



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 51

An Act to amend the Labour Code and other legislative provisions

Introduction

**Introduced by
Mr. Laurent Lessard
Minister of Labour**

**Québec Official Publisher
2006**

EXPLANATORY NOTES

This bill entrusts the responsibilities currently held by the construction industry commissioner to the Commission des relations du travail and abolishes the office of construction industry commissioner; it eliminates the possibility of seeking advice from the construction industry advisory committee and abolishes that committee.

The bill contains provisions that affect how the Commission des relations du travail operates. It provides that the Commission is to sit in divisions, namely, the construction industry and vocational qualification division and the labour relations division, and identifies the proceedings to be heard by each division. It also relaxes the rules governing the conciliation process and the approval of agreements that may be reached by the parties.

In addition, the bill gives the Commission des relations du travail the power to dissolve an employee association that participated in the contravention of prohibitions against dominating an employee association or interfering in the activities of an employee association. As well, it shifts the responsibility of acting as the depositary of collective agreements and arbitration awards from the Commission to the Minister of Labour.

The bill specifies that health and social services agencies are public services within the meaning of the Labour Code as regards the maintenance of essential services. It furthermore allows the Minister of Labour, on application, to arrange arbitration in a dispute relating to the negotiation of a first collective agreement, even if a conciliation officer has continued working with the interested parties since the application was made. The bill also contains a number of technical provisions and consequential amendments.

LEGISLATION AMENDED BY THIS BILL:

- Financial Administration Act (R.S.Q., chapter A-6.001);
- Act respecting the Barreau du Québec (R.S.Q., chapter B-1);
- Building Act (R.S.Q., chapter B-1.1);
- Charter of Ville de Lévis (R.S.Q., chapter C-11.2);

- Charter of Ville de Montréal (R.S.Q., chapter C-11.4);
- Charter of Ville de Québec (R.S.Q., chapter C-11.5);
- Labour Code (R.S.Q., chapter C-27);
- Act respecting manpower vocational training and qualification (R.S.Q., chapter F-5);
- Stationary Enginemen Act (R.S.Q., chapter M-6);
- Act respecting labour standards (R.S.Q., chapter N-1.1);
- Act respecting municipal territorial organization (R.S.Q., chapter O-9);
- Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2);
- Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20);
- Professional Syndicates Act (R.S.Q., chapter S-40);
- Act respecting bargaining units in the social affairs sector (R.S.Q., chapter U-0.1).

Bill 51

AN ACT TO AMEND THE LABOUR CODE AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Labour Code (R.S.Q., chapter C-27), amended by section 51 of chapter 34 of the statutes of 2005, is again amended by striking out “the construction industry commissioner and deputy-commissioners contemplated in the Act respecting labour relations, vocational training and manpower management in the construction industry (chapter R-20),” in the seventh, eighth, ninth and tenth lines of subparagraph 3 of paragraph 1.

2. Section 17 of the Code is amended by striking out “, on being referred the matter,” in the first and second lines and by replacing “exercises” in the second line by “exercised”.

3. Section 25 of the Code is amended

(1) by striking out “of the Government” at the end of the second paragraph;

(2) by replacing “, on or before the first working day following the day the petition is received, post a copy of the petition in a conspicuous place” in the first and second lines of the third paragraph by “post a copy of the petition and of the notice of the Commission hearing in a conspicuous place on or before the first working day following the day the petition is received, and keep it posted for at least five consecutive days”.

4. The Code is amended by inserting the following section after section 37.1:

“37.2. Where the Commission holds a secret ballot or orders a vote by secret ballot under this Code or another Act, it shall determine the ballot rules and may take any measures and give any instructions it considers necessary for the smooth and proper conduct of the ballot.”

5. Section 42 of the Code is amended by striking out the third paragraph.

6. Section 58.2 of the Code is amended by striking out “, according to the rules determined by the Commission” in the third paragraph.

7. Section 72 of the Code is amended

(1) by replacing “à l’un des bureaux de la Commission” in the first paragraph in the French text by “auprès du ministre”;

(2) by replacing the first sentence of the first paragraph in the English text by the following sentence: “A collective agreement takes effect only on the filing of two duplicate originals or two true copies of the collective agreement and its schedules with the Minister.”

8. Section 89 of the Code is amended by replacing “to one of the offices of the Commission” by “to the Minister”.

9. Section 93.3 of the Code is replaced by the following section:

“93.3. Even if the conciliation officer has continued to assist the parties in trying to reach a collective agreement after the application for arbitration, the Minister may entrust an arbitrator with endeavouring to settle the dispute.”

10. Section 93.9 of the Code is amended by striking out the second paragraph.

11. Section 99.9 of the Code is amended by striking out the second sentence of the second paragraph.

12. Section 101.6 of the Code is amended

(1) by replacing “with one of the offices of the Commission” by “with the Minister”;

(2) by replacing “the award in duplicate or in two copies true to the original,” by “two duplicate originals or two true copies of the award”.

13. Section 101.8 of the Code is amended by replacing “to one of the offices of the Commission” by “to the Minister”.

14. Section 101.10 of the Code is repealed.

15. Section 111.0.16 of the Code is amended by replacing paragraph 1.1 by the following paragraphs:

“(1.1) an institution governed by the Act respecting health services and social services (chapter S-4.2) that is not contemplated in paragraph 2 of section 111.2;

“(1.2) a health and social services agency;”.

16. The Code is amended by inserting the following sections after section 115:

“115.1. The Commission shall sit in two divisions, namely,

- (1) the construction industry and vocational qualification division; and
- (2) the labour relations division.

“115.2. Proceedings brought before the Commission under the Building Act (chapter B-1.1), the Act respecting manpower vocational training and qualification (chapter F-5), the Stationary Enginemen Act (chapter M-6) or the Act respecting labour relations, vocational training and manpower management in the construction industry (chapter R-20) shall be decided by the construction industry and vocational qualification division.

“115.3. Proceedings brought under this Code or an Act other than the Acts referred to in section 115.2 shall be decided by the labour relations division.

“115.4. The commissioners may sit in either division.”

17. Section 118 of the Code is amended

(1) by replacing “a conciliation agreement” in paragraph 7 by “an agreement”;

(2) by adding the following at the end:

“(8) dissolve an association of employees if it is proved to the Commission that the association participated in a contravention of section 12.

If an association dissolved under subparagraph 8 of the first paragraph is a professional syndicate, the Commission shall send an authentic copy of its decision to the enterprise registrar, who shall give notice of the decision in the *Gazette officielle du Québec*.”

18. The heading of Division III of Chapter VI of Title I of the Code is replaced by the following heading:

“PRE-DECISION CONCILIATION AND AGREEMENTS”.

19. Section 121 of the Code is amended by inserting “or a commissioner or member of the personnel of the Commission designated by the president” after “Commission”.

20. Section 123 of the Code is amended

(1) by replacing “by the conciliation officer and by the parties, and is binding on the parties” in the first paragraph by “by the parties and, if applicable, by the conciliation officer, and is binding on the parties”;

(2) by replacing “six” in the third paragraph by “12”.

21. Section 128 of the Code is amended by replacing “The secretary of the Commission” in the second paragraph by “The party filing the motion”.

22. Section 129 of the Code is amended by replacing “six” in the first paragraph by “12”.

23. Section 132 of the Code is replaced by the following section:

“**132.** Every decision of the Commission must be communicated in clear and concise terms.

Every order of the Commission and every decision of the Commission which, as far as a person is concerned, terminates a matter must give reasons and be set out in writing, signed and notified to the interested persons or parties, even if it has been communicated to them orally.”

24. Section 135 of the Code is replaced by the following section:

“**135.** The Commission may call the parties to a pre-hearing conference.”

25. Section 136 of the Code is amended by replacing “the commissioner” in the first line of the first paragraph by “a commissioner”.

26. Section 137 of the Code is amended by replacing “cause matters on which the parties have reached an agreement, admissions and decisions made by the commissioner to be recorded” in the first paragraph by “record matters on which the parties have reached an agreement, admissions, and decisions made by the commissioner”.

27. Section 137.62 of the Code is amended by adding “, by a mandatory Corporation and by the Régie du bâtiment du Québec under sections 129.11.1 and 152.1 of the Building Act (chapter B-1.1) and by the Minister of Employment and Social Solidarity for the purposes of section 41.1 of the Act respecting manpower vocational training and qualification (chapter F-5)” at the end of paragraph 2.1.

28. Section 138 of the Code is amended

(1) by replacing “subparagraph *d* or *e* of the first or second paragraph” in subparagraph *b* of the first paragraph by “paragraph *d* or *e*”;

(2) by replacing “duplicates” in subparagraph *c* of the first paragraph by “duplicate originals”;

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

“(e) to establish the procedure to be followed for the filing of an arbitration award and to determine the information that the grievances arbitrator must provide on the duration of the different stages of the arbitration procedure;”;

(4) by inserting “rules determining the documents or information that must be included in or submitted with complaints filed with, proceedings brought before or applications made to the Commission or that the Commission may consider appropriate to subsequently require,” after “implemented,” in the second paragraph.

29. Section 149 of the Code is repealed.

30. Section 151.3 of the Code is amended by striking out “, including the periods for appeal”.

31. Schedule I to the Code is amended

(1) by inserting the following paragraph before paragraph 1:

“(0.1) sections 11.1 and 164.1 of the Building Act (chapter B-1.1);”;

(2) by inserting the following paragraph after paragraph 13:

“(13.1) section 41.1 of the Act respecting manpower vocational training and qualification (chapter F-5);”;

(3) by inserting the following paragraph after paragraph 14:

“(14.1) section 9.3 of the Stationary Enginemen Act (chapter M-6);”;

(4) by replacing “section 61.4, the first paragraph of section 65, the second paragraph of section 74, the second paragraph of section 75” in paragraph 18 by “the first paragraph of section 7.7, sections 21 and 61.4, the first paragraph of section 65, the second paragraph of section 74, the second paragraph of section 75, the first paragraph of section 80.1, the first paragraph of section 80.2, section 80.3”;

(5) by inserting the following paragraph after paragraph 19:

“(19.1) sections 10 and 17, the second paragraph of section 23, sections 32 and 76 and the second paragraph of section 82 of the Act respecting bargaining units in the social affairs sector (chapter U-0.1);”.

ACT RESPECTING LABOUR RELATIONS, VOCATIONAL TRAINING
AND MANPOWER MANAGEMENT IN THE CONSTRUCTION
INDUSTRY

32. Section 7.7 of the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20) is amended

(1) by replacing “, to the construction industry commissioner” in the first paragraph by “to the Commission des relations du travail”;

(2) by striking out the third paragraph.

33. Section 7.8 of the Act is amended by replacing “of the construction industry commissioner or construction industry deputy-commissioner” in the first paragraph by “of the Commission des relations du travail”.

34. Section 8.1 of the Act is amended by replacing “in investigating complaints submitted to it under section 105 of” in the first paragraph by “in connection with complaints, contestations or proceedings under”.

35. The heading of Chapter III of the Act is amended by replacing “CONSTRUCTION INDUSTRY COMMISSIONER” by “MISCELLANEOUS PROVISIONS”.

36. Division II of Chapter III of the Act is replaced by the following division:

“DIVISION II

“COMMISSION DES RELATIONS DU TRAVAIL

“21. Any difficulty in the interpretation or application of subparagraphs v to y of the first paragraph of section 1, section 19 or the regulations made under section 20 must be referred to the Commission des relations du travail.

The Commission des relations du travail is also responsible for hearing and settling jurisdictional conflicts relating to the practice of a trade or occupation, on the application of any interested party.

“22. A commissioner of the Commission des relations du travail may, on request or on the commissioner’s own initiative, if the commissioner considers it useful in deciding a matter, visit a construction site or any other premises related to the matter at any reasonable time. The commissioner shall inform the person responsible for the premises and invite the parties to attend.

During a visit of the premises, the commissioner may examine any movable or immovable property related to the matter to be resolved. The commissioner may also question the persons who are on the premises.

Any person responsible for the premises is required to allow access to the premises so that the commissioner may exercise the powers conferred by this section.

“23. No person may, in any manner, hinder or impede the work of a commissioner of the Commission des relations du travail in the exercise of the functions of office.”

37. Section 45.0.3 of the Act is amended

(1) by replacing “to one of the offices of the Commission des relations du travail established by the Labour Code (chapter C-27)” in the second paragraph by “the Minister”;

(2) by replacing “originals or three certified copies of the original” in the second paragraph by “duplicate originals or true copies”.

38. Section 48 of the Act is amended

(1) by replacing “at one of the offices of the Commission des relations du travail” in the first sentence of the first paragraph by “with the Minister”;

(2) by inserting “duplicate originals or” after “three” in the first sentence of the first paragraph;

(3) by replacing “The Commission des relations du travail shall, without delay, transmit to the Commission de la construction du Québec” in the second paragraph by “The Minister shall, without delay, send the Commission”;

(4) by replacing “originals or of the certified copies” in the second paragraph by “duplicate originals or true copies”;

(5) by replacing “a copy” in the third paragraph by “a duplicate original”.

39. Section 48.1 of the Act is amended by replacing “original or certified copy” in the third line by “duplicate original or true copy”.

40. Section 53.1 of the Act is amended by replacing “the construction industry commissioner” by “the Commission des relations du travail”.

41. Section 61 of the Act is amended by replacing “is referred to the construction industry commissioner” in the last two lines of the third paragraph by “is referred to the Commission des relations du travail”.

42. Section 75 of the Act is amended by replacing “the decision in duplicate or in two copies, true to the original,” in the first paragraph by “two duplicate originals or true copies of the decision”.

43. Section 80.1 of the Act is amended

(1) by replacing “The construction industry commissioner” in the first line of the first paragraph by “The Commission des relations du travail”;

(2) by inserting “de la construction du Québec” after “Commission” in the second line of the first paragraph;

(3) by replacing “the construction industry commissioner” in the second line of the second paragraph by “the Commission des relations du travail”.

44. Section 80.2 of the Act is amended by replacing “to the construction industry commissioner” in the fourth and fifth lines of the first paragraph by “to the Commission des relations du travail”.

45. Section 80.3 of the Act is amended by replacing “the construction industry commissioner” by “the Commission des relations du travail”.

46. Section 123 of the Act is amended

(1) by striking out subparagraph 8.4 of the first paragraph;

(2) by striking out the fourth paragraph.

47. Section 124 of the Act is amended by adding the following paragraph at the end:

“However, the provisions of the Labour Code regarding the Commission des relations du travail, its commissioners and its labour relations officers and the relevant provisions of regulations under the Code apply in the construction industry to any application, motion, complaint or proceedings brought before that Commission under this Act.”

MISCELLANEOUS PROVISIONS

48. Schedule 2 to the Financial Administration Act (R.S.Q., chapter A-6.001), amended by section 24 of chapter 27 of the statutes of 2006, is again amended by striking out “Construction Industry Commissioner”.

49. Section 128 of the Act respecting the Barreau du Québec (R.S.Q., chapter B-1), amended by section 151 of chapter 15 of the statutes of 2005, is again amended by striking out “, the construction industry commissioner, a construction industry deputy-commissioner” in subparagraph 6 of paragraph *a* of subsection 2.

50. Section 11.1 of the Building Act (R.S.Q., chapter B-1.1) is amended by replacing “The construction industry commissioner referred to in the Act respecting labour relations, vocational training and manpower management in the construction industry (chapter R-20) has sole jurisdiction” by “The Commission des relations du travail has sole jurisdiction”.

51. The Act is amended by inserting the following section after section 129.11:

“129.11.1. The mandatory Corporation shall contribute to the fund of the Commission des relations du travail, established under section 137.62 of the Labour Code (chapter C-27), to cover the expenses incurred by the Commission for proceedings brought before it in connection with a ruling made by the Corporation as part of its mandate.

The amount of the contribution from the Corporation and the terms of payment are determined by the Government.”

52. The Act is amended by inserting the following section after section 152:

“152.1. The Board shall contribute to the fund of the Commission des relations du travail, established under section 137.62 of the Labour Code (chapter C-27), to cover the expenses incurred by the Commission for proceedings brought before it under this Act, except those referred to in section 129.11.1.

The amount of the contribution from the Board and the terms of payment are determined by the Government.”

53. Section 164.1 of the Act, amended by sections 43 and 47 of chapter 22 of the statutes of 2005, is again amended

(1) by replacing “the construction industry commissioner referred to in the Act respecting labour relations, vocational training and manpower management in the construction industry (chapter R-20)” in the first paragraph by “the Commission des relations du travail”;

(2) by replacing “the commissioner” in the second paragraph by “the Commission”.

54. Sections 164.2 and 164.3 of the Act are amended by replacing “the construction industry commissioner” by “the Commission des relations du travail”.

55. Sections 164.4 and 164.5 of the Act are amended by replacing “The construction industry commissioner” by “The Commission des relations du travail”.

56. Section 47 of the Charter of Ville de Lévis (R.S.Q., chapter C-11.2) is amended by replacing “at one of the offices of the Commission des relations du travail established by the Labour Code (chapter C-27) in accordance with the first paragraph of section 72 of that Code” in the first sentence by “with the Minister of Labour in accordance with the first paragraph of section 72 of the Labour Code (chapter C-27)”.

57. Section 49.3 of the Charter of Ville de Montréal (R.S.Q., chapter C-11.4) is amended by replacing “at one of the offices of the Commission des relations du travail” in the second paragraph by “with the Minister of Labour”.

58. Section 52 of the Charter is amended by replacing “at one of the offices of the Commission des relations du travail established by the Labour Code (chapter C-27) in accordance with the first paragraph of section 72 of that Code” in the first sentence by “with the Minister of Labour in accordance with the first paragraph of section 72 of the Labour Code (chapter C-27)”.

59. Section 49 of the Charter of Ville de Québec (R.S.Q., chapter C-11.5) is amended by replacing “at one of the offices of the Commission des relations du travail established by the Labour Code (chapter C-27) in accordance with the first paragraph of section 72 of that Code” in the first sentence by “with the Minister of Labour in accordance with the first paragraph of section 72 of the Labour Code (chapter C-27)”.

60. Section 41.1 of the Act respecting manpower vocational training and qualification (R.S.Q., chapter F-5) is amended

(1) by replacing “the construction industry commissioner referred to in the Act respecting labour relations, vocational training and manpower management in the construction industry (chapter R-20)” in the first paragraph by “the Commission des relations du travail”;

(2) by replacing “construction industry commissioner” wherever it appears in the second paragraph by “Commission”.

61. Section 9.2 of the Stationary Enginemen Act (R.S.Q., chapter M-6) is amended by replacing “the construction industry commissioner referred to in the Act respecting labour relations, vocational training and manpower management in the construction industry (chapter R-20),” in the first paragraph by “the Commission des relations du travail”.

62. Section 9.3 of the Act is amended by replacing “the construction industry commissioner” in the first paragraph by “the Commission des relations du travail”.

63. Section 28.1 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended by replacing “and” in the first paragraph by “to”.

64. Section 176.19 of the Act respecting municipal territorial organization (R.S.Q., chapter O-9) is amended by replacing “at one of the offices of the Commission of a copy of the award” in the first sentence of the fourth paragraph by “of a copy of the award with the Minister of Labour”.

65. Sections 61 and 74 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) are amended by replacing “at one of the offices of the Commission des relations du travail” by “with the Minister of Labour”.

66. Section 27 of the Professional Syndicates Act (R.S.Q., chapter S-40), amended by section 53 of chapter 44 of the statutes of 2005, is again amended by replacing “149” in the first paragraph by “118”.

67. Section 38 of the Act respecting bargaining units in the social affairs sector (R.S.Q., chapter U-0.1) is amended by replacing “When an agreement is filed with the Commission des relations du travail in accordance with section 61 of that Act, the Commission notifies the Minister” in the second paragraph by “When an agreement is filed with the Minister of Labour in accordance with section 61 of that Act, the Minister of Labour notifies the Minister of Health and Social Services”.

68. Section 45 of the Act is amended

(1) by replacing “with one of the offices of the Commission des relations du travail” in the first paragraph by “with the Minister of Labour”;

(2) by replacing “the Commission notifies the Minister” in the second paragraph by “the Minister of Labour notifies the Minister of Health and Social Services”.

69. Section 46 of the Act is amended

(1) by replacing “à l’un des bureaux de la Commission des relations du travail” in the first paragraph in the French text by “auprès du ministre du Travail”;

(2) by replacing “date of its filing in duplicate, or the filing of two true copies, with one of the offices of the Commission des relations du travail” in the first paragraph in the English text by “date on which two duplicate originals or true copies of the decision are filed with the Minister of Labour”.

TRANSITIONAL AND FINAL PROVISIONS

70. The construction industry commissioner and the construction industry deputy-commissioners become commissioners of the Commission des relations du travail for the unexpired portion of their terms.

Their terms may be renewed according to the procedure referred to in sections 137.19 and 137.20 of the Labour Code (R.S.Q., chapter C-27).

They are to exercise their functions chiefly at the place to which they were assigned on appointment.

71. Section 137.12 of the Labour Code (R.S.Q., chapter C-27) does not apply to persons who become commissioners of the Commission des relations du travail under section 70, even on a subsequent renewal of their term, as long as they remain commissioners.

72. Persons who become commissioners of the Commission des relations du travail under section 70 must, within the following 60 days, take the oath provided in section 137.32 of the Labour Code (R.S.Q., chapter C-27).

73. The Regulation respecting the remuneration and other conditions of employment of commissioners of the Commission des relations du travail made by Order in Council 1193-2002 dated 2 October 2002 applies from the date of coming into force of section 70 to persons who become commissioners of the Commission des relations du travail under that section.

However, those persons retain the remuneration they were receiving before the coming into force of that section; if that remuneration is greater than the remuneration specified in the regulation, they retain that remuneration until it is equal to the remuneration specified in the regulation.

A review of the remuneration of those persons based on the reference period from 1 April 2006 to 31 March 2007 is to be conducted according to the conditions determined when they were appointed.

74. The members of the personnel of the construction industry commissioner become members of the personnel of the Commission des relations du travail without further formality.

75. Matters pending before the construction industry commissioner on the day before the date of coming into force of this section are continued before the Commission des relations du travail without continuance of suit.

76. Until the coming into force of the rules of evidence and procedure made under section 138 of the Labour Code (R.S.Q., chapter C-27), proceedings before the construction industry and vocational qualification division of the Commission des relations du travail are governed, with the necessary modifications, by the Rules of procedure and practice of the Construction Industry Commissioner approved by Order in Council 850-2002 dated 26 June 2002, but only to the extent that they are consistent with that Code.

77. The records, documents and archives of the construction industry commissioner become records, documents and archives of the Commission des relations du travail.

78. In any legislative provision not amended by this Act, in any regulation and in any other document, unless the context indicates otherwise, a reference to the construction industry commissioner or to a construction industry deputy-commissioner is a reference to the Commission des relations du travail, with the necessary modifications.

79. The sums paid into the fund of the construction industry commissioner are transferred to the fund of the Commission des relations du travail.

80. The Minister of Labour becomes the depositary of the collective agreements and arbitration awards filed with the Commission des relations du travail before the date of coming into force of section 7.

81. For the purposes of the regulations under the Labour Code (R.S.Q., chapter C-27) and under the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20), the Minister of Labour is deemed to be the authority with whom collective agreements must be filed and to whom arbitration awards must be sent, instead of the Commission des relations du travail.

The Minister is also responsible for issuing a certificate or attestation confirming that a collective agreement has been filed or an arbitration award sent, instead of the Commission.

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

