



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 104
(2002, chapter 28)

An Act to amend the Charter of the French language

Introduced 7 May 2002
Passage in principle 28 May 2002
Passage 12 June 2002
Assented to 13 June 2002

EXPLANATORY NOTES

This bill establishes the Office québécois de la langue française whose mission is to define and conduct Québec policy in the areas of linguistic officialization, terminology and the francization of the civil administration and enterprises. The Office is also responsible for ensuring compliance with the Charter of the French language.

The bill also establishes the Conseil supérieur de la langue française to advise the minister responsible for the administration of the Charter of the French language.

Amendments are made as concerns the language of instruction regarding eligibility for instruction in English. In addition, it is provided that college and university-level institutions will be required to adopt a policy on the use and quality of the French language, in keeping with their linguistic character.

Finally, certain changes are introduced in the provisions concerning the language of the civil administration and the francization of enterprises.

LEGISLATION AMENDED BY THIS BILL:

- Financial Administration Act (R.S.Q., chapter A-6.001);
- Charter of the French language (R.S.Q., chapter C-11);
- Labour Code (R.S.Q., chapter C-27);
- Securities Act (R.S.Q., chapter V-1.1).

Bill 104

AN ACT TO AMEND THE CHARTER OF THE FRENCH LANGUAGE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 16 of the Charter of the French language (R.S.Q., chapter C-11) is amended

- (1) by inserting “only” after “use” in the first line;
- (2) by adding the following paragraph at the end:

“The Government may, however, determine by regulation the cases, conditions or circumstances in which another language may be used in addition to the official language.”

2. Section 29.1 of the said Charter, amended by section 6 of chapter 57 of the statutes of 2000, is again amended by striking out “, the Cree School Board, the Kativik School Board” in the first paragraph.

3. Section 73 of the said Charter is amended by adding the following paragraphs at the end :

“However, instruction in English received in Québec in a private educational institution not accredited for the purposes of subsidies by the child for whom the request is made, or by a brother or sister of the child, shall be disregarded. The same applies to instruction in English received in Québec in such an institution after (*insert here the date of coming into force of this section*) by the father or mother of the child.

Instruction in English received pursuant to a special authorization under section 81, 85 or 85.1 shall also be disregarded.”

4. Section 76 of the said Charter is amended by striking out “any of paragraphs 1 to 5 of” in the third and fourth lines of the second paragraph.

5. Section 76.1 of the said Charter is amended by striking out “, 81, 85.1” in the second line.

6. Section 81 of the said Charter is amended by inserting “if required to facilitate the learning process” after “English” in the second line of the first paragraph.

- 7.** Sections 82 to 83.3 of the said Charter are repealed.
- 8.** Section 83.4 of the said Charter is amended by replacing “made by the review committee” in the first line by “concerning a child’s eligibility for instruction in English made pursuant to section 73, 76, 81, 85 or 86.1 by a designated person”.

- 9.** Section 85.1 of the said Charter is replaced by the following section:

“85.1. Where warranted by a serious family or humanitarian situation, the Minister of Education may, upon a reasoned request and on the recommendation of the examining committee, declare eligible for instruction in English a child who has been declared non-eligible by a person designated by the Minister.

The request must be filed within 30 days of notification of the unfavourable decision.

The request shall be submitted to an examining committee composed of three members designated by the Minister. The committee shall report its observations and recommendation to the Minister.

The Minister shall specify, in the report referred to in section 4 of the Act respecting the Ministère de l’Éducation (chapter M-15), the number of children declared eligible for instruction in English under this section and the grounds on which they were declared eligible.”

- 10.** The said Charter is amended by inserting the following chapter after section 88:

“CHAPTER VIII.1

“POLICIES OF COLLEGE OR UNIVERSITY-LEVEL INSTITUTIONS REGARDING THE USE AND QUALITY OF THE FRENCH LANGUAGE

“88.1. Before (*insert here the date occurring two years after the date of coming into force of this section*), every institution that provides college instruction, other than a private institution not accredited for the purposes of subsidies, must adopt a policy applicable to college-level instruction regarding the use and quality of the French language. The same applies to the university-level institutions listed in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1).

Any institution to which the first paragraph applies that is founded or accredited after (*insert here the date of coming into force of this section*) must adopt such a policy within two years after it is founded or receives accreditation.

“88.2. In the case of an institution that provides college or university instruction in French to the majority of its students, the language policy must pertain to

- (1) the language of instruction, including the language of manuals and other instructional tools, and the language of learning assessment instruments ;
- (2) the language of communication used by the administration of the institution in its official texts and documents as well as in any other form of communication ;
- (3) the quality of French and the command of the French language among the students, the teaching staff, especially upon hiring, and other staff members ;
- (4) the language of work ; and
- (5) the implementation of the policy and the monitoring of its application.

In the case of an institution that provides college or university instruction in English to the majority of its students, the language policy must pertain to the teaching of French as a second language, the language used by the administration of the institution in its written communications with the civil administration and legal persons established in Québec, and the implementation of the policy and the monitoring of its application.

“88.3. The language policy of an educational institution must be transmitted to the Minister of Education as soon as it is determined. The same applies to any amendment to the policy.

Upon request, an educational institution must transmit a report on the application of its policy to the Minister.”

11. The said Charter is amended by replacing the heading of Title II by the following heading :

“LINGUISTIC OFFICIALIZATION, TOPOONYMY
AND FRANCIZATION”.

12. Chapter I of Title II of the said Charter, comprising section 99, is repealed.

13. The heading of Chapter II of Title II of the said Charter is replaced by the following heading :

“LINGUISTIC OFFICIALIZATION”.

14. Sections 100 to 115 of the said Charter are repealed.

15. Section 116 of the said Charter is replaced by the following section :

“116.” The departments and agencies of the civil administration may establish linguistic committees and determine their composition and operation.

The committees shall identify terminological deficiencies and problematical terms and expressions in their designated field. They shall submit the terms and expressions they favour to the Comité d’officialisation linguistique. The Comité may in turn submit them to the Office québécois de la langue française for standardization or recommendation.

If a department or agency does not establish a linguistic committee, the Office may, on the proposal of the Comité d’officialisation linguistique, make an official request that it do so.”

16. The said Charter is amended by inserting the following section after section 116 :

“116.1.” The Office québécois de la langue française may, on the proposal of the Comité d’officialisation linguistique, recommend or standardize terms and expressions. The Office shall disseminate standardized terms and expressions, in particular through publication in the *Gazette officielle du Québec*.”

17. Sections 119 to 121 of the said Charter are repealed.

18. Section 137 of the said Charter is amended by replacing “one-third” in the first line of the first paragraph by “half”.

19. The said Charter is amended by inserting the following section after section 137 :

“137.1.” Workers’ representatives on the francization committee or a subcommittee may, without loss of pay, absent themselves from work for the time required to attend meetings of the committee or subcommittee and to perform any committee or subcommittee task. They shall be deemed to be working and shall be remunerated at the normal rate during that time.

In no case may an employer not remunerate or dismiss, lay off, demote or transfer a worker for the sole reason that the worker took part in committee or subcommittee meetings or tasks.

Any worker who feels aggrieved by an action that is prohibited by the second paragraph may exercise the rights set out in the second or third paragraph of section 45, as the case may be.”

20. Section 139 of the said Charter is amended by replacing “12” in the first line of the third paragraph by “six”.

21. Section 140 of the said Charter is amended by replacing the second paragraph by the following paragraphs:

“If, however, the Office considers that the use of French is not generalized at all levels of the enterprise, it shall notify the enterprise that it must adopt a francization programme. In the case of an enterprise to which section 139 applies, the Office may, in addition, order the establishment of a francization committee of four or six members; in that case, sections 136 to 138 are applicable with the necessary modifications.

The francization programme shall be submitted to the Office within six months of the date on which the notice is received. The programme requires the approval of the Office.”

22. Section 142 of the said Charter is amended by adding the following paragraph after paragraph 4:

“(5) the line of business of the enterprise.”

23. Section 144 of the said Charter is amended by adding the following sentence at the end of the first paragraph: “Such agreements are valid for a renewable period of not more than five years.”

24. Section 151 of the said Charter is amended by inserting “responsible for the administration of this Act” after “Minister” in the first line of the first paragraph.

25. The heading of Title III of the said Charter is replaced by the following heading:

“THE OFFICE QUÉBÉCOIS DE LA LANGUE FRANÇAISE”.

26. Chapters I and II of Title III of the said Charter, comprising sections 157 to 165, are replaced by the following chapters:

“CHAPTER I “ESTABLISHMENT

157. A body is hereby established under the name of “Office québécois de la langue française”.

158. The head office of the Office shall be located in Québec or Montréal, at the place determined by the Government.

The address of the head office, as well as notice of any change thereof, shall be published in the *Gazette officielle du Québec*.

The Office shall have an office in Québec and another in Montréal and may have offices elsewhere in Québec.

“CHAPTER II

“MISSION AND POWERS

“159. The Office is responsible for defining and conducting Québec policy on linguistic officialization, terminology and the francization of the civil administration and enterprises.

The Office is also responsible for ensuring compliance with this Act.

“160. The Office shall monitor the linguistic situation in Québec and shall report thereon to the Minister at least every five years, especially as regards the use and status of the French language and the behaviour and attitudes of the various linguistic groups.

“161. The Office shall see to it that French is the normal and everyday language of work, communication, commerce and business in the civil administration and in enterprises. The Office may, among other things, take any appropriate measure to promote French.

The Office shall help define and develop the francization programmes provided for in this Act and monitor their application.

“162. The Office may assist and inform the civil administration, semipublic agencies, enterprises, associations and natural persons as regards the correction and enrichment of spoken and written French in Québec.

The Office may also receive observations and suggestions from such parties regarding the quality of the French language or problems encountered in the application of this Act, and report thereon to the Minister.

“163. The Office shall establish the research programmes needed for the application of this Act. It may carry out or commission the studies provided for in the research programmes.

“164. The Office may make agreements or take part in joint projects with any person or agency.

The Office may, in accordance with the applicable legislative provisions, make an agreement with a government other than that of Québec, a department or agency of such a government, an international organization or an agency of such an organization.

“CHAPTER II.1
“ORGANIZATION

“DIVISION I
“GENERAL PROVISIONS

“165. The Office shall be composed of eight members.

The members of the Office shall be appointed by the Government as follows:

(1) a president and director general, for a term not exceeding five years; and

(2) six persons, for a term not exceeding five years.

The associate deputy minister responsible for the implementation of language policy shall be a permanent non-voting member of the Office; the associate deputy minister may appoint a substitute.

At the expiry of their terms, non-permanent members shall remain in office until they are replaced or reappointed.

“165.1. The quorum at meetings of the Office is the majority of the members.

Meetings shall be presided over by the president and director general, who shall have a casting vote in the event of a tie.

“165.2. The Office may hold meetings anywhere in Québec.

The members of the Office may participate in a meeting by means of telephone or other communications equipment enabling all participants to hear one another.

“165.3. The president and director general is responsible for the management and administration of the Office within the scope of its internal by-laws and policies.

The powers and functions conferred on the Office by the first paragraph of section 38 and sections 40, 131 to 133, 139, 143 and 151 are exercised by the president and director general, who shall report periodically to the Office.

The Office may delegate any other power or function to the president and director general.

“165.4. If the president and director general is absent or unable to act, another member of the Office designated by the Minister shall act as a substitute.

“165.5. The office of president and director general shall be exercised on a full-time basis. The Government shall determine the remuneration, employment benefits and other conditions of employment of the president and director general.

The other members of the Office shall receive no remuneration, except in such cases, on such conditions and to such extent as may be determined by the Government. They are, however, entitled to the reimbursement of reasonable expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

“165.6. The staff of the Office shall be appointed pursuant to the Public Service Act (chapter F-3.1.1).

“165.7. Neither the Office nor its members, its staff or the members of its committees may be prosecuted by reason of official acts performed in good faith in the exercise of their powers and functions.

“165.8. The Office may make internal by-laws.

The Office may in particular establish permanent or temporary committees, define their powers and duties and determine their mode of constitution and operation.

The committees may, with the authorization of the Minister, be composed in whole or in part of persons who are not members of the Office.

Committee members shall receive no remuneration, except in such cases, on such conditions and to such extent as may be determined by the Government. They are, however, entitled to the reimbursement of reasonable expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

The Office may also generally authorize a member or staff member of the Office to act as a mediator to facilitate an agreement between the parties in accordance with section 47.

“165.9. The minutes of the meetings of the Office, approved by the Office, and documents and copies emanating from the Office or forming part of its records are authentic if signed or certified by the president and director general or by a staff member so authorized by the latter.

“165.10. Not later than 31 August each year, the Office shall submit a report to the Minister on its activities for the preceding fiscal year.

The Minister shall lay the report before the National Assembly within 30 days after receiving it or, if the Assembly is not sitting, within 30 days of resumption.

“DIVISION II

“COMITÉ D’OFFICIALISATION LINGUISTIQUE AND COMITÉ DE SUIVI DE LA SITUATION LINGUISTIQUE

“165.11. Committees are hereby established within the Office under the names of “Comité d’officialisation linguistique” and “Comité de suivi de la situation linguistique”.

On request or on its own initiative, each of the committees shall, in its designated field, advise and submit proposals to the Office.

“165.12. Each of the committees shall be composed of five members appointed by the Office as follows :

(1) a committee chair, chosen from among the members of the Office, for the unexpired portion of his or her term as a member of the Office ;

(2) a secretary, chosen from among the staff of the Office, for a term not exceeding four years ; and

(3) three persons who are neither members nor staff members of the Office, for a term not exceeding four years.

The Comité d’officialisation linguistique shall include at least two French linguistics specialists and the Comité de suivi de la situation linguistique shall include at least two demography or sociolinguistics specialists.

At the expiry of their terms, committee members shall remain in office until they are replaced or reappointed.

“165.13. Committee members shall receive no remuneration, except in such cases, on such conditions and to such extent as may be determined by the Government. They are, however, entitled to the reimbursement of reasonable expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

“165.14. The committees shall operate under rules determined by the internal by-laws of the Office.”

27. Chapter III of Title III of the said Charter, comprising sections 166 to 177, becomes Title III.1.

28. Section 167 of the said Charter is amended by replacing “chairman” in the second paragraph by “president and director general”.

29. Section 170 of the said Charter is repealed.

30. Chapter IV of Title III of the said Charter, comprising sections 178 and 179, is repealed.

31. Title IV of the said Charter, comprising sections 185 to 204, is replaced by the following title:

“TITLE IV

“THE CONSEIL SUPÉRIEUR DE LA LANGUE FRANÇAISE

“185. A council is hereby established under the name “Conseil supérieur de la langue française”.

“186. The head office of the Conseil shall be located in Québec, at the place determined by the Government.

The address of the head office, as well as notice of any change thereof, shall be published in the *Gazette officielle du Québec*.

“187. The mission of the Conseil is to advise the Minister responsible for the administration of this Act on any matter relating to the French language in Québec.

In that capacity, the Conseil shall

(1) advise the Minister on any matter the Minister submits to it;

(2) bring to the Minister’s attention any matter which, in its opinion, requires the attention of the Government.

“188. In carrying out its mission, the Conseil may

(1) receive and hear observations from individuals or groups ;

(2) conduct or commission such studies and research as it considers necessary.

The Conseil may also inform the public on any matter relating to the French language in Québec.

“189. The Conseil shall be composed of eight members.

The members of the Conseil shall be appointed by the Government as follows :

(1) a chair, for a term not exceeding five years ; and

(2) seven persons, chosen after consultation with the bodies which the Government considers representative of consumers, educational circles, cultural communities, unions and management, for a term not exceeding five years.

At the expiry of their terms, members shall remain in office until they are replaced or reappointed.

“190. The quorum at meetings of the Conseil is the majority of the members.

Meetings shall be presided over by the chair, who shall have a casting vote in the event of a tie.

“191. The Conseil may hold meetings anywhere in Québec.

The members of the Conseil may participate in a meeting by means of telephone or other communications equipment enabling all participants to hear one another.

“192. The chair is responsible for the management and administration of the Conseil.

“193. If the chair is absent or unable to act, another member of the Conseil designated by the Minister shall act as a substitute.

“194. The office of chair shall be exercised on a full-time basis. The Government shall determine the remuneration, employment benefits and other conditions of employment of the chair.

The other members of the Conseil shall receive no remuneration, except in such cases, on such conditions and to such extent as may be determined by the Government. They are, however, entitled to the reimbursement of reasonable expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

“195. The staff of the Conseil shall be appointed pursuant to the Public Service Act (chapter F-3.1.1).

“196. The Conseil may provide for its internal management.

The Conseil may establish committees to assist it in the exercise of its powers and duties.

The committees may, with the authorization of the Minister, be composed, in whole or in part, by persons who are not members of the Conseil.

Committee members shall receive no remuneration, except in such cases, on such conditions and to such extent as may be determined by the Government. They are, however, entitled to the reimbursement of reasonable expenses

incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

“197. The minutes of the meetings of the Conseil, approved by the Conseil, and documents and copies emanating from the Conseil or forming part of its records are authentic if signed or certified by the chair or by a staff member so authorized by the latter.

“198. Not later than 31 August each year, the Conseil shall submit a report to the Minister on its activities for the preceding fiscal year.

The Minister shall lay the report before the National Assembly within 30 days after receiving it or, if the Assembly is not sitting, within 30 days of resumption.”

32. Section 212 of the said Charter is amended by replacing “de la langue française, that of the Commission de protection de la langue française and that of the Conseil” in the second, third and fourth lines by “québécois de la langue française and the staff of the Conseil supérieur”.

33. The said Charter is amended by replacing “Commission” in sections 166 to 169, 171, 172 and 175 to 177 by “Office”.

34. The said Charter is amended by replacing “Office de la langue française” wherever it appears by “Office québécois de la langue française”.

OTHER AMENDMENTS

FINANCIAL ADMINISTRATION ACT

35. Schedule I to the Financial Administration Act (R.S.Q., chapter A-6.001) is amended

(1) by inserting “Conseil supérieur de la langue française” and “Office québécois de la langue française” in proper alphabetical order;

(2) by striking out “Commission de protection de la langue française”, “Conseil de la langue française” and “Office de la langue française”.

LABOUR CODE

36. Paragraph 1 of Schedule I to the Labour Code (R.S.Q., chapter C-27), enacted by section 70 of chapter 26 of the statutes of 2001, is amended by replacing “and the second paragraph of section 46” by “, the second paragraph of section 46 and the third paragraph of section 137.1”.

SECURITIES ACT

37. Section 302.1 of the Securities Act (R.S.Q., chapter V-1.1) is amended by inserting “québécois” in the first line of the first paragraph after “Office”.

TRANSITIONAL AND FINAL PROVISIONS

38. The Office québécois de la langue française replaces and acquires the rights and assumes the obligations of the Commission de protection de la langue française and the Office de la langue française.

The Conseil supérieur de la langue française replaces and acquires the rights and assumes the obligations of the Conseil de la langue française.

39. The terms of office of the members of the Commission de protection de la langue française, the Conseil de la langue française and the Office de la langue française shall end on 1 October 2002.

40. The personnel or staff of the Commission de protection de la langue française and the Office de la langue française become the staff of the Office québécois de la langue française.

The personnel or staff of the Conseil de la langue française become the staff of the Conseil supérieur de la langue française or the Office québécois de la langue française, as determined by the Government.

41. The Office québécois de la langue française becomes, without continuance of suit, party to any proceedings to which the Commission de protection de la langue française or the Office de la langue française was party.

42. In any text or document, unless the context indicates otherwise, a reference to the Commission de protection de la langue française or the Office de la langue française is a reference to the Office québécois de la langue française, and a reference to the Conseil de la langue française is a reference to the Conseil supérieur de la langue française.

43. The amendments introduced by sections 3 to 6 are applicable to requests being processed by a person designated by the Minister of Education on their respective dates of coming into force.

44. Applications for review before the review committee appointed under section 83 of the Charter of the French language filed under the former provisions of section 82 of the said Charter that are pending on (*insert here the date of coming into force of section 7*) are hereby terminated.

However, any person having filed such an application may, within 45 days of that date, exercise the remedy provided by the new provisions of section 83.4 of the said Charter or file a reasoned request with the Minister of Education pursuant to the new provisions of section 85.1 of the said Charter.

The file manager for the review committee shall, in writing and without delay, inform every person having filed an application with the review committee of the provisions of the first and second paragraphs.

45. The remedy before the Administrative Tribunal of Québec provided by the former provisions of section 83.4 of the Charter of the French language shall remain applicable in respect of any decision made by the review committee appointed under section 83 of the said Charter before (*insert here the date of coming into force of section 7*).

The former provisions of section 85.1 of the said Charter shall remain applicable in respect of any report ascertaining the existence of a serious family or humanitarian situation filed with the Minister of Education by the review committee before the date mentioned in the first paragraph.

46. The new time limit introduced by section 20 does not apply in respect of certificates of registration issued before (*insert here the date of coming into force of section 20 of this Act*).

47. The new time limit introduced by section 21 does not apply in respect of enterprises having received a notice before (*insert here the date of coming into force of section 21 of this Act*).

48. An agreement under section 144 of the Charter of the French language entered into before (*insert here the date of coming into force of section 23*) must be reviewed by the Office québécois de la langue française within four years of that date. If the agreement is not renewed following the review, it shall terminate one year after the enterprise concerned is notified of the non-renewal by the Office.

49. The provisions of this Act come into force on 1 October 2002, except the provisions of sections 1 to 10, 18 to 24 and 43 to 48, which come into force on the date or dates to be fixed by the Government.