



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 92
(1999, chapter 77)

An Act respecting the Ministère des Finances

Introduced 11 November 1999
Passage in principle 18 November 1999
Passage 14 December 1999
Assented to 16 December 1999

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EXPLANATORY NOTES

This bill enacts the Act respecting the Ministère des Finances.

The bill defines the mission of the Minister of Finance which consists in promoting economic growth and advising the Government on financial matters. The Minister will be responsible for developing policies on economic, tax, budgetary and financial matters and for proposing them to the Government. The mission of the Minister of Finance will include the preparation of financial assistance and fiscal incentive measures which the Minister is also to propose to the Government.

The bill provides for the appointment and defines the functions of a Comptroller of Finance at the Ministère des Finances.

The bill maintains the legislative provisions in the current Financial Administration Act that relate to the financing fund.

Lastly, the bill contains amending and consequential provisions.

LEGISLATION AMENDED BY THIS BILL :

- Deposit Act (R.S.Q., chapter D-5);
- Act to foster the development of manpower training (R.S.Q., chapter D-7.1);
- Forest Act (R.S.Q., chapter F-4.1);
- Act respecting the Ministère de l'Emploi et de la Solidarité and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001);
- Act respecting the Ministère de l'Industrie et du Commerce (R.S.Q., chapter M-17);
- Act respecting the Ministère des Régions (R.S.Q., chapter M-25.001);
- Act respecting the Ministère des Relations internationales (R.S.Q., chapter M-25.1.1);

- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Act respecting family benefits (R.S.Q., chapter P-19.1);
- Act respecting government services to departments and public bodies (R.S.Q., chapter S-6.1);
- Act respecting subsidies for the payment in capital and interest of loans of public or municipal bodies (R.S.Q., chapter S-37.01);
- Act respecting assistance and compensation for victims of crime (1993, chapter 54).

Bill 92

AN ACT RESPECTING THE MINISTÈRE DES FINANCES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

CHAPTER I

RESPONSIBILITIES OF THE MINISTER

1. The Ministère des Finances shall be under the direction of the Minister of Finance appointed under the Executive Power Act (R.S.Q., chapter E-18).
2. The mission of the Minister is to promote economic development and to advise the Government on financial matters. To that end, the Minister shall develop economic, fiscal, budgetary and financial policies and propose them to the Government.
3. In order to promote and support economic growth, the growth of investment and the creation of employment opportunities, the Minister shall develop and propose to the Government financial assistance and fiscal incentive measures.
4. The functions of the Minister are, more specifically, to
 - (1) prepare and table in the National Assembly the Budget Speech setting out the economic, fiscal, budgetary and financial policies of the Government;
 - (2) establish and propose to the Government the overall expenditure level;
 - (3) make policy proposals to the Government on revenue matters, and advise the Government on its investments;
 - (4) monitor, control and manage all matters related to State finances not assigned to another authority;
 - (5) manage the consolidated revenue fund and the public debt;
 - (6) cause the public accounts and the other financial reports of the Government to be prepared;
 - (7) in cooperation with the chair of the Conseil du trésor, develop policies and guidelines applicable to capital expenditures and establish the level of financial commitments involved in the renewal of collective agreements;

(8) develop and propose to the Conseil du trésor the accounting policies to be used by the departments and bodies, the rules applicable to payments made out of the consolidated revenue fund and the rules governing the collection and management of State revenue.

5. The Minister shall also exercise any other function assigned to the Minister by the Government.

CHAPTER II

DEPARTMENTAL ORGANIZATION

6. The Government, in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1), shall appoint a person as Deputy Minister of Finance.

7. Under the direction of the Minister, the Deputy Minister shall administer the department.

The Deputy Minister shall, in addition, exercise any other function assigned by the Government or by the Minister.

8. In the exercise of deputy-ministerial functions, the Deputy Minister has the authority of the Minister.

9. The Deputy Minister may, in writing and to the extent indicated, delegate the exercise of deputy-ministerial functions under this Act to a public servant or the holder of a position.

The Deputy Minister may, in the instrument of delegation, authorize the subdelegation of the functions indicated, and in that case shall specify the public servant or holder of a position to whom the functions may be subdelegated.

10. The personnel of the department shall consist of the public servants required for the exercise of the functions of the Minister; they shall be appointed in accordance with the Public Service Act.

The Minister shall determine the duties of the public servants to the extent that they are not determined by law or by the Government.

11. The signature of the Minister or Deputy Minister gives authority to any document emanating from the department.

Subject to the other provisions of this Act or any other Act, a deed, document or writing is binding on the Minister or may be attributed to the Minister only if it is signed by the Minister, the Deputy Minister, a member of the personnel of the department or the holder of a position and, in the latter two cases, only to the extent determined by the Government.

12. The Government may, subject to the conditions it determines, allow that a signature be affixed by an automatic device or by electronic means.

The Government may also allow, on the conditions it determines, that a facsimile of such a signature be engraved, lithographed or printed. Except in the cases prescribed by the Government, the facsimile signature must be authenticated by the countersignature of a person authorized by the Minister.

13. A document or copy of a document emanating from the department or forming part of its records, signed or certified true by a person referred to in section 11 or authorized by the Minister, is authentic.

14. An intelligible transcription of a decision or other data stored by the department on a computer or by any other means is a document of the department and is proof of its contents where certified true by a person authorized by the Minister.

15. The Minister may enter into agreements, as provided by law, with a government other than the Government of Québec, with a department or body of that government, or with an international organization or one of its agencies.

The Minister may also enter into agreements with a government department or body or with any other person in a field under the Minister's jurisdiction.

16. The Minister shall table a report in the National Assembly on the activities of the department within four months of the end of the fiscal year or, if the Assembly is not sitting, within 15 days of resumption.

CHAPTER III

COMPTROLLER OF FINANCE

17. A Comptroller of Finance and a Deputy Comptroller of Finance shall be appointed at the Ministère des Finances in accordance with the Public Service Act.

18. The Comptroller of Finance shall be responsible for government accounting and for the integrity of the Government's accounting system. In addition, the Comptroller shall see that the financial data recorded in the accounting system is accurate and ensure compliance with the Government's accounting standards, principles and policies.

19. The functions of the Comptroller of Finance shall include the preparation, for the Minister, of the public accounts and other financial reports of the Government.

20. The Comptroller of Finance shall carry out any mandate assigned to the Comptroller by the Minister or the Government.

21. The Comptroller of Finance may provide advisory, support and training services to government departments, bodies and enterprises governed by the Financial Administration Act (*insert here the year and chapter number of Bill 94 of 1999*) on matters coming under the Comptroller's authority.

22. The Comptroller of Finance may require such information relating to the financial operations and business of the government departments, bodies and enterprises as is necessary for the carrying out of the Comptroller's functions or mandates, and may require that any book, register, account, record or other document relating thereto be produced.

The Comptroller of Finance may make copies of any document containing such information and may require the production of any report considered necessary.

Every person having custody, possession or control of the documents shall, on request, give access thereto to the Comptroller of Finance and facilitate the Comptroller's examination of the documents.

23. The Comptroller of Finance may, in writing and to the extent indicated, delegate the exercise of the functions of Comptroller of Finance to a public servant or to the holder of a position.

CHAPTER IV

FINANCING FUND

24. A fund, to be known as the "financing fund", is hereby established at the Ministère des Finances for the financing of the following bodies, enterprises and special funds:

(1) a general and vocational college governed by the General and Vocational Colleges Act (R.S.Q., chapter C-29);

(2) the Conseil scolaire de l'île de Montréal or a school board governed by the Education Act (R.S.Q., chapter I-13.3), or a school board governed by the Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., chapter I-14);

(3) a university establishment governed by the University Investments Act (R.S.Q., chapter I-17);

(4) a public institution governed by the Act respecting health services and social services (R.S.Q., chapter S-4.2), or a regional board established under that Act;

(5) a public institution governed by the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5), or a regional council established under that Act;

(6) any body or enterprise of the Government whose borrowings may, by law, be guaranteed by the Government ;

(7) any body whose constituting Act provides that its borrowings may be authorized by the Government or a minister, where such borrowing is repaid in whole in the case of a municipality or other municipal body, or in whole or in part in other cases, by a subsidy granted for such purpose ;

(8) any special fund or public body designated by the Government, except a municipality or other municipal body.

The Government shall determine the nature of the loans that may be granted, the criteria for fixing the rates of interest that may be charged on the loans and the nature of the costs that may be charged in computing interest rates or in computing the repayment of loans.

25. The fund shall also serve to finance the financial services provided to government departments, and to the bodies, enterprises and special funds mentioned in section 24.

The Government shall determine the nature of the financial services financed by the fund, the nature of the costs that may be charged to the fund, and the departments, enterprises, bodies and special funds that must, to the extent it indicates, apply to the fund for such financial services.

26. The Government shall fix the date on which the fund begins to operate and determine the fund's assets and liabilities.

27. The fund shall be made up of the following sums, exclusive of interest earned on bank balances :

(1) the sums collected for the financial services provided and the sums received as repayment of the principal of and interest on loans ;

(2) the sums paid by the Minister out of appropriations granted for that purpose by Parliament ;

(3) the advances paid by the Minister under section 30 ;

(4) the sums collected following the assignment of loans or following transactions effected pursuant to section 31 or 32.

28. The management of the sums making up the fund is entrusted to the Minister. Such sums shall be paid to the credit of the Minister and deposited with the financial institutions designated by the Minister.

The Minister shall keep the accounts for and record the financial commitments chargeable to the fund. The Minister shall also ensure that such commitments and the payments arising therefrom do not exceed and are consistent with the available balances.

29. The Minister, as the manager of the fund, may grant loans, on the terms and conditions the Minister determines, to the bodies, enterprises and special funds referred to in section 24.

30. The Minister may, for any purpose consistent with section 25, make advances to the fund out of the consolidated revenue fund with the authorization of the Government and on the conditions it determines.

The Minister may also, for any purpose consistent with section 29, with the authorization of the Government and on the conditions it determines, make advances to the fund out of the consolidated revenue fund. The authorization of the Government shall specify the intervals at which the advances are to be paid into the fund and the costs reimbursable out of the advance or chargeable in computing the applicable rates of interest.

Where the sums advanced are borrowed under a borrowing plan, the Minister shall determine the amount of each advance and the time it is paid into the fund within the limits fixed in the order authorizing the advance made in the context of the borrowing plan.

Conversely, the Minister may make advances to the consolidated revenue fund, on a short-term basis and on the conditions determined by the Minister, out of any sums making up the fund that are not required for its operation.

Any advance made to a fund shall be repayable out of that fund.

31. The Minister may, for the purposes of securitization, assign loans granted under section 29. The Minister may make any commitment payable out of the fund, conclude any contract in that respect and continue to manage the loans for the benefit of the assignee.

32. The Minister may also, in managing the financing fund, perform a transaction referred to in section 16 of the Financial Administration Act between the financing fund and the consolidated revenue fund.

Sections 16 to 19 of the said Act apply to such a transaction, with the necessary modifications.

33. The Government shall establish a schedule of administrative, commitment and professional fees for the financial services offered to departments, bodies, enterprises and special funds.

34. The sums required for the following purposes are taken out of the fund :

(1) the granting of a loan pursuant to section 29;

(2) the payment of any expense incurred for the carrying out of the functions entrusted to the Minister by this chapter, including the payment of the

remuneration and expenses pertaining to employee benefits and other conditions of employment of the public servants assigned, in accordance with the Public Service Act, to activities related to the fund;

(3) the payment of any sum required for the performance of any obligation contracted by the Minister as the manager of the fund in respect of loans, assignments of loans or transactions under section 29, 31 or 32.

35. All surpluses accumulated by the fund shall be paid into the consolidated revenue fund on the dates and to the extent determined by the Government.

36. The provisions of sections 20, 21, 26 to 28, Chapter IV, Chapter VI and sections 88 and 89 of the Financial Administration Act (*insert here the year and chapter number of Bill 94 of 1999*) apply to the fund, with the necessary modifications.

37. The fiscal year of the fund ends on 31 March.

38. Notwithstanding any provision to the contrary, the Minister shall, in the event of a deficiency in the consolidated revenue fund, pay out of the financing fund the sums required for the execution of a judgment against the State that has become *res judicata*.

CHAPTER V

AMENDING AND FINAL PROVISIONS

39. Section 7 of the Deposit Act (R.S.Q., chapter D-5) is amended by striking out “without interest” in the first paragraph.

40. The said Act is amended by inserting the following section after section 7:

“7.1. The Government may fix a tariff of fees and duties payable for deposits, payments or reimbursements made under this Act or any other Act. The tariff may prescribe fees and duties that vary according to whether they are payable for the deposit of a sum of money, a security or a suretyship and determine the persons, departments and bodies that are exempted from payment of the fees and duties. The Government may also establish the conditions and terms governing payment of the fees and duties.

The Government may, in addition, fix the rate of interest payable on deposits, to the extent and subject to the conditions it determines. The interest shall be paid out of the consolidated revenue fund.”

41. The said Act is amended by inserting the following section after section 27.1:

“27.2. The provisions of section 27.1 apply, with the necessary modifications, to money transferred to the Minister from an inactive account pursuant to section 245 of the Savings and Credit Unions Act (chapter C-4.1).

The right to recover such amounts, with interest computed from 1 July 1999, is exercisable against the Minister.”

42. Section 36 of the Act to foster the development of manpower training (R.S.Q., chapter D-7.1) is amended by replacing “section 69.1 of the Financial Administration Act (chapter A-6)” by “the Act respecting the Ministère des Finances (1999, chapter 77).”

43. Section 170.5.2 of the Forest Act (R.S.Q., chapter F-4.1) is amended by replacing “established under section 69.1 of the Financial Administration Act (chapter A-6)” by “established under the Act respecting the Ministère des Finances (1999, chapter 77)”.

44. Section 63 of the Act respecting the Ministère de l’Emploi et de la Solidarité and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001) is amended by replacing “established under section 69.1 of the Financial Administration Act (chapter A-6)” by “established under the Act respecting the Ministère des Finances (1999, chapter 77)”.

45. Section 17.5 of the Act respecting the Ministère de l’Industrie et du Commerce (R.S.Q., chapter M-17) is amended by replacing “established under section 69.1 of the Financial Administration Act (chapter A-6)” by “established under the Act respecting the Ministère des Finances (1999, chapter 77)”.

46. Section 26 of the Act respecting the Ministère des Régions (R.S.Q., chapter M-25.001) is amended by replacing “established under section 69.1 of the Financial Administration Act (chapter A-6)” in subparagraph 3 of the first paragraph by “established under the Act respecting the Ministère des Finances (1999, chapter 77)”.

47. Section 29 of the said Act is amended by replacing “established under section 69.1 of the Financial Administration Act (chapter A-6)” by “established under the Act respecting the Ministère des Finances”.

48. Section 30 of the Act respecting the Ministère des Relations internationales (R.S.Q., chapter M-25.1.1) is amended by replacing “or section 69.6 of the Financial Administration Act (chapter A-6)” in subparagraph 3 of the second paragraph by “or section 29 of the Act respecting the Ministère des Finances (1999, chapter 77)”.

49. Section 35.3 of the said Act is amended by replacing “or section 69.6 of the Financial Administration Act (chapter A-6)” in subparagraph 2 of the first paragraph by “or section 29 of the Act respecting the Ministère des Finances”.

50. Section 97.5 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by replacing “established under section 69.1 of the Financial Administration Act (chapter A-6)” by “established under the Act respecting the Ministère des Finances (1999, chapter 77)”.

51. Section 35 of the Act respecting family benefits (R.S.Q., chapter P-19.1) is amended by replacing “of the Ministère des Finances established under section 69.1 of the Financial Administration Act (chapter A-6)” in the first paragraph by “established under the Act respecting the Ministère des Finances (1999, chapter 77)”.

52. Section 16.1 of the Act respecting government services to departments and public bodies (R.S.Q., chapter S-6.1) is amended by replacing “established under section 69.1 of the Financial Administration Act (chapter A-6)” in the first paragraph by “established under the Act respecting the Ministère des Finances (1999, chapter 77)”.

53. Section 1 of the Act respecting subsidies for the payment in capital and interest of loans of public or municipal bodies (R.S.Q., chapter S-37.01) is amended by replacing “listed in subparagraphs 1 to 4 of the first paragraph of section 69.6 of the Financial Administration Act (chapter A-6)” by “listed in subparagraphs 1 to 5 of the first paragraph of section 24 of the Act respecting the Ministère des Finances (1999, chapter 77)”.

54. Section 171 of the Act respecting assistance and compensation for victims of crime (1993, chapter 54) is amended by replacing “69.6 of the Financial Administration Act” in paragraph 6 by “29 of the Act respecting the Ministère des Finances (1999, chapter 77)”.

55. Any regulation made under section 8 of the Financial Administration Act (R.S.Q., chapter A-6) as it read on (*insert here the date preceding the date of coming into force of section 11 of this Act*) shall retain its effects as if it had been adopted under section 11 of this Act.

56. Section 41 has effect from 1 July 1999.

57. The provisions of this Act come into force on the date or dates to be fixed by the Government.