact that the persons who wish to establish a Catholic or Protestant dissentient school board may serve a notice of dissent as soon as it is confirmed by the results of the verification that they are of a religious minority, Catholic or Protestant ;

(4) of the possibility for any elector who, as of 30 September, did not have a child admitted to educational services provided in the schools of any existing school board in the territory in which he is domiciled to file the notice referred to in section 18 of the Act respecting school elections (chapter E-2.3), and of the time period and address for service of such a notice.

“515.6. The notice of dissent may be served when the provisional council has recognized that the persons wishing to establish a dissentient school board are of a religious minority, Catholic or Protestant or, as the case may be, when the results of the verification indicate such as fact.

“515.7. The notice of dissent must be served on the provisional council and on the Minister before 31 December of the year of publication of the territorial division order, and must be in conformity with section 508.11.

The dissentient school board is established as of the date of service of the notice of dissent in all or part of the territory of the new school board as described in the notice of dissent.

“515.8. Where a notice of dissent is served on more than one new school board of the same category by persons of the same religious minority, Catholic or Protestant, the Government may, by order, establish a single dissentient school board responsible for providing educational services in the territory determined by the Government.

The order shall determine the name of the new dissentient school board. It comes into force on the date of its publication in the *Gazette officielle du Québec*.

The members of the provisional councils of the dissentient school boards concerned form, from the publication of the order, the provisional council of the new dissentient school board.

However, the Minister may limit the number of members from the provisional council of each dissentient school board ; the members shall, in such a case, be designated by their respective provisional councils.

“515.9. The first paragraph of section 515 applies to the provisional council of a dissentient school board.”

32. The said Act is amended by inserting, before section 516, the following heading :

“§ 1. — *General provisions*”.

33. Section 516 of the said Act is amended by inserting the words “or in the part of its territory outside the city of Montréal or Québec” after the word “territory” in the second line of the first paragraph.

34. The said Act is amended by inserting, after section 518, the following section :

“518.1. Not later than 1 March of the year following the year of publication of the territorial division order, the provisional council shall, in co-operation with the other provisional councils concerned and, where applicable, with the confessional school boards, proceed with admissions to educational services provided in schools for the school year beginning in the same year.

Not later than that date, confessional school boards shall proceed jointly with admissions to educational services provided in schools for the said school year.

Section 508.28 applies in respect of admissions to educational services provided in schools in the territory of the city of Montréal or Québec. Section 508.29 applies in respect of admissions to educational services provided in schools in the territory of a dissentient school board.”

35. Section 519 of the said Act is amended by inserting, after the first paragraph, the following paragraph :

“However, an immovable not allocated to a confessional school board or to a new dissentient school board and premises of which are, on (*insert here the date of introduction of bill 109 of 1997*), at the disposal of one or more schools

which provide instruction exclusively in the language of the new school board, shall become the property of the new school board.”

36. Section 520 of the said Act is amended by adding, at the end, the following paragraphs :

“In addition, a school established in premises or immovables under the jurisdiction of a confessional or dissentient school board is deemed to be a school recognized as Catholic or Protestant according to the confession of the confessional or dissentient school board. The school shall retain this recognition until the Catholic committee or the Protestant committee revokes it of its own initiative or at the request of the provisional council or the new school board.

A new school board, except a dissentient school board, is required, during the first school year in which it provides educational services, to consult the persons and bodies referred to in section 218 on the advisability of maintaining such recognition.”

37. Section 522 of the said Act is repealed.

38. Section 523 of the said Act is amended by adding, at the end, the following paragraph :

“For the purposes of section 306, the notice provided for in the second paragraph of that section may be transmitted before 15 June.”

39. The said Act is amended by inserting, after section 523, the following subdivision :

“§ 2. — *Special provisions respecting the transfer and reassignment of personnel*

“523.1. The personnel of an existing school board shall be distributed among and transferred to the school boards concerned in accordance with the applicable transfer and reassignment standards and procedure, which may not operate to reduce the conditions of employment that are in force.

“523.2. The transfer standards and procedure are provisions that allow the employer of a personnel member to be determined as of 1 July of the year following the year of publication of the territorial division order. The transfer of a personnel member does not sever the employment relationship.

The reassignment standards and procedure applicable to teachers are provisions concerning the application of the assignment process provided for in the applicable conditions of employment.

The reassignment standards and procedure applicable to employees who are non-teaching personnel are provisions that allow them to be assigned a

position or a place of employment as of 1 July of the year following the year of publication of the territorial division order.

“523.3. The transfer and reassignment standards and procedure applicable to personnel who do not belong to a certified association within the meaning of the Labour Code (chapter C-27) shall be determined by regulation of the Minister.

The Regulations Act (chapter R-18.1) does not apply to such regulation or proposed regulation. The regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

“523.4. The transfer and reassignment standards and procedure applicable to personnel who are employees belonging to a certified association within the meaning of the Labour Code (chapter C-27), and the rights and remedies available to such an employee who believes he has been wronged in the application of such standards and procedure, shall be negotiated and ratified by the management and union parties in the education sector identified in the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2).

The management and union parties may also negotiate and ratify conditions of employment incidental to the transfer and reassignment of employees.

“523.5. Failing an agreement between the management and union parties before 31 October of the year of publication of the territorial division order, the disagreement shall be submitted to a single arbitration tribunal established for each class of personnel referred to in section 29 of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2).

“523.6. The arbitration tribunal shall be composed of one person designated by the management negotiating committees referred to in paragraphs 1 and 2 of section 30 of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2), of one person designated by the groups of associations of employees referred to in section 26 of the said Act and of a president appointed by agreement between the persons so designated or, failing agreement, appointed by the Minister of Labour.

If a party fails to designate a representative, the tribunal may proceed in the absence of that party’s representative.

The members of the tribunal shall be designated before 15 November of the year of publication of the territorial division order.

“523.7. Where the employees of a class are represented by different negotiating agents, each agent may intervene before the arbitration tribunal and make any recommendations the agent considers fair and expedient.

“523.8. The award of the arbitration tribunal shall determine the transfer and reassignment standards and procedure, and the rights of and remedies available to an employee who believes he has been wronged in the application of such standards and procedure.

The tribunal may also determine any condition of employment it considers incidental to the transfer and reassignment of an employee.

The award of the arbitration tribunal must operate to determine the employer and assignment of every employee who would have been in the employ of an existing school board on 1 July of the year following the year of publication of the territorial division order; the award may not operate to require a school board to hire a greater number of employees than the total number of employees entitled to transfer and reassignment.

The award may not operate to provide conditions of employment that entail higher costs than those entailed by the application of the conditions of employment applicable at the time the disagreement was submitted to the arbitration tribunal, or to increase the staff.

“523.9. The tribunal must render its decision not later than 31 December of the year of publication of the territorial division order.

“523.10. The management and union parties may agree on any mechanism for settling disputes other than the mechanism provided for in sections 523.5 to 523.9; they may, in particular, agree to substitute a single arbitrator for the arbitration tribunal.

“523.11. The provisional council shall establish the administrative structure of the new school board and determine, in co-operation with the other provisional councils concerned and, where applicable, with the confessional school boards, the distribution of personnel not belonging to a certified association within the meaning of the Labour Code (chapter C-27) in accordance with the transfer and reassignment standards and procedure referred to in section 523.3.

“523.12. The provisional council shall prepare a staffing plan to determine the staffing needs of the new school board in respect of each class of employees belonging to a certified association within the meaning of the Labour Code (chapter C-27) and shall, in co-operation with the other provisional councils concerned and, where applicable, with the confessional school boards, prepare a transfer plan. The staffing and transfer plans shall be prepared in accordance with the standards and procedure established pursuant to sections 523.4 to 523.10.

“523.13. The provisional council shall consult the associations representative of the personnel concerned concerning the establishment of the administrative structure of the new school board and the distribution plan for



the personnel not belonging to a certified association within the meaning of the Labour Code (chapter C-27).

The provisional council shall also consult the associations of employees concerning the establishment of the administrative structure of the new school board.

“523.14. The provisional council shall transmit a copy of the distribution plan for the personnel not belonging to a certified association within the meaning of the Labour Code (chapter C-27) and a copy of the transfer plan for the other personnel members to each representative association, within an existing school board, of a class of personnel affected by the plans.

“523.15. Not later than 30 June of the year following the year of publication of the territorial division order, the provisional council shall give written notice to each personnel member of the name of his employer as of 1 July of that year.

“523.16. The provisional council shall reassign the personnel members who are employees belonging to a certified association within the meaning of the Labour Code (chapter C-27) in accordance with the conditions of employment applicable on 1 July of the year following the year of publication of the territorial division order and with the transfer and reassignment standards and procedure established pursuant to sections 523.4 to 523.10.”

40. Section 524 of the said Act is amended by inserting, at the end of the first paragraph, the following sentence: “Nor may an existing school board fill a vacancy in a position that must be held by a personnel member who does not belong to a certified association within the meaning of the Labour Code (chapter C-27), except with the authorization of the Minister.”

41. Section 525 of the said Act is repealed.

42. Sections 528 and 529 of the said Act are replaced by the following sections :

“528. For the purposes of this division, a confessional school board shall be considered to be a new school board.

“529. The Act respecting school elections (chapter E-2.3) applies to the election of the first commissioners of the new school board in its territory or in the part of its territory outside the city of Montréal or Québec.

For the purposes of the scale prescribed by section 6 of the said Act, the number of electoral divisions in the case of a school board other than a dissentient school board shall vary from 9 to 21 according to the number of students admitted to educational services provided in schools of the new school board.

For the purposes of section 15 of the said Act, the date of admission to educational services is 1 March.

The list of electors may be drawn up on the basis of the list of electors drawn up pursuant to section 515.2, if any.

In the case of a confessional or dissentient school board, section 508.32 or 508.33 shall apply, as the case may be, except that the reference therein to the date of 30 September shall be replaced by a reference to 1 March.

“529.1. Notwithstanding section 3 of the Act respecting school elections (chapter E-2.3), the Government shall determine, by order, the polling date and the dates of the various steps leading to the polling.

The order comes into force on the date of its publication in the *Gazette officielle du Québec*.”

43. The said Act is amended by inserting, after section 530, the following division:

#### **“DIVISION IV.1**

##### **“UNION REPRESENTATION**

“530.1. The provisions of the Labour Code (chapter C-27) relating to union representation apply, except where incompatible with the provisions of this division.

Notwithstanding section 23 of the Labour Code, the labour commissioner general may appoint any person temporarily to ensure the carrying out of this division.

“530.2. Any association of employees representing personnel of a class of employees that is certified, as of 30 June of the year following the year of publication of the territorial division order or as of the date of the transfer notice referred to in section 523.15, to represent a group of employees of the same class within an existing school board whose territory wholly or partly coincides with the territory of the new school board shall be entitled to apply for certification to represent that group of employees.

“530.3. An application for certification shall be made by means of a petition filed not later than 31 August at the office of the labour commissioner general.

The petition shall be accompanied by a copy of the decision certifying the petitioning association, and by any other information required in the form provided to that end by the labour commissioner general, except applications for membership.

“530.4. Failure to file the petition for certification at the office of the labour commissioner general within the prescribed time entails dismissal of the petition.

“530.5. The labour commissioner general shall send a copy of the petition for certification to the existing school boards whose territories wholly or partly coincide with the territory of the new school board and to the provisional council of the new school board.

“530.6. Upon receipt of one or more petitions, the labour commissioner general shall proceed as follows :

(1) if he comes to the conclusion that the petitioning association is the only association possessing certification in the territory of the new school board or that the petitioning association is the only association to have filed a petition, he shall certify it and indicate what group of employees constitutes the bargaining unit ;

(2) if he comes to the conclusion that the petitioning association has obtained the agreement of all associations of employees entitled to certification to represent a group of employees, he shall certify the petitioning association and indicate what group of employees constitutes the bargaining unit ;

(3) if he comes to the conclusion that all petitioning associations have agreed that one petitioning association be certified to represent a group of employees, he shall certify that petitioning association and indicate what group of employees constitutes the bargaining unit ;

(4) if he comes to the conclusion that all the associations entitled to apply for certification agree to amalgamate into a single association, he shall certify the association resulting from the amalgamation and indicate what group of employees constitutes the bargaining unit ;

(5) if he comes to the conclusion that there is no agreement between the petitioning associations as to certification of one association to represent a group of employees, he shall order a vote by secret ballot.

“530.7. Only employees who are in a bargaining unit may participate in the secret ballot vote.

All employees whose names appear on the new school board’s transfer plan as of 1 July of the year following the year of publication of the territorial division order are presumed to form the bargaining unit for the purposes of the vote.

The vote by secret ballot shall be held under the responsibility of the labour commissioner general and in the manner he determines, and shall take place not later than 31 December of the year following the year of publication of the territorial division order.

The labour commissioner general shall award certification to the association obtaining the greatest number of votes and shall determine the bargaining unit.

“530.8. Where there is a disagreement by reason of the fact that the persons actually forming part of a bargaining unit as of 1 July of the year following the year of publication of the territorial division order are not the same as the persons whose names appear on the transfer plan, an association entitled to certification or the new school board may file a petition with the labour commissioner general asking that he decide the matter. Such a petition shall not prevent the certification of the association having received the greatest number of votes.

If the labour commissioner to whom the matter is referred determines that granting the petition could affect the result of the vote, he shall settle the disagreement and, if necessary, order a new vote by secret ballot.

Where a different association is awarded certification, the only conditions of employment applicable from the date of the final judgment shall be those in force on 30 June of the year following the year of publication of the territorial division order to which that association was a party.

“530.9. From 1 January of the year which follows the year following the year of publication of the territorial division order, the newly certified association shall be subrogated by operation of law to the rights and obligations arising out of a collective agreement to which a certified association it replaces was a party.

“530.10. From 1 January of the year which follows the year following the year of publication of the territorial division order, the only conditions of employment applicable to a group of employees shall be those in force before that date to which the association having obtained certification in accordance with this division was a party.

Where the newly certified association was a party to two or more collective agreements or in the case of a voluntary amalgamation referred to in paragraph 4 of section 530.6, the conditions of employment applicable shall be those provided in the collective agreement chosen by the new association of employees from among the collective agreements applicable to the employees concerned.

Any other conditions of employment applicable, at that date, to employees of that group shall lapse in respect of those employees from that date.

“530.11. Notwithstanding the second and third paragraphs of section 530.10, every employee of the support staff shall retain

(1) the right to cash out any cash-convertible sick-leave days to his credit if he is entitled thereto under the conditions of employment applicable to him at

30 June of the year following the year of publication of the territorial division order, according to the value and terms and conditions determined in those conditions of employment;

(2) the non-cash-convertible sick-leave days he has accumulated at 30 June of that year, if he is entitled thereto under the conditions of employment applicable to him as of that date;

(3) the right to housing, if he is entitled thereto at 30 June of that year.

“530.12. If, in the case of teaching personnel, the conditions of employment applicable to the association having obtained certification do not contain provisions governing the assignment of teachers, the newly certified association shall choose, from among the collective agreements applicable before its certification, provisions governing the assignment of teachers. Such provisions shall form part of the applicable conditions of employment.”

44. Section 534 of the said Act is amended by striking out the second paragraph.

45. Section 536 of the said Act is repealed.

46. Section 540 of the said Act is amended by inserting, after the first paragraph, the following paragraph:

“The Regulations Act (chapter R-18.1) does not apply to such regulation or proposed regulation.”

47. Section 704 of the said Act is amended by striking out the words “, including a regional school board,” in the fourth and fifth lines.

48. The English text of the said Act is amended

(1) by replacing the word “affiliation” wherever it appears in sections 5, 20, 21, 228 and 726 by the word “confession”;

(2) by replacing the words “order respecting territorial division” wherever they appear in sections 516, 520, 523, 524, 527, 530, 534, 535, 539 and 540 by the words “territorial division order”.

## ACT RESPECTING SCHOOL ELECTIONS

49. Section 1 of the Act respecting school elections (R.S.Q., chapter E-2.3) is amended by striking out the words “regional school boards,” in the first line.

50. Section 8 of the said Act is repealed.

51. Section 15 of the said Act is replaced by the following section:

“15. Any elector who, as of 30 September preceding polling day, has a child who is admitted to educational services provided in schools of a school board having jurisdiction over the territory in which the elector is domiciled may vote at the election of commissioners of that school board.

Any elector who, as of the same date, does not have a child who is admitted to educational services provided in schools of any school board having jurisdiction over the territory in which the elector is domiciled may vote at the election of the commissioners of the French language school board, unless he has chosen to vote at the election of the commissioners of the English language school board having jurisdiction over the territory in which he is domiciled.”

52. Section 16 of the said Act is replaced by the following section:

“16. The only electors who may choose, pursuant to the second paragraph of section 15, to vote at the election of the commissioners of an English language school board are those who meet one of the following conditions:

(1) having received the major part of their primary instruction in English in Canada;

(2) having a child who received the major part of his primary or secondary instruction in English in Canada;

(3) having been declared or having a child who has been declared eligible to receive instruction in English in Québec;

(4) being a person who or having a child who could have been declared eligible before *(insert here the date of coming into force of this section)* to receive instruction in English under the conditions set out in the Charter of the French language (chapter C-11) as it read on *(insert here the date of coming into force of this section)*.”

53. Section 17 of the said Act is amended by adding, at the end, the following paragraph:

“Such an option applies for every election, unless the elector revokes it in accordance with the procedure under section 18 or unless one of his children is admitted to educational services provided in schools of a school board having jurisdiction over the territory in which the elector is domiciled.”

54. Section 18 of the said Act is replaced by the following section:

“18. The voting option shall be effected by sending a notice in writing to the returning officer of the English language school board, who shall inform the returning officer of the French language school board.

The notice must include the name, date of birth and domiciliary address of the elector.

The notice must be accompanied by a statement of the elector to the effect that he meets a condition set out in one of paragraphs 1 to 4 of section 16.”

55. Section 21 of the said Act is amended by striking out the words “or of the regional school board of which the school board is a member” in subparagraph 4 of the first paragraph.

56. Section 38 of the said Act, amended by section 78 of chapter 23 of the statutes of 1995, is again amended by adding, at the end, the following paragraph :

“The notice shall also indicate that any elector who, as of 30 September preceding polling day, does not have a child admitted to educational services provided in schools of any school board having jurisdiction over the territory in which the elector is domiciled may serve the notice referred to in section 18, as well as the time period and address for service of such a notice.”

57. Section 39.1 of the said Act, enacted by section 79 of chapter 23 of the statutes of 1995, is replaced by the following section :

“39.1. The returning officer shall, jointly with the returning officer of every other school board whose territory wholly or partly coincides with the territory of the school board, draw up the list of electors for each electoral division of the school board between the seventy-fifth and the forty-fifth day before polling day, on the basis of the list transmitted by the chief electoral officer.”

58. Section 40 of the said Act is replaced by the following section :

“40. The list of electors of an English language school board shall be drawn up by drawing from the list transmitted by the chief electoral officer the name of every elector who, as of 30 September preceding polling day, has a child admitted to educational services provided in schools of the school board concerned and the name of every elector who has exercised his voting option in favour of that school board.

The list of electors of a French language school board shall be the list transmitted by the chief electoral officer from which the names of the electors referred to in the first paragraph who do not have children admitted to educational services provided in schools of the French language school board have been withdrawn.”

#### OTHER LEGISLATIVE AMENDMENTS

59. Section 11 of the Labour Code (R.S.Q., chapter C-27) is amended

(1) by striking out the words “a regional school board or” in the first line of the first paragraph;

(2) by striking out the words “, but the latter may not require an association of employees to negotiate a collective agreement applicable to a territory greater than that of a regional school board” in the third, fourth and fifth lines of the fourth paragraph.

60. Section 22 of the Act respecting the Conseil supérieur de l’éducation (R.S.Q., chapter C-60) is amended

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

“(e) to make regulations to recognize educational institutions as Catholic or Protestant and to ensure the confessional character of educational institutions recognized as Catholic or Protestant;”;

(2) by striking out the words “other than those of a confessional or dissentient school board” in the first and second lines of subparagraph *f* of the first paragraph;

(3) by striking out the third paragraph.

61. Section 30 of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2) is amended by replacing paragraphs 1 and 2 by the following paragraphs:

“(1) a management negotiating committee for French language school boards;

“(2) a management negotiating committee for English language school boards”.

## TRANSITIONAL AND FINAL PROVISIONS

62. The management negotiating committee for the school boards for Catholics, Catholic confessional school boards and dissentient school boards for Catholics established under section 30 of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2) as it read on (*insert here the date of the day preceding the day of coming into force of this section*) is deemed to be the management negotiating committee for French language school boards.

Likewise, the management negotiating committee for the school boards for Protestants, Protestant confessional school boards and dissentient school boards for Protestants is deemed to be the management negotiating committee for English language school boards.



63. If a proclamation of the Governor General under the Great Seal of Canada declaring that paragraphs 1 to 4 of section 93 of the Constitution Act, 1867 do not apply in respect of Québec is published before 1 January of the year following the year of publication of the territorial division order made pursuant to section 111 of the Education Act (R.S.Q., chapter I-13.3), the Education Act, as amended by this Act, is amended pursuant to the Schedule as of the date of publication of the proclamation.

64. The provisions of sections 205 and 207 of the Education Act (R.S.Q., chapter I-13.3) and the provisions of sections 17 and 25 of this Act shall apply for the school year following the year of publication of the territorial division order and for every subsequent school year.

65. The provisions of this Act come into force on the date or dates to be fixed by the Government.

## SCHEDULE

(Section 63)

1. Chapter IX of the Education Act (R.S.Q., chapter I-13.3), replaced by section 28 of this Act, is repealed.

2. Section 509 of the said Act, replaced by section 30 of this Act, is amended by striking out the words “or any dissentient school board established pursuant to Division II.1 of this chapter” in paragraph 2.

3. Section 512 of the said Act, replaced by section 31 of this Act, is amended by adding, at the end, the following paragraph :

“In the case of a new school board whose territory wholly or partly coincides with the territory of a confessional school board, the provisional council shall include at least three additional members appointed by the Minister from among the commissioners elected by universal suffrage to the confessional school board.”

4. Division II.1 of Chapter X of the said Act, replaced by section 31 of this Act, is repealed.

5. Section 516 of the said Act, amended by section 33 of this Act, is again amended by striking out the words “or in the part of its territory outside the city of Montréal or Québec” in the first paragraph.

6. Section 518.1 of the said Act, enacted by section 34 of this Act, is replaced by the following section :

“518.1. Not later than 1 March of the year following the year of publication of the territorial division order, the provisional council shall, in co-operation with the other provisional councils concerned, proceed with admissions to educational services provided in schools for the school year beginning in the same year.”

7. Section 519 of the said Act, amended by section 35 of this Act, is again amended by replacing the second paragraph by the following paragraph :

“However, an immovable premises of which are, on *(insert here the date of introduction of bill 109 of 1997)*, at the disposal of one or more schools which provide instruction exclusively in the language of the new school board, shall become the property of the new school board.”

8. Section 520 of the said Act, amended by section 36 of this Act, is again amended by striking out the words “, except a dissentient school board,” in the last paragraph.

9. Section 521 of the said Act is amended by striking out the words “or with confessional school boards, where such is the case,” in the second and third lines.

10. Sections 523.11 and 523.12 of the said Act, enacted by section 39 of this Act, are amended by striking out the words “and, where applicable, with the confessional school boards”.

11. Section 527 of the said Act is amended by striking out the words “, except the confessional school boards,” in the first line.

12. Section 528 of the said Act, replaced by section 42 of this Act, is repealed.

13. Section 529 of the said Act, replaced by section 42 of this Act, is amended

(1) by striking out the words “or in the part of its territory outside the city of Montréal or Québec” at the end of the first paragraph;

(2) by striking out the words “in the case of a school board other than a dissentient school board” in the second paragraph;

(3) by striking out the fourth and fifth paragraphs.

14. Section 533 of the said Act is amended by striking out the second paragraph.