

Policy Matters Blog #20 – Bill 96

COMMITTEE ADDS NEW PUNITIVE MEASURES TO BILL 96

April 7, 2022 – The National Assembly’s [Committee on Culture and Education](#) yesterday resumed its clause-by-clause analysis of Bill 96, [An Act respecting French, the Official and Common Language of Québec](#). Members finished discussing clause 114 and returned to the bill’s clause 107, to discuss Art. 165.22 of the [Charter of the French Language](#).

Regarding clause 114, the committee continued its evaluation of the government’s amendment to Art. 204.29.1. This amendment is part of the punitive regime which imposes financial sanctions in the event obligations imposed by the Charter are breached. In this case, the amendment would enable the Minister of the French Language to suspend any funding that this new ministry provides to a municipality in breach. In addition, this measure would enable the new ministry to request that other provincial ministries – as well as the Société de financement des infrastructures locales du Québec (SOFIL) – also suspend their funding to that municipality until the breach is remedied. Liberal MNAs Hélène David and Gaétan Barrette questioned the functioning of this measure. Minister of Justice and Minister Responsible for the French Language Simon Jolin-Barrette responded that the amendment creates a power for the Minister of the French Language that is discretionary and not obligatory. This means, he added, that a suspension of funding would not be automatic. The Minister also said this measure could be applied to organizations funded by a municipality. The amendment was adopted, with opposition from the Liberals.

Moving on to Art. 205 of the Charter, the committee discussed the mechanism of fines that would be implemented if the law is passed. The Minister explained that fines – ranging from \$700 to \$7,000 for natural persons, and from \$3,000 to \$30,000 for other legal persons – would be imposed in the event of a breach of the obligations imposed by the law. Before imposing a fine, the Office québécois de la langue française (OQLF) would first issue an order stating that the person or entity is in violation of the law and is required to remedy the violation. If the breach continues, the OQLF may then forward the file to the provincial prosecutor’s office, the Directeur des poursuites criminelles et pénales or DPCP, which may impose a fine. Québec Solidaire MNA Ruba Ghazal commented that she considers this measure too lenient, especially in the case of senior managers of companies.

The government then introduced an amendment, adding Art. 205.1. This amendment creates a new punitive measure that would allow the imposition of a fine ranging from \$2,000 to \$20,000 for natural persons, and from \$10,000 to \$250,000 for other legal persons, in two situations. First, if the person or entity makes a complaint to the OQLF that they know to be false or misleading. In such an instance, the Minister explained, the person would have to have been acting in bad

faith for this amendment to apply. Second, if a person or entity reprimands or imposes sanctions on a person that makes a complaint to the OQLF, in effect subjecting them to reprisal. This amendment was adopted with little discussion.

The Minister proposed an amendment to Art. 206, adding a reference to the newly adopted 205.1. This was adopted.

Regarding Art. 207, MNA Ghazal proposed an amendment that would impose a fine four times greater for senior managers who contravene the Charter. The Minister rejected the amendment. He stated that the current proposal that requires that the fine be two times greater adequately serves the purposes of the law.

The entirety of clause 114 was then adopted.

Finally, the committee turned to Art. 165.22 of the Charter, on which discussion had been suspended last week. This article refers to the disclosure of actions or situations that contravene the Charter. Notably, it allows the usual obligation of professional secrecy to be bypassed, unless the professional is a lawyer or a notary. This means that a professional could forgo their normal obligations of secrecy and confidentiality toward their client or patient in order to file a complaint with the OQLF. On this point, lively discussions ensued between the Minister and Liberal MNAs David and Barrette. MNA David introduced two amendments. The first would have removed the exception regarding professional secrecy. This was rejected by the Minister. The committee then rejected the amendment. The second amendment would create an exception for health care professionals. The committee adjourned before a vote on the latter point.

The committee will resume its work either later today or next week.