

THIRD SESSION

THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 59

An Act to amend the Labour Code

First reading

Second reading

Third reading

M. PIERRE MARC JOHNSON

Ministre du travail et de la main-d'oeuvre

L'ÉDITEUR OFFICIEL DU QUÉBEC

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EXPLANATORY NOTES

This bill amends the Labour Code and repeals the Act to ensure the provision of essential services in the event of a labour dispute. It also provides special rules applicable to the public and parapublic sectors. The main objects of these provisions are

(a) to create a committee of information on negotiations, responsible for informing the public on the state of the negotiations;

(b) to provide, in the social affairs sector, that an agreement between the parties is to determine the services that must be maintained in the event of a dispute, and that, failing an agreement, the certified association is to transmit to the other party a list describing the services it intends to maintain in the event of a dispute, which list is to prevail;

(c) to create a committee on the maintenance of health services and social services in the event of a labour dispute, which will be entrusted with informing the public on the prevailing situation regarding agreements, union lists and maintenance of services in the event of a labour dispute;

(d) to subject the right to strike or to lock-out to a prior notice, and to require the reaching of an agreement or the filing of the list provided for above, as preconditions to the exercise of the right to strike;

(e) to enable the Lieutenant-Governor in Council, if he is of opinion that such a strike endangers the public health or public safety, to suspend the exercise of the right to strike;

(f) to prohibit the right to lock-out where the services described in the agreements or lists are maintained or where the decision of the Lieutenant-Governor in Council suspending the right to strike is complied with;

(g) to remove the public and parapublic sectors from the application of Division 1A of Chapter IV of the Labour Code, entitled "First collective agreement".

Sec. 1. *The first paragraph of section 32 presently reads as follows:*

“32. A labour commissioner may, at the time fixed in paragraph *c* or *d* of section 21, cancel a certification of an association that

(a) has ceased to exist, or

(b) no longer comprises the absolute majority of the employees of the bargaining unit for which it was certified.”

Sec. 2. *This section amends section 97a of the Code, for concordance with sections 99j, 99k and 99l proposed by section 4. These sections deal with the right to strike and to a lock-out in the public and parapublic sectors and, in particular, with the maintenance of services in the sector of social affairs in the event of a labour dispute.*

Bill 59

An Act to amend the Labour Code

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

1. Section 32 of the Labour Code (Revised Statutes, 1964, chapter 141), amended by section 19 of chapter 47 and section 17 of chapter 48 of the statutes of 1969 and replaced by section 26 of chapter 41 of the statutes of 1977, is again amended by replacing the first paragraph by the following paragraph:

“32. A labour commissioner may, at the time fixed in paragraph *c* or *d* of section 21 or, if such is the case, in section 99*c*, cancel the certification of an association that

(*a*) has ceased to exist, or

(*b*) no longer comprises the absolute majority of the employees of the bargaining unit for which it was certified.”

2. Section 97*a* of the said Code, enacted by section 53 of chapter 41 of the statutes of 1977, is amended:

(*a*) by replacing the word and figure “section 99” in the fourth line of paragraph *a* by the words and figures “sections 99, 99*k* and 99*l*”, and by replacing the words “notice of negotiation was given, or is deemed to have been”, in the fifth and sixth lines, by the words and figures “the negotiation stage begins in accordance with section 41 or 99*g*”;

(*b*) by replacing the word and figure “section 99” in the third line of paragraph *b* by the words and figures “sections 99, 99*k* and 99*l*” and by replacing subparagraphs i and ii by the following subparagraphs:

“(i) an agreement has been reached for that purpose between the parties, but only to the extent that the agreement so provides;

Sec. 3. *This section is for concordance with the preceding section. Its object is to adapt section 97b of the Code to the amendments proposed to section 97a by section 2.*

Sec. 4. *This section introduces a new chapter establishing special provisions applicable to the public and parapublic sectors. These provisions (sections 99a to 99l) are entirely new provisions.*

(ii) a list has been submitted as stipulated in section 99j and to the extent that the list so provides;

(iii) an order is rendered under section 99; or

(iv) a decision is rendered by the Lieutenant-Governor in Council pursuant to section 99l;";

(c) by replacing the word and figure "section 99" in the third and fourth lines of paragraph c by the words and figures "sections 99, 99k and 99l";

(d) by replacing the word and figure "section 99" in the third line of paragraph d, by the words and figures "sections 99, 99k and 99l".

3. Section 97b of the said Code, enacted by section 53 of chapter 41 of the statutes of 1977, is replaced by the following section:

"97b. Where the certified association violates or the employees it represents violate an agreement, a list, an order or a decision contemplated in subparagraph i, ii, iii or iv of paragraph b of section 97a, the employer is exempt from the application of section 97a to the extent that that is necessary to ensure compliance with the violated agreement, list, order or decision."

4. The said Code is amended by inserting after section 99, the following chapter, heading and sections:

"CHAPTER VA

"SPECIAL PROVISIONS APPLICABLE TO THE PUBLIC AND PARAPUBLIC SECTORS

"99a. Excluding Division IA of Chapter IV, the provisions of this Code apply to labour relations in the public and parapublic sectors except where they are inconsistent with this chapter.

"99b. In this chapter, "public and parapublic sectors" means the Government and the government departments, and those government agencies whose personnel is appointed and remunerated in accordance with the Civil Service Act, as well as the colleges, school boards and establishments contemplated in the Act respecting the organization of the management and union parties in view of collective bargaining in the sectors of education, social affairs and government agencies (1978, chapter *insert here the chapter number of Bill 55*).

“99c. Notwithstanding paragraph *d* of section 21, certification may be applied for in respect of a group of employees of the public and parapublic sectors between two hundred and seventy days and two hundred and forty days before the date of expiration of a collective agreement or the document in lieu thereof.

This collective agreement or the document in lieu thereof is binding on the parties for its duration, notwithstanding the certification of a new association of employees. The new association is bound by that agreement as if it were named therein and it becomes *ipso facto* a party to every proceeding relating to it in the place and stead of the former association.

“99d. No certified association that is a party to a collective agreement, and no group of employees governed by such an agreement, or the document in lieu thereof, may take measures in view of becoming a member of another association or of affiliating with it, except between two hundred and seventy days and one hundred and eighty days before the date of expiration of a collective agreement or the document in lieu thereof.

[[**“99e.** (1) A committee of information on negotiations charged with informing the public of what is at stake in the negotiations, of the respective positions of the parties, of the differences between the parties and of the progress of the negotiations is established by the chief judge of the Labour Court before the negotiation stage begins.

(2) This committee must report to the public, not later than thirty days following the day of the filing of the employer’s proposals and on the date of the expiration of the collective agreement, or the document in lieu thereof. The committee must also make a report at any time, at the request of one of the parties.

(3) This committee is composed of at least five and not over seven members appointed by the chief judge of the Court.

The Lieutenant-Governor in Council shall fix the salary or, where necessary, the additional salaries, allowances or fees of the members of the committee.

The moneys required for this purpose are taken out of the consolidated revenue fund.

(4) The committee may adopt internal management by-laws.

(5) The committee is abolished by the Lieutenant-Governor in Council after obtaining the advice of the chief judge of the Court.]]

“99f. In the case of the colleges, school boards and establishments contemplated in paragraphs *b*, *c* and *f* of section 1 of the

Act respecting the organization of the management and union parties in view of collective bargaining in the sectors of education, social affairs and government agencies, the division between those matters that are negotiated and approved at the national level and those negotiated and approved at a level other than national, shall be determined in accordance with that act between two hundred and seventy days and one hundred and eighty days before the date of expiration of a collective agreement or the document in lieu thereof.

“99g. The negotiation stage begins one hundred and eighty days before the date of expiration of a collective agreement or the document in lieu thereof.

“99h. Every certified association of the public and para-public sectors must present in writing to the other party and to the committee of information on negotiations, not later than one hundred and fifty days before the date of expiration of a collective agreement or the document in lieu thereof, its proposals on all the matters that are to be negotiated.

The employer must, within sixty days following the receipt of these proposals, present, in writing, his proposals on all the matters that are to be negotiated, to the other party and to the committee referred to in the first paragraph.

[[**“99i.** (1) A committee on the maintenance of health services and social services in the event of a labour dispute is established by the chief judge of the Court before the beginning of the negotiations. This committee is entrusted with informing the public on the prevailing situation in the matters of agreements, union lists and maintenance of services in the event of a labour dispute.

(2) This committee is composed of at least five and not over seven members appointed by the chief judge of the Court, after consultation with the Commission des droits de la personne and other persons or agencies.

(3) The committee may establish regional and local committees. It may, in addition, require the services of experts to report to it on the maintenance of health services and social services in the event of a labour dispute. The choice of these experts must be ratified by the chief judge of the Court.

(4) The Lieutenant-Governor in Council fixes the salary or, as the case may be, the additional salaries, allowances or fees of the members of the committee and of the members of the regional or local committees.

The moneys required for that purpose are taken out of the consolidated revenue fund.

(5) The committee is abolished by the Lieutenant-Governor in Council after obtaining the advice of the chief judge of the Court.]]

“99j. In the case of an establishment contemplated in paragraph *f* of section 1 of the Act respecting the organization of the management and union parties in view of collective bargaining in the sectors of education, social affairs and government agencies, the parties agree upon the services to be maintained in the event of a labour dispute and the manner in which they are to be maintained. This agreement is transmitted by the parties to the committee contemplated in section 99i.

If there is no agreement, a certified association must, not later than one hundred and eighty days before the date of expiry of a collective agreement or the document in lieu thereof, transmit to the other party and to the committee contemplated in section 99i a list describing the services it intends to maintain in the event of a labour dispute and the manner in which they are to be maintained. The list cannot be amended thereafter, but if an agreement is entered into between the parties after the list is filed, the agreement prevails.

No person may contravene the provisions of the agreement entered into nor derogate from the list filed.

“99k. The right to strike or to a lock-out is acquired in the public and parapublic sectors on the date of expiration of the collective agreement or the document in lieu thereof.

A party may declare a strike or a lock-out provided that a prior notice of at least forty-eight hours has been given in writing to the Minister and to the other party indicating to them the time when it intends to resort to that action.

No such notice of strike or lock-out may be renewed until after the day indicated in the prior notice as the time when the party intended to resort to the strike or the lock-out.

“99l. In the case of an establishment contemplated in paragraph *f* of section 1 of the Act respecting the organization of the management and union parties in view of collective bargaining in the sectors of education, social affairs and government agencies, no strike may be declared by a certified association unless an agreement is entered into or a list filed in accordance with section 99j.

If the Lieutenant-Governor in Council is of opinion that a strike that is apprehended or in progress in an establishment endangers the public health or public safety, he may, for a period not exceeding thirty days, suspend the exercise of the right to strike.

A lock-out is prohibited if all the services described in the agreements or in the lists covering the establishment are maintained or if a decision rendered under the second paragraph is complied with in that establishment.”

5. Chapter VA enacted by section 4 of this act does not apply to negotiations in view of the renewal of a collective agreement in the case of a certified association of employees in the public and parapublic sectors whose collective agreement or document in lieu thereof expires before 1 July 1978.

Notwithstanding the first paragraph, the following provisions apply:

(a) such an association must enter into an agreement with the employer or, failing an agreement, file a list describing the services it intends to maintain in the event of a labour dispute and the manner in which they are to be maintained. This list or agreement is transmitted to the other party and to the committee on the maintenance of health services and social services in the event of a labour dispute as soon as it is established;

(b) a strike shall not be declared except after the expiration of a delay of forty-five days after the date of transmission of the agreement or list contemplated in paragraph *a*.

6. Notwithstanding section 68 of the Act to amend the Labour Code and the Labour and Manpower Department Act (1977, chapter 41), sections 97*a* and 97*b* of the Labour Code, amended, respectively, by sections 2 and 3 of this act, sections 97*c* and 97*d* of the said Code and the second and third paragraphs of section 99*l*, enacted by section 4 of this act, apply in the case of a certified association contemplated in section 5.

7. The Act to ensure the provision of essential health services and social services in the event of a labour dispute (1975, chapter 52) is repealed.

8. This act comes into force on the day of its sanction.