



**AMB | ASM**

Association des municipalités de banlieue  
Association of Suburban Municipalities

Brief submitted for consideration of Bill 96, An Act respecting  
French, the official and common language of Québec

September 2021

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## Presentation of the Association of Suburban Municipalities

Born from the municipal demergers of 2005, the Association of Suburban Municipalities (ASM) brings together the mayors of the 15 suburban cities on the Island of Montreal. The Association represents 15 municipalities on the Island of Montreal, with an approximate total population of 250 000 citizens. These municipalities are Baie-D'Urfé, Beaconsfield, Côte-Saint-Luc, Dollard-des-Ormeaux, Dorval, L'Île-Dorval, Hampstead, Kirkland, Montreal-East, Montreal-West, Mont-Royal, Pointe-Claire, Sainte-Anne-de-Bellevue, Senneville and Westmount. Thirteen of these 15 municipalities are recognized by section 29.1 of the Charter of the French language (Charter) and hold what is commonly called "bilingual status".

The ASM is not a political party. Rather, it is a grouping of 15 individual mayors from surrounding municipalities who collaborate with the central city to resolve issues of common interest (or common concern) relating to services provided across the island and falling under the responsibility of the Montreal Agglomeration Council, such as public transport, police, fire departments and water supply, to name a few. Our 15 municipalities assume nearly one fifth of the urban agglomeration's budget—a contribution of \$440 million.

It should be noted that the ASM occupies 15 seats, the same number as the City of Montreal, on the Agglomeration Council, which counts 30 members in total. Although all Montreal representatives are required to vote the same way on each file presented to the Agglomeration Council, ASM members, for their part, are free to vote as they see fit, in the interest of the citizens they represent. Thus, our members enjoy relative independence within the political apparatus of Greater Montreal.

## Québec sociolinguistic context and coexistence

Over the past 200 years, the quality of relations between Francophones and Anglophones has fluctuated according to socio-economic, political and ideological factors, as well as the determination of the Canadian majority and Francophone minority to thrive and achieve equality. In the case of Québec, the majority/minority ratio is reversed as the English-speaking communities in Québec constitute the official language minority community. Relations between Canada's official language communities in Québec are relatively calm. There are well-documented grievances on each side, but overall, there exists no open hostility between Francophones and Anglophones with regard to the official language of the historic majority, as it did, for example, during the Saint-Léonard crisis (1969). We can therefore testify to a climate of a relative linguistic peace and conciliation between Francophones and Anglophones, which allows all Quebecers to evolve in a unique North American society in respect of their rights.

Data on the linguistic situation in Québec are not apocalyptic. We note that: *"Overall, 94% of Quebecers say they can conduct a conversation in French, while the proportion of the population who consider themselves bilingual has increased from 28% in 1971 to 45% in 2016. The proportion*

*of anglophones and allophones who can speak French has steadily increased over the past 20 years, according to the OQLF." Additionally, we find that: "French was less frequent in public spaces on the Island of Montreal (58%) than it was in the suburbs of Montreal (80%) and in the rest of Québec (87%)<sup>1</sup>".* The compliance rate for trademark display is also on the rise.

With regard to the consultations and the study of the Act Respecting French, the Official and Common Language of Québec (Bill 96), the ASM is taking steps to ensure that the latter takes into account concerns of Montreal's suburban cities over the course of that process. For instance: the importance of maintaining the status of bilingual cities, even in the event of demographic change. For us, this constitutes a very strong identity marker and the cornerstone of our current demands. The citizens of suburban municipalities are very attached to their bilingual municipal institutions.

In addition, several of the cities linked to our association have already adopted resolutions to reiterate their manifest desire to remain bilingual, as provided for in Section 29.1 of the Charter. In the event that Bill 96 is adopted, the recognition of these resolutions by the Government of Québec stands as one of our fundamental grievances.

There is real reluctance in our communities at seeing our municipal institutions and our language rights periodically reviewed. Such episodes have been rather tiring: municipal mergers/demergers, the 2012 Parti Québécois language bill, and now Bill 96, are all events that have resulted in a sense of exacerbation. There is unease amongst us regarding the resurgence of a public debate that we consider sterile and iniquitous. These situations affect coexistence in our communities. For this reason, we ultimately want the bilingual status of linked cities to be made permanent once a motion is adopted by city councils. This would have the effect of dissipating the feeling that the fate of Anglophones in linked cities is dictated by the Francophone majority. We must understand that our communities operate primarily in French and that the mayors of our association are not spokespersons for Anglophones, but representatives of bilingual communities in Greater Montreal. It is important to understand that our municipalities are not exempt from also providing their services in French. We would certainly be opposed to such an exception if it existed. We represent our Francophone constituency and serve it faithfully in terms of language and quality of service, as we do the rest of our population. This Charter provision simply allows us to also operate in English, which is not necessary for most other municipalities. Our statute therefore takes nothing away from the French language; it just adds English, for the above reasons.

## **Discussion on the proposed orientations**

The ASM offers itself as representative of a balanced approach, respecting the rights of all our citizens, regardless of their mother tongue or language of daily use. We fully support the social and political consensus in favor of protecting and strengthening the status of the French language in Québec.

<sup>1</sup> <https://www.ledevoir.com/societe/552087/le-francais-en-chiffres>

At the same time, we are committed to protecting rights deemed important by the citizens of our municipalities. In this sense, we wish to actively contribute to the work and debates surrounding this bill such that it meets these criteria.

We believe that the bilingual status granted to certain municipalities should be maintained, even in the event of a demographic decline. When the Charter was adopted in 1977, this possibility had been protected by the government of René Lévesque. In our communities, we have failed to encounter any problem that might justify the withdrawal of this right from municipalities holding bilingual status, and much evidence to the contrary. The flexibility this right allows municipalities to offer better services to citizens. Keep in mind that for us, balance means strengthening the French language without taking rights away from the citizens of bilingual municipalities.

## **The major measures of Bill 96**

- Creation of a French language ministry;
- Application of Law 101 to companies with 25 to 49 employees;
- Creation of Francisation Québec as a single window for French language learning services;
- Strengthening of the powers and responsibilities of the Office québécois de la langue française (OQLF);
- Creation of a French language commissioner;
- Insertion of new fundamental language rights in the Charter of the French language, such as the right to work in French.

## **Measures that affect English-speaking communities**

- Freezing the proportion of French-speaking students in the English-speaking college network (17.5%);
- Affirmation of the French language as an official and common language as well as its preponderance in the legal order;
- Application of Bill 101 to federal companies;
- Imposition of the uniform French language test in English-speaking CÉGEPs;
- Having professional orders ensure that their members have sufficient knowledge of French to practice their profession. They may receive special authorization to deviate from this rule;

- A business that offers goods or services must inform and serve consumers in French; Invoices, receipts and other similar documents must be written in French. No one may transmit such a document in any language other than French when its French version is not accessible to a recipient under conditions which are at least as favourable;
- A trademark may be drawn up, even in part, in a language other than French, when, at the same time, it is a registered trademark within the meaning of the Trademarks Act and no corresponding version in French is found in the register kept under this law. However, in public signage visible from outside a local, French must appear in a clearly predominant manner, when such a trademark appears therein in another language;
- Francisation Québec provides such services in particular to people who are unable to communicate in French and who are employed by a business referred to in section 149 or by a business employing less than five people.

## Measures affecting suburban municipalities

- Cities whose English-speaking population falls below the threshold of 50% will have the right to maintain their bilingual status by passing a resolution to their council within 120 days of the notice sent to the OQLF;
- The OQLF must publish the list of organizations and establishments adopting this status;
- The Minister of the French Language draws up and publishes the government's language policy. This policy applies to ministries, government agencies and municipal agencies;
- The Minister of the French Language supports and accompanies the municipal bodies to which the language policy applies;
- The Minister may order a municipal body to develop the necessary measures if that body does not meet the obligations of the Act;
- The Minister can ask the OQLF to inspect municipal bodies to which the language policy applies;
- By-laws and other acts of a similar nature for which section 133 of the Constitution Act, 1867, does not apply, such as municipal by-laws, must be drawn up, adopted and published exclusively in French.

## Main changes to the language rights of bilingual municipalities

Bill 96 proposes several modifications to the language rights of municipalities, which can be summarized as follows :

- The Charter currently provides that the OQLF must recognize "a municipality, when more than half of the residents of its territory are of English mother tongue"<sup>2</sup>. Bill 96 adds that, if this condition is no longer met, the OQLF must send a notice to the municipality, which will then have 120 days to adopt a resolution to maintain this recognition<sup>3</sup>. There is no indication that this resolution will need to be renewed to maintain its effect. Its permanence can therefore be presumed, although this point could be clarified;
- Bilingual municipalities will be able to continue to draft, adopt and publish their by-laws in both languages. Other municipalities will only be able to do so in French<sup>4</sup>;
- Non-bilingual municipalities shall only use French when they communicate with each other in the exercise of their functions<sup>5</sup>. However, bilingual municipalities will be able to continue to use English<sup>6</sup>;
- Although a provision indicates that the convening notices, agendas and minutes of any deliberative assembly of municipalities must be drawn up exclusively in French<sup>7</sup>, bilingual municipalities may use both English and French<sup>8</sup>;
- Contracts concluded by municipalities, both bilingual and non-bilingual, must henceforth be drawn up exclusively in French<sup>9</sup>, unless the municipality contracts outside Québec, in which case they may be drawn up in English<sup>10</sup>;
- Only the following contracts may be drawn up in both French and English:
  - o Loan contracts;
  - o Financial contracts whose purpose is the management of financial risks, in particular currency exchange or interest rate agreements;
  - o Contracts providing for the purchase or sale of an option;
  - o Futures contracts.<sup>11</sup>

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<sup>2</sup> Charter, sec 29.1 (1). <http://www.legisquebec.gouv.qc.ca/fr/showdoc/cs/c-11>

<sup>3</sup> Bill 96, art. 19, adding art. 29.2 of the Charter.

<sup>4</sup> Bill 96, art. 5, replacing sec. 8 of the Charter.

<sup>5</sup> Bill 96, art. 10, adding sec. 18.1 et 18,2 of the Charter.

<sup>6</sup> Bill 96, art. 16, amending sec. 26 of the Charter.

<sup>7</sup> Bill 96, art. 11, amending sec. 19 of the Charter.

<sup>8</sup> Bill 96, art. 16, amending sec. 26 of the Charter.

<sup>9</sup> Bill 96, art. 13, amending sec. 21 of the Charter.

<sup>10</sup> Bill 96, art. 14, adding sec. 21.5 of the Charter.

<sup>11</sup> Bill 96, art. 13, adding sec. 21 al. 2 of the Charter.

- An English version may be added to the French version of a contract in certain circumstances, in particular the following:
  - o Inter-gouvernemental and international agreements;
  - o Contracts concluded with a natural person not residing in Québec;
  - o Contracts concluded with a company which is not registered in Québec and which is located in a state where French is not an official language<sup>12</sup>.
- The Bill 96 also provides that the government may, by regulation, allow an English version to be attached to the French version of a contract in other situations<sup>13</sup>. It would be useful to make representations to the National Assembly and to the government on the content of the forthcoming regulations;
- The same rules will apply to writings relating to a contract<sup>14</sup>;
- It therefore seems that many writings and contracts cannot be translated into English, even for information purposes. As described below, such a contract could therefore be invalidated simply because an English version exists;
- Bill 96 requires all municipalities to use French in an exemplary manner, in particular by using French exclusively in their written and oral communications, with some exceptions<sup>15</sup>. However, this obligation does not apply to bilingual municipalities<sup>16</sup>.

### **Consequences of non-compliance with the law for municipalities**

- Provisions of a contract, decision or other legal act that contravenes the law could be declared void if a municipality is party to the act<sup>17</sup>. The government may request termination of the contract if it leads to a failure to comply with the law;
- A breach of the law by a public official or administrator will be deemed to constitute a violation of ethical and disciplinary standards. A municipality will also have to establish disciplinary measures in order to sanction a breach of the law by a member of the staff.<sup>18</sup>;

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<sup>12</sup> Bill 96, sec. 14, adding sec. 21.1 à 21,4 à la Charte.

<sup>13</sup> Bill 96, sec. 14, adding sec. 21.4 (2) à la Charte.

<sup>14</sup> Bill 96, sec. 14, adding sec. 21.3 et 21,4 à la Charte.

<sup>15</sup> Bill 96, sec. 6, adding sec. 13.1 et 13,2 à la Charte.

<sup>16</sup> Bill 96, sec. 19, adding sec. 29.23 à la Charte.

<sup>17</sup> Bill 96, sec. 114, adding sec. 204.17 à la Charte.

<sup>18</sup> Bill 96, sec. 114, adding sec. 204.30 à la Charte.

- If the Minister is of the opinion that a municipality is not fulfilling any of its obligations under the law, the municipality will commit an offense and be liable to a fine of \$3,000 to \$30,000<sup>19</sup>. These amounts will be doubled for a first recurrence and tripled for any additional recurrence<sup>20</sup>. Each day on which the offense continues will constitute a separate offense<sup>21</sup>.

## ASM Position Regarding Bill 96

The government's bill provides that Québec municipalities that have bilingual status will lose it if less than 50% of their population is of English mother tongue. However, they will be able to keep it if their municipal council adopts a resolution to this effect within 120 days of enactment of the law. We believe this is a measure that espouses the principles of municipal democracy. This allows the linked cities to maintain their municipal autonomy, a principle to which we absolutely adhere. If the municipality prefers to maintain its bilingual status, it can do so under the new version of Québec's linguistic policy.

Although our municipal institutions have never believed it necessary to review the legal framework of bilingual cities, the ASM positively recognizes the mechanisms proposed in the current bill, which in no way changes the bilingual nature of our municipalities. All of our cities that will have to adopt a resolution to maintain this right have expressed a desire to maintain this achievement.

The related cities are tired of having to revisit this issue periodically. Culturally speaking, the bilingual status is positively and intrinsically a part of the identity of our municipalities. This is a *sine qua non*! In addition, we do not encounter any problem in our communities which would justify a revision of our linguistic statutes, on the contrary. ASM does not want to be cast in such a drama, in the short, medium nor the long term.

For this very clear reason, we would like Bill 96 to make permanent the recognition by the OQLF of the bilingual status of a municipality following a resolution adopted to this effect by the council within 120 days, despite evolutions in demographics.

One of our criticisms is that the Bill 96 uses the mother tongue data to establish the 50% threshold, when the latter is not necessarily the best indicator. In some communities, notably Côte-Saint-Luc, several families have a third language as their mother tongue, but have English as their "language spoken most often at home". From a perspective of true representativeness, we believe that this legislative provision should be reviewed.

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<sup>19</sup> Bill 96, sec. 114, replacing sec. 205 of the Charter. See also sec. 128.3 of the Charter.

<sup>20</sup> Bill 96, sec. 114, adding sec. 206 à la Charte.

<sup>21</sup> Bill 96, sec. 114, adding sec. 208 à la Charte

Also, the government's bill involves an issue of accountability, which the related cities will have to produce systematically. They will be required to submit an annual report on the application of the Charter. For example, cities that require that certain hires to use English will have to justify everything to the Québec government. Suburban municipalities are concerned about the cumbersome and Kafkaesque internal and bureaucratic processes this entails. This situation also reveals an unhealthy climate of surveillance, which we consider costly, at the outset, and counterproductive. We are in favour of the spirit of the Perreault report (2015), which called for increased autonomy for municipalities, while respecting municipal democracy. Citizens must be able to identify with their municipal government.

From a broader perspective, the consultations surrounding the adoption of Bill 96 will provide an opportunity for our association to assert its grievances, which are quite legitimate in our opinion and do not contravene the spirit or principle of the new law. It is a matter of the state seizing this opportunity to go further in the mutual recognition of our linguistic rights for both the French-speaking majority and the English-speaking minority.

## Reminder of government priorities

For our association, balance means strengthening the French language without removing rights from citizens of bilingual municipalities. The future of Francophone America should not have to depend on what happens in cities with bilingual status. It is better to pick one's battles. Above all, we must avoid creating a new rift between the French-speaking majority and the English-speaking minority. From this perspective, we believe that in principle, Bill 96 must be inspired by the achievement of a balance in respect of the linguistic rights of all Quebecers.

We participate in the study of Bill 96 strictly in our capacity as mayors and municipal councillors. In this capacity, although each of us has our opinion on other provisions of Bill 96, we will only address the provisions of the bill dealing specifically with municipalities of bilingual status. As mayors, it is our duty to our electorate to speak on their behalf. In addition, we firmly believe that there is a clear and almost unanimous consensus within our communities with regard to maintaining bilingual status. Our silence, with regard to the other provisions of Bill 96, should not be interpreted de facto as an agreement with them.

That said, it is important for us here to draw a small portrait of government priorities with regard to the relations between the historic Francophone majority and the Anglophone minority. To this end, we have identified certain passages in the opening speech of the first session of the 42nd Parliament, delivered by the Premier of Québec, Mr. François Legault. :

- *"It is a great honour and a privilege to represent Quebecers in this historic Parliament. We must take pride in our history. The story of a nation, built in adversity, but also in openness and respect. "*
- *« To our fellow Anglo-Quebecers, I want to say again our will to define our common future together.*

*Your historical community is an enrichment for Québec in many regions.*

*We are proud to protect your historical rights and we will keep on doing just that. »*

- *« Mr President, Ladies and Gentlemen, we have a lot of work ahead of us. In the coming years, we will certainly have lively, sometimes very lively, debates. But let's not forget one thing: what we share is more important than what divides us.*

*We represent Quebecers and we all work for them. I say it again to Quebecers: we form your government. »*

With regard to maintaining the bilingual status of municipalities, we believe that the government presents a conciliatory vision with regard to the linguistic rights of Québec's historic minority. In this perspective, we remind the government that Québec is a liberal democratic society and that respect for the rights of all must be at the heart of its concerns.

The collective rights of the English-speaking minority must remain complementary to those of the French-speaking majority, in a spirit of harmonious cohabitation, respect for the autonomy and municipal democracy of suburban municipalities.

## Questions regarding Bill 96 in its current form

Section 16: Would it not be necessary for a municipality with bilingual status to be able to use English, without having to use French, in the context of written communications with a citizen who expressly requests it or who addresses the municipality in English, for example for letters, notices, agreements, receipts, tax bills, etc.?

Sections 13 and 14: Should not a contract between a municipality with bilingual status and a citizen (natural person) be able to be drawn up only in English if the citizen so requests?

Section 19: Should not the power to regulate be in accordance with the law, and not be permitted to restrict the possibility of using a language other than French more than what is expressly mentioned therein? Does this section not create many additional administrative obligations for municipalities?

Section 40: Could there be an issue with respect the availability of insurance documents in French, particularly in the context of insurance contracts with companies based in London?

Section 73: Does this section not create many additional administrative obligations for municipalities, in particular with the adoption of a procedure for handling complaints, transmitting a report, etc.?

Section 93: The fact that the contravention can render the provisions of a contract void seems clearly exaggerated given the possible consequences of such nullification on municipalities and their citizens. Could this section have the effect of reducing the number of tender submissions, where the latter are already becoming increasingly rare?

Section 114: This section creates the obligation for an administrative body to establish disciplinary measures to prevent and punish breaches of the law by its staff (new section 204.30).

Should not sanctioning a breach committed by a member of its staff remain a privilege of the organization, which it can choose to carry out or not, at its own discretion?

## List of recommendations

1. In principle, Bill 96 must be inspired towards achieving a balance in respect of the linguistic rights of all Quebecers;
2. That Bill 96 make permanent the recognition by the OQLF of the bilingual status of a municipality following a resolution adopted to this effect by council within 120 days, irrespective of demographic changes;
3. For the sake of representativeness, that Bill 96 be inspired by the "language most often spoken at home" data rather than that of the "mother tongue", in the counting of English-speaking households in municipalities;
4. That, in the event that Bill 96 is adopted, the government recognize the validity of the resolutions already adopted by certain related cities, which reiterate their desire to remain bilingual as provided for in section 29.1 of the Charter;
5. That bilingual municipalities may continue to use both English and French in the drafting of notices of meeting, agendas and minutes of all deliberative assemblies;
6. That Bill 96 allow that all contracts concluded by a municipality with bilingual status with a citizen (natural person) may be in English, at the request of the citizen;
7. That Bill 96 allow all documents relating to contracts for bilingual municipalities to be drafted in French and in English;
8. That Bill 96 allow writings and contracts drawn up in French and English, or in English only when permitted by law, by a bilingual municipality no longer be declared void due to the existence of an English version of the document;
9. That Bill 96 allow all verbal or written communications from a municipality with bilingual status to a citizen (natural person) can be only in English, at the request of the citizen or when the latter addresses it in English;
10. In any situation, that writings and contracts drawn up in French and English, or in English only when permitted by law, in bilingual municipalities no longer be considered a breach of the law or an offense, with disciplinary measures and penalties provided for;
11. With regard to what the Bill 96 considers a breach of the law or an offense, that a support process be put in place with municipalities and organizations that are non-compliant.