



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 113
(2010, chapter 32)

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

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EXPLANATORY NOTES

This Act 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.

Furthermore, the total of contributions that may be made to each party, independent Member and independent candidate by the same elector during the same calendar year is lowered from \$3,000 to \$1,000. Anonymous contributions are prohibited and certain rules concerning revenue other than contributions are revised.

Under the new provisions, 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 five 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 and certain adjustments are made to the penal provisions of those Acts.

LEGISLATION AMENDED BY THIS ACT:

- 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

(1) by striking out subparagraph 2 of the second paragraph;

(2) by adding “the total amount collected must not exceed 3% of the total contributions collected by the entity in the period covered by a financial report; in the case of a party, that percentage applies to the total sum of the amounts collected by the party and by each of its party authorities;” at the end of subparagraph 6 of the second paragraph;

(3) by inserting the following subparagraph after subparagraph 6 of the second paragraph:

“(6.1) ancillary revenue collected at a political activity or rally in accordance with the Chief Electoral Officer’s directives;”.

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 91 of the Act is amended by replacing “\$3,000” in the first paragraph by “\$1,000”.

5. The Act is amended by inserting the following section after section 95:

“95.1. Every contribution must be accompanied with a contribution slip approved by the Chief Electoral Officer.

The contribution slip must include the contributor's given name and surname and domiciliary address, the amount of the contribution and 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."

6. The Act is amended by inserting the following section after section 100:

"100.1. An official representative of an authorized entity who, during political activities or rallies held in the period covered by a financial report, collected amounts totalling more than 3% of the total contributions the official representative collected during that period must, within 30 days after the report is submitted, remit to the Chief Electoral Officer an amount equal to the part of the amounts collected that exceeds that percentage.

The Chief Electoral Officer shall pay the amount over to the Minister of Finance."

7. Section 114 of the Act is amended

(1) by striking out paragraph 1;

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

"(3.1) the total sum of amounts collected under subparagraph 6.1 of the second paragraph of section 88 as ancillary revenue at a political activity or rally, how those amounts break down, and the nature, place and date of the activity or rally;".

8. Section 126 of the Act is amended by adding ", except any information on the distribution slip described in section 95.1 other than the contributor's given name and surname, the address of the contributor's domicile and the amount of the contribution" at the end of the first paragraph.

9. Section 559.1 of the Act is amended by striking out paragraph 1.

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

"564. A person who contravenes any of sections 62, 66, 74, 76, 92, 93, 95, 96, 97, 99, 102 to 106, 408, 410, 416 to 420, 422 to 424, 457.2, 457.9 and 457.11 to 457.17 is liable to a fine of \$500 to \$10,000."

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

"564.1. The following are liable to a fine of \$5,000 to \$20,000 for a first offence and a fine of \$10,000 to \$30,000 for any subsequent offence within 10 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 twice 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 or attempts to contravene any of sections 87 to 91, 100, 413 to 415, 429 and 429.1 is liable to a fine of \$5,000 to \$20,000 for a first offence and a fine of \$10,000 to \$30,000 for any subsequent offence within 10 years, in the case of a natural person, or to a fine of \$10,000 to \$50,000 for a first offence and a fine of \$50,000 to \$200,000 for any subsequent offence within 10 years, in the case of a legal person.

If a person is convicted of an offence for contravening or attempting to contravene any of sections 87, 90 and 91, a judge may, on an application by the prosecutor which is attached to the statement of offence, impose an additional fine equal to twice 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 judgment of conviction, 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 and 91 or an offence under section 564.1. The prohibition applies for a period of three years from the date of the judgment of conviction or, in the case of a subsequent conviction within ten years, for a period of five years from the date of the subsequent conviction.

Similarly, from the date of an order under section 564.4, no public contract may be entered into with a legal person or partnership named in the order. The prohibition applies for a period of three years from the date of the order or, if the legal person or partnership has been the subject of an earlier order, for a period of five years from the date of the new order.

As soon as the judgment of conviction is rendered or the order under section 564.4 is issued, the prohibition applies despite any appeal or other remedy.

However, in the case of an appeal of or other remedy against the judgment of conviction or the order, a judge may, on a motion, suspend the prohibition if the judge considers that it is in the public interest, taking into account, among other things,

- (1) the spirit of the law;
- (2) the fact that, on the face of it, the judgment of conviction appears to be ill-founded;
- (3) the existence of exceptional circumstances, if the matter is a serious one and there is colour of right;
- (4) any serious and irreparable harm suffered; and
- (5) the balance of convenience and the fact that the public interest must override any private interest.

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 public body, government agency or government enterprise within the meaning of the Auditor General Act (chapter V-5.01);
- (2) the Université du Québec or its constituent universities, research institutes or superior schools within the meaning of the Act respecting the Université du Québec (chapter U-1);
- (3) an educational institution at the university level 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) and not referred to in subparagraph 2;
- (4) a general and vocational college established under the General and Vocational Colleges Act (chapter C-29);
- (5) a school board governed by the Education Act (chapter I-13.3) or the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14) or the Comité de gestion de la taxe scolaire de l'île de Montréal;
- (6) a private institution accredited for purposes of subsidies under the Act respecting private education (chapter E-9.1);
- (7) any other educational institution more than half of whose expenditures are provided for in the budgetary estimates tabled in the National Assembly otherwise than under a transferred appropriation;
- (8) a public or private institution under agreement governed by the Act respecting health services and social services (chapter S-4.2);
- (9) the regional council established by the Act respecting health services and social services for Cree Native persons (chapter S-5);

(10) a municipality or a body within the meaning of section 18 or 19 of the Act respecting the Pension Plan of Elected Municipal Officers (chapter R-9.3);

(11) a mixed enterprise company governed by the Act respecting mixed enterprise companies in the municipal sector (chapter S-25.01);

(12) a regional conference of elected officers established under the Act respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire (chapter M-22.1) or a local development centre constituted under the Act respecting the Ministère du Développement économique, de l'Innovation et de l'Exportation (chapter M-30.01); or

(13) an agency described in paragraph 4 of section 4 of the Lobbying Transparency and Ethics Act (chapter T-11.011).

“564.4. If a natural person has been 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, the person is presumed to have committed the offence for the benefit of or with a view to benefiting the legal person or partnership.

The Chief Electoral Officer may, after a judgment of conviction is rendered against the person, apply to the Superior Court for an order stating that section 564.3 applies to the legal person or partnership. The onus is on the legal person or partnership to prove, on the balance of probabilities, that the offence was not 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;

(3) the penalty and any other measure imposed by the judge;

(4) the date on which the prohibition from entering into a public contract ends; and

(5) any other information the Chief Electoral Officer considers to be in the public interest.

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. Every person who enters into a contract with a department or body mentioned in the fifth paragraph of section 564.3 in contravention of that section is liable to a fine corresponding to the value of any consideration received by the person or payable to the person under the contract.”

12. 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, in section 564.1 or in section 564.2 where it refers to sections 87, 90 and 91”.

ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

13. Section 428 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended

(1) by striking out paragraph 2;

(2) by adding “the total amount collected must not exceed 3% of the total contributions collected during the period covered by a financial report;” at the end of paragraph 7;

(3) by inserting the following paragraph after paragraph 7:

“(7.1) ancillary revenue collected at a political activity or rally in accordance with the Chief Electoral Officer’s directives;”.

14. Section 430 of the Act is replaced by the following section:

“430. Every contribution must be made by the elector himself and out of his own property. It must be made voluntarily, without compensation and for no consideration, and may not be reimbursed in any way.”

15. Section 434 of the Act is amended

(1) by adding “in the form prescribed by the Chief Electoral Officer” at the end of the second paragraph;

(2) by adding the following paragraph at the end:

“The receipt must include the contributor’s given name and surname and domiciliary address, the amount of the contribution and 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.”

16. The Act is amended by inserting the following section after section 440:

“440.1. An official representative of a party or an authorized independent candidate who, during political activities or rallies held in the period covered by a financial report, collected amounts totalling more than 3% of the total contributions the official representative collected during that period must, within 30 days after the report is filed, remit to the treasurer an amount equal to the part of the amounts collected that exceeds that percentage.

The treasurer shall pay the amount into the general fund of the municipality.”

17. Section 441 of the Act is repealed.

18. Section 480 of the Act is amended

(1) by striking out paragraph 1;

(2) by inserting the following paragraph after paragraph 4:

“(4.1) the total amount of ancillary revenue collected at a political activity or rally in accordance with the Chief Electoral Officer’s directives, how that revenue breaks down, and the nature, place and date of the activity or rally;”.

19. Section 483 of the Act is amended

(1) by replacing “two years” in the first paragraph by “five years”;

(2) by striking out “Notwithstanding the first paragraph,” in the second paragraph and by replacing “on request” at the end of that paragraph by “every three months”.

20. Section 606 of the Act is replaced by the following section:

“606. Every official representative of an authorized party who fails to keep, for five years after the filing of a financial report, the receipts issued for contributions collected as well as the vouchers for the period covered by the report or who fails to remit the receipts and vouchers to the treasurer is guilty of an offence.”

21. Section 610 of the Act is amended

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

“(b.1) the contribution is not being made voluntarily by the elector;

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

(2) by striking out “, unless it consists in the furnishing of services” in subparagraph *c* of paragraph 1;

(3) by inserting the following subparagraph after subparagraph *d* of paragraph 1:

“(e) the goods or services furnished free of charge for political purposes are not being assessed in accordance with the third paragraph of section 427;”;

(4) by striking out “knowingly” in paragraph 2;

(5) 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.”

22. Section 610.1 of the Act is amended by striking out “knowingly” in paragraph 2.

23. Section 623 of the Act is amended

(1) by replacing “with the knowledge that it” in subparagraph 1 of the first paragraph by “that”;

(2) by replacing “he knows to be” in subparagraph 2 of the first paragraph by “that is”.

24. The Act is amended by inserting the following section after section 636.2:

“636.3. Every person who attempts to commit an act described in section 599, to the extent that it pertains to a contribution, or any of sections 603, 610, 614 and 619 to 622 is guilty of an offence.”

25. Section 640 of the Act is amended by replacing “589 to 599” by “594 to 598”.

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

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

“641. Every person who commits an offence under section 599, to the extent that it pertains to an expense or a loan, or any of sections 603, 607 to 609, 611, 612, 613, 615 to 618 and 623 to 625 is liable to a fine of not less than \$500 nor more than \$10,000.”

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

“641.1. Every person who commits an offence under any of sections 589 to 593, 599 to the extent that it pertains to a contribution, 610, 610.1, 614, 619 to 622 and 636.3 is liable,

(1) for a first offence, to a fine of not less than \$5,000 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 \$50,000;

(2) for any subsequent conviction within 10 years, to a fine of not less than \$10,000 nor more than \$30,000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$50,000 nor more than \$200,000.

If a person is convicted of an offence for contravening or attempting to contravene any of paragraphs 2, 3 and 4 of section 610 or paragraph 2 of section 610.1, a judge may, on an application by the prosecutor which is attached to the statement of offence, impose an additional fine equal to twice 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 judgment of conviction, 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 and 431 or an offence under any of paragraphs 2 to 4 of section 610. The prohibition applies for a period of three years from the date of the judgment of conviction or, in the case of a subsequent conviction within ten years, for a period of five years from the date of the subsequent conviction.

Similarly, from the date of an order under section 641.3, no public contract may be entered into with a legal person or partnership named in the order. The prohibition applies for a period of three years from the date of the order or, if the legal person or partnership has been the subject of an earlier order, for a period of five years from the date of the new order.

As soon as the judgment of conviction is rendered or the order under section 641.3 is issued, the prohibition applies despite any appeal or other remedy.

However, in the case of an appeal of or other remedy against the judgment of conviction or the order, a judge may, on a motion, suspend the prohibition if the judge considers that it is in the public interest, taking into account, among other things,

- (1) the spirit of the law;
- (2) the fact that, on the face of it, the judgment of conviction appears to be ill-founded;
- (3) the existence of exceptional circumstances, if the matter is a serious one and there is colour of right;
- (4) any serious and irreparable harm suffered; and
- (5) the balance of convenience and the fact that the public interest must override any private interest.

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 public body, government agency or government enterprise within the meaning of the Auditor General Act (chapter V-5.01);
- (2) the Université du Québec or its constituent universities, research institutes or superior schools within the meaning of the Act respecting the Université du Québec (chapter U-1);
- (3) an educational institution at the university level 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) and not referred to in subparagraph 2;
- (4) a general and vocational college established under the General and Vocational Colleges Act (chapter C-29);
- (5) a school board governed by the Education Act (chapter I-13.3) or the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14) or the Comité de gestion de la taxe scolaire de l'île de Montréal;
- (6) a private institution accredited for purposes of subsidies under the Act respecting private education (chapter E-9.1);
- (7) any other educational institution more than half of whose expenditures are provided for in the budgetary estimates tabled in the National Assembly otherwise than under a transferred appropriation;
- (8) a public or private institution under agreement governed by the Act respecting health services and social services (chapter S-4.2);
- (9) the regional council established by the Act respecting health services and social services for Cree Native persons (chapter S-5);
- (10) a municipality or a body within the meaning of section 18 or 19 of the Act respecting the Pension Plan of Elected Municipal Officers (chapter R-9.3);

(11) a mixed enterprise company governed by the Act respecting mixed enterprise companies in the municipal sector (chapter S-25.01);

(12) a regional conference of elected officers established under the Act respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire (chapter M-22.1) or a local development centre constituted under the Act respecting the Ministère du Développement économique, de l'Innovation et de l'Exportation (chapter M-30.01); or

(13) an agency described in paragraph 4 of section 4 of the Lobbying Transparency and Ethics Act (chapter T-11.011).

“641.3. If a natural person has been 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, the person is presumed to have committed the offence for the benefit of or with a view to benefiting the legal person or partnership.

The Chief Electoral Officer may, after a judgment of conviction is rendered against the person, apply to the Superior Court for an order stating that section 641.2 applies to the legal person or partnership. The onus is on the legal person or partnership to prove, on the balance of probabilities, that the offence was not 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;

(3) the penalty and any other measure imposed by the judge;

(4) the date on which the prohibition from entering into a public contract ends; and

(5) any other information the Chief Electoral Officer considers to be in the public interest.

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. Every person who enters into a contract with a department or body mentioned in the fifth paragraph of section 641.2 in contravention of that section is liable to a fine corresponding to the value of any consideration received by the person or payable to the person under the contract.”

29. Section 645 of the Act is amended by replacing the first paragraph by the following paragraph:

“645. An offence under any of sections 586 to 588, 589 to 598, paragraphs 2, 3 and 4 of section 610, paragraph 2 of section 610.1, and section 636.3 to the extent that it is an offence described in any of paragraphs 2, 3 and 4 of section 610, is a corrupt electoral practice.”

ACT RESPECTING SCHOOL ELECTIONS

30. Section 206.18 of the Act respecting school elections (R.S.Q., chapter E-2.3) is amended

(1) by striking out paragraph 2;

(2) by adding “the total amount collected must not exceed 3% of the total contributions collected during the period covered by a financial report;” at the end of paragraph 6;

(3) by inserting the following paragraph after paragraph 6:

“(6.1) ancillary revenue collected at an election activity or rally in accordance with the Chief Electoral Officer’s directives;”.

31. Section 206.20 of the Act is replaced by the following section:

“206.20. Every contribution must be made by the elector himself and out of his own property. It must be made voluntarily, without compensation and for no consideration, and may not be reimbursed in any way.”

32. Section 206.22 of the Act is amended

(1) by adding “in the form prescribed by the Chief Electoral Officer” at the end;

(2) by adding the following paragraph:

“The receipt must include the contributor’s given name and surname and domiciliary address, the amount of the contribution and 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.”

33. The Act is amended by inserting the following section after section 206.26:

“206.26.1. An authorized candidate who, during election activities or rallies held in the period covered by a financial report, collected amounts totalling more than 3% of the total contributions the authorized candidate collected during that period must, within 30 days after the report is filed, remit to the director general of the school board an amount equal to the part of the amounts collected that exceeds that percentage.

The director general shall pay the amount into the general fund of the school board.”

34. Section 206.27 of the Act is repealed.

35. Section 209.1 of the Act is amended

(1) by striking out paragraph 1;

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

“(3.1) the total amount of ancillary revenue collected at an election activity or rally in accordance with the Chief Electoral Officer’s directives, how that revenue breaks down, and the nature, place and date of the activity or rally;”.

36. Section 219.3 of the Act is amended by striking out paragraph 1.

37. Section 219.8 of the Act is amended

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

“(b.1) the contribution is not being made voluntarily by the elector;

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

(2) by striking out “, unless it consists in the furnishing of services” in subparagraph *c* of paragraph 1;

(3) by inserting the following subparagraph after subparagraph *d* of paragraph 1:

“(e) the goods or services furnished free of charge for political purposes are not being assessed in accordance with the third paragraph of section 206.17;”;

(4) by striking out “knowingly” in paragraph 2;

(5) 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.”

38. Section 219.13 of the Act is amended by inserting “incurs or authorizes an election expense or” after “who” in the first paragraph.

39. Section 219.14 of the Act is amended

(1) by replacing “with the knowledge that it” in subparagraph 1 of the first paragraph by “that”;

(2) by replacing “he knows to be” in subparagraph 2 of the first paragraph by “that is”.

40. The Act is amended by inserting the following section after section 219.20:

“219.21. Every person who attempts to commit an act described in section 219.4, to the extent that it pertains to a contribution, or section 219.8, 219.12 or 219.13 is guilty of an offence.”

41. Section 221 of the Act is amended by replacing “any of sections 215 to 217 and 219” by “section 215 or 216”.

42. 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, paragraphs 1 to 3 of section 219.4 to the extent that they pertain to an expense or a loan, paragraph 4 of that section and sections 219.5 to 219.7, 219.10, 219.11 and 219.14 to 219.18”;

(2) by striking out the second paragraph.

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

“221.1.1. Every person who commits an offence under any of sections 217 and 219, paragraphs 1 to 3 of section 219.4 to the extent that they pertain to a contribution, and sections 219.8, 219.9, 219.12, 219.13 and 219.21 is liable,

(1) for a first offence, to a fine of not less than \$5,000 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 \$50,000;

(2) for any subsequent conviction within 10 years, to a fine of not less than \$10,000 nor more than \$30,000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$50,000 nor more than \$200,000.

If a person is convicted of an offence for contravening or attempting to contravene any of paragraphs 2, 3 and 4 of section 219.8, a judge may, on an application by the prosecutor which is attached to the statement of offence, impose an additional fine equal to twice 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 judgment of conviction, 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 and 206.21 or an offence under any of paragraphs 2 to 4 of section 219.8. The prohibition applies for a period of three years from the date of the judgment of conviction or, in the case of a subsequent conviction within ten years, for a period of five years from the date of the subsequent conviction.

Similarly, from the date of an order under section 221.1.3, no public contract may be entered into with a legal person or partnership named in the order. The prohibition applies for a period of three years from the date of the order or, if the legal person or partnership has been the subject of an earlier order, for a period of five years from the date of the new order.

As soon as the judgment of conviction is rendered or the order under section 221.1.3 is issued, the prohibition applies despite any appeal or other remedy.

However, in the case of an appeal of or other remedy against the judgment of conviction or the order, a judge may, on a motion, suspend the prohibition if the judge considers that it is in the public interest, taking into account, among other things,

- (1) the spirit of the law;
- (2) the fact that, on the face of it, the judgment of conviction appears to be ill-founded;
- (3) the existence of exceptional circumstances, if the matter is a serious one and there is colour of right;
- (4) any serious and irreparable harm suffered; and
- (5) the balance of convenience and the fact that the public interest must override any private interest.

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 public body, government agency or government enterprise within the meaning of the Auditor General Act (chapter V-5.01);

(2) the Université du Québec or its constituent universities, research institutes or superior schools within the meaning of the Act respecting the Université du Québec (chapter U-1);

(3) an educational institution at the university level 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) and not referred to in subparagraph 2;

(4) a general and vocational college established under the General and Vocational Colleges Act (chapter C-29);

(5) a school board governed by the Education Act (chapter I-13.3) or the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14) or the Comité de gestion de la taxe scolaire de l'île de Montréal;

(6) a private institution accredited for purposes of subsidies under the Act respecting private education (chapter E-9.1);

(7) any other educational institution more than half of whose expenditures are provided for in the budgetary estimates tabled in the National Assembly otherwise than under a transferred appropriation;

(8) a public or private institution under agreement governed by the Act respecting health services and social services (chapter S-4.2);

(9) the regional council established by the Act respecting health services and social services for Cree Native persons (chapter S-5);

(10) a municipality or a body within the meaning of section 18 or 19 of the Act respecting the Pension Plan of Elected Municipal Officers (chapter R-9.3);

(11) a mixed enterprise company governed by the Act respecting mixed enterprise companies in the municipal sector (chapter S-25.01);

(12) a regional conference of elected officers established under the Act respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire (chapter M-22.1) or a local development centre constituted under the Act respecting the Ministère du Développement économique, de l'Innovation et de l'Exportation (chapter M-30.01); or

(13) an agency described in paragraph 4 of section 4 of the Lobbying Transparency and Ethics Act (chapter T-11.011).

“221.1.3. If a natural person has been 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, the person is presumed to have committed the offence for the benefit of or with a view to benefiting the legal person or partnership.

The Chief Electoral Officer may, after a judgment of conviction is rendered against the person, apply to the Superior Court for an order stating that section 221.1.2 applies to the legal person or partnership. The onus is on the legal person or partnership to prove, on the balance of probabilities, that the offence was not 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;

(3) the penalty and any other measure imposed by the judge;

(4) the date on which the prohibition from entering into a public contract ends; and

(5) any other information the Chief Electoral Officer considers to be in the public interest.

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. Every person who enters into a contract with a department or body mentioned in the fifth paragraph of section 221.1.2 in contravention of that section is liable to a fine corresponding to the value of any consideration received by the person or payable to the person under the contract.”

44. Section 223.1 of the Act is amended in the first paragraph

(1) by replacing “215 and” by “215,”;

(2) by inserting “, in paragraphs 2 to 4 of section 219.8, and in section 219.21 to the extent that it is an offence described in any of paragraphs 2, 3 and 4 of section 219.8” after “219.3” in the first paragraph.

FINAL PROVISION

45. With the exception of section 4, which comes into force on 1 January 2011, this Act comes into force on 1 May 2011, unless the Government sets an earlier date for its coming into force.

