



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-THIRD LEGISLATURE

Bill 88

**An Act amending the Act respecting
the process of negotiation of
collective agreements and the
settlement of disputes in the
municipal sector**

Introduction

**Introduced by
Mr. Jean Boulet
Minister of Labour**

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EXPLANATORY NOTES

This bill amends the Act respecting the process of negotiation of collective agreements and the settlement of disputes in the municipal sector to replace the dispute settlement mechanism applicable to police officers and firefighters in the municipal sector, so that a dispute in connection with the negotiation of a collective agreement concerning those employees will from now on be referred to an arbitrator rather than to a dispute settlement board composed of three members appointed by the Government.

To that end, the bill sets out the manner in which the Minister of Labour is to establish the list of arbitrators from which the parties are to choose, after consulting with each other, an arbitrator to whom they are to submit their dispute or, failing an agreement, from which the Minister is to choose such an arbitrator. The arbitrators on the list are those whose names were jointly proposed by the associations that are representative of the municipalities, intermunicipal boards, police officers and firefighters in the municipal sector.

The bill introduces, in the context of an arbitration of disputes concerning those police officers or firefighters, the possibility for each of the parties to designate an assessor to represent it and to assist the arbitrator during the hearing of the dispute and, if need be, during the deliberation.

The bill provides that arbitrators appointed to arbitrate any dispute in the municipal sector are to be remunerated according to the provisions of the Regulation respecting the remuneration of arbitrators made under the Labour Code.

Lastly, the bill introduces transitional measures to ensure the implementation of the modifications made to the dispute settlement mechanism for police officers and firefighters in the municipal sector.

LEGISLATION AMENDED BY THIS BILL:

– Act respecting the process of negotiation of collective agreements and the settlement of disputes in the municipal sector (chapter R-8.3).

REGULATION AMENDED BY THIS BILL:

- Procedure for the recognition of persons qualified to act in the settlement of disputes in the municipal sector (chapter R-8.3, r. 1).

REGULATION REPEALED BY THIS BILL:

- Regulation respecting the remuneration of members of a dispute settlement board and disputes arbitrators in the municipal sector (chapter R-8.3, r. 2).

Bill 88

AN ACT AMENDING THE ACT RESPECTING THE PROCESS OF NEGOTIATION OF COLLECTIVE AGREEMENTS AND THE SETTLEMENT OF DISPUTES IN THE MUNICIPAL SECTOR

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE PROCESS OF NEGOTIATION OF COLLECTIVE AGREEMENTS AND THE SETTLEMENT OF DISPUTES IN THE MUNICIPAL SECTOR

1. Section 1 of the Act respecting the process of negotiation of collective agreements and the settlement of disputes in the municipal sector (chapter R-8.3) is amended by replacing “a dispute settlement board or an arbitrator for arbitration” in the third paragraph by “arbitration”.

2. Section 5 of the Act is amended

(1) by replacing “minister responsible for the administration of the Labour Code (chapter C-27)”, “The Minister” and “the Minister’s” in the first paragraph by “Minister of Labour”, “That Minister” and “his or her”, respectively;

(2) by replacing “Minister” in the second paragraph by “Minister of Labour”.

3. Section 8 of the Act is replaced by the following section:

“8. At the same time, the mediator must give a copy of the report with comments to the Minister of Labour.”

4. The heading of Division III of Chapter II of the Act is replaced by the following heading:

“ARBITRATION OF DISPUTES”.

5. Section 9 of the Act is amended

(1) by replacing “Minister” by “Minister of Labour”;

(2) by replacing “a dispute settlement board” by “an arbitrator”;

(3) by adding the following sentence at the end: “That Minister must send the mediator’s report to the arbitrator.”

6. The Act is amended by inserting the following sections after section 9:

“9.1. Within 10 days of receiving a notice given by the Minister of Labour indicating that he or she refers the dispute to arbitration, the parties must consult with each other regarding the choice of an arbitrator from a list that Minister has drawn up for the purposes of dispute arbitration under this division.

If the parties reach an agreement, the Minister of Labour must appoint the person the parties have chosen to act as arbitrator. In the absence of an agreement, he or she must appoint the arbitrator from that list.

“9.2. The Minister of Labour enters on the list referred to in section 9.1 the names of the persons jointly proposed by all the associations he or she recognizes by order, after consultation with the minister responsible for municipal affairs, as being the most representative of the municipalities, intermunicipal boards, police officers and firefighters.

The associations referred to in the first paragraph must send their joint proposals to the Minister of Labour not later than 90 days before the date on which the list expires.

If the number of joint proposals is insufficient, the Minister of Labour must enter on the list the names of the persons he or she has chosen from among the names appearing on the list referred to in section 77 of the Labour Code (chapter C-27).

The list referred to in section 9.1 is valid for a period not exceeding five years. During that period, the Minister of Labour may amend the list after consulting with the associations referred to in the first paragraph.

“9.3. In order to be entered on the list referred to in section 9.1, a person must undertake in writing not to act as arbitrator in a grievance relating to the interpretation or application of an arbitration award rendered by that person in accordance with this division.

An arbitrator’s written undertaking is valid for as long as the arbitrator’s name is entered on the list or any subsequent list.

“9.4. The arbitrator must proceed to the arbitration with assessors unless, within 15 days of the arbitrator’s appointment, the parties reach an agreement to the contrary.

Each party must designate, within 15 days of the arbitrator’s appointment, an assessor to assist the arbitrator and represent it during the hearing of the dispute and the deliberation. If a party fails to designate an assessor within the prescribed time, the arbitrator may proceed in the absence of that party’s assessor.

The arbitrator may proceed in the absence of an assessor who does not attend after having been duly convened.

“9.5. If a disagreement occurs, other than a dispute or grievance between a municipality or an intermunicipal board and an association of employees certified to represent its police officers or firefighters, the Minister of Labour may entrust an arbitrator with meeting the parties and attempting to bring them to an agreement.

“9.6. On receiving the mediator’s report, the Minister of Labour may, despite section 102 of the Labour Code (chapter C-27), refer the disagreement to an arbitrator as if it were a dispute referred to in this division.”

7. Sections 10 to 13 of the Act are repealed.

8. Sections 14, 15, 16 and 17 of the Act are amended by replacing “for decision to the board” and all occurrences of “its decision” by “to the arbitrator for an arbitration award” and “his or her award”, respectively.

9. Section 19 of the Act is amended

(1) by replacing “Sittings of the board” by “Arbitration sittings”;

(2) by replacing “board of its” by “arbitrator of his or her”.

10. Section 21 of the Act is replaced by the following section:

“21. Upon application by the parties or on the initiative of the arbitrator, witnesses are summoned by means of a written order signed by the arbitrator. The arbitrator may administer oaths.”

11. Section 25 of the Act is replaced by the following section:

“25. The arbitration award must give reasons and be in writing. It must be signed by the arbitrator.”

12. Section 26 of the Act is repealed.

13. Section 27 of the Act is amended by replacing “its final decision, the board may render any interim decision it” by “a final award, the arbitrator may render any interim decision the arbitrator”.

14. Section 28 of the Act is amended

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

“The arbitrator must render his or her award within six months of being appointed.”;

(2) by replacing “the board” in the second paragraph by “the arbitrator”.

15. Sections 29 and 30 of the Act are amended by replacing “its decision”, all other occurrences of “decision” and “which” by “his or her award”, “award” and “who”, respectively.

16. The Act is amended by replacing section 31 by the following section:

“31. The arbitrator must forward the original of his or her award to the Minister of Labour and send, at the same time, a copy of it to the minister responsible for municipal affairs and to each party.”

17. Sections 32 and 33 of the Act are amended by replacing “a decision” and “The decision” by “an award” and “The award”, respectively.

18. Section 34 of the Act is amended

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

“The fees and expenses of the arbitrator are borne equally by the parties.”;

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

“The Regulation respecting the remuneration of arbitrators (chapter C-27, r. 6) applies, with the necessary modifications, to the remuneration of the arbitrators governed by this Act. Among such modifications, the Regulation applies as if the arbitration were that of a dispute referred to arbitration under section 75 of the Labour Code (chapter C-27).”;

(3) by striking out the first sentence of the second paragraph.

19. Section 36 of the Act is amended by replacing “members of the board” by “arbitrators”.

20. Section 39 of the Act is amended

(1) by replacing “minister responsible for the administration of the Labour Code (chapter C-27), “The Minister” and “the Minister’s” in the first paragraph by “Minister of Labour”, “That Minister” and “his or her”, respectively;

(2) replacing “Minister” in the second paragraph by “Minister of Labour”;

(3) by replacing “Sections 6 to 8” and “apply” in the third paragraph by “Section 6,” and “, applies”, respectively;

(4) by replacing the fourth paragraph by the following paragraph:

“If there is no agreement at the expiry of the period of mediation, the mediator must give the parties a report specifying the matters on which there has been agreement and the matters which are still in dispute. At the same time, the

mediator must give a copy of the report to the Minister of Labour and to the minister responsible for municipal affairs. The report must be given to the arbitrator appointed in accordance with section 44.”

21. Sections 55 to 57 of the Act are repealed.

PROCEDURE FOR THE RECOGNITION OF PERSONS QUALIFIED TO ACT IN THE SETTLEMENT OF DISPUTES IN THE MUNICIPAL SECTOR

22. Section 1 of the Procedure for the recognition of persons qualified to act in the settlement of disputes in the municipal sector (chapter R-8.3, r. 1) is replaced by the following section:

“**1.** This procedure sets out the rules and conditions for the recognition of persons qualified to exercise the function of disputes arbitrator for municipal employees other than police officers and firefighters.”

23. Sections 2 to 26 of the Regulation are repealed.

24. Section 27 of the Regulation is amended by replacing “Minister of Municipal Affairs and Land Occupancy” by “minister responsible for municipal affairs”.

REGULATION RESPECTING THE REMUNERATION OF MEMBERS OF A DISPUTE SETTLEMENT BOARD AND DISPUTES ARBITRATORS IN THE MUNICIPAL SECTOR

25. The Regulation respecting the remuneration of members of a dispute settlement board and disputes arbitrators in the municipal sector (chapter R-8.3, r. 2) is repealed.

TRANSITIONAL AND FINAL PROVISIONS

26. The Act respecting the process of negotiation of collective agreements and the settlement of disputes in the municipal sector (chapter R-8.3) is amended by replacing all occurrences of “minister responsible for the administration of the Labour Code” by “Minister of Labour”.

27. Unless this Act already so provides, or provides otherwise, the Act respecting the process of negotiation of collective agreements and the settlement of disputes in the municipal sector (chapter R-8.3) is amended

(1) by replacing all occurrences of “the board” by “the arbitrator”, except in section 2 of the Act; and

(2) by replacing “A member of the board” by “An arbitrator”.

The replacements referred to in the first paragraph also apply to the plural form of the replaced words and expressions and with the necessary modifications.

28. Any dispute settlement board that, on (*insert the date preceding the date of assent to this Act*), was established under the provisions of Division III of Chapter II of the Act respecting the process of negotiation of collective agreements and the settlement of disputes in the municipal sector (chapter R-8.3), as they read before that date, is dissolved and the functions of its members end.

The provisions of the Regulation respecting the remuneration of members of a dispute settlement board and disputes arbitrators in the municipal sector (chapter R-8.3, r. 2) continue to apply to the acts performed and costs incurred before (*insert the date of assent to this Act*) by a member of the dispute settlement board referred to in the first paragraph.

The parties to an expired collective agreement that was the subject of dispute arbitration covered by this section have until (*insert the date of the 10th day following the date of assent to this Act*) to agree on the choice of an arbitrator who will be appointed by the Minister of Labour to arbitrate the dispute. If the parties reach an agreement, the Minister of Labour must appoint the person they have chosen to act as arbitrator. In the absence of an agreement, he or she must appoint the arbitrator from the list referred to in section 77 of the Labour Code (chapter C-27).

29. Until a first list is drawn up by the Minister of Labour in accordance with section 9.2 of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.3), enacted by section 6 of this Act, the parties have 10 days after receiving the notice of that Minister referred to in section 9 of that Act, as amended by section 5 of this Act, to agree on the choice of an arbitrator who will be appointed to arbitrate the dispute.

If the parties reach an agreement, the Minister of Labour must appoint the person they have chosen to act as arbitrator. In the absence of an agreement, he or she must appoint the arbitrator from the list referred to in section 77 of the Labour Code (chapter C-27).

30. Where a dispute has already been the subject of a mediation report as part of the negotiation of a collective agreement concerning a group of municipal police officers or firefighters and no collective agreement has been reached on (*insert the date of assent to this Act*), the Minister of Labour must, on his or her own initiative or following a request from either of the parties, refer the case to an arbitrator in accordance with section 9 of the Act respecting the process of negotiation of collective agreements and the settlement of disputes in the municipal sector (chapter R-8.3), as amended by section 5 of this Act.

At all times, the Minister of Labour may again appoint a mediator on the joint application of the parties.

31. The provisions of this Act come into force on (*insert the date of assent to this Act*).

