



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 27
(1996, chapter 30)

An Act to amend the Labour Code

Introduced 14 May 1996
Passage in principle 23 May 1996
Passage 19 June 1996
Assented to 20 June 1996

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EXPLANATORY NOTES

This bill amends certain provisions of the Labour Code concerning the dispute resolution mechanism applicable to municipal police officers and firefighters, in particular as regards mediation and the forms of and criteria for arbitration. It also replaces mandatory mediation by optional mediation accessible on the joint request of the parties.

In addition, the bill introduces the right of the parties to voluntarily opt for mediation-arbitration and maintains the current form of arbitration which continues to apply in the absence of agreement between the parties. It also recognizes the right of the parties, whatever form of arbitration they choose, to agree on the selection of the arbitrator from a list drawn up under the Labour Code.

Lastly, the bill adds a further element to the list of existing criteria, which the bill makes mandatory, requiring the arbitrator to take into consideration prevailing and anticipated wage and economic conditions in Québec.

LEGISLATION AMENDED BY THIS BILL:

- Labour Code (R.S.Q., chapter C-27);
- Act to amend the Labour Code and the Act respecting the Ministère du Travail (1993, chapter 6).

Bill 27

An Act to amend the Labour Code

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 94 of the Labour Code (R.S.Q., chapter C-27), amended by section 221 of chapter 2 of the statutes of 1996, is again amended by replacing the words “application by one party” in the first line of the first paragraph by the words “a joint application by the parties”.

2. Section 95 of the said Code is repealed.

3. Sections 96 to 98 of the said Code are replaced by the following sections:

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

The mediator shall, at the same time, give a copy of the report to the Minister with his comments.

“97. After receiving a report of unsuccessful mediation or a written application for arbitration, the Minister shall refer the dispute to the form of arbitration selected by the parties.

The dispute shall be referred to an arbitrator at the request of one of the parties or to a mediator-arbitrator at the joint request of the parties.

“98. Within 10 days after receiving notice from the Minister that he intends to refer the dispute to the form of arbitration selected, the parties shall consult each other regarding the selection of an

arbitrator from a list drawn up by the Minister specifically for the arbitration of disputes under this division.

If there is agreement between the parties, the Minister shall appoint the person selected by them as arbitrator. If there is no agreement, the Minister shall appoint an arbitrator from the list.

If mediation has taken place, the Minister shall forward a copy of the mediator's report to the arbitrator."

4. The said Code is amended by inserting, after section 99.1, the following section:

"99.1.1 The mediator-arbitrator shall, before proceeding with arbitration, attempt to settle the dispute referred by the Minister.

Where, in the opinion of the mediator-arbitrator, there is no likelihood of the parties reaching agreement on a collective agreement within a reasonable period of time, he shall proceed to determine the content of the collective agreement. He shall so inform the parties and the Minister."

5. Section 99.4 of the said Code is amended by replacing the words ", on the basis of the mediator's report, such matters" in the first and second lines of the second paragraph by the words "such matters on the basis of the mediator's report or, as the case may be, on the basis of his own observation of the matters on which no agreement was reached during his mediation".

6. Section 99.5 of the said Code, amended by section 221 of chapter 2 of the statutes of 1996, is again amended

(1) by replacing the words "In rendering his award, the arbitrator may take into account, among other things," in the first and second lines by the words "Subject to section 99.6, the arbitrator must, in rendering his award, take into account";

(2) by striking out the words "as well as" in the fourth line;

(3) by adding, at the end, the words ", as well as prevailing and anticipated wage and economic conditions in Québec";

(4) by adding, at the end, the following paragraph:

"He may also take into account any other piece of evidence referred to in section 99.6."

7. Section 99.7 of the said Code is amended by adding, at the end of the first paragraph, the words “or, as the case may be, that he ascertained during his mediation”.

8. Section 10 of the Act to amend the Labour Code and the Act respecting the Ministère du Travail (1993, chapter 6) is repealed.

9. The Minister shall present to the Government, not later than 20 June 1999, a report on the application of Division II of Chapter IV of the Labour Code.

The report shall be tabled within the 15 following days in the National Assembly if it is sitting or, if it is not sitting, it shall be submitted to the President.

Within six months from the date on which the report is tabled, the Parliamentary Committee on Labour and the Economy shall take the report under consideration and examine the application of Division II of Chapter IV of the Labour Code. On this subject, the Committee shall hear the representative bodies it designates.

10. The provisions of section 99.5 of the Labour Code, amended by section 6 of this Act, apply to any dispute between a municipality or intermunicipal board and an association of employees certified to represent its policemen or firemen that has been referred to arbitration and in respect of which no award has been rendered before 20 June 1996.

11. This Act comes into force on 20 June 1996.