



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 119
(2011, chapter 5)

An Act respecting the election process

Introduced 20 October 2010
Passed in principle 9 December 2010
Passed 12 May 2011
Assented to 20 May 2011

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EXPLANATORY NOTES

This Act makes various changes to the electoral process established by the Election Act.

With respect to voting, the rules governing the determination of polling subdivisions and the special provisions relating to voting in a residential facility or at an elector's domicile are amended. Additional specifics are provided with respect to the establishment and opening of returning officers' offices, polling stations and mobile polling stations.

As regards election officers, it is provided that where there are fewer than three polling stations in the same place, the deputy returning officer and a poll clerk may act as identity verification panel members, other than the chairman. One of the two positions of officer in charge of the list of electors is abolished and the mode of appointment to the position is modified. The official agent of a candidate will be allowed to appoint deputies. Moreover, the Election Act and the Regulation respecting the conditions of exercise of the duties of returning officer are amended as concerns the requirements for appointment as returning officer.

In more administrative matters, certain time limits for the filing of financial reports by authorized entities are extended when a return of election expenses must be filed almost simultaneously. Moreover, a candidate in a by-election may obtain an advance on the reimbursement of election expenses, subject to the same conditions as those applicable during a general election.

The Election Act and the Act respecting elections and referendums in municipalities are amended to require authorized parties to maintain a minimum number of members at all times.

Lastly, certain provisions of the Act to amend the Election Act to encourage and facilitate voting are clarified, in particular with regard to the revision of the list of electors and to voting at the office of the returning officer.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);
- Election Act (R.S.Q., chapter E-3.3);
- Act to amend the Election Act to encourage and facilitate voting (2006, chapter 17).

REGULATION AMENDED BY THIS ACT:

- Regulation respecting the conditions of exercise of the duties of returning officer (R.R.Q., chapter E-3.3, r. 4).

Bill 119

AN ACT RESPECTING THE ELECTION PROCESS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ELECTION ACT

1. Section 35 of the Election Act (R.S.Q., chapter E-3.3) is amended by replacing paragraphs 1 and 2 by the following paragraphs:

“(1) of polling subdivisions comprising not more than 425 electors. However, a polling subdivision in which a residential facility described in section 180 is situated may exceed that figure by up to the number of electors registered on the permanent list of electors for the address of that facility; and

“(2) of electoral precincts comprising polling subdivisions served by the same voting place.”

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

“**51.1.** An authorized party must at all times have at least 100 members who are qualified electors and hold a valid membership card.

“**51.2.** Not later than 30 April each year, an authorized party must send to the Chief Electoral Officer a list showing the names and addresses of 100 members who meet the conditions set out in section 51.1.

The Chief Electoral Officer may take any necessary measures to verify the accuracy of the information provided under the first paragraph.”

3. Section 68 of the Act is amended by adding the following paragraph at the end:

“In addition, the Chief Electoral Officer must withdraw the authorization of a party which does not comply with section 51.1 and may withdraw the authorization of a party which does not provide the information required under section 51.2.”

4. Section 119 of the Act is replaced by the following section:

“**119.** Where the time fixed in section 113 or 117 expires during an election period, the deadline is deferred for 60 days.”

5. Section 120 of the Act is replaced by the following section:

“120. Where the time fixed in section 113 or 117 expires during the period in which a return of election expenses must be filed, the deadline is deferred for 120 days or to the 135th day after the polling date, whichever is later.”

6. The Act is amended by inserting the following section after section 120:

“120.1. Where the time fixed in section 432 or 434 expires during the period for filing the financial report provided for in section 113 or 117, the deadline is deferred for 60 days in the case of the report provided for in section 113 and for 30 days in the case of the report provided for in section 117.”

7. Section 121 of the Act is amended by replacing “and 120” by “, 120 and 120.1”.

8. Section 122 of the Act is amended by replacing “with a copy of each of the receipts issued for contributions received” in the second paragraph by “with the contribution slips that have not yet been sent to the Chief Electoral Officer”.

9. Section 126 of the Act is amended by inserting “the list of members of an authorized party referred to in section 51.2 and” after “except” in the first paragraph.

10. Section 132 of the Act is amended

(1) by striking out “As soon as the order instituting the election is issued,” at the beginning of the second paragraph;

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

“The main office must be in operation as soon as the order instituting the election is issued. The branch offices must be in operation at the time determined by the Chief Electoral Officer but not later than the twenty-first day before polling day.”

11. Section 212 of the Act is amended by inserting “, where the application to have a name struck off the list is filed under section 207 by an elector domiciled at the address for which that name is entered” after “192” in the first paragraph.

12. Section 241 of the Act is amended

(1) by replacing “on the back the signatures of two electors of the electoral division who know him” in subparagraph 3 of the first paragraph by “the person’s signature on the back”;

(2) by striking out the second paragraph.

13. Section 301.8 of the Act is amended by adding the following paragraph after the second paragraph:

“An elector temporarily living in a residential facility may vote at the facility provided a request to that effect is addressed to the returning officer within the time prescribed in the second paragraph and provided the elector is registered on the list of electors for the polling subdivision in which the elector is domiciled. If the elector is not domiciled in the electoral division in which the facility is located, sections 269 to 280 apply, with the necessary modifications.”

14. Section 301.13 of the Act is amended by inserting “is registered on the list of electors for the polling subdivision in which the facility is located and” after “elector who”.

15. Section 301.16 of the Act is amended by replacing the first paragraph by the following paragraph:

“301.16. The returning officer sets up as many mobile polling stations as necessary.”

16. Section 301.17 of the Act is amended by replacing “in which the facility is located” in paragraph 2 by “of the elector’s domicile”.

17. Section 301.19 of the Act is amended by adding the following paragraph at the end:

“Electors who act as informal caregivers of electors having the right to vote at their domicile may vote at that domicile. They must address a request to that effect to the returning officer within the time prescribed in subparagraph 1 of the first paragraph and be registered on the list of electors for the polling subdivision in which the domicile is located.”

18. Section 302 of the Act is amended

(1) by adding the following sentence at the end of the first paragraph: “According to the criteria determined by the Chief Electoral Officer, the returning officer may establish more than one polling station for a polling subdivision.”;

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

“The returning officer shall establish more than one polling station in a polling subdivision that comprises more than 425 electors, unless that figure is exceeded due to the number of electors registered on the list of electors of a residential facility described in section 180.”;

(3) by striking out the third paragraph.

19. Section 308 of the Act is amended by replacing “officers assigned to the list of electors, members of the identity verification panel” by “officers assigned to the list of electors, identity verification panel chairs”.

20. Section 310.1 of the Act is replaced by the following section:

“310.1. For every polling station, the returning officer shall appoint, as officer assigned to the list of electors, the person recommended by the candidate of the authorized party whose candidate came third at the last election.”

21. Section 312 of the Act is amended by replacing “fourteenth” in the first paragraph by “seventeenth”.

22. Section 312.1 of the Act is amended

(1) by replacing “310 to 312” in the second paragraph by “310, 311 and 312”;

(2) by replacing “there is only one polling station” in the third paragraph by “there are three or fewer polling stations”;

(3) by adding the following sentence at the end of the third paragraph: “In such a case, sections 335.1 to 335.4 apply, with the necessary modifications.”

23. Section 315.1 of the Act is amended by replacing “The officers assigned to the list of electors shall have” by “The officer assigned to the list of electors shall have”.

24. Section 328 of the Act is amended by replacing “the officers” in the first paragraph by “the officer”.

25. Section 360 of the Act is amended by replacing the second paragraph by the following paragraph:

“Votes cast during the advance poll and votes cast by electors at the office of the returning officer for the electoral division of their domicile are counted at the place determined by the returning officer.”

26. Section 408 of the Act is amended by adding the following paragraph at the end:

“Section 406 applies to the official agent of a candidate, with the necessary modifications.”

27. Section 432 of the Act is amended by adding the following paragraph at the end:

“If the official agent has appointed deputies under section 408, the return must be accompanied by the deeds of appointment, including any changes made to them.”

28. Section 451 of the Act is amended by inserting “and, if applicable, in the third paragraph of that section,” after “426”.

29. Section 503 of the Act is amended by replacing the first paragraph by the following paragraph:

“**503.** The appointment of a returning officer shall be made after a public competition among the qualified electors domiciled in the electoral division concerned or in an electoral division determined by a directive of the Chief Electoral Officer, provided, in the latter case, that the person is able to carry out his duties in a satisfactory manner as if he were domiciled in the electoral division for which he is appointed.”

30. Section 504 of the Act is amended by adding the following sentence at the end: “A person may apply for one electoral division only.”

ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

31. The Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by inserting the following sections after section 399.1:

“**399.2.** An authorized party must at all times have a minimum number of members who are qualified electors and hold a valid membership card, which minimum number is set out in the third paragraph of section 397.

“**399.3.** Not later than 1 April each year, the party must send to the Chief Electoral Officer a list showing the names and addresses of party members who meet the conditions set out in section 399.2, in at least the number set out in the third paragraph of section 397.

The Chief Electoral Officer may take any necessary measures to verify the accuracy of the information provided under the first paragraph.”

32. Section 404 of the Act is amended by adding the following sentence at the end of the first paragraph: “In addition, the Chief Electoral Officer must withdraw the authorization of a party which does not comply with section 399.2

and may withdraw the authorization of a party which does not provide the information required under section 399.3.”

33. Section 659 of the Act is amended by inserting “the list of the members of an authorized party and any” before “personal information” in the second paragraph.

ACT TO AMEND THE ELECTION ACT TO ENCOURAGE AND FACILITATE VOTING

34. Section 13 of the Act to amend the Election Act to encourage and facilitate voting (2006, chapter 17), amended by section 85 of chapter 22 of the statutes of 2008, is again amended

(1) by adding the following paragraph at the end of section 206 of the Election Act that it enacts:

“The second paragraph does not apply to a request submitted to a special board of revisors.”;

(2) by replacing “unless the person is present” in the first paragraph of section 210 of the Election Act that it enacts by “except where the person is present,” by inserting “, where the request is submitted under section 205 by a person domiciled at the address appearing on the list opposite the name of the person” after “192” in that paragraph and by replacing “or the board” in that paragraph by “where the board”;

(3) by striking out “and include particulars about voting at the returning officer’s office” in the first paragraph of section 218 of the Election Act that it enacts;

(4) by replacing the second paragraph of section 218 of the Election Act that it enacts by the following paragraph:

“At the latest before the opening of the advance polling stations, the returning officer sends each candidate a list of the electors removed from the list of electors by a special board of revisors.”

35. Section 15 of the Act, amended by sections 38 to 41 of chapter 22 of the statutes of 2008, is again amended

(1) by replacing section 264 of the Election Act that it enacts by the following section:

264. Unless otherwise provided, sections 307, 312.1, 320 to 327, 329 to 332, 334 and 335.1 to 340 apply, with the necessary modifications, to voting by electors in the electoral division of their domicile.”;

(2) by replacing section 265 of the Election Act that it enacts by the following section:

“265. The members of the special board of revisors act as members of the identity verification panel. The chair of the special board of revisors acts as chair of the panel.”;

(3) by replacing the second paragraph of section 266 of the Election Act that it enacts by the following paragraph:

“Sections 342 to 354 apply, with the necessary modifications. However, the prohibition to engage in partisan publicity provided in section 352 does not apply to an office used by a candidate for election purposes that is situated near the main office or a branch office of a returning officer.”;

(4) by replacing section 269 of the Election Act that it enacts by the following section:

“269. Electors temporarily residing in an electoral division other than the electoral division of their domicile may vote at the returning officer’s main office or at one of the returning officer’s branch offices in the electoral division of their temporary place of residence.

The electors described in the first paragraph must, at the time of voting, provide a sworn written statement attesting that, to their knowledge, they will not be able to exercise their right to vote in the electoral division of their domicile on the scheduled voting days.”;

(5) by replacing section 270 of the Election Act that it enacts by the following section:

“270. Unless otherwise provided, sections 307, 312.1, 325 to 327, 329 to 332, 334 and 335.1 to 340 apply, with the necessary modifications, to voting by electors outside their electoral division.”;

(6) by repealing section 271 of the Election Act that it enacts;

(7) by inserting “of the elector’s temporary place of residence” after “revisors” in section 272 of the Election Act that it enacts;

(8) by repealing section 273 of the Election Act that it enacts;

(9) by replacing the second paragraph of section 276 of the Election Act that it enacts by the following paragraph:

“Sections 342, 344 to 347 and sections 349 to 354 apply, with the necessary modifications. However, the prohibition to engage in partisan publicity provided in section 352 does not apply to an office used by a candidate for election

purposes that is situated near the main office or a branch office of a returning officer.”;

(10) by repealing section 278 of the Election Act that it enacts.

36. Section 24 of the Act is amended by striking out “or has not registered to vote outside his electoral division at the returning officer’s office” in paragraph 3 of section 350 of the Election Act that it enacts.

REGULATION RESPECTING THE CONDITIONS OF EXERCISE OF THE DUTIES OF RETURNING OFFICER

37. Section 2 of the Regulation respecting the conditions of exercise of the duties of returning officer (R.R.Q., chapter E-3.3, r. 4) is amended by replacing paragraph 2 by the following paragraph:

“(2) be domiciled at all times in the electoral division of appointment or in an electoral division determined by a directive issued under section 503 of the Election Act;”.

FINAL PROVISIONS

38. This Act does not apply to an election in progress on 20 May 2011 or ordered within 60 days after that date.

39. Until the Nomination Regulation (1989, G.O. 2, 1569) is amended in accordance with section 550 of the Election Act, the Chief Electoral Officer may adapt the form provided in the regulation to reflect any amendments to section 241 of the Election Act.

40. This Act comes into force on 20 May 2011, except sections 13, 14 and 16, which come into force on 30 September 2012 unless the Government sets an earlier date for their coming into force.