



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 113

An Act to put a stop to election contributions in the name of another

Introduction

**Introduced by
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Minister responsible for the Reform of Democratic
Institutions and Access to Information**

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EXPLANATORY NOTES

This bill amends the Election Act to reinforce the provisions prohibiting the making of contributions to a political party, a party authority, an independent Member or an independent candidate, in the name of another.

To that end, an express stipulation is introduced that contributions must be made voluntarily, without compensation and for no consideration, and may not be reimbursed in any way. Electors making a contribution will be required to sign a declaration to that effect. An express prohibition against any person inciting an elector to make a contribution by using threats or coercion or by promising compensation, consideration or a reimbursement is also introduced. In addition, anonymous donations are now to be prohibited.

Under the bill, the penalty scheme for illegal contributions is revised. Fines for contravening contribution rules are increased; certain such contraventions are defined as corrupt electoral practices, and the conclusion of public contracts is prohibited, for a period of up to 10 years, with a natural or legal person who has been convicted of an offence relating to contributions, or with a legal person or partnership one of whose directors, officers or partners has been convicted of such an offence.

Lastly, the same measures are introduced into the Act respecting elections and referendums in municipalities and the Act respecting school elections.

LEGISLATION AMENDED BY THIS BILL:

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

Bill 113

AN ACT TO PUT A STOP TO ELECTION CONTRIBUTIONS IN THE NAME OF ANOTHER

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ELECTION ACT

1. Section 1 of the Election Act (R.S.Q., chapter E-3.3) is amended by replacing subparagraph 5 of the first paragraph by the following subparagraph:

“(5) is not deprived of election rights, pursuant to this Act, the Referendum Act (chapter C-64.1), the Act respecting elections and referendums in municipalities (chapter E-2.2) or the Act respecting school elections (chapter E-2.3).”.

2. Section 88 of the Act is amended by striking out subparagraph 2 of the second paragraph.

3. Section 90 of the Act is amended by adding the following sentence at the end: “Contributions must be made voluntarily, without compensation and for no consideration, and may not be reimbursed in any way.”

4. Section 96 of the Act is amended by adding “and contain a declaration signed by the elector that a contribution is being made out of the elector’s own property, voluntarily, without compensation and for no consideration, and that it has not and will not be reimbursed in any way” at the end of the second paragraph.

5. Section 114 of the Act is amended by striking out paragraph 1.

6. Section 564 of the Act is replaced by the following section:

“**564.** A person who contravenes any of sections 62, 66, 74, 76, 102 to 106, 408, 410, 413 to 420, 422 to 424, 429, 429.1, 457.2, 457.9 and 457.11 to 457.17 is liable to a fine of \$500 to \$10,000.”

7. The Act is amended by inserting the following sections after section 564:

“**564.1.** The following are liable to a fine of \$1,000 to \$10,000 for a first offence and a fine of \$2,000 to \$20,000 for any subsequent offence within five years:

(1) an elector who falsely declares that a contribution is being made out of the elector's own property, voluntarily, without compensation and for no consideration, and that it has not and will not be reimbursed in any way;

(2) a person who, by using threats or coercion or by promising compensation, consideration or a reimbursement, incites an elector to make a contribution.

If a person is convicted of an offence under this section, a judge may, on an application by the prosecutor which is attached to the statement of offence, impose an additional fine equal to the amount of the illegal contribution for which the person is convicted, even if the maximum fine under the first paragraph has been imposed on the person.

“564.2. A person who contravenes any of sections 87 to 93, 95 to 97, 99 and 100 is liable to a fine of \$1,000 to \$10,000 for a first offence and a fine of \$2,000 to \$20,000 for any subsequent offence within five years, in the case of a natural person, and to a fine of \$5,000 to \$30,000 for a first offence and a fine of \$10,000 to \$60,000 for any subsequent offence within five years, in the case of a legal person.

If a person is convicted of an offence for contravening any of sections 87, 90, 91 and 95, a judge may, on an application by the prosecutor which is attached to the statement of offence, impose an additional fine equal to the amount of the illegal contribution for which the person is convicted, even if the maximum fine under the first paragraph has been imposed on the person.

“564.3. From the date of the final judgment of conviction and for the period determined by the judge on rendering the judgment, no public contract may be entered into with a natural or legal person who has been convicted of an offence for contravening any of sections 87, 90, 91 and 95 or an offence under section 564.1. That period is a maximum of five years from the date of the final judgment of conviction or, in the case of a subsequent conviction within five years, a maximum of 10 years from that date.

Similarly, from the date of an order under section 564.4, and for the period it specifies, no public contract may be entered into with a legal person or partnership named in the order. That period is a maximum of five years from the date of the order, or a maximum of 10 years from that date if, on that date, the legal person or partnership is the subject of an earlier order.

For the purposes of this section, a public contract is a contract of any kind, including any directly or indirectly related subcontract, to which any of the following is party:

(1) a government department;

(2) a body all or part of whose expenditures are provided for in the budgetary estimates tabled in the National Assembly otherwise than under a transferred appropriation;

(3) a body whose personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1);

(4) a body a majority of whose members or directors are appointed by the Government or a minister and at least half of whose expenditures are borne directly or indirectly by the consolidated revenue fund;

(5) a school board, the Comité de gestion de la taxe scolaire de l'Île de Montréal, a general and vocational college or a university institution referred to in any of paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1);

(6) a health and social services agency or a public institution governed by the Act respecting health services and social services (chapter S-4.2), a legal person or a joint procurement group referred to in section 383 of that Act, the Cree Board of Health and Social Services of James Bay established under the Act respecting health services and social services for Cree Native persons (chapter S-5), a health communication centre within the meaning of the Act respecting pre-hospital emergency services (chapter S-6.2) or the Corporation d'hébergement du Québec;

(7) a municipality, a metropolitan community, the Kativik Regional Government, a mixed enterprise company governed by the Act respecting mixed enterprise companies in the municipal sector (chapter S-25.01), an intermunicipal board, a public transit authority, an intermunicipal board of transport or any body referred to in section 307 of the Act respecting elections and referendums in municipalities (chapter E-2.2).

A person appointed or designated by the Government or a minister, together with the personnel directed by that person, is considered to be a body in the exercise of functions assigned to that person by law, the Government or a minister.

“564.4. If the Chief Electoral Officer ascertains that a natural person was convicted of an offence under a provision referred to in the first paragraph of section 564.3 committed while the person was a director, officer or partner of a legal person or partnership, and if the Chief Electoral Officer considers that the offence was committed for the benefit of or with a view to benefiting the legal person or partnership, the Chief Electoral Officer may, within three years after the final judgment of conviction, apply to the Court of Québec for an order stating that section 564.3 applies to the legal person or partnership.

The application, served on the head office or an establishment of the legal person or partnership, must set out the grounds on which it is based, and the onus is on the legal person or partnership to prove that no such offence was committed for its benefit or with a view to benefiting it.

“564.5. The Chief Electoral Officer shall keep a register of the persons and partnerships referred to in the first and second paragraphs of section 564.3, which states, for each one,

(1) in the case of a natural person, the person's name and the name of the municipality in which the person resides;

(2) in the case of a legal person or partnership, its name and the address of its principal establishment in Québec; and

(3) the date on which the prohibition from entering into a public contract ends.

The information contained in the register is public information, and the Chief Electoral Officer must make it available to the public, including on its website.

“564.6. If the Attorney General ascertains that a natural person, a legal person or a partnership that is prohibited under section 564.3 from entering into a public contract has nonetheless entered into such a contract, the Attorney General may claim from that person or partnership all or part of the value of any consideration that the person or partnership has received or that is payable under the contract.

In that case, the natural person, legal person or partnership referred to in the first paragraph is liable to the State for the amount determined in the claim by the Attorney General.

If a legal person or partnership is the subject of such a claim, any person who was a director, officer or partner of the legal person or partnership at the time the contract was entered into may be held solidarily liable with the legal person or partnership for payment of the amount claimed by the Attorney General.

A claim under this section is prescribed three years after the date the contract was entered into.”

8. Section 567 of the Act is amended by replacing “or in sections 557 to 560” in the first paragraph by “, in any of sections 557 to 560 and in section 564.1”.

ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

9. Section 428 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by striking out paragraph 2.

10. Section 430 of the Act is amended by adding the following sentence at the end: “Contributions must be made voluntarily, without compensation and for no consideration, and may not be reimbursed in any way.”

11. Section 434 of the Act is amended by adding the following paragraph at the end:

“The receipt must state the elector’s domiciliary address and contain a declaration signed by the elector that the contribution is being made out of the elector’s own property, voluntarily, without compensation and for no consideration, and that it has not and will not be reimbursed in any way.”

12. Section 441 of the Act is repealed.

13. Section 480 of the Act is amended by striking out paragraph 1.

14. Section 610 of the Act is amended

(1) by inserting the following subparagraphs after subparagraph *b* of paragraph 1:

“(b.1) the elector is not making the contribution voluntarily;

“(b.2) the elector is receiving compensation or consideration, or is being reimbursed;”;

(2) by replacing “in paragraph 1” in paragraph 2 by “in any of subparagraphs *a, b, b.2, c* and *d* of paragraph 1”;

(3) by adding the following paragraphs after paragraph 2:

“(3) every person who, by using threats or coercion or by promising compensation, consideration or a reimbursement, incites an elector to make a contribution;

“(4) every elector who falsely declares that a contribution is being made out of the elector’s own property, voluntarily, without compensation and for no consideration, and that it has not and will not be reimbursed in any way.”

15. Section 640 of the Act is amended by replacing “599” by “598”.

16. Section 640.1 of the Act is amended by replacing “600 to 606” by “600 to 602 and 604 to 606”.

17. Section 641 of the Act is replaced by the following section:

“**641.** Every person who is guilty of an offence described in any of sections 607 to 609 and 615 to 625 is liable to a fine of not less than \$500 nor more than \$10,000.”

18. The Act is amended by inserting the following sections after section 641:

“**641.1.** Every person who is guilty of an offence described in any of sections 599, 603 and 610 to 614 is liable,

(1) for a first offence, to a fine of not less than \$1,000 nor more than \$10,000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$5,000 nor more than \$30,000;

(2) for any subsequent conviction within five years, to a fine of not less than \$2,000 nor more than \$20,000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$10,000 nor more than \$60,000.

If a person is convicted of an offence under any of paragraphs 2, 3 and 4 of section 610, paragraph 2 of section 610.1 or any of paragraphs 2, 2.1 and 3 of section 612, a judge may, on an application by the prosecutor which is attached to the statement of offence, impose an additional fine equal to the amount of the illegal contribution for which the person is convicted, even if the maximum fine under the first paragraph has been imposed on the person.

“641.2. From the date of the final judgment of conviction and for the period determined by the judge on rendering the judgment, no public contract may be entered into with a natural or legal person who has been convicted of an offence for contravening any of sections 429, 430, 431 and 436 or an offence under paragraph 3 or 4 of section 610. That period is a maximum of five years from the date of the final judgment of conviction or, in the case of a subsequent conviction within five years, a maximum of 10 years from that date.

Similarly, from the date of an order under section 641.3 and for the period it specifies, no public contract may be entered into with a legal person or partnership named in the order. That period is a maximum of five years from the date of the order, or a maximum of 10 years from that date if, on that date, the legal person or partnership is the subject of an earlier order.

For the purposes of this section, a public contract is a contract of any kind, including any directly or indirectly related subcontract, to which any of the following is party:

(1) a government department;

(2) a body all or part of whose expenditures are provided for in the budgetary estimates tabled in the National Assembly otherwise than under a transferred appropriation;

(3) a body whose personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1);

(4) a body a majority of whose members or directors are appointed by the Government or a minister and at least half of whose expenditures are borne directly or indirectly by the consolidated revenue fund;

(5) a school board, the Comité de gestion de la taxe scolaire de l'Île de Montréal, a general and vocational college or a university institution referred to in any of paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1);

(6) a health and social services agency or a public institution governed by the Act respecting health services and social services (chapter S-4.2), a legal person or a joint procurement group referred to in section 383 of that Act, the Cree Board of Health and Social Services of James Bay established under the Act respecting health services and social services for Cree Native persons (chapter S-5), a health communication centre within the meaning of the Act respecting pre-hospital emergency services (chapter S-6.2) or the Corporation d'hébergement du Québec;

(7) a municipality, a metropolitan community, the Kativik Regional Government, a mixed enterprise company governed by the Act respecting mixed enterprise companies in the municipal sector (chapter S-25.01), an intermunicipal board, a public transit authority, an intermunicipal board of transport or any body referred to in section 307 of the Act respecting elections and referendums in municipalities (chapter E-2.2).

A person appointed or designated by the Government or a minister, together with the personnel directed by that person, is considered to be a body in the exercise of functions assigned to that person by law, the Government or a minister.

“641.3. If the Chief Electoral Officer ascertains that a natural person was convicted of an offence under a provision referred to in the first paragraph of section 641.2 committed while the person was a director, officer or partner of a legal person or partnership, and if the Chief Electoral Officer considers that the offence was committed for the benefit of or with a view to benefiting the legal person or partnership, the Chief Electoral Officer may, within three years after the final judgment of conviction, apply to the Court of Québec for an order stating that section 641.2 applies to the legal person or partnership.

The application, served on the head office or an establishment of the legal person or partnership, must set out the grounds on which it is based, and the onus is on the legal person or partnership to prove that no such offence was committed for its benefit or with a view to benefiting it.

“641.4. The Chief Electoral Officer shall keep a register of the persons and partnerships referred to in the first and second paragraphs of section 641.2, which states, for each one,

(1) in the case of a natural person, the person's name and the name of the municipality in which the person resides;

(2) in the case of a legal person or partnership, its name and the address of its principal establishment in Québec; and

(3) the date on which the prohibition from entering into a public contract ends.

The information contained in the register is public information, and the Chief Electoral Officer must make it available to the public, including on its website.

“641.5. If the Attorney General ascertains that a natural person, a legal person or a partnership that is prohibited under section 641.2 from entering into a public contract has nonetheless entered into such a contract, the Attorney General may claim from that person or partnership all or part of the value of any consideration that the person or partnership has received or that is payable under the contract.

In that case, the natural person, legal person or partnership referred to in the first paragraph is liable to the State for the amount determined in the claim by the Attorney General.

If a legal person or partnership is the subject of such a claim, any person who was a director, officer or partner of the legal person or partnership at the time the contract was entered into may be held solidarily liable with the legal person or partnership for payment of the amount claimed by the Attorney General.

A claim under this section is prescribed three years after the date the contract was entered into.”

19. Section 645 of the Act is amended by replacing “and 589 to 598” in the first paragraph by “, sections 589 to 598 and paragraphs 3 and 4 of section 610”.

ACT RESPECTING SCHOOL ELECTIONS

20. Section 206.18 of the Act respecting school elections (R.S.Q., chapter E-2.3) is amended by striking out paragraph 2.

21. Section 206.20 of the Act is amended by adding the following sentence at the end: “Contributions must be made voluntarily, without compensation and for no consideration, and may not be reimbursed in any way.”

22. Section 206.22 of the Act is amended by adding the following paragraph at the end:

“The receipt must state the elector’s domiciliary address and contain a declaration signed by the elector that the contribution is being made out of the elector’s own property, voluntarily, without compensation and for no consideration, and that it has not and will not be reimbursed in any way.”

23. Section 206.27 of the Act is repealed.

24. Section 209.1 of the Act is amended by striking out paragraph 1.

25. Section 219.8 of the Act is amended

(1) by inserting the following subparagraphs after subparagraph *b* of paragraph 1:

“(b.1) the elector is not making the contribution voluntarily;

“(b.2) the elector is receiving compensation or consideration, or is being reimbursed;”;

(2) by replacing “in paragraph 1” in paragraph 2 by “in any of subparagraphs *a*, *b*, *b.2*, *c* and *d* of paragraph 1”;

(3) by adding the following paragraphs after paragraph 2:

“(3) every person who, by using threats or coercion or by promising compensation, consideration or a reimbursement, incites an elector to make a contribution;

“(4) every elector who falsely declares that a contribution is being made out of the elector’s own property, voluntarily, without compensation and for no consideration, and that it has not and will not be reimbursed in any way.”

26. Section 221.1 of the Act is amended

(1) by replacing “219.1 to 219.18” in the first paragraph by “219.1 to 219.3, 219.5 to 219.7 and 219.10 to 219.18”;

(2) by striking out the second paragraph.

27. The Act is amended by inserting the following sections after section 221.1:

“**221.1.1.** Every person who is guilty of an offence described in any of sections 219.4, 219.8 and 219.9 is liable,

(1) for a first offence, to a fine of not less than \$1,000 nor more than \$10,000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$5,000 nor more than \$30,000;

(2) for any subsequent conviction within five years, to a fine of not less than \$2,000 nor more than \$20,000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$10,000 nor more than \$60,000.

If a person is convicted of an offence under any of paragraphs 2, 3 and 4 of section 219.8 or paragraph 2 or 3 of section 219.9, a judge may, on an application by the prosecutor which is attached to the statement of offence, impose an additional fine equal to the amount of the illegal contribution for which the person is convicted, even if the maximum fine under the first paragraph has been imposed on the person.

“221.1.2. From the date of the final judgment of conviction and for the period determined by the judge on rendering the judgment, no public contract may be entered into with a natural or legal person who has been convicted of an offence for contravening any of sections 206.19, 206.20, 206.21 and 206.23 or an offence under paragraph 3 or 4 of section 219.8. That period is a maximum of five years from the date of the final judgment of conviction or, in the case of a subsequent conviction within five years, a maximum of 10 years from that date.

Similarly, from the date of an order under section 221.1.3 and for the period it specifies, no public contract may be entered into with a legal person or partnership named in the order. That period is a maximum of five years from the date of the order, or a maximum of 10 years from that date if, on that date, the legal person or partnership is the subject of an earlier order.

For the purposes of this section, a public contract is a contract of any kind, including any directly or indirectly related subcontract, to which any of the following is party:

- (1) a government department;
- (2) a body all or part of whose expenditures are provided for in the budgetary estimates tabled in the National Assembly otherwise than under a transferred appropriation;
- (3) a body whose personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1);
- (4) a body a majority of whose members or directors are appointed by the Government or a minister and at least half of whose expenditures are borne directly or indirectly by the consolidated revenue fund;
- (5) a school board, the Comité de gestion de la taxe scolaire de l'Île de Montréal, a general and vocational college or a university institution referred to in any of paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1);
- (6) a health and social services agency or a public institution governed by the Act respecting health services and social services (chapter S-4.2), a legal person or a joint procurement group referred to in section 383 of that Act, the Cree Board of Health and Social Services of James Bay established under the Act respecting health services and social services for Cree Native persons (chapter S-5), a health communication centre within the meaning of the Act respecting pre-hospital emergency services (chapter S-6.2) or the Corporation d'hébergement du Québec;
- (7) a municipality, a metropolitan community, the Kativik Regional Government, a mixed enterprise company governed by the Act respecting mixed enterprise companies in the municipal sector (chapter S-25.01), an

intermunicipal board, a public transit authority, an intermunicipal board of transport or any body referred to in section 307 of the Act respecting elections and referendums in municipalities (chapter E-2.2).

A person appointed or designated by the Government or a minister, together with the personnel directed by that person, is considered to be a body in the exercise of functions assigned to that person by law, the Government or a minister.

“221.1.3. If the Chief Electoral Officer ascertains that a natural person was convicted of an offence under a provision referred to in the first paragraph of section 221.1.2 committed while the person was a director, officer or partner of a legal person or partnership, and if the Chief Electoral Officer considers that the offence was committed for the benefit of or with a view to benefiting the legal person or partnership, the Chief Electoral Officer may, within three years after the final judgment of conviction, apply to the Court of Québec for an order stating that section 221.1.2 applies to the legal person or partnership.

The application, served on the head office or an establishment of the legal person or partnership, must set out the grounds on which it is based, and the onus is on the legal person or partnership to prove that no such offence was committed for its benefit or with a view to benefiting it.

“221.1.4. The Chief Electoral Officer shall keep a register of the persons and partnerships referred to in the first and second paragraphs of section 221.1.2, which states, for each one,

- (1) in the case of a natural person, the person’s name and the name of the municipality in which the person resides;
- (2) in the case of a legal person or partnership, its name and the address of its principal establishment in Québec; and
- (3) the date on which the prohibition from entering into a public contract ends.

The information contained in the register is public information, and the Chief Electoral Officer must make it available to the public, including on its website.

“221.1.5. If the Attorney General ascertains that a natural person, a legal person or a partnership that is prohibited under section 221.1.2 from entering into a public contract has nonetheless entered into such a contract, the Attorney General may claim from that person or partnership all or part of the value of any consideration that the person or partnership has received or that is payable under the contract.

In that case, the natural person, legal person or partnership referred to in the first paragraph is liable to the State for the amount determined in the claim by the Attorney General.

If a legal person or partnership is the subject of such a claim, any person who was a director, officer or partner of the legal person or partnership at the time the contract was entered into may be held solidarily liable with the legal person or partnership for payment of the amount claimed by the Attorney General.

A claim under this section is prescribed three years after the date the contract was entered into.”

28. Section 223.1 of the Act is amended

(1) by replacing “215 and” in the first paragraph by “215,”;

(2) by inserting “and in paragraphs 3 and 4 of section 219.8” after “219.3”.

FINAL PROVISION

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

