



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 30

**An Act to amend the Act respecting
elections and referendums in
municipalities and other legislative
provisions**

Introduction

**Introduced by
Madam Louise Harel
Minister of Municipal Affairs and Greater Montréal**

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EXPLANATORY NOTES

This bill amends the Act respecting elections and referendums in municipalities to harmonize certain provisions relating to the electoral process with the provisions of the Election Act. A new chapter on election posters and billboards is introduced and the rules relating to the marking of ballot papers are modified. The bill provides that every elector of a municipality must have been domiciled in Québec for six months.

The bill introduces provisions into the Act respecting elections and referendums in municipalities similar to those in the Election Act governing authorizations granted to political parties and independent candidates, the financing of those entities and control of their election expenses. Before applying for authorization, a political party will be able to reserve a name for up to six months. The bill changes the number of candidates a party must present to obtain and maintain its authorization. It also reduces the percentage of votes a candidate is required to obtain to be entitled to reimbursement of election expenses to 15%, and allows an elector to make contributions of up to \$1,000 to each of the parties and authorized independent candidates.

Lastly, the bill remedies various problems of application. It clarifies the powers of the Minister to authorize a returning officer to change the Sunday fixed for the holding of a by-election and enables the Commission municipale du Québec to ascertain, on its own initiative, the end of an elected person's term.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) ;
- Election Act (R.S.Q., chapter E-3.3) ;
- Act respecting municipal territorial organization (R.S.Q., chapter O-9).

Bill 30

AN ACT TO AMEND THE ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

1. Section 47 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by replacing the part preceding paragraph 1 by the following :

“47. Every person of full age, being a Canadian citizen who has been domiciled in Québec for six months and being neither under curatorship nor under any voting disqualification pursuant to section 53, is an elector of a municipality upon fulfilling one of the following three conditions:”.

2. Section 52 of the said Act, amended by section 14 of chapter 34 of the statutes of 1997, is again amended by replacing the first paragraph by the following paragraph :

“52. To exercise the right to vote, a person must, at the time of voting, be an elector of the municipality and have his name entered on the list of electors of the municipality.”

3. Section 61 of the said Act is amended by striking out “, where that right does not derive from his capacity as a domiciled person,” in the third and fourth lines.

4. Section 66 of the said Act, amended by section 17 of chapter 34 of the statutes of 1997, is again amended by replacing “article 107” in the second last line of the second paragraph by “articles 107 and 724”.

5. Section 122 of the said Act, replaced by section 21 of chapter 34 of the statutes of 1997, is amended by adding the following paragraph after the second paragraph :

“The chairman of the board of revisors may, after consulting with the returning officer, extend the hours of sittings of the board of revisors.”

6. Section 132 of the said Act, replaced by section 21 of chapter 34 of the statutes of 1997, is amended

(1) by adding “, subject to any extension decided by the chairman of the board of revisors under the third paragraph of section 122” at the end of the first paragraph;

(2) by replacing “Celui-ci” in the first line of the French text of the second paragraph by “Le président d’élection”.

7. Section 137 of the said Act, replaced by section 21 of chapter 34 of the statutes of 1997, is amended by adding the following subparagraph after subparagraph 2 of the third paragraph :

“(3) the person has met with and confirmed to a revising officer that he is not entitled to have his name entered on the list of electors.”

8. The said Act is amended by inserting the following sections after section 137 :

“137.1. The board of revisors, on its own initiative or on an application, may revoke or review a decision to strike off or refuse to enter a person’s name

(1) where a new fact is discovered which, had it been known in time, could have warranted a different decision;

(2) where the person concerned, owing to reasons considered sufficient, could not present observations.

“137.2. In every case where the board of revisors makes a decision in the absence of the person concerned by the application or filing the application, the board shall immediately notify the person in writing of its decision, unless the person is under curatorship.”

9. Section 148 of the said Act is amended by replacing “one-third” and “two-thirds” in the second line by “two-thirds” and “one-third”, respectively.

10. Section 221 of the said Act is amended by adding the following paragraph at the end :

“The deputy returning officer shall also give the elector a pencil.”

11. Section 222 of the said Act is amended by replacing the first paragraph by the following paragraph :

“222. The elector shall enter the polling booth and mark the ballot paper in the circle placed opposite the indications pertaining to the candidate for whom the elector intends to vote, using the pencil given to him by the deputy

returning officer. For the purposes of this paragraph, a co-candidate and the candidate with whom the co-candidate is associated shall be counted as one candidate for the office of councillor.”

12. Section 226 of the said Act is amended

(1) by replacing subparagraphs 1 and 2 of the first paragraph by the following subparagraphs :

“(1) by a person who is the elector’s spouse or a relative within the meaning of section 131 ;

“(2) by another person, in the presence of the deputy returning officer and the poll clerk.” ;

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

“The person referred to in subparagraph 2 of the first paragraph shall declare under oath that he has not assisted another elector during the poll.”

13. Section 233 of the said Act is amended by adding the following paragraph after paragraph 6 :

“(7) has been marked otherwise than with the pencil given to the elector by the deputy returning officer.”

14. Section 236 of the said Act is amended by adding “or that the circle is not completely filled” at the end.

15. The said Act is amended by inserting the following chapter after section 285 :

“CHAPTER VII.1

“ELECTION POSTERS AND BILLBOARDS

“285.1. Notwithstanding any inconsistent legislative or regulatory provision, election posters and billboards shall not be subject, during an election period, to any restriction or condition except as provided by this Act.

For the purposes of this section, the expression “election period” has the meaning assigned by section 364.

“285.2. Election posters and billboards may be placed on any property, other than buildings, of the municipality, the Government, public bodies, state enterprises and school boards situated in the territory of the municipality.

Election posters may also be placed on public utility poles.

“285.3. Election posters and billboards must be placed so as not to hinder vehicular or pedestrian traffic, interfere visually with road signs or compromise road safety or public security.

“285.4. No election poster or billboard may be placed on a classified historic monument or in a classified historic site within the meaning of the Cultural Property Act (chapter B-4) or in a site declared a national historical site under that Act.

“285.5. No election poster or billboard may be placed on a monument, sculpture, tree, fire hydrant, bridge, viaduct or electrical tower.

No election poster or billboard may be placed on a bus shelter or on a public bench, unless space is provided for that purpose, in which case the applicable rules must be complied with.

“285.6. Posters and billboards and their supports must be made of good quality materials and must be safe and kept in good repair.

Posters and billboards must be affixed in such a manner that they can be easily removed.

“285.7. Election posters placed on public utility poles must meet the following conditions :

- (1) the highest part of the poster must not be more than three metres above ground ;
- (2) the poster must not have any metal or wood frame ;
- (3) the poster must not be affixed with nails or metal fasteners ;
- (4) the poster must not obstruct any identification plate on the pole.

Moreover, no election banner, streamer or flag may be affixed to a public utility pole.

Workers who maintain public utility poles may, if they consider it necessary for the purposes of the work to be done, remove any election poster from a pole. Except in an emergency, they shall notify, as the case may be, the candidate or the authorized party concerned or the private intervenor referred to in Division VIII.1 of Chapter XIII responsible for the poster.

“285.8. All election posters and billboards must be removed not later than 15 days after the date fixed for the polling, failing which they may be removed by the municipality or by the owner of the property or poles at the expense of, as the case may be, the party or candidate concerned or the private intervenor responsible for them, following the expiry of a five-day notice to that effect transmitted to the party, candidate or private intervenor.

The notice shall indicate the places where posters or billboards are to be removed. If posters or billboards had to be removed by the municipality or by the owner at the expense of the party, candidate or private intervenor, the bill shall indicate the place and date of removal.

“285.9. The party, candidate or private intervenor, as the case may be, shall ensure that the provisions of this chapter are complied with.”

16. Section 303 of the said Act is amended by replacing “next sitting of the council, committee or commission he attends” in the third and fourth lines of subparagraph *a* of subparagraph 2 of the first paragraph by “first sitting of the council, committee or commission attended by the person after becoming aware of the fact that the matter was taken up for consideration”.

17. Section 320 of the said Act is amended by inserting the following paragraph after the second paragraph :

“The Commission may, even though it has not been notified as required by the first paragraph, act in accordance with the second paragraph.”

18. Section 333 of the said Act is amended by adding “or, if the council cannot sit, give public notice of the vacancy” after “sitting” in the second line.

19. Section 339 of the said Act is amended by inserting “, even outside the four-month period provided for in the first paragraph,” after “change” in the second line of the second paragraph.

20. Section 345 of the said Act is amended by inserting “, including the election under section 336,” after “election” in paragraph 1.

21. Section 361 of the said Act is amended by replacing “next sitting he attends” in the second and third lines of the fourth paragraph by “first sitting attended by the member after becoming aware of that fact”.

22. Section 392 of the said Act is amended

(1) by adding the following sentence at the end of the second paragraph :
“If the notice cannot be given by one of those persons, it may be given by another officer.”;

(2) by inserting the following paragraph after the second paragraph :

“The notice of the appointment of the new leader of the party must be accompanied with a copy of the resolution to that effect passed in conformity with the by-laws of the party and certified by two or more officers of the party.”

23. Section 396 of the said Act is amended

(1) by replacing “one-third” in the second line by “20%”;

(2) by adding the following sentence at the end: “In all cases, however, the minimum number of candidates for such offices must be two.”

24. Section 397 of the said Act is amended

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

“(4.1) the name, address and telephone number of two officers of the party other than the leader;”;

(2) by replacing “one-third of the electoral districts” in the second line of the third paragraph by “20% of the electoral districts or two of them, whichever is greater”.

25. The said Act is amended by inserting the following section after section 399:

“399.1. Before filing an application for authorization, the leader of a party may apply in writing to the chief electoral officer to have a name reserved for a period not exceeding six months. The application must specify the municipality in whose territory the party intends to carry on its activities and the council for which it intends to present candidates.

The second and third paragraphs of section 398 apply to the reservation, with the necessary modifications.

A party having reserved a name may, however, specify another name in its application for authorization.”

26. Section 403 of the said Act is amended by adding the following sentence at the end of the second paragraph: “In the case of a party, the application must also be accompanied with a copy of a resolution to that effect passed in conformity with the by-laws of the party and certified by two or more officers of the party.”

27. Section 406 of the said Act is amended by replacing “presents candidates for less than one-third of the offices of councillor” in the fourth and fifth lines by “does not present the required number of candidates”.

28. Section 415 of the said Act is amended by inserting the following subparagraph after subparagraph 5 of the first paragraph:

“(5.1) the name, address and telephone number of two officers of the party other than the leader;”.

29. Section 417 of the said Act is amended by striking out the third paragraph.

30. Section 422 of the said Act is amended by replacing “the closing financial report is attached” in the third and fourth lines of the third paragraph by “the copy of the resolution of the party and the closing financial report are attached”.

31. Section 424 of the said Act is amended by inserting the following paragraph after paragraph 1 :

“(1.1) the name, address and telephone number of at least two officers of the party other than the leader;”.

32. Section 425 of the said Act is amended by adding the following paragraph after the second paragraph :

“In the case of a party, the information may be furnished by another officer if none of the persons referred to in the second paragraph is able to furnish it.”

33. The said Act is amended by inserting the following section after section 426:

“426. 1. Within six months after being authorized, a party shall transmit to the chief electoral officer a copy of its by-laws.

After the transmission referred to in the first paragraph, the party shall, while authorized, transmit without delay to the chief electoral officer a copy of every amendment to its by-laws.”

34. Section 428 of the said Act is amended by replacing paragraph 7 by the following paragraph :

“(7) at the option of the official representative, applied equally to all the participants, an entrance fee to a political activity or rally, where the fee is not over \$60 per day, up to one admission per person.”

35. Section 431 of the said Act is replaced by the following section :

“431. The total amount of contributions by the same elector for the same fiscal year shall not exceed \$1,000 to each of the parties and independent candidates.”

36. Section 453 of the said Act, amended by section 97 of chapter 52 of the statutes of 1998, is again amended by inserting the following paragraph after paragraph 4 :

“(4.1) the cost of the food and beverages served at a political activity where the cost is included in the entrance fee paid by participants;”.

37. Section 462 of the said Act is amended by striking out “up to the amount of \$2 250 for the office of mayor and \$750 for the office of councillor” in the fourth, fifth and sixth lines of the first paragraph.

38. Section 475 of the said Act is amended by replacing “20” in the sixth line by “15”.

39. Section 476 of the said Act is amended by replacing “20” in the fourth line of the first paragraph by “15”.

40. Section 480 of the said Act is amended

(1) by replacing “50” in the first line of paragraph 4 by “60”;

(2) by replacing “admission” in the second line of paragraph 4 of the French text by “entrée”.

41. Section 488 of the said Act is replaced by the following section :

“488. The auditor of an authorized party shall examine the financial report of the party and issue to the official representative, not later than five days before the expiry of the time prescribed by section 479 for the filing of the financial report, the audit report prepared in accordance with the directive on preparation issued by the chief electoral officer.”

42. Section 507 of the said Act is replaced by the following section :

“507. Where an error is found in a report or return that has been filed, the official agent or the official representative may correct it at any time within the period prescribed for filing the report or return.

After the period prescribed for filing, the leader of the party or the independent candidate must obtain leave from the chief electoral officer to correct the error on establishing that it was made through inadvertence. Any opposition to the application for correction shall be submitted to the chief electoral officer.

If there is no opposition to the application or the chief electoral officer considers that the opposition is not justified, the chief electoral officer shall allow the correction. Otherwise, the leader or candidate shall apply for leave to the judge having jurisdiction.”

43. Section 512.6 of the said Act, enacted by section 99 of chapter 52 of the statutes of 1998, is repealed.

44. Section 518 of the said Act is amended by replacing “he” in the second line of the first paragraph by “the person has been domiciled in Québec for six months.”.

45. Section 523 of the said Act, amended by section 31 of chapter 34 of the statutes of 1997, is again amended by replacing the first and second paragraphs by the following paragraphs :

“523. To exercise a right conferred by a provision of this Title, a qualified voter must, on the date of exercising the right, meet the requirements that would, if that date were the date of reference, qualify the person as a voter entitled to have his name entered on the referendum list of the municipality or, as the case may be, of the sector concerned.

In the case of the right to vote, the person’s name must also, at the time of voting, be entered on the referendum list of the municipality or, as the case may be, of the sector concerned.”

46. Section 528 of the said Act, amended by section 34 of chapter 34 of the statutes of 1997, is again amended

(1) by replacing “at voting time” in the first line of the second paragraph by “at the time of exercising one of those rights” ;

(2) by inserting “and have been domiciled in Québec for six months” after “citizen” in the second line of the second paragraph.

47. Section 533 of the said Act is amended by striking out the second and third paragraphs.

48. Section 545 of the said Act is amended by inserting “, meets the requirements set out in the first paragraph of section 523” after “list” in the second line of the second paragraph.

49. Section 546 of the said Act, amended by section 67 of chapter 23 of the statutes of 1995, is again amended by inserting “and meets the requirements set out in the first paragraph of section 523” at the end of the last paragraph.

50. Section 547 of the said Act is amended

(1) by adding “and meets the requirements set out in the first paragraph of section 523” at the end of the first paragraph ;

(2) by inserting “, that he meets the requirements set out in the first paragraph of section 523” after “name” in the fourth line of the second paragraph.

51. Section 591 of the said Act is amended

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

“(1) to an official agent who provides, as election expenses, food or beverages at a private assembly of electors held during an election to promote the election of a candidate;”;

(2) by replacing “such food or non-alcoholic” in the second line of subparagraph 2 of the third paragraph by “food or”;

(3) by striking out “non-alcoholic” in the first line of subparagraph 3 of the third paragraph.

52. Section 592 of the said Act is amended

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

“(1) at his own expense, provides food or beverages at a private assembly of qualified voters held to promote or oppose the holding of a referendum poll; or who,”;

(2) by striking out “non-alcoholic” in the first line of subparagraph 2 of the third paragraph.

53. Section 593 of the said Act is amended

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

“(1) at his own expense, provides food or beverages at a private assembly of qualified voters held to promote an affirmative or a negative answer to the referendum question; or who,”;

(2) by striking out “non-alcoholic” in the first line of subparagraph 2 of the third paragraph.

54. Section 607 of the said Act is amended

(1) by adding “other than an expense necessary for the payment of debts resulting from election expenses then incurred or for the disposal, for political, religious, scientific or charitable purposes or purposes listed in section 498, of the sums or goods remaining in his possession from those obtained by the candidate in his capacity as such” after “expense” in paragraph 3;

(2) by adding “other than a loan necessary for the payment of debts resulting from election expenses then incurred or for the disposal, for political, religious, scientific or charitable purposes or purposes listed in section 498, of the sums or goods remaining in his possession from those obtained by the candidate in his capacity as such” at the end of paragraph 4.

55. The said Act is amended by inserting the following section after section 636:

“636.1. The following persons are guilty of an offence:

(1) every person who erects an election poster or billboard in contravention of any of the provisions of sections 285.2 to 285.5 or without complying with the conditions set out in the first paragraph of section 285.7;

(2) every person who places an election banner, streamer or flag on a public utility pole.”

56. Section 639 of the said Act, amended by section 93 of chapter 31 of the statutes of 1998, is again amended by replacing “and 631 to 635” in the second line by “, 631 to 635 and 636.1”.

ELECTION ACT

57. Section 40.2 of the Election Act (R.S.Q., chapter E-3.3) is amended by striking out the second paragraph.

58. Section 40.25 of the said Act is amended by striking out the second paragraph.

ACT RESPECTING MUNICIPAL TERRITORIAL ORGANIZATION

59. Section 78 of the Act respecting municipal territorial organization (R.S.Q., chapter O-9) is amended by replacing the second paragraph by the following paragraph:

“For the purpose of determining whether a person is qualified as a candidate at an election in the territory of the municipality, any period, prior to the constitution, during which the person was resident, continuously or not, in the formerly unorganized territory shall be counted as if the person had been resident in the territory of the municipality from the beginning of that period.”

60. Section 111 of the said Act is amended by replacing “general” in the first line of the first paragraph and in the fourth line of the fourth paragraph by “regular”.

61. Section 123 of the said Act is amended by replacing the second paragraph by the following paragraph:

“For the purpose of determining whether a person is qualified as a candidate at an election in the territory of the municipality, any period, prior to the amalgamation, during which the person was resident, continuously or not, in the territory of an applicant municipality shall be counted as if the person had been resident in the territory of the municipality from the beginning of that period.”

62. Section 175 of the said Act is replaced by the following section:

“175. For the purpose of determining whether a person is qualified as a candidate at an election in the territory of the annexing municipality, any period, prior to the annexation, during which the person was resident, continuously or not, in the annexed territory shall be counted as if the person had been resident in the territory of the annexing municipality from the beginning of that period.”

TRANSITIONAL AND FINAL PROVISIONS

63. Every party already authorized on (*insert here the date occurring one day before the date of assent to this Act*) must transmit to the chief electoral officer the information and documents referred to in subparagraph 4.1 of the first paragraph of section 397 of the Act respecting elections and referendums in municipalities and in the first paragraph of section 426.1 of that Act, enacted by sections 24 and 33, respectively, not later than (*insert here the date that is 6 months after the date of assent to this Act*).

64. The first regulation made after (*insert here the date of assent to this Act*) and amending the regulation made under the first paragraph of section 582 of the Act respecting elections and referendums in municipalities is not subject to the publication requirements of section 11 of the Regulations Act (R.S.Q., chapter R-18.1).

65. The provisions replaced or amended by sections 1, 3 and 44, paragraph 2 of section 46 and sections 59, 61 and 62 continue to apply, as they read before being replaced or amended, in respect of any election for which the notice of election was given before (*insert here the date of assent to this Act*) and in respect of any referendum whose date of reference within the meaning of section 514 of the Act respecting elections and referendums in municipalities is before that date.

66. The provisions amended by sections 38 and 39 continue to apply, as they read before being amended, in respect of any election for which the notice of election was given before (*insert here the date of assent to this Act*).

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