BRIEF

TABLED AT THE COMMISSION DES FINANCES PUBLIQUES
May 23, 2025

Reform of the bargaining system

as part of the public hearings on Bill 100 – *An Act respecting the negotiation and determination of conditions of employment requiring national coordination in particular in the public and parapublic sectors*

Foreword

The Fédération interprofessionnelle de la santé du Québec–FIQ, founded in 1987, is a labour organization dedicated to the representation and defence of the rights and interests of nearly 90,000 nursing and cardio-respiratory care professionals. It represents the vast majority of nurses, licensed practical nurses, respiratory therapists and clinical perfusionists working in the health and social services institutions across Québec.

The FIQ is a feminist organization composed of nearly 90% women, who are healthcare professionals, public and private network employees, and citizens who use healthcare services. It is actively involved in promoting and defending women's rights, while publicly denouncing injustices.

A staunch defender of social gains, equality and social justice, the FIQ works to improve the working and practice conditions of its members, as well as the quality of care provided to the population. It is also an essential pillar in the protection and promotion of Quebec's public health network.

As first-hand witnesses of how the healthcare system operates on a daily basis, FIQ members bring rich and diverse expertise thanks to their varied experiences with multiple beneficiaries of the health and social services network.

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Summary

The Fédération interprofessionnelle de la santé du Québec–FIQ welcomes Bill 100, which it considers a step in the right direction towards modernizing the bargaining system in the public sector. It recognizes the major advances: centralization of matters at a single table, recognition of local accreditations, maintenance of job classes and taking seniority throughout the network into account, all of which are essential to fairness and stability in labour relations.

However, the FIQ points out the need to preserve “local flavour” in labour relations and to avoid legal voids during mergers and changes in employer status. It recommends strengthening the obligation of local dialogue by amending Section 24 and by specifying the notion of “local arrangement”. On the issue of seniority, it calls for the ambiguities in Section 109 to be removed in order to ensure the transferability between all bargaining units.

Moreover, the FIQ proposes to extend the time period of 180 days to 300 days in Section 21 to align union and government schedules. It also calls for simplifying the management of strike notices by removing the procedural constraint limiting their successive issuance. Furthermore, it emphasizes the need to negotiate with well-mandated employer teams with a firm grasp of the realities of the network, particularly through the active presence of Santé Québec.

The FIQ supports the decision to remove the requirement to use mediation in order to obtain the right to strike, considering that conciliation is more effective when it occurs at the right time. Finally, it highlights the balancing act achieved in Bill 100 and reiterates the importance of maintaining labour relations on a human scale, despite the centralization of structures. It calls on a concerted approach to the next negotiations, in the interest of healthcare professionals and the entire health network.

Introduction

After more than forty years of application, the system governing the negotiation of working conditions in the public sector has reached a turning point. For nearly twenty years, its limitations have made each round of negotiations increasingly complex. The socioeconomic context, the parties' expectations and the evolution of the health and social services system require that this system be modernized. It is therefore appropriate for the government to undertake an update of the legislative framework, in particular by introducing this bill. However, for such a reform to truly bring about progress, it must be part of a broader vision that goes beyond the mere desire to control public finances.

In fact, while sound budget management is a legitimate objective for any public administration, a sustainable and equitable reform must also be based on a modern vision of human resources management. The government claims it wants to be an employer of choice: the bill currently tabled represents a concrete opportunity to demonstrate this commitment. This involves putting in place mechanisms that value the expertise of healthcare professionals, recognize their achievements and support social dialogue based on transparency, respect and reciprocity. The government should make this objective central to the reform.

For the Fédération interprofessionnelle de la santé du Québec–FIQ, it is imperative that the government act not only as a manager of public resources, but also as a responsible partner in labour relations. Collective bargaining must remain a central tool in organization of work. It is essential that commitments made at the bargaining table are respected and strictly applied, and that government decisions adhere to the principles agreed by the parties. In this regard, the FIQ repeats the importance of ongoing, constructive and honest dialogue, both during negotiations and in the implementation of agreements reached. On this last point, the parties have an obligation to implement negotiated agreements correctly and promptly, and any reform of the bargaining system must take this obligation into account.

With this in mind, this brief is divided into two main sections, each accompanied by proposed amendments. The first, called "Importance of maintaining local flavour", highlights the need to consider the specific nature of healthcare professionals and the essential role of local stakeholders in labour relations. It will emphasize the importance of maintaining an approach that is tailored to the realities in the field and the specific expertise of these professionals. The second section, "Smooth running of negotiations", will be on the bargaining process itself. It will restate the fundamental principles that must guide any fair and effective negotiation, emphasizing the need for

respectful dialogue, mutual recognition of roles and the strict implementation of agreements reached. These two aspects are inseparable from genuine social and institutional progress, and it is with this in mind that the FIQ is making its recommendations.

Importance of maintaining local flavour

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RECOGNITION OF LOCAL ACCREDITATIONS AND JOB CLASSES

The reform of the health and social services network, passed in 2023 via Bill 15, was a major transformation of the Québec healthcare system. In this context, it is imperative to maintain an approach that recognizes and values local characteristics, especially those affecting healthcare professionals. Since the beginning of this reform, the FIQ has emphasized the importance of maintaining a "local flavour" to ensure labour relations on a human scale, rooted in the realities of the institutions.

The FIQ welcomes the government's decision to maintain the union accreditations specific to each institution in the network, as well as the four job classes, including respiratory therapists and clinical perfusionists in Class 1. Long advocated by the Federation, this measure is a wise decision that will prevent a turbulent period in a context of major organizational transformation. It preserves the professional identity of Class 1 and ensures union representation tailored to the specific characteristics of each profession and each region.

CENTRALIZATION OF NEGOTIATIONS AND IMPORTANCE OF THE ROLE OF LOCAL STAKEHOLDERS

The FIQ also welcomes bringing back all matters to a single bargaining table, in accordance with the recommendation made in its brief on Bill 15. This approach fosters a comprehensive and consistent view of the issues by enabling all working conditions to be addressed within a unified framework. Since bargaining was decentralized more than twenty years ago, the FIQ has continually called for changes to this imposed bargaining system.

With this in mind, the Federation stresses the importance of a strict transitional framework between the entry into effect of the new bargaining system and the renewal of the provincial collective agreement. In this regard, it welcomes the intention expressed in the bill to maintain the application of existing local provisions, which helps to preserve the rights of its members. However, the FIQ remains concerned about the risk of a legal void that could arise in situations involving mergers, integrations or, more specifically, changes in an employer's status. Therefore, it is essential that explicit mechanisms are put in place to ensure continuity of rights and obligations in these contexts of organizational transformation.

However, the Federation expresses concerns about the risk of excessive centralization of negotiations in the hands of the President of the Treasury Board, as well as the lack of any obligation to involve local parties in the process. It is essential to preserve a significant role for local stakeholders in order to maintain labour relations on a human scale. Centralization must not be at the expense of the ability of local institutions and unions to adapt certain working conditions to the specific realities of their environments.

ANALYSIS OF SECTION 24 AND DIVISION III

Section 24 of the bill stipulates that the union party and, depending on the case, the President of the Treasury Board or the sectoral negotiator may, with respect for the working conditions they negotiate, determine the conditions for the discussions between the parties to a collective agreement, for the purpose of alleviating any difficulty arising during the term of the agreement. This section also specifies the extent to which the parties may conclude a specific agreement to implement or replace a condition set out in the collective agreement.

Division III governs these specific agreements. It stipulates that they cannot give rise to a dispute, that they are without effect if they alter the scope of a working condition that is not subject to such an agreement, and that they cease to have effect 60 days after the working conditions of a new collective agreement have been approved.

The FIQ raises several issues and risks linked to these provisions. First, the use of the word “may” in the first paragraph of Section 24 introduces an uncertainty about the obligation of the parties to stipulate discussion procedures and opportunities for specific agreements. This permissive wording could encourage increased centralization and lead to losing contact with the realities in the field. The Federation therefore recommends replacing “may” with “must” to force the parties to establish mechanisms for discussion and negotiation within local entities.

Furthermore, the FIQ proposes replacing the term "special agreement" with "local arrangement" in Section 24 and Division III. This change in terminology would clarify the role of local stakeholders and build on proven practice within the health network. The concept of local arrangements is well known to the parties and refers to an agreement between local parties to adapt a provincial rule to local circumstances. This change would guarantee that the institutions and local unions have the responsibility and power to agree on local arrangements to implement or replace certain conditions stipulated in the collective agreement.

These legislative adjustments are essential for maintaining the specific characteristics of the healthcare professionals in each region of Québec and for maintaining labour relations on a human scale. The health network has already functioned according to this model up to the beginning of the 2000s, and to a lesser degree since 2006, with satisfactory results. It would therefore be appropriate to go back to it.

SENIORITY AND FAIRNESS BETWEEN HEALTHCARE SETTINGS

Sections 109 and 110 of the bill deal with the issue of seniority. The FIQ is pleased to see that all employees in the health network – whether they work for Santé Québec, institutions in the Far North or in private subsidized institutions (EPC) – will have the same benefits in terms of transfering and accumulating seniority. This measure is a major step towards greater fairness between different healthcare settings.

However, the Federation is concerned about Section 109, which stipulates that a healthcare professional who transitions from a bargaining unit formed within an employer in the social affairs sector to another "such" unit retains the seniority accumulated. The use of the term "such" could imply that recognition and transfer of seniority are limited to identical certification units – for example, only from one Class 1 unit to another Class 1 unit.

To remove any ambiguity the FIQ recommends removing the word "such" and adding "within an institution in the social affairs sector" after the word "unit". This clarification would ensure the transferability of seniority between all bargaining units, regardless of their class. Although the job categories are distinct, it is common for healthcare professionals to start their careers in one category and move to another. The proposed amendment reflects this reality.

Recommendations and proposed amendments

1. Provide for transitional measures for the local provisions to avoid any legal void in the event of a merger, integration or change in the status of an employer.

2. **Amend Section 24** to force the parties to determine the subjects for local stakeholders, by replacing the term "may" with "must":

   *24. The union and, as applicable, the Chair of the Conseil du trésor or the sectoral negotiator **must**, with respect to the conditions of employment that they negotiate, determine:*

   1° terms and conditions for the discussions between the parties to a collective agreement for the purpose of alleviating any difficulty arising during the term of the agreement: and

   2° the extent to which the parties to a collective agreement may agree on a specific agreement between themselves in order to add provisions necessary to implement or replace a condition provided for in that agreement.

   This wording sets limits on the centralization of negotiations, obliges the parties to find solutions to their disputes, and provides scope for local negotiation of implementation or replacement measures, where appropriate.

3. **Amend Section 24 and Division III** by replacing "specific agreement" with "local arrangement":

   24. The union and, as applicable, the Chair of the Conseil du trésor or the sectoral negotiator must, with respect to the conditions of employment that they negotiate, determine:

   1° terms and conditions for the discussions between the parties to a collective agreement for the purpose of alleviating any difficulty arising during the term of the agreement: and

   *2° the extent to which the parties to a collective agreement may agree on **a local arrangement** between themselves in order to add provisions necessary to implement or replace a condition provided for in that agreement.*

DIVISION III

LOCAL ARRANGEMENTS

35. The negotiation ***of a local arrangement*** *provided in paragraph 2° of Section 24 cannot give rise to a dispute.*

36. A clause in ***a local arrangement*** *that amends the scope of a working condition provided for in the collective agreement shall be of no effect where that condition is not subject to such an agreement.*

37. ***A local arrangement*** *ceases to have effect 60 days after the approval of the working conditions provided for in a collective agreement that replace those of the collective agreement under which it was agreed, unless this agreement ceases to have effect earlier, through its replacement or revocation.*

38. ***A local arrangement*** *must be filed with the Minister of Labour in accordance with the first paragraph of section 72 of the Labour Code (Chapter C-27).*

This wording clearly establishes the role of the local stakeholders while drawing on well-established practice within the health network. It ensures compliance with provincial coordination of working conditions, while offering the flexibility needed for implementation tailored to the realities of healthcare professionals and the patients they care for.

4. **For Section 109**, it is proposed to remove the word “such”:

SECTION I.1

SENIORITY

3.1. Notwithstanding any provision to the contrary, an employee who transfers from one bargaining unit within an institution in the social affairs sector to another ~~*such*~~ *unit* ***in an institution in the social affairs sector*** *shall retain the seniority accumulated under the collective agreement that applied to him or her prior to the transfer, and such seniority shall then be deemed to have been accumulated under the collective agreement that applies to him or her after the transfer.*

This modification eliminates any ambiguity as regards the scope of the article and guarantees the transferability of seniority between all bargaining units, regardless of their category.

Smooth running of negotiations

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The Federation questions the legislator on the necessity of creating conditions conducive to the smooth running of the negotiation process. It emphasizes that beyond the content of negotiable matters, the technical terms and conditions governing negotiations are of vital importance. This section therefore aims to comment on certain aspects of the bill in terms of their impact on the proper functioning of collective bargaining, while making concrete proposals for improvement based on the FIQ's recent experience.

REPATRIATION OF MATTERS AND SIMPLIFICATION OF THE PROCESS

The FIQ will not revisit, in this section, the repatriation of matters within a single collective agreement negotiated at a single bargaining table. However, it wishes to emphasize that this approach deserves to be highlighted for its potentially beneficial structural effect. In fact, the return to centralized bargaining directly simplifies the process for both the union party and the employer party. The proliferation of negotiation venues, the dispersion of matters and the diversity of stakeholders constituted a significant obstacle during the last rounds of negotiations, both at the local level and provincial level. As such, the uniqueness of the table and the comprehensiveness of the collective agreement represent, for the Federation, a step in the right direction, since they promote more transparent, better coordinated and more effective negotiations that respect the necessary balance of power.

SECTION 21: A MECHANISM TO BE SPECIFIED TO AVOID PROCEDURAL PITFALLS

Section 21 of the bill allows the government to determine, 180 days before a collective agreement expires, the matters that will be subject to a provincial coordination. More specifically, the government may authorize the Treasury Board to appoint, based on the matters, a sectoral negotiator or the Chair himself as the spokesperson for the employer. The actual wording is:

21. The Government may determine:

1° that a sectoral negotiator, rather than the Chair of the Conseil du trésor, is to negotiate on behalf of the employer conditions of employment dealing with a matter provided for in paragraphs 2 to 4 of section 19;

2° that the Chair of the Conseil du trésor, rather than a sectoral negotiator, is to negotiate on behalf of the employer conditions of employment dealing with a matter other than those referred to in section 19.

The decision provided for in the first paragraph must be made not later than the 180th day before the date of expiry of the collective agreement to be renewed, or of its equivalent, and has effect only for the negotiation of the conditions of employment that are to be renewed.

This provision raises operational issues. According to the Federation, the 180-day period is insufficient to allow for adequate adaptation of union structures and, where applicable, the negotiation project. The experience from the most recent round of negotiations is also illuminating in this regard. At that time, the employer party proposed establishing discussion forums as a negotiation method. Although this idea may have had certain theoretical advantages, it could not be considered because it was proposed after the FIQ and its affiliated unions had already adopted their bargaining structure and informed their members. Therefore, any change in the way it operates would have undermined the legitimacy of the internal democratic process. This situation concretely demonstrated the importance of a strict timetable and sufficient notice before any substantial change to the conditions of the negotiations, both in terms of form and content.

The 180 days set out in Section 21, in the context of a collective agreement expiring on March 31, does not meet this requirement. In practice, the FIQ finalized and adopted its negotiation project before the month of September preceding the expiry of the collective agreement which is before the deadline imposed by Section 21. The Federation would have found itself in a position where its project would already be finalized when the government announced the matters subject to provincial coordination. This discrepancy between the employer's decision-making schedule and that of the union could hinder the smooth running of negotiations from the outset.

To remedy this shortcoming, the Federation proposes a simple and pragmatic modification: replace the 180-day time limit with a 300-day time limit. This modification would harmonize the employer party's schedule with that of the union party. This is not a matter of questioning the government's right to determine which matters should be subject to provincial coordination, but rather of ensuring that this decision is communicated in a timely manner in order to guarantee a smooth and orderly bargaining process.

CONCILIATION: AN OPTIONAL BUT VALUABLE STEP

The Federation welcomes the government's decision to remove the obligation to use mediation to access the right to strike. In its current form, this requirement had the paradoxical effect of trivializing mediation by reducing it to a mere procedural tool. Imposed at a fixed point in time, often inopportune in the dynamics of negotiations, mediation was perceived not as a tool for resolving disputes, but as an administrative formality with no real significance. The FIQ was able to observe this pattern once again during the most recent negotiations, where the use of mediation in June 2023 was more akin to a staged performance than a genuine opportunity for constructive dialogue.

By maintaining the possibility of using conciliation at any time, the bill rightly values this approach. It recognizes that conciliation is only truly effective when it occurs at the right time, i.e. when the parties are genuinely willing to engage in it. The FIQ's experience in conciliation in 2024 moreover confirms the pertinence of maintaining this flexibility. This flexibility will enhance the credibility of the process and encourage stakeholders to participate in good faith. The Federation considers this orientation wise and perfectly consistent with the principles of a mature and respectful negotiation.

SECTION 77 AND THE MANAGEMENT OF STRIKE NOTICES

Section 77 of the bill amends Section 111.11 of the *Labour Code* regarding the transmission of strike notices. If the Federation welcomes certain clarifications, it recommends however an improvement in the text by requesting the repeal of the third paragraph of Section 111.11. This provision prevents a new strike notice being sent when the first one has not expired, which led to practical difficulties in exercising the right to strike in the fall of 2023.

In fact, the FIQ already knew the dates of the pressure tactics it planned to use. However, because of the current wording of the *Code*, it was forced to wait until the current notice had expired before being able to send the next one. This bureaucratic constraint served neither the employers' preparation requirements nor the interests of the population. On the contrary, it limited the planning ability of all stakeholders involved. By asking that this third paragraph be removed, the Federation is proposing a simple improvement, which would enable the network and the public to be informed more effectively, while reducing procedural obligations for the union.

AN EMPLOYER BARGAINING STRUCTURE TO CLARIFY

Another disturbing element of the bill is the lack of clear directives on the employer bargaining structure. Abolishing the Comité patronal de négociation du secteur de la santé et des services sociaux (CPNSSS) leaves an institutional void that the bill only partially addresses. Although Sections 41 and following stipulate the eventual creation of an employer negotiating committee, concrete conditions on its implementation remain unclear.

The Federation is not seeking to interfere in the organizational choices of the employer. However, based on the experience of the last two rounds of negotiations, it wishes to express a legitimate concern: when negotiations take place with representatives far removed from the field, the implementation of agreements becomes laborious, if not compromised. Local employers may, in some cases, slow down or delay the implementation of negotiated measures due to a lack of buy-in or understanding.

In this context, the FIQ believes that it is essential that the employer negotiators have clear mandates, able to conclude agreements and ensure they are deployed effectively. This team should also be composed of people with a knowledge and understanding of nursing and cardio-respiratory care. Considering the new configuration of the Québec health network, where almost all healthcare professionals report to the same employer, the Federation considers Santé Québec's participation at the bargaining table to be essential. This involvement would ensure better consistency between the negotiated agreements and their implementation in the field, for the benefit of the workers and population.

In addition, this employer committee also played a role between the rounds of negotiation, in the deployment of the collective agreement and in the various committees resulting from negotiations or in concluding additional agreements. Implementing a clear employer structure, during the negotiations and in between them, must, according to the Federation, take into account the different aspects mentioned in the introduction: both the financial and organizational needs. It is essential that an employer committee can ensure the deployment of the collective agreement and support the institutions to guarantee the recognition of the healthcare professionals' expertise and to take into account the different regional realities.

Proposed amendments

1. **To Section 21:**

Replace the 180-day time limit with 300 days using the following wording:

*The decision provided for in the first paragraph must be made not later than the **300th** day before the date of expiry of the collective agreement to be renewed, or of its equivalent, and has effect only for the negotiation of the conditions of employment that are to be renewed.*

2. **To Section 77:**

Repeal the third paragraph of Section 111.11 of the *Labour Code* to allow for the early notification of several successive strike notices:

*77. Section 111.11 of the Code is amended by replacing the first and second paragraphs by the following and **by repealing the third paragraph**: "No party to a collective agreement may declare a strike or a lock-out unless it has given a written prior notice of at least seven clear working days to the Minister, to the other party and, if applicable, to the Tribunal in the case of an institution or employee group referred to in the second paragraph of section 69 of the Public Service Act (chapter F-3.1.1), indicating the time when it intends to resort to a strike or a lock-out."*

Conclusion

It is undeniable that the bargaining system in the public sector required a substantial update in order to better reflect the current reality of the health and social services network. In this regard, Bill 100 represents a major reform, with an overall balanced and coherent structure. The text submitted by the government generally meets the expectations of the FIQ union stakeholders while laying the groundwork for a clearer, more centralized and potentially more effective bargaining process. The Federation, while proposing amendments that it considers essential to the smooth running of the process, recognizes the effort to strike a balance that this bill reflects.

However, a major concern remains and cannot be ignored: the growing distance between where decisions are made and the workplaces. This distance, a direct result from the creation of Santé Québec and centralization of the negotiation in the hands of the Treasury Board, poses a real risk to the quality of labour relations and, ultimately, to the quality of life at work for healthcare professionals. There is concern that decisions made remotely may not take sufficient account of local realities or the specific needs of healthcare professionals. The Federation therefore invites the legislator and government bodies to establish foundations for labour relations on a human scale, focusing on listening, flexibility and proximity, despite the size of existing structures. Otherwise, the negotiated mechanisms could remain a dead letter or be applied in a manner that is disconnected from the reality in the field.

The Federation wants to emphasize, for the sake of consistency and objectivity, the merits of the work accomplished in drafting Bill 100. When a legislative initiative is well constructed, demonstrates a concern for balance and promotes stability in the bargaining framework, the FIQ is able to recognize and support it. This stance contrasts sharply with that adopted towards Bill 89, sponsored by the Minister of Labour, which, deeply unbalanced and unacceptable in its logic and effects, has provoked widespread and unanimous opposition from unions. This should be reiterated here in order to emphasize the importance of constructive collaboration when structural reforms are being considered. It should also be noted that the bargaining system and the right to collective bargaining are closely linked.

Finally, the Federation wants to draw attention to the scope of the task ahead on the eve of the next round of negotiations. Returning the 26 local matters to the provincial collective agreement marks a historic turning point. For the first time in nearly twenty years, these matters will have to be discussed again in their entirety and incorporated into a single agreement. This challenge, which is enormous both technically and strategically, will require sustained dialogue and rigorous preparation. The Federation calls

upon the Treasury Board, the Ministry of Health and Social Services and Santé Québec to increase early dialogue in order to identify potential issues and remove obstacles that could hinder the smooth progress of talks.

It is in this spirit of vigilance, responsibility and openness that the FIQ is approaching this reform. It will do so, as always, in the best interests of the healthcare professionals it represents and, by extension, the entire health network.