Gazette officielle DU Québec

Part 2

No. 3
19 January 2005

Laws and Regulations

Volume 137

Summary

Legal deposit – 1st Quarter 1968
Bibliothèque nationale du Québec

Table of Contents

Page

Acts 2004

Treasury Board

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SEVENTH LEGISLATURE

Bill 44
(2004, chapter 24)

An Act to amend the Act respecting the Ministère de l'Environnement, the Environment Quality Act and other legislative provisions

Introduced 8 April 2004
Passage in principle 28 October 2004
Passage 9 December 2004
Assented to 14 December 2004

Québec Official Publisher
2004

EXPLANATORY NOTES

This bill amends the Act respecting the Ministère de l'Environnement to clarify the power of the Minister to release information.

In order to ensure ongoing supervision of the quality of the environment and, in the area of environmental protection, compliance with an international commitment or implementation of a Canadian intergovernmental agreement, this bill amends the Environment Quality Act so that it confers on the Minister of the Environment the power to make regulations determining the information that a person or a municipality is required to provide regarding an enterprise, a facility or an establishment that the person or municipality operates.

The bill amends section 31 of the Environment Quality Act to enable the Government to set fees covering the costs of measures implemented to control and monitor the holders of an authorization, approval, certificate, permit, attestation or permission. These fees may vary with the nature of a holder's activities, the characteristics of the facility, the nature, quantity and location of waste or stored, buried, processed or treated materials, and the number of offences of which the holder has been found guilty under a provision of the Environment Quality Act or a regulation under that Act, as well as the nature and seriousness of those offences. The bill also provides that the amounts collected are to be paid into a green fund set up for that purpose.

The bill amends section 31.0.1 of the Environment Quality Act to make it applicable not only to depollution attestations, but to any attestation provided for in the Act or a regulation under the Act. It also amends section 31.0.1 to enable the Minister to establish the interest payable in case of non-payment.

LEGISLATION AMENDED BY THIS BILL:

– Natural Heritage Conservation Act (R.S.Q., chapter C-61.01);

– Act respecting the Ministère de l'Environnement (R.S.Q., chapter M-15.2.1);

– Environment Quality Act (R.S.Q., chapter Q-2).

Bill 44

AN ACT TO AMEND THE ACT RESPECTING THE MINISTÈRE DE L'ENVIRONNEMENT, THE ENVIRONMENT QUALITY ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 24 of the Natural Heritage Conservation Act (R.S.Q., chapter C-61.01) is amended by replacing "within 30 days of the Minister's decision" in the second paragraph by "within 30 days following the Minister's decision on the application for authorization".

2. Section 12 of the Act respecting the Ministère de l'Environnement (R.S.Q., chapter M-15.2.1) is amended by replacing paragraph 5 by the following paragraph:

"(5) compile, analyze, communicate, publish and disseminate the information available to him, in particular that obtained pursuant to section 2.2 of the Environment Quality Act (chapter Q-2);".

3. The Environment Quality Act (R.S.Q., chapter Q-2) is amended by inserting the following section after section 2.1:

"**2.2.** In order to ensure ongoing supervision of the quality of the environment or to ensure, in the area of environmental protection, compliance with an international commitment made in accordance with the applicable legislative provisions or implementation of a Canadian intergovernmental agreement made in accordance with the applicable legislative provisions, the Minister may make regulations determining what information, other than personal information, a person or a municipality is required to provide regarding an enterprise, a facility or an establishment that the person or municipality operates, as well as how, when and how often this information must be provided.

A regulation made under the first paragraph may apply to all or part of Québec and may, in particular, relate to any information concerning the presence, emission, deposit, issuance or discharge into the environment of contaminants, including their origin, nature, composition, characteristics, quantity, concentration and location or receiving environment, as well as to the parameters to be used to evaluate or measure the quantity or concentration of contaminants.

This information may vary with the category of the enterprise, facility or establishment, the nature of the contaminants, the quantity of contaminants emitted, deposited, issued or discharged, and the technical characteristics of the apparatus or processes involved.

The only information that a person or municipality referred to in a regulation made under the first paragraph is required to provide is the information the person or municipality has, may reasonably be expected to have or may obtain by means of appropriate data processing.

A regulation made under this section is preceded by the publication of a draft regulation in the *Gazette officielle du Québec* for the purposes of a 60-day consultation."

4. Section 31 of the said Act is amended

(1) by inserting the following subparagraph after subparagraph *s* of the first paragraph:

"(*t*) determine the fees payable by the holder of an authorization, approval, certificate, permit, attestation or permission to cover the costs of control and monitoring measures, particularly the costs of inspecting facilities and examining information or documents provided to the Minister, the conditions of payment and the interest payable in case of non-payment, and exempt from payment of all or part of the fees, on the conditions the Minister determines, a holder who has set up an environmental management system that meets a recognized Québec, Canadian, or international standard.";

(2) by adding the following paragraphs after the third paragraph:

"The fees determined under subparagraph *t* of the first paragraph are based on the nature of the holder's activities, the characteristics of the facility, the nature, quantity and location of waste or stored, buried, processed or treated materials, and on the number of offences under a provision of this Act or a regulation made under it of which the holder has been convicted in a final judgment during the period determined by the Government, and the nature and seriousness of those offences. For the purposes of this subparagraph, a person or municipality that was carrying on an activity referred to in this Act when the provisions of this Act or a regulation made under it for the purpose of requiring an authorization, approval, certificate, permit, attestation or permission were made applicable to that activity is considered to be a holder.

The first regulation made under subparagraph *t* of the first paragraph must be examined by the competent committee of the National Assembly before it is approved by the Government.

The amounts collected under subparagraph *t* of the first paragraph are paid into a green fund set up for that purpose."

5. Section 31.0.1 of the said Act, enacted by section 3 of chapter 53 of the statutes of 2002, is amended

(1) by striking out "depollution" in the second line of subparagraph 1 of the first paragraph;

(2) by striking out subparagraph 2 of the first paragraph;

(3) by inserting ", the characteristics of the enterprise or establishment, in particular its size," after "contamination" in the second line of the second paragraph;

(4) by adding "as well as the interest payable in case of non-payment" at the end of the third paragraph.

6. Section 31.53 of the said Act is amended by replacing "land on the site of an industrial or commercial activity of a category designated by regulation of the Government" in the first and second lines of the first paragraph by "land where an industrial or commercial activity of a category designated by regulation of the Government has been carried on".

7. Section 53.31.3 of the said Act is amended by replacing "maximum percentage" in the first line of the third paragraph by "maximum amount".

8. Section 109 of the said Act, amended by section 14 of chapter 53 of the statutes of 2002, is again amended by striking out "2 or" in the second line of the second paragraph.

9. The said Act is amended by inserting the following section after section 114.2:

"**114.3.** The Minister may claim the direct and indirect costs of issuing an order under this Act, in the same manner as any debt owing to the Government may be claimed, from the person or municipality to whom the order applies.

If the order applies to more than one person or municipality, the debtors are jointly and severally liable.

If the order issued by the Minister is contested before the Administrative Tribunal of Québec, the claim is suspended until the Tribunal confirms all or part of the order."

10. The said Act is amended by inserting the following section after section 115:

"**115.0.1.** When contaminants are, could be or could be prevented from being emitted, deposited, discharged or ejected into the environment, the

Minister may claim from a person or municipality the costs of any intervention by the Minister to avert or diminish the risk of damage to public or private property, human beings, wildlife, vegetation or the general environment.

The first paragraph refers to a person or municipality that has custody or control of a contaminant or that had custody or control of it when the emission, deposit, discharge or issuance into the environment occurred, or that is responsible for the occurrence.

The Minister may intervene in any situation referred to in the first paragraph until the situation is corrected.

The Minister may claim the direct and indirect costs related to the Minister's interventions, in the same manner as any debt owing to the Government may be claimed, from a person or municipality referred to in the first paragraph, whether or not that person or municipality was prosecuted for an offence under this Act. If there is more than one debtor, they are jointly and severally liable."

11. Section 116.1 of the said Act is amended by striking out the second paragraph.

12. The said Act is amended by inserting the following section after section 116.1:

"**116.1.1.** In all civil or penal proceedings instituted under this Act, the cost of any sampling, analysis, inspection or investigation, at the rate established by regulation of the Minister, shall be included in the cost of the proceedings.

A regulation made under this section is preceded by the publication of a draft regulation in the *Gazette officielle du Québec* for the purposes of a 60-day consultation."

13. This Act comes into force on 14 December 2004, except sections 11 and 12, which come into force on 1 October 2005.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SEVENTH LEGISLATURE

Bill 55
(2004, chapter 34)

An Act to amend the Act respecting the Société de l'assurance automobile du Québec and other legislative provisions

Introduced 13 May 2004
Passage in principle 26 May 2004
Passage 14 December 2004
Assented to 17 December 2004

Québec Official Publisher
2004

EXPLANATORY NOTES

This bill provides for the creation and establishment of a social trust within the meaning of the Civil Code of Québec, to be known as the Fonds d'assurance automobile du Québec. The fund, whose trustee is the Société de l'assurance automobile du Québec, is established by transferring most of the assets of the Société. The patrimony of the trust fund is dedicated to granting compensation for bodily injury under the Automobile Insurance Act and compensation for property damage under Title IV of that Act, and to promoting accident prevention and highway safety. The bill also enacts rules applicable to the Société when acting as trustee.

Moreover, the bill introduces changes in the determination of automobile insurance contributions. Henceforth, the Société will set the insurance contributions, after having obtained the opinion of a panel of experts established to that end. The panel will have, in particular, to hold a public consultation on that question.

Lastly, while maintaining the role of the Société in the area of road vehicle registration and driver's licences, the bill modifies some of its other responsibilities.

LEGISLATION AMENDED BY THIS BILL:

– Financial Administration Act (R.S.Q., chapter A-6.001);

– Automobile Insurance Act (R.S.Q., chapter A-25);

– Highway Safety Code (R.S.Q., chapter C-24.2);

– Act respecting the Société de l'assurance automobile du Québec (R.S.Q., chapter S-11.011).

Bill 55

AN ACT TO AMEND THE ACT RESPECTING THE SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Act respecting the Société de l'assurance automobile du Québec (R.S.Q., chapter S-11.011) is amended by inserting the following headings before section 1:

"**CHAPTER I**

"THE SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC

"**DIVISION I**

"ESTABLISHMENT AND FUNCTIONS".

2. Section 2 of the said Act is amended

(1) by replacing paragraphs *a* and *b* of subsection 1 by the following paragraph:

"(*a*) to administer, as trustee, the Fonds d'assurance automobile du Québec, hereinafter called the "Fonds d'assurance";";

(2) by replacing paragraph *g* of subsection 1 by the following paragraph:

"(*g*) to carry out any other mandate assigned to it by law or by an agreement with the Government, or a department or body of the Government.";

(3) by inserting ", on its own behalf or for the Fonds d'assurance," after "may" in the first line of subsection 2.

3. Section 2.1 of the said Act is repealed.

4. Section 5 of the said Act is replaced by the following section:

"**5.** All the property in the possession of the Société on 31 December 2003 belongs to the Société, except the property transferred to the Fonds d'assurance."

5. The said Act is amended by inserting the following heading after section 5:

"**DIVISION II**

"ORGANIZATION AND OPERATION".

6. Section 7 of the said Act is replaced by the following sections:

"**7.** The Société is administered by a board of directors consisting of a chairman and eleven other members appointed by the Government.

The eleven other members are appointed from a list containing at least three names for each position to be filled, drawn up by the board of directors after consultation with bodies designated by the board and representative of any of the following sectors or groups:

(1) business;

(2) insurance;

(3) law;

(4) health;

(5) highway safety;

(6) road victims; and

(7) road users.

The Government shall designate the vice-chairman of the board of directors.

"**7.1.** Seven of the members of the board of directors must not

(1) be officers of the Société;

(2) be mandataries or suppliers or officers or employees of a mandatary or supplier of the Société; and

(3) have been appointed by the Government or a minister for a term of at least three years or a renewable term within a legal person or body the majority of whose directors or members are appointed by the Government or a minister.

"**7.2.** In addition, the Government shall appoint the vice-chairmen of the Société, in such number as it may determine."

7. Section 11 of the said Act is amended by adding the following paragraph after the third paragraph:

"The members of the board of directors are not in conflict of interest for the sole reason that they are required to perform the duties imposed on the Société under section 23.0.4."

8. Section 13 of the said Act is amended

(1) by striking out "; such by-laws shall be approved by the Government, and come into force upon such approval" in the second paragraph;

(2) by adding the following paragraph after the second paragraph:

"The Government shall approve the by-laws of the Société relating to the exercise of its functions other than the functions of trustee."

9. Section 16.3 of the said Act is amended

(1) by inserting ", to refuse to provide him with any information or document he is entitled to require or examine, to conceal or destroy any document or property relevant to an inquiry or inspection" after "statements" in the first paragraph;

(2) by adding the following paragraph after the second paragraph:

"A person who contravenes the first paragraph is guilty of an offence and liable to a fine of $200 to $1,000."

10. Section 16.4 of the said Act is replaced by the following section:

"**16.4.** The Minister of Transport may, by agreement, entrust to the Société the implementation of a program on the adaptation of road vehicles to allow handicapped persons to drive a vehicle or have access to it. The program is established under subparagraph *c* of the first paragraph of section 3 of the Act respecting the Ministère des Transports (chapter M-28) and section 4 of the Transport Act (chapter T-12).

A person who believes he has been wronged by a decision rendered by the Société, as a mandatary acting under an agreement provided for in the first paragraph, may contest the decision before the Administrative Tribunal of Québec within 60 days of notification of the decision.

For the purposes of this section, "handicapped person" means a handicapped person within the meaning of paragraph *g* of section 1 of the Act to secure the handicapped in the exercise of their rights (chapter E-20.1)."

11. The said Act is amended by inserting the following after section 17.1:

"**DIVISION III**

"FINANCIAL PROVISIONS AND REPORTING

"**17.2.** The Société shall collect the sums paid under sections 21, 31.1, 69 and 93.1 of the Highway Safety Code.

The Société shall also collect

(1) the amounts paid under an agreement made with any government, any department of such a government or any public body;

(2) any other amount it is authorized to receive or recover.

"**17.3.** The sums for which the Société has no immediate need for its day-to-day business are deposited with the Caisse de dépôt et placement du Québec.

"**17.4.** The insurance contributions fixed under sections 151 to 151.3 of the Automobile Insurance Act must, from the fiscal year ending on 31 December 2015 at the latest, cover the payment of all indemnities resulting from accidents that occurred during the period for which those insurance contributions were fixed and all other costs borne by the Fonds d'assurance for that period.

To fix insurance contributions, the Société may include investment income other than investment income from assets held in connection with actuarial liability. Insurance contributions must also be fixed so that the assets of the Fonds d'assurance, after deducting any debts and reserves, are equal to or greater than the amount, actuarially valued, that is needed to pay all indemnities, present or future, resulting from accidents that occurred up to the date of valuation. The Société shall make the valuation at the end of each fiscal year.

If there is an insufficiency in the assets, the insurance contributions must be fixed so as to correct the insufficiency over a maximum period of 15 years.

"**17.5.** The actuarial valuation referred to in sections 151 and 151.1 of the Automobile Insurance Act and in section 17.4 must be made by an actuary who is a Fellow of the Canadian Institute of Actuaries or has an equivalent status recognized by the Institute.

"**17.6.** Before amending a regulation on insurance contributions, the Société must obtain the opinion of a panel of experts established for that purpose. The panel consists of three members who are representative of the actuarial and insurance sectors and who are appointed by the Government.

The Société is not required to obtain the opinion of a panel of experts on amendments that have no impact on the tariffing of insurance contributions and that are intended to ensure concordance with technical amendments to a

regulation on the registration of road vehicles or to a regulation on licences to drive road vehicles made under the Highway Safety Code.

The mandate of the panel is to review the approach taken and check the data used in support of the regulatory amendments contemplated by the Société. The panel must also hold a public consultation by publishing a notice to that effect in the *Gazette officielle du Québec* and in at least one French-language and one English-language daily newspaper of its choice. The notice must indicate

(1) the nature of the regulatory amendments regarding insurance contributions contemplated by the Société;

(2) the holding of a public consultation to examine the regulatory amendments;

(3) the possibility for interested persons to submit observations; and

(4) the place, date and time of the public consultation.

Such a consultation must not be held before the expiry of 30 days after the date of the last publication.

The panel must submit its report to the Société within the time limit determined by the Société. The report must be made public by the Société.

The panel shall adopt rules of operation after the members designate a chairman from among their number. The Société shall determine the terms of reference of the panel's mandate and provide the panel with the support necessary for its operation.

"**17.7.** Within the scope of its mandate, the panel of experts must

(1) evaluate the rating criteria for insurance contributions adopted by the Société and ascertain that they correspond, in particular, to the principles of self-financing of the plan, of indemnification by road vehicle users, of equity and of administrative feasibility;

(2) confirm the total expenditure the Société considers necessary to cover the costs of the indemnities resulting from accidents that occur during the period for which the insurance contributions are fixed and all the other costs borne by the Fonds d'assurance for that period;

(3) assess the measures taken to promote accident prevention and highway safety in order to reduce the risks associated with driving;

(4) consider the risks inherent in each class of insureds and the equity to be maintained between classes of insureds;

(5) ensure that the insurance contributions are fair and reasonable;

(6) consider the financing policy of the Société, the actuarial forecasts, the valuation of the actuarial liability and, where applicable, the need for recapitalization in the event of insufficient assets;

(7) consider the quality of the service provided to the insureds by the Société and any change made to the automobile insurance plan;

(8) consider the economic and social concerns indicated by the Société and the public."

12. Section 19 of the said Act is amended

(1) by replacing "a report on its activities" in the first paragraph by "an annual management report";

(2) by replacing "on the operations and activities of that year which concern" in the first paragraph by "concerning".

13. The said Act is amended by inserting the following after section 23:

"**CHAPTER II**

"THE FONDS D'ASSURANCE AUTOMOBILE DU QUÉBEC

"**23.0.1.** The sums in the possession of the Société on 31 December 2003 and the securities deposited with the Caisse de dépôt et placement du Québec are transferred to the Fonds d'assurance, except the sums kept on deposit by the Société in accordance with the Acts it administers.

The claims of the Société that are recoverable as at 31 December 2003 under the Automobile Insurance Act and the advances made as at that date to rehabilitation centres by the Société are the only claims and advances that are transferred to the Fonds d'assurance.

The titles of ownership of the immovable where the head office of the Société is situated are also transferred to the Fonds d'assurance.

"**23.0.2.** The debts of the Société on 31 December 2003 shall be borne by the Fonds d'assurance, except for the sick leave and vacation credits of the personnel of the Société, the sums owing to suppliers and the sums owing to the Government in taxes and duties.

"**23.0.3.** The Fonds d'assurance, established as a social trust patrimony, shall be dedicated to

(1) granting the compensation for bodily injury provided for in the Automobile Insurance Act and the compensation for property damage provided for in Title IV of that Act;

(2) promoting accident prevention and highway safety to reduce the risks associated with driving.

The measures taken under subparagraph 2 of the first paragraph must not compromise the financial stability of the Fonds d'assurance.

"**23.0.4.** The Société is the trustee of the Fonds d'assurance.

The Société is deemed to have accepted the trusteeship and the obligations arising from it as of 1 January 2004.

The Société shall act to promote the objectives pursued by the Fonds d'assurance.

"**23.0.5.** Articles 1260 to 1262, 1264 to 1266, 1270, 1274, 1278, 1280, 1293, 1299, 1306 to 1308, 1313 and 1316 are the only provisions of Title VI and Title VII of Book IV of the Civil Code of Québec that apply to the Fonds d'assurance and to the Société in its capacity as trustee, with the necessary modifications.

"**23.0.6.** The titles to the property of the Fonds d'assurance and other documents of the Fonds are drawn up in its name.

"**23.0.7.** The Société shall transfer to the Fonds d'assurance, as they are received, all the sums it collects as insurance contributions under sections 21, 31.1, 69 and 93.1 of the Highway Safety Code or as amounts recoverable pursuant to the Automobile Insurance Act, and any other sums meant to increase the Fonds d'assurance.

The Société shall prepare a monthly reconciliation of the sums so collected and the sums actually transferred.

"**23.0.8.** The sums transferred to the Fonds d'assurance under sections 23.0.1 and 23.0.7 are deposited with a bank governed by the Bank Act (Statutes of Canada, 1991, chapter 46) or a financial services cooperative governed by the Act respecting financial services cooperatives (chapter C-67.3).

"**23.0.9.** The sums referred to in section 23.0.8 for which the Société has no immediate need for the day-to-day business of the Fonds d'assurance are deposited with the Caisse de dépôt et placement du Québec.

"**23.0.10.** The expenses incurred in the interest of the Fonds d'assurance are payable by the Fonds.

"**23.0.11.** When the Société withdraws a sum from the Fonds d'assurance, it is acting in its capacity as trustee.

"**23.0.12.** The Société must prepare for the Fonds d'assurance its budget estimates for the following fiscal year at least one month before the end of the current fiscal year or on any other date set by the board of directors.

"**23.0.13.** Sections 21 to 22.1 and the Financial Administration Act (chapter A-6.001) do not apply to the Société in the exercise of its functions as trustee.

"**23.0.14.** The Public Administration Act (chapter A-6.01) does not apply to the Société in the exercise of its functions as trustee, except for the provisions relating to human resources and section 78 to the extent that it relates to human resources.

"**23.0.15.** The Société, in the exercise of its functions as trustee, must adopt policies on contract terms and on the security and management of information resources.

The Société's policy on contract terms must be made public not later than 30 days after its adoption.

The policy must be consistent with the agreements on the liberalization of public procurement applicable to the Société and reflect general government policy on public procurement.

"**23.0.16.** The fiscal year of the Fonds d'assurance ends on 31 December.

"**23.0.17.** Not later than 30 April each year, the Société must submit to the Minister the financial statements and an annual management report on the activities of the Fonds d'assurance for the previous fiscal year. The report must contain all the information prescribed by the Minister.

The Minister must table the financial statements and the report before the National Assembly within 30 days of receiving them if the National Assembly is sitting or, if it is not sitting, within 30 days of resumption.

"**23.0.18.** The books and accounts of the Fonds d'assurance shall be examined by the Auditor General every year and whenever ordered by the Government.

"**23.0.19.** The chairman and general manager of the Société is accountable to the National Assembly for the management of the Fonds d'assurance.

The competent parliamentary committee of the National Assembly may hear the chairman and general manager at least once each year to discuss the management of the Fonds d'assurance.

The parliamentary committee may discuss, in particular, the financial statements, the annual management report and any administrative matter related to the Fonds d'assurance that may have been noted in a report of the Auditor General or the Public Protector.

"**CHAPTER III**

"MISCELLANEOUS PROVISIONS".

14. The Financial Administration Act (R.S.Q., chapter A-6.001) is amended by adding "in the exercise of its functions in a capacity other than that of trustee" after "Société de l'assurance automobile du Québec" in Schedule 3.

15. The heading of Chapter I of Title V of the Automobile Insurance Act (R.S.Q., chapter A-25) is replaced by the following heading:

"INSURANCE CONTRIBUTIONS AND DUTIES".

16. Section 150 of the said Act is repealed.

17. Section 151.4 of the said Act is amended

(1) by striking out "the insurance contributions fixed pursuant to sections 151 to 151.2 and" in the first paragraph;

(2) by striking out "or insurance contributions" in the third paragraph.

18. Sections 152, 152.1, 153, 154 and 155 of the said Act are repealed.

19. Chapter III of Title V of the said Act is repealed.

20. Section 197 of the said Act is replaced by the following section:

"**197.** Regulations of the Société must be approved by the Government, except those made under sections 151 to 151.3 and 195.1."

21. Section 11 of the Highway Safety Code (R.S.Q., chapter C-24.2) is replaced by the following section:

"**11.** A handicapped person or a public institution may be authorized to use parking spaces reserved for the exclusive use of handicapped persons and be given an identification sticker and a certificate of issue to that effect.

The sticker and the certificate are issued upon payment of the fees prescribed by regulation.

A public institution is a public institution within the meaning of the Act respecting health services and social services (chapter S-4.2) or the Act

respecting health services and social services for Cree Native persons (chapter S-5) that owns a motor vehicle equipped with devices to secure wheelchairs against movement.

The Société is responsible for the application of this section according to the rules established by agreement between the Société and the Minister of Transport."

22. Section 21 of the said Code is amended by striking out "and revalorized, where applicable, in accordance with section 151.4 of that Act" in the fourth and fifth lines of subparagraph 3 of the first paragraph.

23. Section 31.1 of the said Code is amended by striking out "and revalorized, where applicable, in accordance with section 151.4 of that Act" in the sixth and seventh lines of the first paragraph.

24. Section 69 of the said Code is amended by striking out "and revalorized, where applicable, in accordance with section 151.4 of that Act" at the end of the first paragraph.

25. Section 93.1 of the said Code is amended by striking out "and revalorized, where applicable, in accordance with section 151.4 of that Act" in the fifth and sixth lines of the first paragraph.

26. Section 618 of the said Code, amended by section 69 of chapter 2 of the statutes of 2004, is again amended by replacing "and fix their periods of validity" in paragraph 20 by ", fix their periods of validity and determine the fees exigible for their issue".

27. Section 624 of the said Code, amended by section 72 of chapter 2 of the statutes of 2004, is again amended by striking out subparagraph 14 of the first paragraph.

28. The members of the board of directors who are in office on 17 December 2004 are deemed to have been appointed under section 7 of the Act respecting the Société de l'assurance automobile du Québec, as replaced by section 6 of this Act.

29. An agreement entered into before 1 January 2005 and referred to in section 16.4 of the Act respecting the Société de l'assurance automobile du Québec, replaced by section 10 of this Act, has effect from 1 January 2004. Every decision made by the Société de l'assurance automobile du Québec since 1 January 2004 on a matter referred to in that section is deemed to have been made under that agreement.

30. The contribution applicable to the cost of ambulance services provided for in sections 155.5 and 155.6 of the Automobile Insurance Act is taken out of the Fonds d'assurance automobile du Québec until 31 March 2005.

31. This Act has effect from 1 January 2004, except for sections 9 and 19. However, this section does not operate to invalidate the Regulation to amend the Regulation respecting insurance contributions approved by Order in Council 1003-2004 dated 27 October 2004, even if that regulation was not adopted in accordance with section 20.

32. This Act comes into force on 17 December 2004, except for section 19, which comes into force on 1 April 2005.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SEVENTH LEGISLATURE

Bill 56
(2004, chapter 31)

An Act to amend the Act to secure the handicapped in the exercise of their rights and other legislative provisions

Introduced 4 June 2004
Passage in principle 11 November 2004
Passage 15 December 2004
Assented to 17 December 2004

Québec Official Publisher
2004

EXPLANATORY NOTES

This bill proposes various measures intended to clarify the mission and functions of the Office des personnes handicapées du Québec, to help handicapped persons integrate into society, and to develop and organize resources and services for them.

The Office will thus take on a more explicit role in coordinating various measures affecting handicapped persons by, among other things, assessing those measures and formulating recommendations, if necessary. More specifically, the Office will have to promote the identification of solutions to reduce disparities in programs and services, individualized service planning, the use of a standard classification for impairments, disabilities and handicapping situations, the inclusion in training programs of elements dealing with the adaptation of interventions and services for handicapped persons, and the improvement of access standards for buildings and public places.

Another function of the Office will be to promote the creation of training and information programs with a view to the social, school and workplace integration of handicapped persons. It will also be responsible for assessing the progress of integration, among other things, and for testing or commissioning the testing of goods and services. The Office will have a more clearly stated advisory role in all matters affecting handicapped persons and greater powers to assist them and intervene in their behalf. It will thus be able to formulate recommendations or give opinions to a government department or other partner on any matter having to do with handicapped persons, and report to the minister responsible for the administration of this Act.

The Government is required to establish a policy for access to public documents and services. Moreover, government departments, public agencies with at least fifty employees and municipalities with at least 15,000 inhabitants will be required to produce and publish annually an action plan in behalf of handicapped persons. In their procurement process, the departments, public agencies and municipalities will have to consider whether or not goods and services are accessible to handicapped persons. In addition, the Minister must also be consulted during the development of measures provided for by law or regulation that could have a significant impact on handicapped persons.

The bill also proposes other measures concerning the workplace integration of handicapped persons and their access to buildings and paratransit services in municipalities. It proposes that equal access to employment programs, instead of hiring plans, be developed for handicapped persons, and it provides that the Minister must see that a report on the implementation of the Act is made every five years.

Lastly, the bill proposes other amendments concerning, among other things, the definition of "handicapped person" and the composition of the board of the Office.

LEGISLATION AMENDED BY THIS BILL:

– Act respecting equal access to employment in public bodies (R.S.Q., chapter A-2.01);

– Public Administration Act (R.S.Q., chapter A-6.01);

– Charter of human rights and freedoms (R.S.Q., chapter C-12);

– Cities and Towns Act (R.S.Q., chapter C-19);

– Municipal Code of Québec (R.S.Q., chapter C-27.1);

– Pay Equity Act (R.S.Q., chapter E-12.001);

– Act to secure the handicapped in the exercise of their rights (R.S.Q., chapter E-20.1);

– Public Service Act (R.S.Q., chapter F-3.1.1);

– Act respecting administrative justice (R.S.Q., chapter J-3).

Bill 56

AN ACT TO AMEND THE ACT TO SECURE THE HANDICAPPED IN THE EXERCISE OF THEIR RIGHTS AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The title of the Act to secure the handicapped in the exercise of their rights (R.S.Q., chapter E-20.1) is replaced by the following:

"ACT TO SECURE HANDICAPPED PERSONS IN THE EXERCISE OF THEIR RIGHTS WITH A VIEW TO ACHIEVING SOCIAL, SCHOOL AND WORKPLACE INTEGRATION".

2. The heading of Chapter I of the said Act is amended by inserting ", OBJECTS AND POLICY DIRECTIONS" after "DEFINITIONS".

3. Section 1 of the said Act is amended

(1) by striking out paragraph *a*;

(2) by inserting the following paragraph after paragraph *e*:

"(*e.*1) "public agency" means a government agency or enterprise within the meaning of the Auditor General Act (chapter V-5.01);";

(3) by inserting "non-profit" before "organization established" in the first line of paragraph *f*;

(4) by replacing "promotional" in the first line of paragraph *f* by "advocacy";

(5) by replacing paragraph *g* by the following paragraph:

"(*g*) "handicapped person" means a person with a deficiency causing a significant and persistent disability, who is liable to encounter barriers in performing everyday activities."

4. The said Act is amended by inserting the following sections after section 1:

"**1.1.** The object of this Act is to secure handicapped persons in the exercise of their rights and, through the involvement of government departments and their networks, municipalities and public and private agencies, to help

them integrate into society to the same extent as other citizens by providing for various measures to apply specifically to handicapped persons and their families, their living environments and the development and organization of resources and services for them.

To that end, this Act aims to enable the Office to efficiently carry out its role in assessing the integration of handicapped persons, to ensure compliance with the principles and rules of this Act and to play a decisive role in providing advice, coordination and consultation with a view to improving opportunities for handicapped persons.

"**1.2.** For the purposes of the measures provided for in this Act, the following policy directions serve to guide the Office, government departments and their networks, municipalities and public or private agencies:

(*a*) adopting an approach that views the handicapped person as a whole, respects individual characteristics and facilitates the increased development of capacities;

(*b*) facilitating the autonomy of handicapped persons and their participation in individual or collective decisions that concern them and in managing the services offered to them;

(*c*) giving priority to resources and services that enable handicapped persons to remain in or return to their natural living environments;

(*d*) facilitating the adaptation of the built environment to the needs of handicapped persons and their families without discrimination or privilege, the regional self-sufficiency of resources, and the effective linking of local, regional and Québec-wide resources;

(*e*) fostering continuing coordination for the management and complementarity of resources as well as the permanence and maximum integration of services;

(*f*) achieving a decent quality of life for handicapped persons and their families, full social integration of handicapped persons and maximum protection against risk factors for impairment."

5. Section 6 of the said Act is replaced by the following section:

"**6.** The board of the Office is composed of 16 members entitled to vote, including a director general, all appointed by the Government.

The members of the board of the Office, except the director general, shall be designated in the following manner:

(*a*) 11 members, after consultation with the associations of handicapped persons that are the most representative of the various regions of Québec and

the various types of disabilities, among whom nine are handicapped persons or relatives or spouses of handicapped persons at the time of their appointment;

(*b*) one member, after consultation with the bodies that are the most representative of employers;

(*c*) one member, after consultation with the bodies that are the most representative of employees;

(*d*) one member, after consultation with the professional orders directly involved in services for handicapped persons;

(*e*) one member representing advocacy organizations, after consultation with the most representative of those organizations."

6. The said Act is amended by inserting the following sections after section 6:

"**6.1.** The Deputy Minister of Municipal Affairs, Sports and Recreation, the Deputy Minister of Culture and Communications, the Deputy Minister of Education, the Deputy Minister of Employment, Social Solidarity and Family Welfare, the Deputy Minister of Relations with the Citizens and Immigration, the Deputy Minister of Health and Social Services, the Deputy Minister of Transport and the Deputy Minister of Labour or their delegates are also, *ex officio*, members of the board of the Office, but do not vote.

"**6.2.** After consultation with the board members referred to in section 6 other than the director general, the Government shall appoint a chairman from among the handicapped persons or relatives or spouses of handicapped persons referred to in paragraph *a* of that section. The chairman of the board shall chair the board meetings and oversee its activities.

The board members referred to in the first paragraph shall choose a vice-chairman from among them."

7. Section 7 of the said Act is replaced by the following section:

"**7.** A government department whose deputy minister or delegate is not a member of the board of the Office or a public agency must, at the request of the Office, designate the deputy minister of the department or the person exercising the highest authority within the agency as a respondent to deal with any matter relating to handicapped persons, or designate a delegate of that person.

If the respondent of a government department or public agency is absent or unable to act, the government department or public agency must designate another respondent and inform the Office of the change as soon as possible."

8. Section 8 of the said Act is amended

(1) by replacing "chairman" in the first line of the first paragraph by "director general";

(2) by striking out the second paragraph.

9. Section 9 of the said Act is amended by inserting "of the board" after "member".

10. Section 10 of the said Act is amended

(1) by inserting "of the board" after "member" in the first line;

(2) by replacing "chairman" in the second line by "director general".

11. Section 11 of the said Act is amended by replacing "chairman" in the second line by "director general".

12. Section 12 of the said Act is amended by replacing the first sentence by the following sentence: "A majority of the members of the board referred to in section 6, including the chairman or the vice-chairman and the director general, constitutes a quorum at sittings of the board."

13. Section 13 of the said Act is repealed.

14. Section 14 of the said Act is amended by replacing "chairman" by "director general".

15. Section 15 of the said Act is replaced by the following section:

"**15.** The director general is responsible for the administration and direction of the Office within the scope of its by-laws and policies."

16. Section 16 of the said Act is amended by adding the following paragraph:

"If the director general is absent or unable to act, the director general shall be replaced by a person designated by the Government."

17. Section 18 of the said Act is amended

(1) by replacing ", and three other members" in the second line by ", the director general and two other members of the borad";

(2) by replacing "of the Office" at the end by "of the board".

18. Section 19 of the said Act is amended by replacing "of the Office" in the first line by "of the board".

19. Section 21 of the said Act is amended

(1) by replacing the first paragraph by the following paragraphs:

"**21.** The Office may request, in writing, that a government department, a municipality, an educational institution, a school board, an institution, or a public agency send, within 90 days after receiving the request, any information or document it holds that has an impact on the integration of handicapped persons and that is required for the purposes of this Act. The Office indicates for which specific purposes it is making the request.

The following information and documents, in particular, are considered necessary for the purposes of the first paragraph:

(*a*) information and documents pertaining to the implementation of laws, policies and programs, that have an impact on the integration of handicapped persons, specifically, data on budgets and on the clientele served or waiting for services;

(*b*) information and documents collected for local, regional or Québec-wide statistics, research, studies or assessments dealing with the integration of handicapped persons.";

(2) by striking out the second paragraph.

20. Section 22 of the said Act is amended by replacing "sections 20 and 21" by "section 20".

21. Section 23 of the said Act is replaced by the following section:

"**23.** The Office must provide the minister responsible for the administration of this Act with any information requested on its operations."

22. Section 24 of the French text of the said Act is amended by replacing "tenue" in the second line of the second paragraph by "tenu".

23. The heading of Division II of Chapter II of the said Act and the heading of subdivision 1 of that division are replaced by the following:

"**DIVISION II**

"MISSION AND FUNCTIONS OF THE OFFICE

"§1. *— Mission, duties and powers of the Office"*.

24. Section 25 of the said Act is amended

(1) by replacing the first paragraph by the following paragraphs:

"**25.** The mission of the Office is to see that the principles and rules set out in this Act are complied with, and to ensure, within the scope of the powers granted to it, that the departments and their networks, the municipalities and the public and private agencies continue their efforts to increase opportunities for handicapped persons to integrate into and participate fully in community life.

The Office also sees to the coordination of actions to develop and deliver services for handicapped persons and their families, and facilitates and assesses, on a collective basis, the social, school and workplace integration of handicapped persons. In addition to promoting the interests of handicapped persons and their families, the Office informs, advises and assists them and makes representations in their behalf both on an individual and a collective basis.

In carrying out its mission, the Office shall seek the cooperation of organizations dedicated to promoting the interests of handicapped persons.";

(2) by replacing ", municipalities, school boards and" in the first line of subparagraph *a* of the second paragraph by "and their networks, the municipalities and the";

(3) by inserting the following subparagraphs after subparagraph *a* of the second paragraph:

"(*a*.1) advise the Minister, the Government, its departments and their networks, the municipalities and any other public or private agency on any matter affecting handicapped persons, and analyze and assess laws, policies, programs, action plans and services offered and formulate any recommendations it considers appropriate;

"(*a*.2) assess the degree of social, school and workplace integration of handicapped persons, identify the progress made in integration and the barriers encountered, and make recommendations for the elimination of those barriers to the minister responsible for the administration of this Act;

"(*a*.3) promote the implementation of solutions to eliminate barriers to the social, school and workplace integration of handicapped persons after consulting, if necessary, the Government, the government departments and their networks, the public agencies, the municipalities, the advocacy organizations and the research organizations;

"(*a*.4) promote the identification of solutions aimed at reducing disparities resulting from an impairment or disability, age or place of residence in the plans and services offered handicapped persons and in the response to their needs.";

(4) by inserting the following subparagraph after subparagraph *b* of the second paragraph:

"(*b*.1) promote individualized service planning, particularly through service programs and intervention plans, in the government departments and their networks, the municipalities and any other public or private agency;";

(5) by inserting the following subparagraph after subparagraph *d* of the second paragraph:

"(*d*.1) promote the use of a standard classification of impairments, disabilities and handicapping situations by government departments and their networks, municipalities, labour and employers' organizations and other public and private agencies;";

(6) by inserting the following subparagraphs after subparagraph *e* of the second paragraph:

"(*e*.1) promote, in the training programs of university, college and secondary level educational institutions and organizations responsible for vocational training, the inclusion of elements dealing with the adaptation of interventions and services for handicapped persons and, at the request of such institutions or organizations, advise them in that regard;

"(*e*.2) promote, in government departments and public and private agencies, the continued improvement of accessibility standards for buildings and public places, and advise those departments and agencies at their request;";

(7) by replacing subparagraph *f* of the second paragraph by the following subparagraphs:

"(*f*) see that means are implemented to help handicapped persons find accessible housing;

"(*f*.1) promote the implementation of measures to identify in a secure manner dwellings occupied by handicapped persons requiring assistance in the event of a fire or other emergency;";

(8) by inserting the following subparagraphs after subparagraph *g* of the second paragraph:

"(*g*.1) promote the creation of information and training programs designed to foster a better understanding of handicapped persons, their needs and the conditions conducive to their integration into and participation in community life, or develop such programs, in cooperation with advocacy and service organizations;

"(*g*.2) provide handicapped persons and their families, advocacy organizations and the settings where integration takes place, particularly childcare facilities, schools and workplaces, with tools and information to achieve the social, school and workplace integration of handicapped persons;".

25. Section 26 of the said Act is amended

(1) by inserting ", in particular," after "dealings" in the second line of paragraph *a*;

(2) by inserting the following paragraphs after paragraph *a*:

"(*a*.1) make representations in behalf of a handicapped person and, in conjunction with advocacy and service organizations, if applicable, provide assistance if that person's security is threatened, if the person is exploited in any manner or if the person's basic needs are not met, and, if necessary, request that the authorities concerned conduct an inquiry;

"(*a*.2) ensure, at the local, regional and Québec-wide levels, the implementation of the intersectoral actions necessary for the integration of one or more handicapped persons, and participate on request in the coordination of those actions, in particular with respect to the development and implementation of service programs;";

(3) by replacing "school, vocational and social" in the second line of paragraph *d* by "social, school and workplace";

(4) by striking out paragraph *e*.

26. The said Act is amended by inserting the following sections after section 26:

"**26.1.** Whenever the Office considers it appropriate, it may give its opinion to the minister, a government department, and its network, the municipalities or any other public or private agency on any matter related to the administration of this Act and recommend any measure it considers suitable.

"**26.2.** Within 90 days after receiving a recommendation from the Office, a government department, a municipality or a public agency shall inform the Office in writing of the actions it intends to take as a result of the recommendation or, if it has decided not to act upon the recommendation, of the reasons for such a decision.

"**26.3.** The Office may assist a person required to prepare and produce an action plan or a document under this Act.

"**26.4.** A government department, a municipality, an educational institution, a school board, an institution, and any other public agency and, in the case referred to in paragraph *a* of section 26, an insurance company shall cooperate with the Office in the exercise of its functions under paragraphs *a*, *a.*1 and *a*.2 of section 26.

"**26.5.** After consultation with the Office and not later than 17 December 2006, the Government shall establish a policy directing government departments and public agencies to provide reasonable accommodation for handicapped persons enabling them to have access to the documents, whatever their form, and to the services available to the public."

27. Section 28 of the said Act is amended by inserting "of the board" after "members" in the second line of the second paragraph.

28. Sections 29 and 30 of the said Act are repealed.

29. Section 33 of the said Act is amended by striking out subparagraph *d* of the first paragraph.

30. The heading of subdivision 2 of Division II of Chapter II of the said Act is amended by replacing "*Promotional*" by "*Advocacy*".

31. Section 34 of the said Act is amended

(1) by replacing "promotional" in the first line by "advocacy";

(2) by inserting ", rights, and improved living conditions" after "interests" in the second line.

32. Section 35 of the said Act is amended by replacing "promotional" in the first line by "advocacy".

33. Subdivision 3 of Division II of Chapter II of the said Act, comprising sections 36 to 44, is repealed.

34. The said Act is amended by inserting the following after section 44:

"§4. — *Testing*

"**44.1.** The Office may test or commission the testing of goods and services which, in its opinion, could provide innovative solutions to facilitate the social, school and workplace integration of handicapped persons and, to that end, enter into agreements, grant subsidies and provide technical or professional assistance."

35. The heading of Chapter III of the said Act is amended by replacing "EDUCATIONAL, VOCATIONAL AND SOCIAL" by "SOCIAL, SCHOOL AND WORKPLACE".

36. The heading of Division I of Chapter III of the said Act is replaced by the following heading:

"RESPONSIBILITIES OF THE OFFICE WITH REGARD TO SERVICE PROGRAMS".

37. Section 45 of the said Act is amended by replacing "educational, vocational and social" in the third and fourth lines by "social, school and workplace".

38. Divisions II and III of Chapter III of the said Act, comprising sections 52 to 61, are repealed.

39. The said Act is amended by inserting the following division after section 61:

"DIVISION III.1

"GENERAL RESPONSIBILITIES OF GOVERNMENT DEPARTMENTS, PUBLIC AGENCIES AND MUNICIPALITIES

"**61.1.** Not later than 17 December 2005, every government department or public agency employing at least fifty persons and every municipality with at least 15,000 inhabitants shall adopt an action plan identifying the barriers to integration handicapped persons encounter in the sector of activity of the department or agency, and describing the measures taken over the past year and those to be taken in the coming year to reduce barriers to integration in that sector of activity. The action plan includes any other element determined by the Government upon recommendation of the Minister, and must be prepared and published annually.

"**61.2.** The Minister is consulted in the development of measures provided for by law or regulation that could have a significant impact on handicapped persons.

"**61.3.** When purchasing or leasing goods and services, as part of their procurement process, government departments, public agencies and municipalities must consider whether or not the goods and services are accessible to handicapped persons.

"**61.4.** Not later than 17 December 2005, the government departments and public agencies shall appoint a coordinator of services for handicapped persons within their respective entities, and send the Office information on how to contact the coordinator. The coordinator may be the same person as the delegate or respondent referred to in section 6.1 or 7.

Any communication from the Office under this Act may be addressed to the coordinator."

40. The heading of Division IV of Chapter III of the said Act is replaced by the following heading:

"SPECIFIC RESPONSIBILITIES RELATED TO THE WORKPLACE INTEGRATION OF HANDICAPPED PERSONS".

41. Section 62 of the said Act is repealed.

42. Section 63 of the said Act is replaced by the following section:

"**63.** The minister responsible for Chapter III of the Act respecting the Ministère de l'Emploi et de la Solidarité sociale and establishing the Commission des partenaires du marché du travail (chapter M-15.001) must facilitate the integration of handicapped persons into the labour market by formulating, coordinating, monitoring and assessing a strategy for the integration and continued employment of handicapped persons, and by establishing result-based objectives. The objectives must be determined in cooperation with labour and employers' groups.

The Office, the Ministère des Affaires municipales, du Sport et du Loisir, the Ministère de l'Éducation, the Ministère du Développement économique et régional et de la Recherche, the Ministère des Finances, the Ministère de la Justice, the Ministère des Relations avec les citoyens et de l'Immigration, the Ministère de la Santé et des Services sociaux, the Ministère des Transports, the Ministère du Travail and the secretariat of the Conseil du trésor, in particular, shall be partners in this work.

The Minister may consult one or more organizations dedicated to promoting the interests of handicapped persons.

Before 17 December 2007, the Minister, in cooperation with the Office and the other ministers concerned, must submit a progress report to the Government.

The Minister shall table the report in the National Assembly within the next 30 days or, if the Assembly is not sitting, within 30 days of resumption.

Not later than 17 December 2009, the Minister must review the strategy, assess and measure the employment situation of handicapped persons, the actions implemented as a result of the strategy and the effects of the strategy, and report to the Government on those matters. The report must also make recommendations on the integration and continued employment of handicapped persons.

The Minister shall table the report in the National Assembly within the next 30 days or, if the Assembly is not sitting, within 30 days of resumption."

43. Sections 63.1 to 64 of the said Act are repealed.

44. Chapter IV of the said Act becomes Division V of Chapter III and its heading is replaced by the following heading:

"DIVISION V

"TRANSPORTATION OF HANDICAPPED PERSONS".

45. Section 66 of the said Act is repealed.

46. Section 67 of the said Act is amended

(1) by replacing "Every public transport company" in the first line of the first paragraph by "A public transit authority, a municipal, intermunicipal or regional transport company constituted under the Act respecting intermunicipal boards of transport in the area of Montréal (chapter C-60.1), the Cities and Towns Act (chapter C-19) or the Municipal Code of Québec (chapter C-27.1)";

(2) by replacing "2 April 1979" in the first and second lines of the first paragraph by "17 December 2004";

(3) by inserting the following sentence at the end of the fourth paragraph: "At any time, the Minister may request the implementation of corrective measures or, if necessary, the amendment of a previously approved plan and the production of a new plan within the time the Minister determines.";

(4) by striking out the last paragraph.

47. The said Act is amended by inserting the following after section 68:

"DIVISION VI

"BUILDING ACCESSIBILITY".

48. Section 69 of the said Act is replaced by the following section:

"**69.** Not later than 17 December 2006, the Minister of Labour shall report to the Government on the accessibility to handicapped persons of buildings subject to the Public Buildings Safety Act (chapter S-3) or the Act respecting occupational health and safety (chapter S-2.1) but not subject to the Building Code (Order in Council 3326 dated 29 September 1976).

The report, prepared in cooperation with the Office and the other government departments and public agencies concerned, must deal in particular with the problem posed by the non-accessibility of such buildings, the categories of buildings that could be subjected to or exempted from standards, and the cost of applying standards by category of building and according to a pre-determined schedule.

The Minister shall table the report in the National Assembly within 30 days or, if the National Assembly is not sitting, within 30 days of resumption.

During the year following the preparation of the report, the Minister of Labour must determine by regulation the categories of buildings that must be made accessible to handicapped persons and the accessibility standards owners must comply with."

49. Sections 70 to 72.1 of the said Act are repealed.

50. The said Act is amended by inserting the following after section 72.1:

"**CHAPTER IV**

"MISCELLANEOUS PROVISIONS".

51. Section 73 of the said Act is replaced by the following section:

"**73.** A person authorized in writing by the director general of the Office may enter, during working hours, the premises of a person, organization or business that has received a subsidy to ensure compliance with this Act, the regulations or the terms of a program, directive or agreement made with the Office, or to make sure that the subsidy is used for the purposes for which it was granted. The authorized person may require any pertinent information, examine any relevant book, register or document and make copies. The authorized person may also require any person on the premises to give reasonable assistance, and must, on request, produce a certificate attesting to the authorization received and bearing the signature of the director general of the Office."

52. The said Act is amended by inserting the following section after section 73:

"**73.1.** The Office may, by regulation, determine the provisions of a by-law or regulation the contravention of which constitutes an offence."

53. Section 74 of the said Act is amended

(1) by replacing "29, 31, 32, 37, 38, 45, 47, 52, 53, 57, 62 and 64" in the second line of the first paragraph by "31, 32, 45, 47 and 73.1";

(2) by striking out the second and third paragraphs.

54. The said Act is amended by inserting the following sections after section 74:

"**74.1.** Not later than 31 October each year, the Office must send the Minister an annual report on its activities for the preceding fiscal year. The report must also contain any other information the Minister may require.

The Minister shall table the report in the National Assembly within 30 days after receiving it or, if the Assembly is not sitting, within 30 days of resumption.

The Office may also send the Minister a special report during the year, if the Office considers that the objectives of this Act require it.

The special report may, in particular, outline the action plans provided for in this Act and the follow-up given to the Office's recommendations or opinions, comment on any matter affecting handicapped persons, and formulate recommendations or opinions to increase the opportunities for handicapped persons to integrate into and participate fully in community life.

"**74.2.** Not later than 17 December 2009 and every five years after that date, the Minister shall see that an independent report is made on the implementation of this Act.

The Minister shall table the report in the National Assembly within 30 days after receiving it or, if the Assembly is not sitting, within 30 days of resumption.

"**74.3.** No judicial proceedings may be brought against the Office or its board members or employees for an omission made or an act done in good faith in the performance of the duties of office.

"**74.4.** Except on a question of jurisdiction, no extraordinary recourse provided for in the Code of Civil Procedure (chapter C-25) may be exercised nor any injunction granted against the Office or the persons referred to in section 74.3.

"**74.5.** A judge of the Court of Appeal may, on a motion, summarily annul any writ, order or injunction issued or granted contrary to section 74.3 or 74.4."

55. Section 75 of the said Act is replaced by the following section:

"**75.** The following are guilty of an offence and are liable to a fine of $500 to $1,500 in the case of a natural person and to a fine of $1,500 to $7,000 in the case of a legal person:

(*a*) a person that contravenes the first paragraph of section 20 or a provision of a by-law or regulation the contravention of which constitutes an offence;

(*b*) a municipality, educational institution, school board, institution or insurance company that contravenes section 26.4;

(*c*) an advocacy organization that contravenes section 35;

(*d*) a person that hinders a person authorized under section 73 in the performance of the duties referred to in that section, misleads the authorized person by concealment or false declarations or refuses or omits to provide relevant information, access to a relevant book, register or document, or reasonable assistance.

In the case of a second or subsequent offence, the fines under the first paragraph are doubled."

56. Section 76 of the said Act is amended

(1) by replacing "handicapped" in the second line of the first paragraph by "impaired";

(2) by replacing "handicapped" in subparagraph *b* of the second paragraph by "impaired".

57. With the exception of subparagraph *i* of the second paragraph of section 25, the text of the said Act is amended by inserting "persons" after the word "handicapped" wherever it appears without being followed by "person" or "persons".

ACT RESPECTING EQUAL ACCESS TO EMPLOYMENT IN PUBLIC BODIES

58. Section 1 of the Act respecting equal access to employment in public bodies (R.S.Q., chapter A-2.01) is amended by inserting ", handicapped persons within the meaning of the Act to secure handicapped persons in the exercise of their rights with a view to achieving social, school and workplace integration (chapter E-20.1)," after "women" in the third line.

59. The said Act is amended by inserting the following section after section 33:

"**33.1.** The fact that section 58 of the Act to amend the Act to secure the handicapped in the exercise of their rights and other legislative provisions (2004, chapter 31) adds handicapped persons to this Act as a target group does not change the obligations provided for in this Act with regard to the other groups to which it applies.

A public body to which this Act applies on 17 December 2005 must send its workforce analysis report on handicapped persons to the Commission des droits de la personne et des droits de la jeunesse within one year after that date, or by the date set by the Commission for analyzing its workforce with regard to other target groups, if that date is later."

PUBLIC ADMINISTRATION ACT

60. Section 29 of the Public Administration Act (R.S.Q., chapter A-6.01) is amended by striking out "or hiring plan for handicapped persons" in the second line of subparagraph 2 of the third paragraph.

CHARTER OF HUMAN RIGHTS AND FREEDOMS

61. Section 86 of the Charter of human rights and freedoms (R.S.Q., chapter C-12) is amended by adding the following paragraph after the third paragraph:

"An equal access to employment program established for a handicapped person within the meaning of the Act to secure handicapped persons in the exercise of their rights with a view to achieving social, school and workplace integration (chapter E-20.1) is deemed to be non-discriminatory if it is established in conformity with the Act respecting equal access to employment in public bodies (chapter A-2.01)."

CITIES AND TOWNS ACT

62. Section 467.11 of the Cities and Towns Act (R.S.Q., chapter C-19) is replaced by the following section:

"**467.11.** A municipality whose territory is not served by a public transit authority or other public body providing public transport that offers paratransit services must, by resolution, a copy of which must be sent to the Minister of Transport, enter into a contract with a person to make paratransit available within its territory. The nature of the measures to be implemented for the purposes of this section must be described in the resolution.

Similarly, the council may, by resolution, a copy of which must be sent to the Minister of Transport, enter into a contract with a person to provide links to points outside the territory. The nature of the measures to be implemented for the purposes of this section must be described in the resolution."

MUNICIPAL CODE OF QUÉBEC

63. Article 536 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) is replaced by the following article:

"**536.** A local municipality whose territory is not served by a public transit authority or other public body providing public transport that offers paratransit services must, by resolution, a copy of which must be sent to the Minister of Transport, enter into a contract with a person to make paratransit available within its territory. The nature of the measures to be implemented for the purposes of this article must be described in the resolution.

Similarly, a local municipality may, by resolution, a copy of which must be sent to the Minister of Transport, enter into a contract with a person to provide links to points outside the territory. The nature of the measures to be implemented to comply with this article must be described in the resolution."

PAY EQUITY ACT

64. Section 8 of the Pay Equity Act (R.S.Q., chapter E-12.001) is amended by striking out paragraph 4.

PUBLIC SERVICE ACT

65. Section 53 of the Public Service Act (R.S.Q., chapter F-3.1.1) is amended

(1) by striking out "or a program designed to ensure the hiring of handicapped persons" in the second and third lines of the second paragraph;

(2) by striking out "ou ce plan" in the fourth line of the French text of the second paragraph.

66. Section 53.1 of the said Act is amended by striking out "or program designed to ensure the hiring of handicapped persons" in the third and fourth lines.

ACT RESPECTING ADMINISTRATIVE JUSTICE

67. Section 24 of the Act respecting administrative justice (R.S.Q., chapter J-3) is amended by striking out "the identification of a handicapped person," in the sixth and seventh lines.

68. Section 25 of the said Act is amended by striking out "4, 5," in the first line of the second paragraph.

69. Section 1 of Schedule 1 to the said Act is amended by replacing "section 48 or 59" in paragraph 2 by "section 48".

70. Section 3 of Schedule 1 to the said Act is amended

(1) by striking out paragraph 4;

(2) by striking out paragraph 5.

71. A reference in any Act, regulation or other document to the Act to secure the handicapped in the exercise of their rights is replaced by a reference to the Act to secure handicapped persons in the exercise of their rights with a view to achieving social, school and workplace integration, unless the context indicates otherwise.

72. In any Act, regulation or other document, "adapted work centre" and "adapted work centres" are replaced by "adapted enterprise" and "adapted enterprises" respectively.

TRANSITIONAL AND FINAL PROVISIONS

73. Not later than 17 December 2007, the Office des personnes handicapées du Québec, in consultation with all the partners concerned by the social, school and workplace integration of handicapped persons, must update the policy document entitled "On Equal Terms".

74. The members of the Office des personnes handicapées du Québec whose term has expired become members of the board of the Office until they are replaced or reappointed.

The other members of the Office and the chairman complete the unexpired portion of their term as members of the board and director general of the Office respectively.

75. The director general acts as chairman of the board of the Office until a chairman is appointed.

76. A member of the Office des personnes handicapées du Québec referred to in paragraph *a* of section 6 of the Act to secure the handicapped in the exercise of their rights and in office on 16 December 2004 is deemed to be a handicapped person or the relative or spouse of a handicapped person, until replaced or reappointed.

77. Until the coming into force of section 33 of this Act, section 37 of the Act to secure the handicapped in the exercise of their rights is amended

(1) by replacing ", in majority, handicapped persons" in the first line of paragraph *b* by "handicapped persons, who make up at least 60% of its workforce and who are";

(2) by adding "and to facilitate their integration into the non-adapted labour market" at the end of paragraph *b*;

(3) by adding the following paragraph after paragraph *d*:

"When a certificate is issued or at any other time, the Office may exempt, on the conditions it determines, a cooperative or a non-profit organization from the requirement to have a workforce at least 60% of which is made up of handicapped persons."

78. Until the coming into force of section 33 of this Act, any new regulation of the Office des personnes handicapées du Québec under section 37 or section 38 of the Act to secure the handicapped in the exercise of their rights must be approved by the Government.

Section 73 of that Act also applies with respect to an adapted work centre.

79. Until the coming into force of section 33 of this Act, whoever

(1) contravenes section 36 of this Act, or

(2) hinders a person authorized under section 73 in the performance of the duties of office referred to in that section, deceives the authorized person by concealment or false declaration, or refuses or fails to communicate any relevant information, provide access to a relevant book, register or document, or provide reasonable assistance when the authorized person is performing the duties of office on the premises of an adapted work centre

is guilty of an offence and is liable to the fines provided for in section 75 of the Act to secure the handicapped in the exercise of their rights.

80. Paragraphs 1 and 2 of section 46 of this Act do not apply to a public transit authority or a municipal or intermunicipal transport company that has already received the approval of the Minister of Transport for a development plan to provide paratransit in the territory served by that authority or company.

81. Until the coming into force of sections 65 and 66 of this Act, section 72.1 of the Act to secure the handicapped in the exercise of their rights continues to apply with regard to a hiring plan for handicapped persons applicable in the public service.

82. This Act comes into force on 17 December 2004, except sections 58, 59, 61, 62 and 63, which come into force on 17 December 2005, and paragraph 1 of section 3, sections 29, 33, 60, 65, 66 and 68 to the extent that it refers to paragraph 5 of Schedule 1 to the Act respecting administrative justice and paragraph 2 of section 70, which come into force on the date or dates to be set by the Government.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SEVENTH LEGISLATURE

Bill 60
(2004, chapter 35)

An Act respecting the Société de financement des infrastructures locales du Québec and amending the Highway Safety Code

Introduced 17 June 2004
Passage in principle 9 November 2004
Passage 15 December 2004
Assented to 17 December 2004

Québec Official Publisher
2004

EXPLANATORY NOTES

This bill gives effect to a measure announced in the 30 March 2004 Budget Speech regarding the creation of the Société de financement des infrastructures locales du Québec.

The Société's mission is mainly to provide financial assistance to municipal bodies for infrastructure projects relating to waste water, local roads and public transit and for infrastructure projects having an economic, urban or regional impact. The bill determines the powers of the Société and how they may be exercised, and sets out its organizational rules.

This bill also gives effect to another measure announced in the Budget Speech authorizing the collection of an additional registration duty in respect of certain road vehicles and providing for the payment of this duty to the Société.

As well, the bill includes concordance and transitional amendments.

LEGISLATION AMENDED BY THIS BILL:

– Financial Administration Act (R.S.Q., chapter A-6.001);

– Highway Safety Code (R.S.Q., chapter C-24.2).

Bill 60

AN ACT RESPECTING THE SOCIÉTÉ DE FINANCEMENT DES INFRASTRUCTURES LOCALES DU QUÉBEC AND AMENDING THE HIGHWAY SAFETY CODE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

ESTABLISHMENT

1. The "Société de financement des infrastructures locales du Québec" is established.

The Société is a legal person and a mandatary of the State.

2. The property of the Société forms part of the domain of the State, but the execution of its obligations may be levied against its property.

The Société binds none but itself when it acts in its own name.

3. The head office of the Société is located in the territory of Ville de Québec. Notice of the location and any relocation of the head office is published in the *Gazette officielle du Québec*.

The Société may hold its meetings anywhere in Québec.

CHAPTER II

MISSION AND POWERS

4. The mission of the Société is to provide financial assistance to municipal bodies for infrastructure projects relating to drinking water, waste water, local roads and public transit and for infrastructure projects having an economic, urban or regional impact. An infrastructure project relating to public transit may include the acquisition of vehicles.

5. In pursuing its mission, the Société may

(1) grant subsidies; and

(2) grant any other financial assistance in the form and on the conditions that may be determined by government regulation.

6. For the purposes of this Act, municipal bodies include

(1) municipalities, bodies declared by law to be the mandatary or agent of a municipality, bodies whose board of directors is composed in a majority of members of the council of a municipality, as well as bodies whose budget is adopted by a municipality or more than half of the financing of which is assumed by a municipality;

(2) metropolitan communities, regional county municipalities, intermunicipal boards, transit authorities, intermunicipal boards of transport, the Kativik Regional Government and other bodies whose board of directors is composed, in the majority, of members of the councils of several municipalities; and

(3) mixed enterprise companies established under the Act respecting mixed enterprise companies in the municipal sector (R.S.Q., chapter S-25.01).

In addition, a municipal body referred to in subparagraphs 1 and 2 of the first paragraph may, for the application of this Act to infrastructure projects located on its territory, propose to the Société that a legal person, partnership or body it identifies be considered a municipal body.

7. The Société may not grant financial assistance without the authorization of

(1) the Minister of Municipal Affairs, Sports and Recreation, as regards infrastructure projects relating to drinking water and waste water and infrastructure projects having an economic, urban or regional impact; and

(2) the Minister of Transport, as regards infrastructure projects relating to public transit and local roads.

8. The Minister of Finance, the Minister of Municipal Affairs, Sports and Recreation and the Minister of Transport jointly submit an investment plan to the Government for approval, not later than 1 March each year, after filing it with the Conseil du trésor.

The plan must include the distribution of financial assistance between the following infrastructure project categories:

(1) drinking water infrastructure projects;

(2) waste water infrastructure projects;

(3) local road infrastructure projects;

(4) public transit infrastructure projects; and

(5) other infrastructure projects having an economic, urban or regional impact.

9. The Société must enter into an agreement with the Minister of Finance, the Minister of Municipal Affairs, Sports and Recreation and the Minister of Transport in respect of the management of its affairs.

10. The financial assistance granted by the Société may be subject to conditions that only the Government determines.

11. If a recipient fails to comply with the conditions on which assistance is granted, the Société may either suspend financial assistance or put an end to it.

For the same reasons, the Société may reduce the amount of the assistance, change the conditions of the assistance, or take any other step it considers necessary to preserve its rights. The Société may not, however, change the conditions of the assistance if it entails an increase in its costs.

CHAPTER III

ORGANIZATION AND OPERATION

12. The affairs of the Société are administered by a board of directors composed of seven members appointed by the Government. Five of the members must be deputy ministers, associate deputy ministers or assistant deputy ministers appointed under the Public Service Act (R.S.Q., chapter F-3.1.1) and two must be members of the council of a municipality appointed after consulting representatives of the municipal sector, including representatives of the Union des municipalités du Québec and of the Fédération québécoise des municipalités locales et régionales.

Board members are appointed for a term not exceeding five years.

On the expiry of their term, board members remain in office until replaced or reappointed.

13. The chair and vice-chair of the board of directors are designated by the Government from among the board members.

The chair calls and presides at meetings of the board of directors, sees to the proper conduct of the board's proceedings and exercises any other functions assigned by the board.

The vice-chair exercises the functions of the chair when the latter is absent or unable to act.

14. The secretary of the Société is appointed by the Government.

15. A vacant position on the board of directors is filled by the Government for the unexpired portion of the term of the member to be replaced.

Absence from the number of board meetings determined in the internal by-laws of the Société, in the cases and circumstances specified, constitutes a vacancy.

16. Board members and the secretary receive no remuneration. They are entitled, however, to the reimbursement of expenses incurred in the exercise of their functions of office in the cases, on the conditions and to the extent determined by the Government.

17. The quorum at meetings of the board of directors is the majority of its members, including the chair or vice-chair.

Decisions of the board are made by a majority vote of the members present. In the case of a tie vote, the person presiding at the meeting has a casting vote.

18. The members of the board of directors may waive notice of a meeting. Attendance at a meeting of the board constitutes a waiver of notice, unless the members are present to contest the legality of the meeting.

19. If all agree, the board members may take part in a meeting by means of equipment enabling all participants to communicate with one another.

20. Written resolutions, signed by all board members entitled to vote, have the same value as if they had been adopted during a meeting of the board of directors.

A copy of all such resolutions is kept with the minutes of the proceedings or other equivalent record book.

21. The minutes of the meetings of the board of directors, approved by the board and certified by the chair, the secretary or another person authorized to do so by the Société, are authentic. The same applies to documents and copies emanating from the Société or forming part of its records, if they are so certified.

22. An intelligible transcription of a decision or other data stored by the Société in a computer or in a computer-readable medium is a document of the Société; it is evidence of its contents if it is certified by a person referred to in section 21.

23. A deed, document or writing is binding on and may be attributed to the Société only if it is signed by the chair, the vice-chair, the secretary or another person, but, in the latter case, only to the extent determined by regulation.

24. The Société may, by regulation and subject to specified conditions, allow a signature to be affixed by means of an automatic device, an electronic signature to be affixed, or a facsimile of a signature to be engraved, lithographed or printed on specified documents. However, the facsimile has the same force

as the signature itself only if the document is countersigned by a person referred to in section 23.

25. The Société may make any regulation regarding the exercise of its powers and its internal management. The Société may, in its internal by-laws, determine the mode of operation of the board of directors.

26. The Société may, by regulation, provide for the delegation of its powers under this Act to the chair, the secretary or another person it designates.

27. Regulations made under sections 23 to 26 are submitted to the Government for approval.

28. The Société must determine the standards of ethics and conduct applicable to its personnel. The standards must contain provisions that include at least the requirements with regard to public servants prescribed under the Public Service Act (R.S.Q., chapter F-3.1.1).

29. Personnel members of the Société are appointed in accordance with the staffing plan established by by-law of the Société, which plan cannot provide for more than five employees.

Subject to the provisions of a collective agreement, the standards and scales of remuneration, employee benefits and other conditions of employment of its personnel members are determined by by-law of the Société in accordance with the conditions defined by the Government.

CHAPTER IV

FINANCIAL PROVISIONS

30. The Société may not, except with the authorization of the Government,

(1) contract a loan that causes the total of its current outstanding loans to exceed the amount determined by the Government;

(2) grant a subsidy or other financial assistance in excess of the limits or contrary to the conditions determined by the Government;

(3) make a financial commitment in excess of the limits or contrary to the conditions determined by the Government;

(4) acquire or hold shares in a legal person or an interest in a partnership;

(5) dispose of shares in a legal person or an interest in a partnership in excess of the limits or contrary to the conditions determined by the Government;

(6) acquire or dispose of other assets in excess of the limits or contrary to the conditions determined by the Government;

(7) accept a gift or legacy to which a charge or condition is attached; or

(8) accept a contribution from the Government of Canada.

31. The Government may, subject to the conditions it determines,

(1) guarantee payment of the principal and interest on any loan contracted by the Société and guarantee its obligations;

(2) make any commitment in relation to the carrying out or financing of a project of the Société; and

(3) authorize the Minister of Finance to advance to the Société any amount considered necessary for the pursuit of its mission.

The sums required for the purposes of this section are taken out of the consolidated revenue fund.

32. The Société pays its obligations and finances its operations out of the monies available to it, in particular, those received from the Government and those assigned to it by law.

33. The monies received by the Société must be allocated to the payment of its obligations. The Société retains any surpluses.

CHAPTER V

ACCOUNTS AND REPORTS

34. The fiscal year of the Société ends on 31 March.

35. Not later than 31 July each year, the Société files its financial statements and an operations report for the preceding fiscal year with the Minister.

The financial statements and the operations report must contain all the information required by the Minister.

36. The Minister lays the financial statements and operations report before the National Assembly within 15 days of their receipt or, if the Assembly is not sitting, within 15 days of resumption.

37. The Auditor General audits the books and accounts of the Société each year and whenever so ordered by the Government.

The Auditor General may, with regard to the recipients, audit the use of any subsidies or other financial assistance granted by the Société or its subsidiaries.

The Auditor General may also, with regard to the Société and its subsidiaries, conduct a value-for-money audit without obtaining the prior concurrence provided for in the second paragraph of section 28 of the Auditor General Act (R.S.Q., chapter V-5.01).

The Auditor General's report must be submitted with the Société's financial statements and operations report.

38. The Société must communicate to the Minister any information required by the Minister concerning its operations.

CHAPTER VI

AMENDING PROVISIONS

FINANCIAL ADMINISTRATION ACT

39. Schedule 2 to the Financial Administration Act (R.S.Q., chapter A-6.001), amended by Order in Council 1081-2003 dated 15 October 2003, is again amended by inserting "Société de financement des infrastructures locales du Québec" in alphabetical order.

HIGHWAY SAFETY CODE

40. Section 21 of the Highway Safety Code (R.S.Q., chapter C-24.2), amended by section 1 of chapter 5 of the statutes of 2003, is again amended by adding the following subparagraph at the end of the first paragraph:

"(6) in respect of a road vehicle belonging to a class determined by regulation, equipped with an engine with a displacement determined by regulation, pay an additional duty determined by regulation."

41. Section 31.1 of the said Code is amended

(1) by replacing "et" in the tenth line of the first paragraph in the French text by a comma;

(2) by inserting "and, in respect of a road vehicle belonging to a class determined by regulation, equipped with an engine with a displacement determined by regulation, an additional duty determined by regulation" after "$40,000" in the last line of the first paragraph;

(3) by replacing "additional duty" in the fifth line of the third paragraph by "additional duties";

(4) by replacing "additional duty" in the fourth line of the fifth paragraph by "additional duties".

42. Section 194.3 of the said Code, enacted by section 8 of chapter 5 of the statutes of 2003 and amended by section 17 of chapter 2 of the statutes of 2004, is again amended by replacing "additional duty" by "additional duties".

43. Section 618 of the said Code, amended by section 69 of chapter 2 of the statutes of 2004, is again amended by replacing "additional duty" in paragraphs 8.5, 8.7 to 8.9, 11 and 11.2 by "additional duties".

44. The said Code is amended by inserting the following section after section 619.4:

"**619.5.** The Government may establish, by regulation, a class of road vehicles equipped with an engine with a displacement it determines in respect of which an additional duty is payable and fix the amount of the additional duty according to the vehicle's engine displacement or determine the methods to calculate the additional duty."

45. Section 648 of the said Code, amended by section 14 of chapter 5 of the statutes of 2003, is again amended by adding the following paragraph after paragraph 6:

"(7) the additional duty collected on road vehicles of a class determined by regulation, equipped with an engine with a displacement determined by regulation."

46. The said Code is amended by inserting the following section after section 648.2:

"**648.3.** The additional duty collected on road vehicles of a class determined by regulation, equipped with an engine with a displacement determined by regulation, is paid to the Société de financement des infrastructures locales du Québec."

CHAPTER VII

TRANSITIONAL AND MISCELLANEOUS PROVISIONS

47. The first regulation made under sections 618, 619.4 and 619.5 of the Highway Safety Code and the first regulation made under section 151.1 of the Automobile Insurance Act (R.S.Q., chapter A-25) to determine the rules governing the application of the additional duty in respect of road vehicles equipped with an engine with a displacement determined by regulation are not subject to the publication requirement or the date of coming into force provided in sections 8 and 17 of the Regulations Act (R.S.Q., chapter R-18.1). They come into force on the date of their publication in the *Gazette officielle du Québec* and have effect from the date or dates set in the regulations but not prior to 1 November 2004.

48. The Minister of Finance is responsible for the administration of this Act.

49. Sections 41 to 43, 45 and 46 have effect from 1 November 2004 with respect to road vehicles whose payment period is subsequent to 31 October 2004.

50. This Act comes into force on 17 December 2004, except section 40, which comes into force on 1 January 2005.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SEVENTH LEGISLATURE

Bill 61
(2004, chapter 32)

An Act respecting the Agence des partenariats public-privé du Québec

Introduced 17 June 2004
Passage in principle 1 December 2004
Passage 15 December 2004
Assented to 17 December 2004

Québec Official Publisher
2004

EXPLANATORY NOTES

This bill establishes the Agence des partenariats public-privé du Québec.

The agency's mission is to contribute, through its advice and expertise, to the renewal of public infrastructures and the enhancement of services delivered to citizens through public-private partnership projects.

The agency is responsible for advising the Government on any public-private partnership matter, particularly as regards project selection and prioritization and for informing public bodies, the business community and the general public on the concept of public management in the public-private partnership mode.

It is also responsible for providing expertise to public bodies in the evaluation of projects in the public-private partnership mode, the assessment of their feasibility and the negotiation, conclusion and management of public-private partnership contracts.

A public body may use the agency's services on a voluntary basis. However, a department is required to use the services of the agency for any project for which a public-private partnership is considered, if the department is directly or indirectly the main source of financing for the project and if the project is considered a major one according to the criteria determined by the Government for that purpose.

The bill sets out the organizational and operational rules applicable to the agency and includes provisions applicable to the agency and its subsidiaries concerning such matters as standards of ethics and value-for-money auditing by the Auditor General. Lastly, the bill contains transitional provisions and consequential amendments necessary for the establishment of the agency.

LEGISLATION AMENDED BY THIS BILL:

– Financial Administration Act (R.S.Q., chapter A-6.001);

– Act respecting transport infrastructure partnerships (R.S.Q., chapter P-9.001);

– Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2);

– Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);

– Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1).

Bill 61

AN ACT RESPECTING THE AGENCE DES PARTENARIATS PUBLIC-PRIVÉ DU QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

ESTABLISHMENT

1. An agency is established under the name "Agence des partenariats public-privé du Québec". The agency may also operate under the name "Partenariats public-privé Québec".

2. The agency is a legal person and a mandatary of the State.

The property of the agency forms part of the domain of the State, but the execution of its obligations may be levied against its property.

The agency binds none but itself when it acts in its own name.

3. The head office of the agency is located where the agency determines in the territory of the Communauté métropolitaine de Québec. The agency may, however, move its head office elsewhere with the authorization of the Government. Notice of the location and any relocation of the head office of the agency is published in the *Gazette officielle du Québec*.

The agency may hold its meetings anywhere in Québec.

CHAPTER II

MISSION AND POWERS

4. The mission of the agency is to contribute, through its advice and expertise, to the renewal of public infrastructures and the enhancement of services delivered to citizens through public-private partnerships.

The agency promotes the following in exercising its functions:

(1) a process for the selection of partners and the conclusion of contracts that is both transparent and fair, in order to ensure healthy competition among interested enterprises;

(2) the implementation of means for citizens to learn about the public-private partnership process and the added value of public funds invested;

(3) the use of reporting mechanisms based on the accountability of public bodies and on the fact that those bodies must ensure supervision of the infrastructure, equipment and public service delivery projects;

(4) the use in the public interest of consultation and communication processes involving the people concerned by the projects.

5. In pursuing its mission, the agency

(1) advises the Government on any public-private partnership matter, particularly as regards project selection and prioritization;

(2) operates a public-private partnership knowledge and expertise centre accessible to all interested persons and, for that purpose, collects and analyzes information on public-private partnerships in Canada and abroad;

(3) informs public bodies, the business community and the general public on the concept of public management in the public-private partnership mode; and

(4) provides expert services to public bodies for the evaluation of the feasibility of their infrastructure, equipment and public service delivery projects in the public-private partnership mode, for the process of selecting partners and for the negotiation, conclusion and management of partnership contracts.

6. A public-private partnership contract is a long-term contract under which a public body allows a private-sector enterprise to participate, with or without a financial contribution, in designing, constructing and operating a public work. The purpose of the contract can be the delivery of a public service.

The contract must stipulate the results to be achieved and determine how responsibilities, investment, risks and profits are to be shared so as to enhance the services delivered to citizens.

7. For the purposes of this Act, public bodies include

(1) government departments;

(2) persons and government bodies and enterprises referred to in section 2 of the Financial Administration Act (R.S.Q., chapter A-6.001);

(3) government bodies that conduct fiduciary activities and appear in a list appended to the public accounts;

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

(5) the Comité de gestion de la taxe scolaire de l'île de Montréal and school boards governed by the Education Act (R.S.Q., chapter I-13.3) and school boards governed by the Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., chapter I-14);

(6) university establishments governed by the University Investments Act (R.S.Q., chapter I-17);

(7) public institutions governed by the Act respecting health services and social services (R.S.Q., chapter S-4.2) and local health and social services network development agencies established under that Act;

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

(9) municipal bodies within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1); and

(10) any other body designated by the Government.

8. A public body may use the agency's advisory and expert services for the evaluation of the feasibility of its infrastructure, equipment or public service delivery projects in the public-private partnership mode, for the process of selecting partners and for the negotiation and conclusion of public-private partnership contracts. These services are made available if, in the opinion of the agency, the nature and importance of the project warrant it.

In addition, a department must use the services of the agency for any project for which a public-private partnership is considered, if the department is directly or indirectly the main source of financing for the project and if the project is considered to be a major one according to the criteria determined by the Government for that purpose.

9. The agency issues advisory opinions, attaching any recommendations it may have, on any matter within its purview that is submitted to it by the chair of the Conseil du trésor.

10. When an investment project is of considerable importance, the Government may give the agency a mandate to evaluate its feasibility in the public-private partnership mode and, possibly, to select a partner and negotiate and conclude a partnership contract for the carrying out of the project.

11. Subject to the applicable legislative provisions, the agency may enter into an agreement with a government other than that of Québec, with a department of such a government, with an international organization or with a body of such a government or organization.

Likewise, the agency may enter into an agreement with a public body or any other person or entity, and participate in projects with them.

12. A public body that is a party to a partnership contract may, subject to the conditions it determines, delegate to a partner any function or power, other than a regulatory power, that is required for the carrying out of the contract.

It may authorize the subdelegation of any function or power subject to the same conditions.

13. With the authorization of the Government and if useful in the pursuit of its mission, the agency may acquire or constitute one or more subsidiaries.

A legal person more than 50% of whose voting rights attached to all issued and outstanding shares are held by the agency or a partnership in which more than 50% of the interest is held by the agency is a subsidiary of the agency. A legal person or partnership the majority of whose directors may be elected by the agency is also a subsidiary of the agency.

14. Sections 2 and 12 apply, with the necessary modifications, to subsidiaries of the agency all of whose shares are held directly or indirectly by the agency. Such subsidiaries are considered mandataries of the State.

The Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) applies to a subsidiary of the agency.

15. The agency may not, without the Government's authorization,

(1) contract a loan that causes the total of its current outstanding loans to exceed the amount determined by the Government;

(2) make a financial commitment in excess of the limits or contrary to the conditions determined by the Government;

(3) acquire or hold shares in a legal person or an interest in a partnership in excess of the limits or contrary to the conditions determined by the Government;

(4) dispose of shares in a legal person or an interest in a partnership in excess of the limits or contrary to the conditions determined by the Government;

(5) acquire or dispose of other assets in excess of the limits or contrary to the conditions determined by the Government; or

(6) accept a gift or legacy to which a charge or condition is attached.

The Government may determine that a provision of the first paragraph applies to all subsidiaries of the agency or to only one of them.

The first paragraph does not apply to transactions between the agency and its subsidiaries or between the subsidiaries of the agency.

16. Despite sections 58 to 60 and the first paragraph of section 61 of the Public Administration Act (R.S.Q., chapter A-6.01), the agency determines the terms of its contracts by regulation.

The second paragraph of section 61 of that Act applies to such a regulation, with the necessary modifications.

A regulation under the first paragraph is submitted to the Government for approval, on the recommendation of the Conseil du trésor, and the Government may approve it with or without amendments.

17. For the purposes of a mandate received from the Government under section 10 or from a public body, the agency may, with the authorization of the Government, acquire by expropriation any immovable or real right necessary to carry out a partnership project.

For the same purposes, it may lease or dispose of any property it owns.

18. The agency exercises any other function assigned to it by the Government.

CHAPTER III

ORGANIZATION AND OPERATION

19. The affairs of the agency are administered by a board of directors composed of

(1) the chief executive officer of the agency, who is a member of the board by virtue of office; and

(2) eight other members appointed by the Government, four of whom are from public bodies and four from the private sector.

20. The chief executive officer of the agency is appointed by the Government for a term not exceeding five years; the other board members are appointed for a term not exceeding three years.

On the expiry of their term, board members remain in office until replaced or reappointed.

21. The chair and vice-chair of the board of directors are designated by the Government from among the members of the board.

22. The positions of chair of the board of directors and chief executive officer may not be held concurrently.

23. The chief executive officer is responsible for the administration and direction of the agency in keeping with its regulations, by-laws and policies. The functions of chief executive officer are exercised on a full-time basis.

The chair calls and presides at meetings of the board of directors, sees to the proper conduct of the board's proceedings and exercises any other functions assigned by the board.

The vice-chair exercises the functions of the chair when the latter is absent or unable to act.

24. A vacant position on the board of directors, other than those of chair of the board and of chief executive officer, is filled by the Government for the unexpired portion of the term of the member to be replaced.

Absence from the number of board meetings determined in the internal by-laws of the agency, in the cases and circumstances specified, constitutes a vacancy.

25. The remuneration, employment benefits and other conditions of employment of the chief executive officer are determined by the Government.

The other board members receive no remuneration except in the cases, on the conditions and to the extent that may be determined by the Government. They are entitled, however, to the reimbursement of expenses incurred in the exercise of their functions in the cases, on the conditions and to the extent determined by the Government.

26. The quorum at meetings of the board of directors is the majority of its members, including the chief executive officer or the chair.

Decisions of the board are made by a majority vote of the members present. In the case of a tie vote, the person presiding at the meeting has a casting vote.

27. The members of the board of directors may waive notice of a meeting. Attendance at a meeting of the board constitutes a waiver of notice, unless the members are present to contest the legality of the meeting.

28. If all agree, the board members may take part in a meeting by means of equipment enabling all participants to communicate directly with one another.

29. Written resolutions, signed by all board members entitled to vote, have the same value as if they had been adopted during a meeting of the board of directors.

A copy of all such resolutions is kept with the minutes of the proceedings or other equivalent record book.

30. The minutes of the meetings of the board of directors, approved by the board and certified by the chair, the chief executive officer, the secretary or another person authorized by the agency, are authentic. The same applies to documents and copies emanating from the agency or forming part of its records, if they are so certified.

31. An intelligible transcription of a decision or other data stored by the agency in a computer or in any electronic form is a document of the agency and is evidence of its contents if it is certified by a person referred to in section 30.

32. A deed, document or writing is binding on and may be attributed to the agency only if it is signed by the chair, the chief executive officer, the vice-chair, the secretary or another personnel member authorized by the agency and, in the latter case, only to the extent determined by the by-laws of the agency.

33. The internal by-laws of the agency may, subject to specified conditions, allow a signature to be affixed by means of an automatic device, an electronic signature to be affixed, or a facsimile of a signature to be engraved, lithographed or printed on specified documents. However, the facsimile has the same force as the signature itself only if the document is countersigned by a person referred to in section 30.

34. The agency may determine the mode of operation of the board of directors in its internal by-laws. It may form an executive committee and any other committee, determine their mode of operation and delegate powers of the board to them.

35. The standards of ethics and professional conduct adopted by the agency for the members of the board of directors in accordance with a regulation made under section 3.0.1 of the Act respecting the Ministère du Conseil exécutif (R.S.Q., chapter M-30) are published by the agency in its operations report.

36. The agency adopts standards of ethics and professional conduct for its personnel. The standards must contain provisions that include, as a minimum, the requirements for public servants under the Public Service Act (R.S.Q., chapter F-3.1.1). The standards are published by the agency in its operations report.

37. The provisions relating to ethics and professional conduct adopted in accordance with a regulation made under section 3.0.1 of the Act respecting the Ministère du Conseil exécutif apply to a subsidiary of the agency, with the necessary modifications.

A subsidiary of the agency adopts standards of ethics and professional conduct for its personnel. The standards must contain provisions that include, as a minimum, the requirements for public servants under the Public Service Act (R.S.Q., chapter F-3.1.1).

A subsidiary makes public the standards it adopts under this section.

38. The secretary and the other members of the personnel of the agency are appointed in accordance with the staffing plan established by by-law of the agency.

Subject to the provisions of a collective agreement, the standards and scales of remuneration, employee benefits and other conditions of employment of the members of its personnel are determined by by-law of the agency in accordance with the conditions defined by the Government.

39. Any personnel member of the agency who has a direct or indirect interest in an enterprise causing the personnel member's personal interest to conflict with that of the agency must, on pain of forfeiture of office, disclose the interest in writing to the chief executive officer.

40. The chair of the Conseil du trésor may issue directives concerning the policies and general objectives to be pursued by the agency.

Directives are submitted to the Government for approval. Once approved, they are binding on the agency.

Directives are laid before the National Assembly within 15 days of their approval by the Government or, if the Assembly is not sitting, within 15 days of resumption.

CHAPTER IV

FINANCIAL PROVISIONS

41. The Government may, subject to the conditions it determines,

(1) guarantee payment of the principal and interest on any loan contracted by the agency or a subsidiary referred to in section 14 and guarantee their obligations; and

(2) authorize the Minister of Finance to advance to the agency or one of its subsidiaries any amount considered necessary to meet their obligations or pursue their mission.

The sums required for the purposes of this section are taken out of the consolidated revenue fund.

42. The agency may determine a tariff of commissions, professional and other fees for the use of its goods and services.

43. The operations of the agency are funded by the revenue it derives from its financial operations, the commissions and professional and other fees it charges and the other monies it receives.

44. The monies received by the agency must be allocated to the payment of its obligations. The agency retains any surpluses, unless the Government decides otherwise.

45. The Government reimburses the costs and expenses incurred by the agency in carrying out the mandates received under section 10.

46. Each year, the agency submits its budgetary estimates for the following fiscal year to the chair of the Conseil du trésor, in accordance with the form and content and the schedule determined by the chair of the Conseil du trésor.

The estimates are submitted to the Government for approval.

CHAPTER V

ACCOUNTS AND REPORTS

47. The fiscal year of the agency ends on 31 March.

48. Not later than 31 July each year, the agency files its financial statements and an operations report for the preceding fiscal year with the chair of the Conseil du trésor.

The financial statements and the operations report must contain all the information required by the chair of the Conseil du trésor.

49. The chair of the Conseil du trésor lays the financial statements and operations report before the National Assembly within 30 days of their receipt or, if the Assembly is not sitting, within 30 days of resumption.

50. The agency formulates a business plan, which must include the operations of its subsidiaries, in accordance with the schedule and the form and content determined by the chair of the Conseil du trésor. The plan is submitted to the Government for approval.

On expiry, the business plan continues to apply until a new plan is approved.

51. The Auditor General audits the books and accounts of the agency each year and whenever so ordered by the Government.

The Auditor General's report must be submitted with the agency's operations report and financial statements.

The Auditor General may, with regard to the agency and its subsidiaries, conduct a value-for-money audit without obtaining the prior concurrence provided for in the second paragraph of section 28 of the Auditor General Act (R.S.Q., chapter V-5.01).

52. The agency must communicate to the chair of the Conseil du trésor any information required by the chair of the Conseil du trésor concerning its operations and the operations of its subsidiaries.

CHAPTER VI

AMENDING PROVISIONS

FINANCIAL ADMINISTRATION ACT

53. Schedule 2 to the Financial Administration Act (R.S.Q., chapter A-6.001) is amended by inserting "Agence des partenariats public-privé du Québec" in alphabetical order.

ACT RESPECTING TRANSPORT INFRASTRUCTURE PARTNERSHIPS

54. The Act respecting transport infrastructure partnerships (R.S.Q., chapter P-9.001) is amended by inserting the following section after section 1:

"**1.1.** Section 8 of the Act respecting the Agence des partenariats public-privé du Québec (2004, chapter 32) applies to a partnership agreement that constitutes a public-private partnership contract within the meaning of that Act, except in the cases and subject to the conditions determined by the Government."

55. Section 5 of the said Act is amended by striking out the second paragraph.

ACT RESPECTING THE PROCESS OF NEGOTIATION OF THE COLLECTIVE AGREEMENTS IN THE PUBLIC AND PARAPUBLIC SECTORS

56. Schedule C to the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2), amended by Order in Council 464-2004 dated 12 May 2004, is again amended by inserting "The Agence des partenariats public-privé du Québec" in alphabetical order.

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

57. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), amended by Conseil du trésor

Decision 200976 dated 20 April 2004, is again amended by inserting "Agence des partenariats public-privé du Québec" in alphabetical order in paragraph 1.

ACT RESPECTING THE PENSION PLAN OF MANAGEMENT PERSONNEL

58. Schedule II to the Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1), amended by Conseil du trésor Decision 200976 dated 20 April 2004, is again amended by inserting "the Agence des partenariats public-privé du Québec" in alphabetical order in paragraph 1.

CHAPTER VII

TRANSITIONAL AND MISCELLANEOUS PROVISIONS

59. The records and other documents of the Direction des partenariats d'affaires of the Secrétariat du Conseil du trésor become records and documents of the Agence des partenariats public-privé du Québec.

60. Subject to the conditions of employment applicable to them, employees of the Secrétariat du Conseil du trésor assigned to the Direction des partenariats d'affaires in office on (*insert the date preceding the date of coming into force of this section*) become employees of the Agence des partenariats public-privé du Québec provided that a decision of the Conseil du trésor providing for their transfer is made before (*insert the date occurring one year after the date of coming into force of this section*).

61. Subject to the conditions of employment applicable to them, employees referred to in section 60 hold the positions and exercise the functions assigned to them by the agency.

62. An employee of the agency who, when appointed to the agency, was a public servant with permanent tenure may request a transfer to a position in the public service or take part in a promotion competition for such a position, in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

63. Section 35 of the Public Service Act applies to an employee referred to in section 62 who takes part in a promotion competition for a position in the public service.

64. An employee referred to in section 62 who applies for a transfer or takes part in a promotion competition may ask the chair of the Conseil du trésor for an assessment of the classification the employee would be assigned in the public service. The assessment must take into account the employee's classification on the last day of employment in the public service and the experience and training acquired in the course of employment with the agency.

If an employee is transferred under section 62, the deputy minister or chief executive officer determines the employee's classification in accordance with the assessment provided for in the first paragraph.

If an employee is promoted under section 62, the classification assigned to the employee must take into account the criteria set out in the first paragraph.

65. In the event of a partial or total discontinuance of the operations of the agency or a shortage of work, an employee referred to in section 62 is entitled to be placed on reserve in the public service with the classification held on the last day of employment in the public service.

In that case, the chair of the Conseil du trésor determines the employee's classification taking into account the criteria set out in the first paragraph of section 64.

66. A person who, in accordance with the applicable conditions of employment, refuses to be transferred to the agency is assigned to the agency until the chair of the Conseil du trésor is able to place the person in accordance with section 100 of the Public Service Act. The same applies to a person placed on reserve in accordance with section 65, which person remains in the employ of the agency.

67. Subject to remedies available under a collective agreement, an employee referred to in section 62 whose employment is terminated or who is dismissed may bring an appeal under section 33 of the Public Service Act.

68. A regulation under section 58 of the Public Administration Act applies to the agency until the date a regulation under section 17 of this Act takes effect.

69. The sums required to carry out this Act during the fiscal year 2005-2006 are taken out of the consolidated revenue fund to the extent determined by the Government.

70. Not later than (*insert the date occurring five years after the date of coming into force of section 5*) and subsequently every five years, the chair of the Conseil du trésor must ensure that the carrying out of this Act is the subject of an independent report.

The chair of the Conseil du trésor lays the report before the National Assembly within 30 days of its receipt or, if the Assembly is not sitting, within 30 days of resumption. The report is examined by the appropriate committee of the National Assembly.

71. The chair of the Conseil du trésor is responsible for the administration of this Act.

72. This Act comes into force on the date or dates to be set by the Government.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SEVENTH LEGISLATURE

Bill 63
(2004, chapter 30)

An Act respecting Services Québec

Introduced 17 June 2004
Passage in principle 16 November 2004
Passage 15 December 2004
Assented to 17 December 2004

Québec Official Publisher
2004

EXPLANATORY NOTES

This bill establishes Services Québec as a legal person and mandatary of the State.

The mission of Services Québec is to offer citizens and businesses throughout Québec a single window for simplified access to public services.

More particularly, Services Québec is responsible for developing an integrated approach to the delivery of public services to ensure efficiency and providing information and referral services to facilitate relations between the State and citizens or businesses. In addition, it is in charge of delivering public services on behalf of government departments, bodies and enterprises and ensuring optimal use of information technologies in the delivery of public services.

The bill provides that a public body and Services Québec may enter into an agreement by which the latter agrees to carry out specific operations related to the delivery of services on behalf of the public body and on the conditions stipulated in the agreement. The bill also provides that the Government may, on the conditions it determines, require one or more public bodies to have recourse to Services Québec for the carrying out of specific operations related to the delivery of services to citizens or businesses.

The bill defines Services Québec's organizational and operational rules and contains financial provisions specifying, among other things, the conditions applicable to the financial commitments Services Québec and its subsidiaries are authorized to make.

Moreover, the bill amends the Public Administration Act to provide for the appointment of a chief information officer and define the functions of that office.

Lastly, the bill contains transitional provisions and consequential amendments necessary for the establishment of Services Québec.

LEGISLATION AMENDED BY THIS BILL:

– Financial Administration Act (R.S.Q., chapter A-6.001);

– Public Administration Act (R.S.Q., chapter A-6.01);

– Act respecting the Ministère des Relations avec les citoyens et de l'Immigration (R.S.Q., chapter M-25.01).

Bill 63

AN ACT RESPECTING SERVICES QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I
ESTABLISHMENT

1. A legal person is established under the name "Services Québec".

2. Services Québec is a mandatary of the State.

The property of Services Québec forms part of the domain of the State, but the execution of its obligations may be levied against its property.

Services Québec binds none but itself when it acts in its own name.

3. The head office of Services Québec is located where Services Québec determines in the territory of the Communauté métropolitaine de Québec. Notice of the location and any relocation of the head office of Services Québec is published in the *Gazette officielle du Québec*.

Exceptionally, Services Québec may hold its meetings anywhere in Québec.

CHAPTER II
MISSION AND POWERS

4. The mission of Services Québec is to offer citizens and businesses throughout Québec a single window for simplified access to public services.

5. In pursuing its mission, Services Québec

(1) develops an integrated approach to the delivery of public services to ensure effectiveness;

(2) provides information and referral services to facilitate relations between the State and citizens or businesses;

(3) carries out operations for the delivery of services to citizens and businesses under an agreement or an order referred to in this Act;

(4) promotes access by citizens and businesses to the documents of public bodies and makes them public;

(5) fosters concerted action and partnership in the delivery of public services; and

(6) ensures optimal use of information technologies in the delivery of public services.

Services Québec exercises any other function assigned to it by the Government.

6. For the purposes of this Act, public bodies include

(1) government departments;

(2) persons and government bodies and enterprises referred to in section 2 of the Financial Administration Act (R.S.Q., chapter A-6.001);

(3) bodies whose personnel is appointed in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1); and

(4) government agencies engaged in fiduciary activities listed in the appendices to the public accounts.

7. A public body and Services Québec may enter into an agreement by which the latter agrees to carry out specific operations related to the delivery of services to citizens or businesses on behalf of the public body and on the conditions stipulated in the agreement.

The remuneration of Services Québec may be provided for in the agreement.

Services Québec may also enter into such an agreement with the National Assembly, with any person appointed or designated by the Assembly to exercise a function under the authority of the Assembly or with any legal person established in the public interest.

8. The Government may, on the conditions it determines, require one or more public bodies to have recourse to Services Québec for the carrying out of specific operations related to the delivery of services to citizens or businesses.

The remuneration of Services Québec by the public body concerned may be provided for in the order.

This section does not apply to the Conseil de la magistrature, to the committee on the remuneration of the judges of the Court of Québec and the municipal courts or to administrative bodies exercising adjudicative functions.

9. The Government may, to the extent and on the conditions it determines, transfer to Services Québec any document or property in the possession of a public body that is required for the carrying out of an agreement or order referred to in sections 7 and 8.

10. Services Québec may employ a person to see that an agreement or order is carried out; however, the carrying out of the agreement or order remains under the supervision and responsibility of Services Québec.

11. At the Minister's request, Services Québec advises the Minister on any matter under its jurisdiction and makes any recommendation it considers appropriate.

12. Services Québec may alienate the expertise it has acquired or developed and the related intellectual property. Services Québec may also provide consulting services related to its expertise.

13. Subject to the applicable legislative provisions, Services Québec may enter into an agreement with a government other than that of Québec, with a department of such a government, with an international organization or with a body of such a government or organization.

14. With the authorization of the Government and if useful in the pursuit of its mission, Services Québec may acquire or constitute one or more subsidiaries.

A legal person more than 50% of whose voting rights attached to all issued and outstanding shares are held by Services Québec or a partnership in which more than 50% of the interest is held by Services Québec is a subsidiary of Services Québec. A legal person or partnership the majority of whose directors may be elected by Services Québec is also a subsidiary of Services Québec.

15. Sections 2 and 10, with the necessary modifications, apply to subsidiaries of Services Québec all of whose shares are held directly or indirectly by Services Québec. Such subsidiaries are considered mandataries of the State.

The Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) and the Public Protector Act (R.S.Q., chapter P-32) apply to subsidiaries of Services Québec.

16. Services Québec may not, without the Government's authorization,

(1) contract a loan that causes the total of its current outstanding loans to exceed the amount determined by the Government;

(2) make a financial commitment in excess of the limits or contrary to the conditions determined by the Government;

(3) acquire or hold shares in a legal person or an interest in a partnership in excess of the limits or contrary to the conditions determined by the Government;

(4) dispose of shares in a legal person or an interest in a partnership in excess of the limits or contrary to the conditions determined by the Government;

(5) acquire or dispose of other assets in excess of the limits or contrary to the conditions determined by the Government; or

(6) accept a gift or legacy to which a charge or condition is attached.

The Government may determine that a provision of the first paragraph applies to all subsidiaries of Services Québec or to only one of them.

The first paragraph does not apply to transactions between Services Québec and its subsidiaries or between the subsidiaries of Services Québec.

17. Chapter II of the Public Administration Act (R.S.Q., chapter A-6.01) applies to Services Québec as if it were a body designated under the second paragraph of section 5 of that Act.

18. Services Québec must adopt a policy for the examination and handling of the complaints it receives in respect of its service delivery operations.

Services Québec reports on the policy in its annual management report and states the number and nature of the complaints received and the means used to settle the complaints.

CHAPTER III

ORGANIZATION AND OPERATION

19. The affairs of Services Québec are administered by a board of directors composed of

(1) ten members, including a president and director general, appointed by the Government; and

(2) the chief information officer appointed under section 66.1 of the Public Administration Act.

Except for the president and director general and the chief information officer, four board members must be deputy ministers, associate deputy ministers or assistant deputy ministers appointed under the Public Service Act or chief executive officers of public bodies, and five board members must be from sectors interested in the affairs of Services Québec, including a representative of the municipal sector and a representative of the Conseil des aînés.

20. The president and director general is appointed for a term not exceeding five years and the other board members, except for the chief information officer, for a term not exceeding three years.

On the expiry of their term, board members remain in office until replaced or reappointed.

21. The chair and vice-chair of the board of directors are appointed by the Government from among the members of the board.

22. The positions of president and director general and of chair of the board may not be held concurrently.

23. The chair calls and presides at meetings of the board of directors, sees to the proper conduct of the board's proceedings and exercises any other functions assigned by the board.

The vice-chair exercises the functions of the chair when the latter is absent or unable to act.

24. The president and director general is responsible for the administration and direction of Services Québec in keeping with its regulations, by-laws and policies. The functions of president and director general are exercised on a full-time basis.

25. A vacant position on the board of directors, other than that of chair or president and director general, is filled by the Government for the unexpired portion of the term of the member to be replaced.

Absence from the number of board meetings determined in the internal by-laws of Services Québec, in the cases and circumstances specified, constitutes a vacancy.

26. The remuneration, employment benefits and other conditions of employment of the president and director general are determined by the Government.

The other board members receive no remuneration except in the cases, on the conditions and to the extent that may be determined by the Government. They are entitled, however, to the reimbursement of expenses incurred in the exercise of their functions in the cases, on the conditions and to the extent determined by the Government.

27. The quorum at meetings of the board of directors is the majority of its members, including the president and director general or the chair.

Decisions of the board are made by a majority vote of the members present. In the case of a tie vote, the person presiding at the meeting has a casting vote.

28. The members of the board of directors may waive notice of a meeting. Attendance at a meeting of the board constitutes a waiver of notice, unless the members are present to contest the legality of the meeting.

29. If all agree, the board members may take part in a meeting by means of equipment enabling all participants to communicate directly with one another.

30. Written resolutions, signed by all board members entitled to vote, have the same value as if they had been adopted during a meeting of the board of directors.

A copy of all such resolutions is kept with the minutes of the proceedings or other equivalent record book.

31. The minutes of the meetings of the board of directors, approved by the board and certified by the chair, the vice-chair, the president and director general, the secretary or another person authorized by Services Québec, are authentic. The same applies to documents and copies emanating from Services Québec or forming part of its records, if they are so certified.

32. An intelligible transcription of a decision or other data stored by Services Québec in a computer or in a computer-readable medium is a document of Services Québec and is evidence of its contents if it is certified by a person referred to in section 31.

33. A deed, document or writing is binding on and may be attributed to Services Québec only if it is signed by the chair, the president and director general or another personnel member authorized by Services Québec and, in the latter case, only to the extent determined by regulation of Services Québec.

34. Services Québec may, by regulation and subject to specified conditions, allow a signature to be affixed by means of an automatic device, an electronic signature to be affixed, or a facsimile of a signature to be engraved, lithographed or printed on specified documents. However, the facsimile has the same force as the signature itself only if the document is countersigned by a person referred to in section 31.

35. Services Québec may, in its internal by-laws, determine the mode of operation of the board of directors. It may form an executive committee and any other committee, determine their mode of operation and delegate powers of the board to them.

36. The standards of ethics and professional conduct adopted by Services Québec for the members of the board of directors in accordance with a regulation made under section 3.0.1 of the Act respecting the Ministère du Conseil exécutif (R.S.Q., chapter M-30) are published by Services Québec in its annual management report.

37. The provisions relating to ethics and professional conduct adopted in accordance with a regulation made under section 3.0.1 of the Act respecting the Ministère du Conseil exécutif apply to a subsidiary of Services Québec, with the necessary modifications.

A subsidiary of Services Québec adopts standards of ethics and professional conduct for its personnel. The standards must contain provisions that include, as a minimum, the requirements for public servants under the Public Service Act.

A subsidiary makes public the standards it adopts under this section.

38. Services Québec must establish an audit committee under the authority of the board of directors.

The committee examines whether the resources of Services Québec are managed in accordance with the applicable rules and whether Services Québec uses its resources efficiently; the committee reports its findings and conclusions and any recommendations it may have to the board of directors.

The committee advises the board of directors on any matter submitted to it by the board.

39. The secretary and the other members of the personnel of Services Québec are appointed in accordance with the Public Service Act.

40. The Minister may issue directives concerning the policies and general objectives to be pursued by Services Québec.

Directives are submitted to the Government for approval. Once approved, they are binding on Services Québec.

Directives are laid before the National Assembly within 15 days of their approval by the Government or, if the Assembly is not sitting, within 15 days of resumption.

CHAPTER IV

FINANCIAL PROVISIONS

41. The Government may, subject to the conditions it determines,

(1) guarantee payment of the principal and interest on any loan contracted by Services Québec or a subsidiary referred to in section 15, and guarantee their obligations; and

(2) authorize the Minister of Finance to advance to Services Québec or one of its subsidiaries any amount considered necessary to meet their obligations or pursue their mission.

The sums required for the purposes of this section are taken out of the consolidated revenue fund.

42. The operations of Services Québec are funded by the revenue it derives from the commissions and professional and other fees it charges under an agreement or order, the proceeds from the goods and services it provides and the other monies it receives.

43. The monies received by Services Québec must be allocated to the payment of its obligations. Services Québec retains any surpluses, unless the Government decides otherwise.

44. Each year, Services Québec submits its budgetary estimates for the following fiscal year to the Minister, in accordance with the form and content and the schedule determined by the Minister.

The estimates are submitted to the Government for approval.

CHAPTER V

ACCOUNTS AND REPORTS

45. The fiscal year of Services Québec ends on 31 March.

46. Not later than 31 July each year, Services Québec files its financial statements for the preceding fiscal year with the Minister.

The financial statements must contain all the information required by the Minister.

47. The Minister lays the financial statements of Services Québec before the National Assembly within 30 days of their receipt or, if the Assembly is not sitting, within 30 days of resumption.

48. The Auditor General audits the books and accounts of Services Québec each year and whenever so ordered by the Government.

The Auditor General's report must be submitted with the financial statements of Services Québec.

The Auditor General may, as regards the subsidiaries of Services Québec, conduct a value-for-money audit without obtaining the concurrence provided for in the second paragraph of section 28 of the Auditor General Act (R.S.Q., chapter V-5.01).

49. The annual management report of Services Québec must include the information requested by the Minister.

CHAPTER VI

AMENDING PROVISIONS

FINANCIAL ADMINISTRATION ACT

50. Schedule 2 to the Financial Administration Act (R.S.Q., chapter A-6.001) is amended by inserting "Services Québec" in alphabetical order.

PUBLIC ADMINISTRATION ACT

51. Section 64 of the Public Administration Act (R.S.Q., chapter A-6.01) is amended by striking out "but not to bodies that are not budget-funded and whose personnel is not appointed in accordance with the Public Service Act (chapter F-3.1.1)".

52. The said Act is amended by inserting the following sections after section 66:

"**66.1.** The Government appoints a chief information officer in accordance with the Public Service Act (chapter F-3.1.1).

"**66.2.** The functions of the chief information officer include

(1) advising the Conseil du trésor on information resources and information security;

(2) advising the Conseil du trésor on policies, management frameworks, standards, systems and acquisitions in the area of information resources to achieve an optimal use of information and communications technologies, and taking part in the implementation process;

(3) developing a global approach and strategy for the information resources of the Administration, and submitting it to the Conseil du trésor;

(4) directing and coordinating the plan to implement an e-government initiative centred on the needs of citizens, businesses and the Administration;

(5) following up on the implementation of government policies and guidelines on information resources; and

(6) developing and proposing an approach to integrate and simplify the delivery of services to citizens and businesses.

"**66.3.** The chief information officer exercises any other function assigned by the chair of the Conseil du trésor or the Government."

ACT RESPECTING THE MINISTÈRE DES RELATIONS AVEC LES CITOYENS ET DE L'IMMIGRATION

53. Section 11 of the Act respecting the Ministère des Relations avec les citoyens et de l'Immigration (R.S.Q., chapter M-25.01) is amended by striking out paragraph 8.

CHAPTER VII

TRANSITIONAL AND MISCELLANEOUS PROVISIONS

54. Services Québec replaces the Minister of Relations with the Citizens and Immigration as regards the functions exercised under paragraph 8 of section 11 of the Act respecting the Ministère des Relations avec les citoyens et de l'Immigration (R.S.Q., chapter M-25.01). Services Québec acquires the related rights and assumes the related obligations of that Minister.

55. The Government may, to the extent and on the conditions it determines, transfer to Services Québec any document or property in the possession of the Minister of Relations with the Citizens and Immigration on (*insert the date preceding the date of coming into force of this section*) that is required for the exercise by Services Québec of the functions referred to in section 54. The same applies to any document and any property of the Direction générale du gouvernement en ligne of the Secrétariat du Conseil du trésor.

56. Services Québec becomes, without continuance of suit, a party to all proceedings to which the Minister of Relations with the Citizens and Immigration was a party in respect of the functions referred to in section 54.

57. The Government may, by a regulation made before (*insert the date occurring one year after the date of coming into force of this section*), adopt any other transitional provision or measure needed to carry out this Act.

A regulation made under the first paragraph is not subject to the publication requirement and date of coming into force set out in sections 8 and 17 of the Regulations Act (R.S.Q., chapter R-18.1). The regulation may, if it so provides, apply from any date not prior to (*insert the date of coming into force of this section*).

58. The sums required to carry out this Act during the fiscal year 2005-2006 are taken out of the consolidated revenue fund to the extent determined by the Government.

59. Not later than (*insert the date occurring five years after the date of coming into force of section 5*) and subsequently every five years, the Minister must ensure that the carrying out of this Act is the subject of an independent report.

The Minister lays the report before the National Assembly within 30 days of its receipt or, if the Assembly is not sitting, within 30 days of resumption. The report is examined by the appropriate committee of the National Assembly.

60. The Government designates the Minister responsible for the administration of this Act.

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

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SEVENTH LEGISLATURE

Bill 64
(2004, chapter 36)

An Act to amend the Election Act

Introduced 17 June 2004
Passage in principle 3 December 2004
Passage 16 December 2004
Assented to 17 December 2004

Québec Official Publisher
2004

EXPLANATORY NOTES

This bill amends the Election Act to revise authorization criteria for political parties following the ruling handed down by the Supreme Court of Canada on 27 June 2003 in the Figueroa case. The bill eliminates the requirement that a political party present 20 candidates to obtain and maintain an authorization.

The bill also grants the status of private intervenor to an authorized political party that presents no candidate at a general election or a by-election and notifies the chief electoral officer accordingly.

Bill 64

AN ACT TO AMEND THE ELECTION ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 47 of the Election Act (R.S.Q., chapter E-3.3) is amended by replacing the first two paragraphs by the following paragraph:

"**47.** A political party applying for authorization must submit with its application to the chief electoral officer the names, addresses, membership card numbers and expiration dates and signatures of at least 100 members of the party who are qualified electors and in favour of the application for authorization."

2. Section 69 of the said Act is amended

(1) by striking out the first paragraph;

(2) by striking out "also" in the first line of the second paragraph.

3. Section 457.2 of the said Act is amended by adding the following paragraphs at the end:

"An authorized political party that presents no candidate at a general election or a by-election and wishes to intervene as private intervenor must notify the chief electoral officer. It is deemed to hold an authorization from the chief electoral officer as a private intervenor from the date of receipt of the notification and the chief electoral officer shall issue an authorization number to it.

Sections 457.7 to 457.9 and 457.13 to 457.21 and the second paragraph of section 559 apply to the party, with the necessary modifications. For the purposes of those provisions, the leader of the party is deemed to be the elector representing the private intervenor referred to in the last paragraph of section 457.4.

An authorized political party that availed itself of sections 419 and 420 during an election period may not obtain the status of private intervenor during that period."

4. This Act comes into force on 17 December 2004.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SEVENTH LEGISLATURE

Bill 67
(2004, chapter 28)

An Act to amend the Act respecting financial assistance for education expenses

Introduced 11 November 2004
Passage in principle 9 December 2004
Passage 16 December 2004
Assented to 17 December 2004

Québec Official Publisher
2004

EXPLANATORY NOTES

This bill amends the Act respecting financial assistance for education expenses to extend eligibility for the financial assistance programs created by that Act not only to Canadian citizens and permanent residents, but also to people recognized as refugees or as people in need of protection, as well as to those who belong to another class of persons the Government may determine by regulation.

Bill 67

AN ACT TO AMEND THE ACT RESPECTING FINANCIAL ASSISTANCE FOR EDUCATION EXPENSES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 11 of the Act respecting financial assistance for education expenses (R.S.Q., chapter A-13.3), amended by section 7 of chapter 17 of the statutes of 2003, is again amended by replacing paragraph 1 by the following paragraph:

"(1) he is a Canadian citizen or, within the meaning of the Immigration and Refugee Protection Act (Statutes of Canada, 2001, chapter 27), a permanent resident or a protected person, or he belongs to another class of persons determined by regulation;".

2. Section 33 of the said Act, amended by section 26 of chapter 17 of the statutes of 2003, is again amended by replacing paragraph 1 by the following paragraph:

"(1) the person is a Canadian citizen or, within the meaning of the Immigration and Refugee Protection Act (Statutes of Canada, 2001, chapter 27), a permanent resident or a protected person, or the person belongs to another class of persons determined by regulation;".

3. Section 57 of the said Act, amended by section 41 of chapter 17 of the statutes of 2003, is again amended by inserting the following subparagraph after subparagraph 3.3 of the first paragraph:

"(3.4) determine, for the purposes of paragraph 1 of sections 11 and 33, the classes of persons eligible for a loan;".

4. This Act comes into force on 17 December 2004.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SEVENTH LEGISLATURE

Bill 73
(2004, chapter 38)

An Act to amend the Education Act and the Act respecting private education

Introduced 10 November 2004
Passage in principle 26 November 2004
Passage 16 December 2004
Assented to 17 December 2004

Québec Official Publisher
2004

EXPLANATORY NOTES

This bill amends the Education Act to allow the commissioners and the members of the executive committee of a school board to participate in a council or executive committee meeting through a means of communication.

A further purpose of the bill is to enable a school board and a private educational institution, in the cases and on the conditions determined by a regulation of the Minister of Education, to permit a departure from the provisions of a basic regulation that relate to the list of subjects so that a special school project may be carried out.

Bill 73

AN ACT TO AMEND THE EDUCATION ACT AND THE ACT RESPECTING PRIVATE EDUCATION

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 168.1 of the Education Act (R.S.Q., chapter I-13.3) is repealed.

2. Section 169 of the said Act is replaced by the following section:

"**169.** The council of commissioners may provide that, in the cases and on the conditions determined by by-law, a commissioner may participate in a meeting of the council of commissioners through a means that allows the persons participating in or attending the meeting to communicate directly with each other.

The person presiding over the meeting and the director general must be physically present at the place of the meeting.

A commissioner who participates in a meeting through such a means is deemed to be present at the meeting."

3. Section 222 of the said Act is amended by replacing the second sentence of the third paragraph by the following sentence: "However, a departure from the list of subjects may only be permitted in the cases and on the conditions determined by a regulation of the Minister made under section 457.2 or with the authorization of the Minister given in accordance with section 459."

4. The said Act is amended by inserting the following section after section 457.1:

"**457.2.** The Minister may determine by regulation the cases in which and the conditions on which a school board may permit a departure from the provisions of a basic regulation that relate to the list of subjects so that a special school project may be carried out.

The regulation must prescribe that a report be made to the Minister, at intervals determined by the Minister, on departures from those provisions granted to carry out special school projects."

5. Section 30 of the Act respecting private education (R.S.Q., chapter E-9.1) is amended by replacing the second sentence of the second paragraph by the following sentence: "However, the institution may only permit a departure from a list of subjects in the same cases and on the same conditions as those determined by a regulation made by the Minister under section 457.2 of the Education Act or with the authorization of the Minister given in accordance with the rules set out in section 459 of that Act."

6. The first regulation under section 457.2 of the Education Act enacted by section 4 of this Act may not be made until 60 days after its publication in the *Gazette officielle du Québec*.

7. This Act comes into force on 17 December 2004.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SEVENTH LEGISLATURE

Bill 75
(2004, chapter 29)

An Act respecting the exercise of certain municipal powers in certain urban agglomerations

Introduced 11 November 2004
Passage in principle 3 December 2004
Passage 15 December 2004
Assented to 17 December 2004

Québec Official Publisher
2004

EXPLANATORY NOTES

This bill gives effect to the results of the referendum polls held on 20 June 2004 under the Act respecting the consultation of citizens with respect to the territorial reorganization of certain municipalities.

The bill makes it legally possible to reconstitute each former municipality for which the results of the referendum poll show that the required majority of qualified voters voted in favour of such a reconstitution. It creates 11 urban agglomerations, each of which includes the territory of every municipality so reconstituted as well as the territory, reduced accordingly, of the current municipality affected by the reorganization.

The object of the bill is to determine the municipal powers that, rather than being exercised separately for each local municipal territory included in an urban agglomeration, are exercised for the whole agglomeration. A further object is to prescribe rules relating to the exercise of those powers, called "urban agglomeration powers". To that end, the Act creates the notion of "related municipalities" to designate all the municipalities the sum of whose territories forms an urban agglomeration, as well as the concept of "central municipality" to designate, within each urban agglomeration, the current municipality whose territory is to be reduced.

The bill sets out two types of urban agglomeration powers. Municipal powers pertaining to such matters as passenger transportation, the thoroughfares forming the arterial road system, police, civil protection and fire protection services, as well as to various elements relating to water supply, water purification, residual materials management and economic development are urban agglomeration powers. The bill also provides that the municipal power to prescribe rules pertaining to the management of equipment, infrastructures or activities that concern both the central municipality and at least one reconstituted municipality, and the municipal power to prescribe rules on the collective financing of expenditures relating to such equipment, infrastructures or activities and the sharing of related revenue are urban agglomeration powers.

The bill provides that only the central municipality exercises an urban agglomeration power by operation of law, in the whole territory of the agglomeration, through one of its deliberative bodies called the "urban agglomeration council". The bill gives the Government the power to prescribe by order, for each urban agglomeration, rules respecting the nature, composition and functioning of that council. All urban agglomeration councils, however, are to share certain common characteristics. Thus, each related municipality must be represented on the urban agglomeration council, a municipality's decision-making weight on the council must correspond to its relative demographic weight, and the meetings of the council must be public. In addition, the bill provides that when a representative of a related municipality participates in the deliberations and vote on a matter referred to the urban agglomeration council on which the council of the municipality previously took a particular stance, the representative must take a position in conformity with that stance.

The bill establishes financial rules relating to the exercise of urban agglomeration powers. It determines what constitutes urban agglomeration expenditures and revenues. It enacts taxation provisions to enable the urban agglomeration council and the regular council of the central municipality or the council of a reconstituted municipality to use concurrently, each for its own purposes, the powers to levy taxes and impose other methods of financing conferred on local municipalities in Québec.

The bill establishes a mechanism by which any related municipality may file its objection regarding decisions of the urban agglomeration council within a specified period, thus making the coming into force of the decision conditional on the approval of the Minister of Municipal Affairs, Sports and Recreation or an arbitrator designated by the Minister.

The bill grants the Government the power to make three types of orders in order to carry out the territorial reorganization resulting from the consultation of citizens held in the spring of 2004. A reconstitution order may be made for each former municipality to be reconstituted. An amending order may also be made to amend the charter of the current municipality in order to withdraw any element concerning a reconstituted municipality, mainly references to its territory. Lastly, an urban agglomeration order dealing with matters of interest to two or more related municipalities may be made. In addition to the nature, composition and functioning of the urban agglomeration council, this last order may contain provisions relating to the sharing of the current municipality's assets and liabilities or

establishing rules regarding the thoroughfares forming the arterial road system, the part of a waterworks or sewer system that comes under an urban agglomeration power or the list of equipment, infrastructures and activities of collective interest.

The bill proposes certain legislative amendments. It amends the Act respecting the consultation of citizens with respect to the territorial reorganization of certain municipalities in order to clarify certain provisions relating to the work of the transition committees and of the mandataries responsible for preparing the reorganization of the 11 current municipalities affected. It also amends the charters of Ville de Montréal, Ville de Québec and Ville de Longueuil to confirm the jurisdiction in the whole territory of the urban agglomeration, by operation of law, of the arts councils of those cities and their financing by urban agglomeration revenues.

Lastly, the bill contains miscellaneous, transitional and final provisions. The effect of one of these provisions is to treat a reconstituted municipality whose territory corresponds to the territory of a former municipality having obtained a recognition under the Charter of the French language as if it had obtained such a recognition.

LEGISLATION AMENDED BY THIS BILL:

– Charter of Ville de Longueuil (R.S.Q., chapter C-11.3);

– Charter of Ville de Montréal (R.S.Q., chapter C-11.4);

– Charter of Ville de Québec (R.S.Q., chapter C-11.5);

– Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3);

– Act respecting the consultation of citizens with respect to the territorial reorganization of certain municipalities (2003, chapter 14).

Bill 75

AN ACT RESPECTING THE EXERCISE OF CERTAIN MUNICIPAL POWERS IN CERTAIN URBAN AGGLOMERATIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

TITLE I

OBJECTS AND DEFINITIONS

1. The object of this Act is to determine the municipal powers that, rather than being exercised separately for each local municipal territory included in an urban agglomeration defined in Title II, must be exercised globally for that urban agglomeration.

A further object is to prescribe the rules for the exercise of those powers.

2. An urban agglomeration corresponds to the territory, as it exists on 17 December 2004, of Ville de Montréal, Ville de Québec, Ville de Longueuil, Ville de Mont-Laurier, Ville de La Tuque, Municipalité des Îles-de-la-Madeleine, Ville de Sainte-Agathe-des-Monts, Ville de Mont-Tremblant, Ville de Cookshire-Eaton, Ville de Rivière-Rouge or Ville de Sainte-Marguerite–Estérel.

In this Act, each such municipality is designated as a "city".

3. For the purposes of this Act,

(1) "former municipality" means a local municipality that ceased to exist upon the constitution of the city;

(2) "Minister", except in a minister's title, means the Minister of Municipal Affairs, Sports and Recreation;

(3) "reconstituted municipality", with respect to a city, means a local municipality constituted to give effect to the results of a referendum poll held under the Act respecting the consultation of citizens with respect to the territorial reorganization of certain municipalities (2003, chapter 14), whose territory corresponds to the territory of a former municipality;

(4) "body", in a provision specifying that it is a body of a local municipality, means a mandatary body of the municipality within the meaning of section 18 of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3), any other body otherwise under the authority of the municipality, or a supramunicipal body, within the meaning of that section, whose territory includes the territory of the municipality;

(5) "reorganization", with respect to a city, means all the acts provided for in an Act or statutory instrument to constitute the reconstituted municipality or municipalities whose territory is included in the territory of the city, and to reduce the territory of the city accordingly.

TITLE II

URBAN AGGLOMERATIONS, RELATED MUNICIPALITIES AND CENTRAL MUNICIPALITIES

4. The urban agglomeration of Montréal is made up of the territories of Ville de Montréal, Ville de Baie-d'Urfé, Ville de Beaconsfield, Ville de Côte-Saint-Luc, Ville de Dollard-des-Ormeaux, Ville de Dorval, Ville de Hampstead, Ville de Kirkland, Ville de L'Île-Dorval, Ville de Montréal-Est, Ville de Montréal-Ouest, Ville de Mont-Royal, Ville de Pointe-Claire, Ville de Sainte-Anne-de-Bellevue, Village de Senneville and Ville de Westmount.

5. The urban agglomeration of Québec is made up of the territories of Ville de Québec, Ville de L'Ancienne-Lorette and Municipalité de Saint-Augustin-de-Desmaures.

6. The urban agglomeration of Longueuil is made up of the territories of Ville de Longueuil, Ville de Boucherville, Ville de Brossard, Ville de Saint-Bruno-de-Montarville and Ville de Saint-Lambert.

7. The urban agglomeration of Mont-Laurier is made up of the territories of Ville de Mont-Laurier and Municipalité de Saint-Aimé-du-Lac-des-Îles.

8. The urban agglomeration of La Tuque is made up of the territories of Ville de La Tuque, Municipalité de La Bostonnais and Municipalité de Lac-Édouard.

9. The urban agglomeration of Îles-de-la-Madeleine is made up of the territories of Municipalité des Îles-de-la-Madeleine, Village de Cap-aux-Meules and Municipalité de Grosse-Île.

10. The urban agglomeration of Sainte-Agathe-des-Monts is made up of the territories of Ville de Sainte-Agathe-des-Monts and Municipalité d'Ivry-sur-le-Lac.

11. The urban agglomeration of Mont-Tremblant is made up of the territories of Ville de Mont-Tremblant and Municipalité de Lac-Tremblant-Nord.

12. The urban agglomeration of Cookshire-Eaton is made up of the territories of Ville de Cookshire-Eaton and Municipalité de Newport.

13. The urban agglomeration of Rivière-Rouge is made up of the territories of Ville de Rivière-Rouge and Municipalité de La Macaza.

14. The urban agglomeration of Sainte-Marguerite–Estérel is made up of the territories of Ville de Sainte-Marguerite-du-Lac-Masson and Ville d'Estérel.

15. The municipalities listed in the description of an urban agglomeration are related municipalities.

The first municipality mentioned for each urban agglomeration is the central municipality.

TITLE III

URBAN AGGLOMERATION POWERS

CHAPTER I

GENERAL PROVISIONS

16. Municipal powers over the matters referred to in Chapter II and the subjects referred to in Chapter III are urban agglomeration powers.

17. Only the central municipality, to the exclusion of the other related municipalities, may act with respect to those matters and subjects.

The central municipality has jurisdiction in its own territory and in the territory of any other related municipality over the acts that may be performed respecting those matters and subjects.

If a provision of an Act or a statutory instrument under that Act concerning such a matter or subject refers to the population of a municipality, the population of the central municipality is deemed to be the total population of all the related municipalities for the purposes of the provision.

18. If, according to an Act or an applicable statutory instrument, the act that may be performed respecting those matters and subjects is under the authority of a municipal council or an executive committee, the central municipality performs the act in the first case through its council provided for in Chapter I of Title IV and, in the second case, through that council or its executive committee, depending on what is specified in the order made under section 135.

That council is designated as an "urban agglomeration council".

CHAPTER II

MATTERS CONCERNING ALL THE RELATED MUNICIPALITIES

DIVISION I

GENERAL PROVISIONS

19. The following matters concern the related municipalities as a whole:

(1) municipal assessment;

(2) passenger transportation;

(3) the thoroughfares forming the arterial road system of the urban agglomeration;

(4) premises or facilities for the dumping of snow from the territory of the central municipality and at least one reconstituted municipality;

(5) water supply and water purification;

(6) residual materials disposal and reclamation, and the development and adoption of a residual materials management plan;

(7) municipal watercourses;

(8) the components of public security, namely,

(*a*) police, civil protection and fire protection services;

(*b*) the 9-1-1 emergency centre;

(*c*) the development and adoption of the civil protection plan and the fire safety cover plan;

(9) the municipal court;

(10) social housing and assistance intended specifically for the homeless;

(11) the components of economic development, namely,

(*a*) the promotion of the territory of a related municipality, including the promotion of tourism, when it is done outside that territory;

(*b*) tourist services in the urban agglomeration;

(*c*) local development centres;

(*d*) convention centres, ports and airports;

(*e*) industrial parks and railway sidings; and

(*f*) assistance intended specifically for a business; and

(12) if the central municipality succeeded a regional county municipality or an urban community, any other matter over which the central municipality now exercises jurisdiction and over which the regional county municipality or urban community exercised jurisdiction under a legislative provision.

20. The central municipality's jurisdiction over any of those matters applies to the extent specified, where applicable, in any of Divisions II to IX and subject to Chapter IV.

DIVISION II

MUNICIPAL ASSESSMENT

21. Unless a regional county municipality has jurisdiction over assessment for related municipalities under section 5 or 5.1 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), the central municipality has that jurisdiction for itself and, despite section 6 of that Act, for any other related municipality.

In that case, the central municipality is the municipal body responsible for assessment, within the meaning of that Act, as regards an assessment roll of a related municipality.

DIVISION III

ARTERIAL ROAD SYSTEM

22. The urban agglomeration council identifies the thoroughfares forming the arterial road system in the urban agglomeration, on a map, plan or other illustration specified in a by-law that is subject to the right of objection under section 115.

However, when such thoroughfares are identified in the order made under section 135, the urban agglomeration council is not required to identify them.

The urban agglomeration council may then only amend elements of the identification made in the order in the manner provided for in the first paragraph. In such a case, the document specified in the by-law must indicate how it differs from the identification made in the order.

23. The central municipality's exclusive jurisdiction over the thoroughfares identified covers road maintenance and management, including snow removal, signs and signals, and traffic and parking regulation.

However, it does not include the power to institute penal proceedings for contravening a provision of a by-law, a resolution or an order that concerns traffic or parking on such a thoroughfare. The related municipality in whose territory the contravention is committed may institute proceedings even if, in the case of a reconstituted municipality, the by-law, resolution or order was not adopted by the council or executive committee.

24. The central municipality's exclusive jurisdiction over a thoroughfare also includes, depending on whether or not it is in the central municipality's territory, the obligation to use or obtain a sum determined under the second paragraph to finance expenditures related to the exercise of an urban agglomeration power.

The sum is the part of the subsidy, paid under a program established by the Government, a minister or a government body to compensate the municipalities for road maintenance, that is attributable to the thoroughfare referred to in the first paragraph.

DIVISION IV

WATER SUPPLY AND WATER PURIFICATION

25. In the case of the urban agglomeration of Montréal, the urban agglomeration of Québec and the urban agglomeration of Longueuil, the central municipality's exclusive jurisdiction over water supply and water purification does not include the installation, repair and maintenance of purely local water or sewer mains or the connecting of water or sewer mains to an immovable.

All water or sewer mains that are not trunk lines within the meaning of section 26 are purely local. They include the equipment accessory to them, such as, in the case of waterworks, hydrants, cocks, valves and boosters.

26. In the case of a waterworks system, a water main used to transport drinking water from the filtration plant to a reservoir, or from a reservoir to a water distribution main, is a trunk water main.

In the case of a sewer system, an interceptor or main used to transport waste water from a branch line situated under a thoroughfare to an interceptor, or to discharge drainage water from such a sewer main into a watercourse or a retention basin, is a trunk interceptor or trunk sewer main.

27. The urban agglomeration council identifies the water or sewer mains that are not purely local on a map, plan or other illustration specified in a by-law that is subject to the right of objection under section 115.

However, when such water or sewer mains are identified in the order made under section 135, the urban agglomeration council is not required to identify them.

The urban agglomeration council may then only amend elements of the identification made in the order in the manner provided for in the first paragraph. In such a case, the document specified in the by-law must indicate how it differs from the identification made in the order.

28. In the case of any urban agglomeration other than those referred to in section 25, the central municipality only has exclusive jurisdiction over water supply and water purification if, immediately before the city was constituted, jurisdiction over that matter was exercised under an agreement between former municipalities. The central municipality's exclusive jurisdiction applies only to infrastructures and equipment covered by that agreement and those replacing them.

If, however, none of the territories of the former municipalities party to the agreement are included in the central municipality's territory, the central municipality does not have exclusive jurisdiction over water supply and water purification.

For the purposes of the first two paragraphs, a pooling of infrastructures and equipment through the assumption of jurisdiction by a regional county municipality is considered to be a pooling of infrastructures and equipment under an agreement.

DIVISION V

SOCIAL HOUSING

29. The central municipality's exclusive jurisdiction over social housing applies, subject to the power of a regional county municipality to take on certain aspects of the financing of social housing under article 681.2 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) or the obligation of the Communauté métropolitaine de Montréal to do so under section 153 of the Act respecting the Communauté métropolitaine de Montréal (R.S.Q., chapter C-37.01).

DIVISION VI

LOCAL DEVELOPMENT CENTRE

30. If the central municipality's exclusive jurisdiction over local development centres includes the power to determine the number of such centres in the urban agglomeration and to define the territory in which each centre has jurisdiction, the urban agglomeration council exercises this power by a by-law that is subject to the right of objection under section 115.

DIVISION VII

PORT AND AIRPORT

31. The central municipality's exclusive jurisdiction over ports and airports applies only if the main vocation of the port or airport is neither to serve recreational craft nor to provide access to an immovable for the owner of the immovable, a person residing or working in or on that immovable or a visitor or client.

DIVISION VIII

INDUSTRIAL PARK

32. An industrial park is any group of immovables forming an identifiable whole in the territory of a municipality and consisting of

(1) land acquired under the Act respecting municipal industrial immovables (R.S.Q., chapter I-0.1), another Act or a statutory instrument whose object is to allow a municipality or a municipal body to provide businesses with immovables for industrial, para-industrial or research purposes, including technology;

(2) improvements to the land referred to in paragraph 1; and

(3) buildings and other structures on the land referred to in paragraph 1.

33. The central municipality's exclusive jurisdiction over an industrial park includes the functions provided for by a legislative provision or a text referred to in paragraph 1 of section 32 to create a new park or manage an existing park.

34. In the exercise of functions relating to the management of an industrial park, the urban agglomeration council may make decisions to alienate or lease an immovable included in the park by a by-law subject to the right of objection under section 115.

35. The central municipality's exclusive jurisdiction over an industrial park also includes, depending on whether or not the park is in the central municipality's territory, the obligation to use or to obtain a sum determined under the second paragraph to finance expenditures related to the exercise of an urban agglomeration power.

The sum is the balance of the revenue derived from the presence of the industrial park for a fiscal year, except revenue from a tax or other method of financing imposed by the urban agglomeration council, once the following have been excluded:

(1) that which must by law be used, for the fiscal year, to discharge commitments made for the park; and

(2) that which is taken into consideration in establishing the aggregate taxation rate of a municipality.

36. The urban agglomeration council may prescribe, by a by-law subject to the right of objection under section 115, that an existing industrial park it identifies is outside its exclusive jurisdiction.

DIVISION IX

BUSINESS ASSISTANCE

37. The central municipality's exclusive jurisdiction over assistance intended specifically for a business applies as regards a tax credit in the manner specified in the second and third paragraphs.

The urban agglomeration council may grant a tax credit reducing the amount of any tax it levies.

No related municipality, including the central municipality, may grant a tax credit reducing the amount of another tax.

38. The urban agglomeration council may, by a by-law subject to the right of objection under section 115,

(1) specify what constitutes and what does not constitute assistance intended specifically for a business; and

(2) prescribe that a type of assistance it specifies is outside the central municipality's exclusive jurisdiction, even if the type of assistance specified is intended specifically for a business.

CHAPTER III

EQUIPMENT, INFRASTRUCTURES AND ACTIVITIES OF COLLECTIVE INTEREST

39. The urban agglomeration council may draw up a list of the equipment located in the urban agglomeration that meets the conditions set out in section 40.

However, if such a list is included in the order made under section 135, the urban agglomeration council may amend it but may not draw up another list.

40. Equipment may appear on the list if the following three conditions are met:

(1) the equipment belongs to a related municipality or a body of a related municipality;

(2) it is appropriate that the central municipality and at least one reconstituted municipality jointly finance the related expenditures or share the related revenue; and

(3) the equipment is not referred to in a by-law in force under article 681.1 of the Municipal Code of Québec (R.S.Q., chapter C-27.1), an agreement or order in force under Division IV.1 of the Act respecting the Commission municipale (R.S.Q., chapter C-35) or Schedule V to the Act respecting the Communauté métropolitaine de Montréal (R.S.Q., chapter C-37.01), or a by-law in force under Division V of Chapter III of that Act or Division VI of Chapter III of the Act respecting the Communauté métropolitaine de Québec (R.S.Q., chapter C-37.02).

The condition prescribed in subparagraph 2 of the second paragraph is met when the equipment is relatively well-known, unique in the urban agglomeration, or widely used by citizens or ratepayers of a related municipality although not located in its territory.

41. The central municipality's exclusive jurisdiction over equipment on the list consists in the power of the urban agglomeration council to establish, by a by-law subject to the right of objection under section 115, rules on the subjects referred to in the second paragraph that concern both the central municipality and at least one reconstituted municipality.

Those subjects are the management of equipment, the financing of related expenditures and the sharing of related revenue.

Revenue must be shared equitably on the basis of the respective participation of the related municipalities in financing expenditures.

42. The rules established for equipment on the list may, however, prescribe that the equipment is managed, related expenditures are financed and related revenue is shared in the same manner as if the equipment were property related to the exercise of urban agglomeration jurisdiction over a matter referred to in Chapter II.

43. The resolution by which the urban agglomeration council draws up or amends the list must set out appropriate conditions for transition purposes regarding any subject referred to in section 41 in relation to equipment added to or removed from the list.

To come into force, the resolution must be approved by the Minister or by the person designated by the Minister to examine the merits of the resolution and make a decision in the Minister's place.

If equipment is removed from the list, that approval may be given only once a resolution expressing the agreement of the municipality concerned has been adopted by the council that would have the authority to make decisions concerning a subject referred to in section 41 in relation to that equipment, should the resolution of the urban agglomeration council come into force.

The reasons for a refusal to grant approval must be given in writing.

44. Sections 39 to 43 apply, with the necessary modifications, to an infrastructure or activity, particularly to the provision of assistance for the purpose of carrying out a project.

An activity of a municipality or a municipal body may be covered by those sections even if the project in relation to which the activity is carried on is not initiated by the municipality or body.

CHAPTER IV

COMPLEMENTARY PROVISIONS

DIVISION I

POWERS NOT EXERCISED ACCORDING TO GENERAL RULES

45. An urban agglomeration power is not required to be exercised by the sole fact that it has been conferred on the central municipality by a provision of Chapter II or Chapter III.

That sole fact does not prevent a regional county municipality from exercising its right to assume all or part of that power. The power must be assumed in respect of all the related municipalities or all their territories.

The sole fact that the power has been conferred on the central municipality does not prevent the central municipality from delegating all or part of the power, in particular to a reconstituted municipality, by an agreement entered into according to the applicable rules. The delegation may be made in respect of a reconstituted municipality or its territory only if the reconstituted municipality is the delegatee or if it enters into the agreement in order to accept that the delegatee act for the reconstituted municipality or in its territory.

Any provision respecting the exercise of an urban agglomeration power is also deemed to pertain, where applicable, to the exercise of only part of the power or to the exercise of all or part of the power as regards only some of the related municipalities or in only a few of their territories.

46. If, following delegation by agreement, a power is exercised by each reconstituted municipality for itself or in its own territory, any act inherent in the exercise of the power in respect of the central municipality or in its territory which, according to section 18, should be performed by the urban agglomeration council, must rather be performed by the regular municipal council.

That substitution does not apply to the power or obligation of the urban agglomeration council to make by-laws or levy taxes.

47. The urban agglomeration council may prescribe, by a by-law subject to the right of objection under section 115, that an urban agglomeration power is exercised, in respect of a related municipality or in its territory, by the council of that related municipality or, in the case of the central municipality, by the regular council of the central municipality.

The by-law must apply to all the related municipalities or their territories. It may prescribe the conditions and manner of the delegation, which must not involve discrimination based on the municipalities or their territories.

48. In any case other than the cases referred to in sections 46 and 47, the urban agglomeration council and the regular council of the central municipality may, by similar resolutions, provide for the delegation, for a set period, of the exercise of an urban agglomeration power in respect of the municipality or in its territory.

Once the two resolutions are in force for the set period, the substitution under section 46 applies.

49. A provision of an Act or statutory instrument that gives a borough council a right, power or obligation as regards a given subject is completely or partially without effect, to the extent that all or part of the subject comes under an urban agglomeration power.

However, if the regular council of the central municipality has been delegated the exercise of that power under sections 46 to 48, it may subdelegate the power as regards the borough to the borough council, according to the rules set out by the charter of the municipality.

50. Before making a decision whose object is to have the central municipality participate, alone or with a partner, in the creation of a body that will exercise an urban agglomeration power in respect of a related municipality or in the territory of the related municipality, the urban agglomeration council must be authorized to do so by the council of that municipality, and, where applicable, by the regular council of the central municipality.

The first paragraph does not apply if the powers exercised by the body in fulfilling its mission do not include an act normally performed by the urban agglomeration council.

51. If, immediately before the reorganization of the city whose territory corresponds to the urban agglomeration, an urban agglomeration power is exercised by a municipal body under an agreement entered into by the city, the agreement is maintained as if all the related municipalities were party to it, and the acts performed by the central municipality under the agreement are deemed to be performed in the exercise of the urban agglomeration power.

For the purposes of the first paragraph and of section 52, "municipal body" has the meaning assigned by section 307 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2), and also means a local municipality.

52. If, immediately before the reorganization of the city whose territory corresponds to the urban agglomeration, an urban agglomeration power belongs to a municipal body and the power is neither temporary nor revocable, it is not conferred on the central municipality.

A power is deemed revocable if it is exercised by a body established by the city which may be dissolved by order or at the sole request of the city.

The first paragraph does not apply during the period in which, under the law applicable immediately before the city is reorganized, the central municipality and the municipal body simultaneously exercise jurisdiction over the same matter.

53. If, immediately before the reorganization of the city whose territory corresponds to the urban agglomeration, police services are provided to the city by the Sûreté du Québec, the urban agglomeration power regarding such services is not conferred on the central municipality.

DIVISION II

INHERENT OR ACCESSORY ACTS

54. Decision making related to acts inherent in or accessory to the exercise of an urban agglomeration power is deemed part of the power.

Such acts include:

(1) the making of an agreement or any other form of contract;

(2) the imposition of a method of financing and the inclusion of an item in the budget or the capital expenditure program;

(3) the allocation of human or physical resources;

(4) the taking of other administrative measures or the setting of standards; and

(5) the response to a resolution announcing a regional county municipality's intention to assume all or part of a power for related municipalities.

DIVISION III

CONCURRENT POWERS

55. If the infrastructures and equipment forming a system consist both of infrastructures and equipment that come under an urban agglomeration power, and infrastructures and equipment that do not, the urban agglomeration council may, by a by-law subject to the right of objection under section 115, establish rules so that the exercise of a power as regards the latter infrastructures and equipment does not affect the former infrastructures and equipment in such a way as to significantly reduce the leeway of the central municipality in exercising the urban agglomeration power.

Every related municipality must comply with the rules established in such a by-law that is in force.

The power conferred by the first paragraph applies in particular to thoroughfares, water supply, water purification and residual materials.

56. In addition to the case referred to in section 55, the urban agglomeration council may, by a by-law subject to the right of objection under section 115, establish rules to prevent the exercise of an urban agglomeration power and of another power as regards the same persons or the same property from causing needless inconvenience and to foster consistency of action.

Every related municipality must comply with the rules established in such a by-law that is in force.

57. If an act that, according to an Act or a statutory instrument applicable to the central municipality, must be performed by the central municipality's council or executive committee, comes under both an urban agglomeration power and another power, the act is performed by the deliberative body specified in section 18.

If the act involves expenditures, the expenditures are mixed and are subject to the by-law under section 69.

TITLE IV

RULES RELATING TO THE EXERCISE OF URBAN AGGLOMERATION POWERS

CHAPTER I

URBAN AGGLOMERATION COUNCIL

58. Every central municipality has an urban agglomeration council the nature, composition and operating rules of which are set out in the order made under section 135.

The council is a deliberative body of the municipality.

59. The order must respect the following principles:

(1) every related municipality must be represented on the urban agglomeration council;

(2) the number of votes assigned to the representative or to all the representatives of each related municipality must be in the same proportion to the number of votes assigned to all the members of the urban agglomeration council as the population of the municipality is to the total population of all the related municipalities; and

(3) the meetings of the urban agglomeration council must be public.

60. In the case of a central municipality that has an executive committee, the executive committee may exercise an urban agglomeration power, depending on what is specified in the order made under section 135.

61. At a meeting of the council of a related municipality, the mayor

(1) informs the council of the matters that are to be considered at a future meeting of the urban agglomeration council;

(2) sets out the position the mayor intends to take on any matter referred to in paragraph 1, discusses that position with the other members present and proposes the adoption of a resolution establishing the council's stance; and

(3) reports on the decisions made by the urban agglomeration council at a previous meeting.

62. If the regular council of the central municipality or the council of a reconstituted municipality takes a stance on a matter that is to be referred to the urban agglomeration council, every member of the urban agglomeration council representing that municipality must, during the discussion and vote on the matter, act in conformity with the stance taken.

63. If all the members of the regular council of the municipality are on the urban agglomeration council, sections 61 and 62 do not apply to the mayor of the central municipality and to a representative of that municipality, respectively.

64. For the purposes of the provisions of this chapter and of the order made under section 135 that relate to the urban agglomeration council, Ville de L'Île-Dorval is not taken into consideration with respect to the urban agglomeration of Montréal.

Its territory is deemed to be included in the territory of Ville de Dorval.

CHAPTER II

URBAN AGGLOMERATION FINANCES

DIVISION I

URBAN AGGLOMERATION EXPENDITURES

65. The expenditures incurred by the central municipality in the exercise of urban agglomeration powers are treated separately from those incurred in the exercise of other powers.

66. Expenditures related to equipment, infrastructures or activities of collective interest are deemed to be incurred in the exercise of urban agglomeration powers, if the rules the content of which is provided for in section 42 apply to those expenditures.

67. Expenditures related to the conditions of employment of the members of deliberative bodies authorized to exercise urban agglomeration powers that are urban agglomeration expenditures according to the order made under section 135 are deemed to be incurred in the exercise of urban agglomeration powers.

The order may determine the circumstances in which the expenditures related to those conditions of employment are mixed expenditures.

68. In addition to what is prescribed in section 57 and in the order made under section 135, expenditures incurred by the central municipality in the exercise of both urban agglomeration powers and other powers are mixed expenditures if

(1) an employee of the municipality or a contractor or service provider under contract with the municipality performs an act; or

(2) property for which the municipality assumes the capital costs or usage costs is used.

69. The urban agglomeration council, by a by-law subject to the right of objection under section 115, establishes criteria for determining what part of a mixed expenditure is an expenditure incurred in the exercise of urban agglomeration powers.

The by-law may define classes among the mixed expenditures and establish different criteria according to the classes.

70. The auditor responsible for expressing an opinion on the aggregate taxation rate of the central municipality must also provide an opinion on the breakdown of the mixed expenditures.

The auditor is deemed to have a favourable opinion as to the breakdown upon declaring the aggregate taxation rate in compliance.

DIVISION II

URBAN AGGLOMERATION REVENUES

71. The revenues of the central municipality derived from the exercise of an urban agglomeration power must be applied to the financing of the expenditures incurred in the exercise of that power.

The same applies for the revenues derived from a method of financing if, under an Act or statutory instrument, those revenues are to be applied to the financing of such expenditures.

72. The revenues from the following activities are deemed to derive from the exercise of an urban agglomeration power:

(1) the issuance of permits, certificates and other authorizations under by-laws, resolutions and orders of a deliberative body exercising an urban agglomeration power;

(2) the imposition of fines and other monetary penalties and the charging of costs for offences under by-laws, resolutions and orders referred to in paragraph 1 that do not concern traffic or parking on thoroughfares; and

(3) the remittance of costs owing to the fact that a municipal court comes under the central municipality.

73. The revenues from equipment, an infrastructure or an activity of collective interest are deemed to derive from the exercise of an urban agglomeration power if the rules the content of which is provided for in section 42 apply to those revenues.

74. In addition to what is set out in section 72, the share of the revenues that is to be allocated to an interested municipality under an Act, a statutory instrument or a contract, when those revenues are from fines, other monetary penalties and costs relating to offences under certain legislative provisions that municipalities are responsible for enforcing and that do not concern traffic or parking on thoroughfares, is paid to the central municipality, to the exclusion of any other related municipality.

A provision or stipulation prescribing the payment of that share as regards such offences committed in an urban agglomeration is deemed to apply only to the central municipality.

75. Any sum or part of a sum referred to in any of the following paragraphs to which a related municipality is entitled under a program established by the

Government, a minister or a government body is paid to the central municipality, to the exclusion of any other related municipality.

The central municipality receives any sum provided for in

(1) the program to promote municipal mergers; and

(2) the program to promote municipal reorganization.

The central municipality receives any part, designated under the program as being intended for urban agglomeration purposes, of any sum provided for in

(1) the element relating to compensations to stand in lieu of taxes, in the program designed to neutralize the financial effects of a municipal merger;

(2) the program relating to payment of compensation as regards public lands; and

(3) the program relating to payment of "levelling" compensation.

If the central municipality succeeded to the rights and obligations of a regional county municipality, it receives any sum provided for in

(1) the element relating to duties for the exploitation of resources, in the program designed to promote the diversification of municipal revenues; and

(2) the assistance program for regional county municipalities.

76. The sums referred to in sections 74 and 75 and the revenues from any tax or other method of financing imposed by the urban agglomeration council must be allocated exclusively to the financing of expenditures incurred in the exercise of an urban agglomeration power.

The same applies, with respect to a sum referred to in the second paragraph of section 86, to the part of the sum that is paid to the central municipality by reason of the taxes, compensations and modes of tariffing imposed by the urban agglomeration council.

DIVISION III

TAXATION PROVISIONS

§ 1. — *Interpretation*

77. For the purposes of this division, "Act", except in the title of an Act, means the Act respecting municipal taxation (R.S.Q., chapter F-2.1).

§ 2. — *Assessment roll*

78. If any of the related municipalities does not have a roll of rental values, the urban agglomeration council may, for the purpose of its own taxation powers, decide that the municipality has such a roll.

It makes the decision by a by-law subject to the right of objection under section 115.

Section 14.1 of the Act applies to the by-law and, where applicable, to the by-law repealing it as if they were resolutions adopted by the council of the municipality concerned.

79. Where the property assessment roll of any of the related municipalities does not contain the indications identifying each unit of assessment belonging to each of the categories provided for in sections 244.34 to 244.36 of the Act or specifying to which class provided for in section 244.54 of the Act each unit belonging to the category provided for in that section 244.34 belongs, the urban agglomeration council may, for the purposes of its own taxation powers, decide that the roll must contain such indications.

Section 57.1.1 of the Act applies to the resolution adopted to that effect by the urban agglomeration council as if it were a resolution adopted by the council of the municipality concerned.

80. The equilibration defined in section 46.1 of the Act must be effected upon the establishment of each assessment roll of a related municipality, even though its population is less than 5,000 inhabitants, if the population of another related municipality is equal to or greater than that number.

If the population of every related municipality is less than 5,000 inhabitants, the decision to effect or not to effect the equilibration, if it is not compulsory, must be uniform for all related municipalities.

81. The assessment rolls of all related municipalities are drawn up and deposited so that they come into force simultaneously and apply for the same fiscal years.

They must be deposited on the same day. Otherwise, they are deemed not to have been deposited within the time limit prescribed by the Act.

For the purpose of complying with this requirement, the municipal body responsible for assessment may, under section 71 of the Act, postpone the deposit of a roll even though it could deposit the roll before 16 September preceding the first fiscal year for which the roll was drawn up.

82. The expression “urban agglomeration property roll” means, subject to the adjustment provided for in the second paragraph, the aggregate of all the property assessment rolls of the related municipalities that are applicable simultaneously.

For the purposes of the urban agglomeration property roll, each value entered on the property assessment roll of a reconstituted municipality is adjusted by dividing it by the median proportion of that roll and by multiplying the quotient so obtained by the median proportion of the property assessment roll of the central municipality.

For the purposes of the second paragraph, the median proportion of a roll is that established under section 264 of the Act for the first fiscal year for which the roll applies.

If all the related municipalities have a roll of rental values, the first three paragraphs apply, with the necessary modifications, and the aggregate of such rolls is called the "urban agglomeration rental roll".

83. The assessor must produce and send a summary of the urban agglomeration property roll.

The provisions of the regulation made under paragraph 1 of section 263 of the Act that relate to the summary of a property assessment roll apply, with the necessary modifications and in particular with the modifications provided for in the third and fourth paragraphs, as regards the summary of the urban agglomeration property roll.

The summary reflecting the state of the urban agglomeration property roll on the date it is deposited is produced by the assessor within ten days after the day on which the median proportions and comparative factors of all the property assessment rolls of the related municipalities are established, under section 264 of the Act, for the first fiscal year for which the rolls apply.

The assessor sends the summary to the clerk or secretary-treasurer of the central municipality within the same time as the time within which the assessor must, under the regulation made under the second paragraph, send the Minister the form filled out on the basis of the information included in the summary. The assessor is exempted from sending the form to the Minister.

However, the exemption does not render inoperative a provision of an Act or a statutory instrument that refers to the form in order to identify data contained in the property assessment roll, if that provision is applicable as regards the urban agglomeration property roll. In that case, the provision applies as if the assessor had filled out the form to send it to the Minister.

84. The median proportion and the comparative factor of the urban agglomeration property roll and the urban agglomeration rental roll, for a fiscal year, are those established under section 264 of the Act for that fiscal year for the property assessment roll of the central municipality.

§ 3. — *Taxes and other methods of financing*

85. For the purpose of financing expenditures incurred in the exercise of an urban agglomeration power, the urban agglomeration council may, by a by-law subject to the right of objection under section 115, levy any tax or impose any other method of financing that may be levied or imposed by a local municipality.

However, it may not levy such a tax or impose such other method of financing if the revenues derived must, under an Act or statutory instrument, be allocated exclusively to the financing of expenditures other than those referred to in the first paragraph.

Likewise, the regular council of the central municipality or the council of a reconstituted municipality may not levy a tax or impose another method of financing if the revenues from such tax or other method of financing must, under an Act or statutory instrument, be allocated exclusively to the financing of expenditures incurred in the exercise of an urban agglomeration power.

86. Subject to the second and third paragraphs of section 85, the urban agglomeration council and the regular council of the central municipality or the council of a reconstituted municipality may exercise concurrently the power conferred on them to levy the same tax or impose the same other method of financing.

The Government must therefore treat separately the part of the sum it must pay to a related municipality under section 210, 254 or 257 of the Act that stands in lieu of taxes, compensations and modes of tariffing imposed by the urban agglomeration council, and the other part of that sum. In addition, each of the corresponding parts of any sum paid under a program established by the Government, a minister or a government body to increase the compensations standing in lieu of taxes paid to the municipalities must also be treated separately.

For the purposes of this Act, the sum that the Government must pay under the second sentence of the first paragraph of section 257 of the Act is considered to be a compensation standing in lieu of taxes, compensations and modes of tariffing referred to in that sentence.

87. If the account sent to a taxpayer includes the taxes or compensations that the taxpayer is required to pay as a result of decisions made both by the urban agglomeration council and by the regular council of the central municipality or the council of the reconstituted municipality, each of the taxes or compensations imposed by each of the councils must be identified and detailed in the account in accordance with the regulation under paragraph 2 of section 263 of the Act.

If separate accounts are sent for the taxes or compensations imposed by each council, each tax or compensation appearing in each account must be detailed in accordance with that regulation.

88. If the urban agglomeration council levies a tax based on property value or rental value, the values used as the basis for the calculation of the amount of the tax are the values that are considered, under section 82, to be entered on the urban agglomeration property or rental roll. Any reference to the property assessment roll or the rental roll of the municipality, as the case may be, in any provision relating to the tax so levied by the urban agglomeration council, is deemed to be a reference to the urban agglomeration property or rental roll.

The same applies to any compensation in lieu of a tax provided for in section 210, 254 or 257 of the Act.

The same also applies to any compensation provided for in section 205 of the Act.

The first three paragraphs apply subject to the power of the urban agglomeration council under section 106 to take advantage of the averaging of the variation in the taxable values resulting from the coming into force of the roll.

89. The general property tax rate to which section 205.1 of the Act refers is the rate fixed by the council imposing the compensation provided for in section 205 of the Act.

The sums to which that section 205.1 refers are the sums that would be payable in respect of the immovable concerned and that would derive from municipal taxes, compensations or modes of tariffing imposed by the council imposing the compensation provided for in that section 205.

The figures 0.006 and 0.01 appearing in the first and second paragraphs of that section 205.1 are replaced by the figures determined in accordance with the rules prescribed by the order made under section 135.

90. No related municipality may require another related municipality to pay a compensation under section 205 of the Act for an immovable that is related to the exercise of an urban agglomeration power as regards a matter that is referred to in Chapter II of Title III or that is subject to the rules the content of which is provided for in section 42.

91. The amount of $10 mentioned in the first paragraph of section 231 of the Act is replaced by the amounts determined in accordance with the rules prescribed in the order made under section 135.

92. For the purpose of calculating the sum payable to Ville de Montréal under section 231.5 of the Act, the units of assessment referred to in the third paragraph of that section are made up of immovables situated in the whole urban agglomeration of Montréal rather than only in the sole territory of the central municipality.

However, no part of that sum is an urban agglomeration revenue.

93. The extension of the imposition of the business tax under the fifth paragraph of section 232 of the Act applies separately for the tax imposed by the urban agglomeration council and the tax imposed by the regular council of the central municipality or the council of a reconstituted municipality.

The same applies for a decision to grant the credit provided for in section 237 of the Act.

For the purposes of sections 240 and 241 of the Act as regards the business tax imposed by the urban agglomeration council, a person that ceases to occupy a business establishment situated in the territory of a related municipality and occupies a business establishment situated in the territory of another related municipality is treated as if the person had successively occupied two establishments situated in the same local municipal territory.

94. The urban agglomeration council and the regular council of the central municipality or the council of a reconstituted municipality may exercise concurrently their power to apply the various general property tax rates scheme provided for in Division III.4 of Chapter XVIII of the Act.

A decision by either of those councils to impose a general property tax at a rate specific to a category of immovables has no effect on the power of the other to impose a general property tax at a rate specific to the same category or to another category.

The same applies for a decision by either of those councils to exercise a power under subdivision 5 of that division relating to an abatement to take into account certain vacancies.

95. A decision by the urban agglomeration council to take advantage of the various general property tax rates scheme does not allow the regular council of the central municipality or the council of a reconstituted municipality to impose a special tax at different rates under section 487.1 or 487.2 of the Cities and Towns Act (R.S.Q., chapter C-19) or article 979.1 or 979.2 of the Municipal Code of Québec (R.S.Q., chapter C-27.1), and vice versa.

96. In the case of any rule prescribed in Division III.4 of Chapter XVIII of the Act under which the composition of a category of immovables and the manner of establishing or applying the rate specific to a category vary according to whether or not the business tax is imposed, according to whether or not a rate specific to another category has been set or according to the amount of revenues from another tax, the rule is applied by taking into account only the taxes imposed or the rates set by the same council.

For the purposes of the first paragraph, if the regular council of the central municipality exercises the power under section 244.49.1 of the Act, the hypothetical rates established under that section are considered to be rates set by the council.

97. For the purpose of establishing the maximum specific rate applicable as regards the rate specific to the category of industrial immovables or to the category of immovables consisting of six or more dwellings, the rules prescribed in section 244.45.4 or 244.48.1 of the Act that relate to the calculation of an adjusted coefficient apply only if the council setting the specific rate concerned is the council that exercised the power under section 253.27 of the Act.

98. A decision by the urban agglomeration council to impose the general property tax at a rate specific to the category of serviced vacant land does not allow the regular council of the central municipality or the council of a reconstituted municipality, as the case may be, to impose the tax on unserviced vacant land provided for in Division III.5 of Chapter XVIII of the Act, and vice versa.

99. The urban agglomeration council may exercise powers relating to incidental matters, such as the conditions of payment, interest and penalties, regarding the taxes or other methods of financing it imposes.

If it does not exercise those powers, the rules applicable to such matters for similar taxes or other methods of financing imposed by the regular council of the central municipality or the council of the reconstituted municipality, according to the identity of the debtor, apply regarding the taxes and methods of financing imposed by the urban agglomeration council.

§ 4. — *Aggregate tax data*

100. An urban agglomeration aggregate taxation rate is established for the central municipality, in particular for the purpose of calculating

(1) the maximum rate of the business tax imposed by the urban agglomeration council;

(2) the maximum rate specific to the category of non-residential immovables or the category of industrial immovables that may be set by the urban agglomeration council within the framework of the various general property tax rates scheme; and

(3) the part of the sum that the Government must pay under the first paragraph of section 254 of the Act, regarding an immovable referred to in any of the last three paragraphs of section 255 of the Act, and that stands in lieu of taxes, compensations and modes of tariffing imposed by the urban agglomeration council.

101. Among the revenues that must normally be taken into consideration in establishing the aggregate taxation rate, only the revenues from taxes, compensations and modes of tariffing imposed by the urban agglomeration council are taken into consideration to establish the urban agglomeration aggregate taxation rate.

Those revenues are not taken into consideration in establishing the regular aggregate taxation rate of the central municipality.

102. The taxable values taken into consideration to establish the urban agglomeration aggregate taxation rate are the values that are considered, under section 80, to be entered on the urban agglomeration property roll.

If an urban agglomeration aggregate taxation rate must be established for a certain purpose and, according to the provisions governing the establishment of a regular aggregate taxation rate for that purpose, adjusted values must be taken into consideration, instead of the values entered on a roll, to take into account a municipality's decision to exercise the power under section 253.27 of the Act, such adjusted values are not taken into consideration instead of those referred to in the first paragraph unless the urban agglomeration council has exercised the power under that section 253.27. The rules prescribed in the provisions referred to above concerning the establishment of the adjusted values and any adjusted taxable property assessment must take into account the modifications provided for in section 106.

A decision of the urban agglomeration council to exercise the power under section 253.27 of the Act has no effect on the central municipality's regular aggregate taxation rate.

103. An urban agglomeration taxable non-residential property assessment is established for the central municipality under section 244.42 of the Act, subject to the second paragraph, for the purpose of calculating the maximum rate specific to the category of non-residential immovables or the category of industrial immovables that the urban agglomeration council may set within the framework of the various general property tax rates scheme.

Section 102 applies, with the necessary modifications, for the purpose of establishing that urban agglomeration taxable non-residential property assessment.

104. The sum of the standardized property values of the related municipalities that are applicable for a fiscal year and are established in accordance with the regulation made under paragraph 7 of section 262 of the Act is the standardized property value of the urban agglomeration for that fiscal year.

§ 5. — *Measures to mitigate transfers and tax burden variations*

105. The urban agglomeration council and the regular council of the central municipality or the council of a reconstituted municipality may exercise concurrently their power to apply any of the measures provided for in Divisions IV.3 to IV.5 of Chapter XVIII of the Act.

A decision by either of those councils to apply such a measure has no effect on the power of the other to apply the same or any other measure. Any

prohibition for a municipality to apply two or more measures limits only the powers of the council that ordered the application of any such measure.

106. If the urban agglomeration council exercises the power under section 253.27 of the Act as regards the averaging of the variation in the taxable values resulting from the coming into force of the roll, Division IV.3 of Chapter XVIII of the Act applies with the necessary modifications and, in particular, the following modifications:

(1) the property assessment roll and roll of rental values referred to are the urban agglomeration property roll and the urban agglomeration rental roll; and

(2) the value resulting from the adjustment under the second paragraph of section 82 is deemed to be entered on the roll, even following an alteration to the roll.

107. If the urban agglomeration council exercises the power under section 253.36 or 253.51 of the Act as regards the abatement or surcharge applicable to certain property taxes, Division IV.3 of Chapter XVIII of the Act applies with the necessary modifications and, in particular, the following modifications:

(1) the property assessment roll referred to is the urban agglomeration property roll;

(2) the value resulting from the adjustment under the second paragraph of section 82 is deemed to be entered on the roll, even following an alteration to the roll;

(3) the property taxes concerned are solely the property taxes imposed by the urban agglomeration council; and

(4) the expenditures provided for in a budget that are concerned are solely urban agglomeration expenditures.

Consequently, if the regular council of the central municipality exercises such a power, the property taxes concerned are solely those imposed by that council and the expenditures concerned are solely those that are not urban agglomeration expenditures.

108. If the urban agglomeration council exercises the power under section 253.54 of the Act as regards the transitional diversification of the rates of certain property taxes, Division IV.5 of Chapter XVIII of the Act applies with the necessary modifications and, in particular, the following modifications:

(1) the property assessment roll concerned is the urban agglomeration property roll;

(2) the value resulting from the adjustment under the second paragraph of section 82 is deemed to be entered on the roll, even following an alteration to the roll;

(3) the property taxes concerned are solely the property taxes imposed by the urban agglomeration council; and

(4) the rules prescribed in section 253.54.1 of the Act apply only if the urban agglomeration council exercises the power under section 244.29 of the Act and only the specific rates of the general property tax that are set by that council are taken into consideration.

Consequently, if the regular council of the central municipality exercises the power under section 253.54 of the Act, the property taxes concerned are solely those imposed by that council and the rules prescribed in section 253.54.1 of the Act apply only if that council exercises the power under section 244.29 of the Act, in which case only the specific rates of the general property tax set by that council are taken into consideration.

The rules prescribed in sections 96 and 100 to 103 apply for the purpose of adapting the provisions to which section 253.59 of the Act refers.

109. Any transitional scheme to limit variations in the tax burden provided for in an Act or statutory instrument governing the central municipality remains applicable to it, with the necessary modifications and, in particular, the modifications set out in the second paragraph, and is not applicable to a reconstituted municipality.

For the purpose of applying the scheme to the central municipality,

(1) a sector corresponds to the territory of any former municipality other than the former municipality whose territory corresponds to the territory of a reconstituted municipality;

(2) among the revenues included in or excluded from the tax burden according to the applicable provisions, the revenues resulting from decisions made by the urban agglomeration council are also taken into consideration;

(3) the increase in the tax burden attributable to a reduction in the territory of the central municipality that is inherent in the city's reorganization is deemed not to result from the constitution of the city; and

(4) the regular council, to the exclusion of the urban agglomeration council, takes the measures provided for in the applicable provisions to limit the variation in the tax burden, whether by setting separate rates for the general property tax or the business tax according to sectors or by granting an abatement or requiring a supplement regarding such a tax.

Consequently, only the regular council may exercise a power under section 232.3 or 244.49.1 of the Act.

110. The rules applicable to the city before the reorganization that, while not constituting the transitional scheme to limit variations in the tax burden, ensure the transition towards standardized taxation throughout the territory of the city and provide that, during the transition period, the terms of various methods of financing, in particular the rate of the general property tax, are to vary according to the territories of the former municipalities cease to apply with respect to taxes and other methods of financing imposed by the urban agglomeration council.

Those rules continue to apply only in the territory of the central municipality and with respect to the taxes and other methods of financing imposed by the regular council of the central municipality.

DIVISION IV

OTHER FINANCIAL PROVISIONS

111. An auditor of the central municipality audits both the aspects of the administration of the central municipality that concern urban agglomeration powers and the other aspects.

112. If, pursuant to section 52, an urban agglomeration power is not conferred on the central municipality and the municipal body referred to in that section exercises that power in the whole urban agglomeration and solely in that urban agglomeration, any municipal contribution to the financing of the body's expenditures that are related to the exercise of that power must be made by the central municipality.

The contribution is an urban agglomeration expenditure that must be financed by urban agglomeration revenues.

113. If, pursuant to section 53, the urban agglomeration power as regards police services is not conferred on the central municipality, the contribution payable to the Government for the services provided by the Sûreté du Québec, the amount of which is calculated on the basis of the population and the standardized property value of a municipality, according to the regulation made under section 77 of the Police Act (R.S.Q., chapter P-13.1), must be paid by the central municipality.

The amount of the contribution is calculated on the basis of the sum of the populations of the related municipalities and the standardized property value of the urban agglomeration.

The contribution is an urban agglomeration expenditure that must be financed by urban agglomeration revenues.

114. The sum that a related municipality must receive under a program referred to in the second paragraph must be treated in two parts so that the distribution between the part paid to the central municipality for urban

agglomeration purposes and the part paid to that municipality for other purposes or paid to the reconstituted municipality, as the case may be, corresponds to the distribution of the total amount of property taxes that would have been imposed on the immovables referred to in that paragraph, if those immovables were entered on the property assessment roll, made to take into account the taxes imposed by either the urban agglomeration council or by the regular council of the central municipality or the council of the reconstituted municipality.

The first paragraph applies to any program established by the Government, a minister or a government body to compensate municipalities for all or part of the reduction in their property tax base resulting from the non-entry on the property assessment roll of certain immovables designed to abate, control or monitor pollution.

The values used to calculate the sum payable under the program referred to in the second paragraph are used to estimate the amount of property taxes that would be imposed on those immovables on the basis of their taxable value.

CHAPTER III

MISCELLANEOUS PROVISIONS

DIVISION I

RIGHT OF OBJECTION TO CERTAIN BY-LAWS

115. As soon as practicable after the adoption of a by-law under section 22, 27, 30, 34, 36, 38, 41, 47, 55, 56, 69, 78 or 85, an authenticated copy of the by-law is sent to the Minister.

A related municipality may inform the Minister of its objection to the by-law within 30 days after its adoption. An authenticated copy of the resolution setting out the objection is sent simultaneously to the Minister and every other related municipality within the same 30-day period.

Once the 30-day period has expired, if no objection has been filed with the Minister, the by-law may be published to meet the publication requirement for its coming into force. If an objection has been filed, the by-law must be approved by the Minister or by the person designated by the Minister to examine the merits of the by-law and make a decision in the Minister's place.

The reasons for a refusal to grant approval must be given in writing.

116. A by-law provided for in section 36 may be published or approved, as the case may be, only once a resolution expressing the agreement of the municipality concerned has been adopted by the council that would have the authority to make decisions concerning the management of the industrial park referred to in the by-law should the by-law come into force.

DIVISION II

MIXED DOCUMENTS

117. Documents of the central municipality that contain both elements requiring a decision by a deliberative body exercising an urban agglomeration power and elements requiring a decision by a deliberative body exercising another power, particularly the budget and the program of capital expenditures, must be divided accordingly.

118. Documents of the central municipality that contain both elements setting out administrative acts performed in the exercise of an urban agglomeration power or the results of such acts and elements setting out administrative acts performed in the exercise of another power or the results of such acts, particularly the financial report, must be divided accordingly.

TITLE V

ORDERS

CHAPTER I

GENERAL PROVISIONS

119. The provisions of any order under this Title may, for transition purposes, create a rule of municipal law or derogate from any provision of an Act under the administration of the Minister, a special Act governing a municipality or an instrument under such an Act.

However, a rule created or derogation made by a provision under section 126 is not limited to a transitional duration.

120. The provisions of an order under this Title come into force on the date of the publication of the order in the *Gazette officielle du Québec* or on any later date indicated in the order.

121. Except for the correction of an error in writing or of an obvious omission, an order under this Title may not be amended after the first anniversary of the polling date fixed for the general election held under section 48 of the Act respecting the consultation of citizens with respect to the territorial reorganization of certain municipalities (2003, chapter 14) in anticipation of the reorganization of the city concerned.

122. In addition to the orders provided for in Chapters II to IV, the Government may make any order, in keeping with the objects of this Act, to further clarify the scope of a provision of this Act or to correct any omission.

CHAPTER II

RECONSTITUTION ORDER

123. The Government may, by order, reconstitute as a local municipality the inhabitants and ratepayers of any sector referred to in section 5 of the Act respecting the consultation of citizens with respect to the territorial reorganization of certain municipalities (2003, chapter 14) where the answer given to the referendum question is deemed to be affirmative within the meaning of section 43 of that Act.

124. A reconstitution order must contain the following particulars:

(1) the name of the municipality;

(2) a description of the territory of the municipality prepared by the Minister of Natural Resources, Wildlife and Parks;

(3) an indication whether the municipality is governed by the Cities and Towns Act (R.S.Q., chapter C-19) or by the Municipal Code of Québec (R.S.Q., chapter C-27.1);

(4) the particular legislative provisions that apply to the municipality, among those that applied specifically to the former municipality whose territory corresponds to the territory of the municipality and that were declared applicable to the city by the city's constituting act or by an order;

(5) the place for the first meeting of the council of the municipality;

(6) the name of the first clerk or secretary-treasurer of the municipality;

(7) if the territory of the city is included in the territory of a regional county municipality, the name of the latter; and

(8) if section 163 applies to the municipality, the fact that it is deemed to have obtained a recognition under the second paragraph of section 29.1 of the Charter of the French language (R.S.Q., chapter C-11).

Section 110.1 of the Act respecting municipal territorial organization (R.S.Q., chapter O-9) applies, with the necessary modifications, to the first meeting of the council of the municipality.

125. A reconstitution order may mention the name of the first holder of a position of officer or employee of the municipality other than the position of clerk or secretary-treasurer, or refer to a document containing the list of such position holders.

A first position holder mentioned by the order or the document to which it refers is deemed to have been appointed or hired by the council of the municipality.

That presumption does not limit the application of any provision of an Act or statutory instrument that subsequently governs the municipality as regards the deliberative body or officer having authority to appoint, hire, dismiss or fire the holder of such a position. However, the first general manager, clerk, treasurer or secretary-treasurer cannot be dismissed in the first 12 months following the reorganization of the city.

126. The third paragraph of section 108 of the Act respecting municipal territorial organization (R.S.Q., chapter O-9) applies, with the necessary modifications, to a reconstitution order.

127. A reconstitution order may prescribe any rule under which the municipality succeeds to the rights and obligations of the city, and any rule relating to the maintenance in force, in the territory of the municipality, of the by-laws, resolutions or other instruments of the city.

128. A reconstitution order may prescribe any time limit for the municipality to replace a time limit under the Pay Equity Act (R.S.Q., chapter E-12.001) and under sections 176.28 and 176.29 of the Act respecting municipal territorial organization (R.S.Q., chapter O-9).

The reconstitution order may set out the rules incidental to the replacement of the time limit.

Despite any change to the applicable time limits, the adjustments in compensation for predominantly female job classes remain retroactive to 21 November 2001 and may, for the purpose of calculating the amount of adjustments to be paid, be spread, having regard to section 70 of the Pay Equity Act, over a period between 21 November 2001 and 21 November 2005.

For the purposes of section 74 of that Act, adjustments in compensation for predominantly female job classes and the terms of payment of the adjustments are considered to form part of the collective agreement applicable to employees holding positions in those job classes on or after 21 November 2001.

CHAPTER III

AMENDING ORDER

129. The Government may, by order, amend the charter of a central municipality.

For the purposes of this chapter, "charter" means the Act or order under which the central municipality was constituted, including any amendment made by an Act or order.

Any amendment to a legislative element of the charter by an order has the same effect as if it were made by an Act.

130. An amending order must describe the territory of the central municipality, taking into account the exclusion of the territory of any reconstituted municipality.

An amending order may describe any borough included in the new territory.

If warranted by the new territorial division into boroughs, an amending order must change, for some or all of the boroughs, the name or number by which a borough is designated, the number of members on the borough council or the number of councillors from the borough on the regular council of the central municipality.

A description under the first or second paragraph is prepared by the Minister of Natural Resources, Wildlife and Parks.

131. In the case of Ville de Sainte-Marguerite–Estérel, an amending order may change the name of the central municipality.

132. An amending order must remove from the charter any provision pertaining specifically and exclusively to the territory corresponding to the territory of a reconstituted municipality.

The first paragraph does not apply if the provision concerns an urban agglomeration power and the essence of the provision is not taken up in the order made under section 135.

133. An amending order may prescribe any time limit for the central municipality to replace a time limit under the Pay Equity Act (R.S.Q., chapter E-12.001) and under sections 176.28 and 176.29 of the Act respecting municipal territorial organization (R.S.Q., chapter O-9).

The amending order may set out the rules incidental to the replacement of the time limit.

Despite any change to the applicable time limits, the adjustments in compensation for predominantly female job classes remain retroactive to 21 November 2001 and may, for the purpose of calculating the amount of adjustments to be paid, be spread, having regard to section 70 of the Pay Equity Act, over a period between 21 November 2001 and 21 November 2005.

For the purposes of section 74 of that Act, adjustments in compensation for predominantly female job classes and the terms of payment of the adjustments are considered to form part of the collective agreement applicable to employees holding positions in those job classes on or after 21 November 2001.

134. An amending order may formalize an implicit amendment made to the charter by a provision of this Act.

CHAPTER IV

AGGLOMERATION ORDER

135. The Government may make an order designated as an "urban agglomeration order" for each urban agglomeration.

136. An urban agglomeration order must prescribe rules on the following matters as regards the urban agglomeration council:

(1) the nature of the council, according to whether or not it is separate from the ordinary council of the central municipality;

(2) the number of council members;

(3) the special positions on the council, such as the positions of chair and vice-chair;

(4) the manner of determining the holders of the positions of council member and the holders of the positions under paragraph 3;

(5) the particular functions of the holder of a position under paragraph 3;

(6) the cases where the holder of a position on the council may be provisionally replaced and the manner of determining the replacement;

(7) the assignment of votes to each council member;

(8) the manner in which the council makes decisions; and

(9) the operation of the council.

An urban agglomeration order may prescribe rules on any other matter, as appropriate, to take into account the existence of the urban agglomeration council.

137. If the central municipality has an executive committee, an urban agglomeration order may

(1) prescribe that certain functions specified in the order, among those assigned to the committee by any Act or statutory instrument, are not exercised by the committee if they are included in an urban agglomeration power; and

(2) prescribe the manner in which functions under paragraph 1 are exercised by the urban agglomeration council.

138. An urban agglomeration order may prescribe the manner in which the power of an urban agglomeration council to establish urban agglomeration commissions is exercised.

In such a case, it prescribes pertinent rules on any of the matters in section 136 as regards such a commission. That section applies, with the necessary modifications, for that purpose.

139. An urban agglomeration order must prescribe rules relating to the conditions of employment of the members of the council of any related municipality, pertaining in particular to

(1) remuneration and compensation, including the application of the minimum and maximum set out in the Act respecting the remuneration of elected municipal officers (R.S.Q., chapter T-11.001);

(2) the reimbursement of expenses;

(3) compensation for loss of income and severance and transition allowances; and

(4) the pension plan.

An urban agglomeration order must also prescribe rules for determining, among the expenses related to the conditions of employment of the members of deliberative bodies authorized to exercise urban agglomeration powers, those which are urban agglomeration expenses and those which are mixed expenses.

140. An urban agglomeration order may take up any provision removed from the charter of the central municipality under section 132 that concerns an urban agglomeration power, adapting it where necessary.

141. An urban agglomeration order must prescribe rules for establishing which figures replace the figures 0.006 and 0.01 appearing in the first and second paragraphs of section 205.1 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), for the purposes of the exercise by the urban agglomeration council and by the regular council of the municipality or the council of a reconstituted municipality of the power provided for in section 205 of that Act under which the owner of a non-taxable immovable may be required to pay compensation for municipal services.

The order must also prescribe rules for establishing the amounts that replace the amount of $10 appearing in the first paragraph of section 231 of that Act, for the purposes of the exercise by those councils of the power provided for in that section under which the owner or occupant of a trailer may be required to pay tax in the form of the cost of a permit.

142. An urban agglomeration order may contain a map, plan or other illustration identifying the thoroughfares forming the arterial road system in the urban agglomeration, or refer to a document containing such an illustration.

143. In the case of the urban agglomeration of Montréal, the urban agglomeration of Québec or the urban agglomeration of Longueuil, the urban agglomeration order may either contain a map, plan or other illustration identifying the water or sewer mains situated in the urban agglomeration that are not purely local within the meaning of section 25, or refer to a document containing such an illustration.

144. An urban agglomeration order may contain a list of the equipment, infrastructures and activities of collective interest that meet the conditions set out in section 40, or refer to a document containing such a list.

An urban agglomeration order must prescribe rules relating to the subjects referred to in section 41 for each element on the list.

Every rule applicable under the second paragraph is deemed to have been prescribed by the urban agglomeration council and applies until replaced by the council.

145. An urban agglomeration order must contain a list of the property, debts, claims, deficits, surpluses and all other assets and liabilities of the city that are transferred to each reconstituted municipality, or refer to a document containing such a list.

An urban agglomeration order may assign any power or obligation to the central municipality or any reconstituted municipality as regards an asset or liability that remains with or is transferred to it, as the case may be, in order to take into account the fact that the asset or liability is of collective interest before the reorganization of the city.

If it assigns such a power or obligation to the central municipality and an act of the council or executive committee is required for the exercise of the power or the performance of the obligation, the order must specify whether or not the act is under the authority of the deliberative body authorized to exercise urban agglomeration powers.

146. An urban agglomeration order may prescribe any rule for distinguishing, among the assets or liabilities that remain with the central municipality, those that are related to the exercise of an urban agglomeration power from those that are not.

147. An urban agglomeration order may prescribe rules to ensure, for the transitional period specified, the continuity of a pension plan for officers or employees that is not terminated immediately before the reorganization of the city.

The order may, in particular,

(1) designate any related municipality that is a party to the plan;

(2) prescribe the particular obligations of any related municipality as regards the administration and financing of the plan, the management of the pension fund and the distribution or transfer of the plan's assets and liabilities; and

(3) prescribe the conditions on which an officer or employee of a related municipality may exercise the right to maintain participation in the plan in which the officer or employee participates before the reorganization of the city, and the period for which that right may be exercised.

The rules prescribed by the order apply despite the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1).

TITLE VI

LEGISLATIVE AMENDMENTS

CHARTER OF VILLE DE LONGUEUIL

148. Section 54.14 of the Charter of Ville de Longueuil (R.S.Q., chapter C-11.3) is amended

(1) by inserting "of any other municipality mentioned in section 6 of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (2004, chapter 29) and the territory" after "territory" in the second line;

(2) by adding the following paragraph at the end:

"The city council concerned is the urban agglomeration council provided for in that Act. The expenditures of the city in respect of the arts council are urban agglomeration expenditures within the meaning of that Act."

CHARTER OF VILLE DE MONTRÉAL

149. Section 71 of the Charter of Ville de Montréal (R.S.Q., chapter C-11.4) is amended

(1) by inserting "of any other municipality mentioned in section 4 of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (2004, chapter 29) and the territory" after "territory" in the second line;

(2) by adding the following paragraph at the end:

"The city council concerned is the urban agglomeration council provided for in that Act. The expenditures of the city in respect of the arts council are urban agglomeration expenditures within the meaning of that Act."

150. Section 102 of Schedule C to the said Charter is amended by adding the following paragraph at the end:

"Despite the Act respecting the exercise of certain municipal powers in certain urban agglomerations (2004, chapter 29), the urban agglomeration council of the city may not levy that tax, on the basis of rental value, in the territory of a reconstituted municipality."

151. Section 102.1 of Schedule C to the said Charter is amended

(1) by inserting the following paragraph after the second paragraph:

"For the purposes of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (2004, chapter 29), the purposes for which the revenues from the tax were intended are deemed to result exclusively from the exercise of the city's urban agglomeration powers with regard to water supply and water purification.";

(2) by replacing "two" in the third paragraph by "three".

CHARTER OF VILLE DE QUÉBEC

152. Section 68 of the Charter of Ville de Québec (R.S.Q., chapter C-11.5) is amended

(1) by inserting "of any other municipality mentioned in section 5 of the Act respecting the exercise of certain municipal powers in certain urban agglomerations (2004, chapter 29) and the territory" after "territory" in the second line;

(2) by adding the following paragraph at the end:

"The city council concerned is the urban agglomeration council provided for in that Act. The expenditures of the city in respect of the arts council are urban agglomeration expenditures within the meaning of that Act."

ACT RESPECTING THE PENSION PLAN OF ELECTED MUNICIPAL OFFICERS

153. The heading of Chapter VIII of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3) is amended by replacing "AND ANNEXATION" by ", ANNEXATION AND REORGANIZATION".

154. The said Act is amended by inserting the following section after section 67.2:

"**67.3.** A participant who, following a reorganization, becomes a council member of a reconstituted municipality shall continue to be a beneficiary under this plan. The participant and the municipality shall discharge the obligations arising from the plan.

For the purposes of the first paragraph, the expressions "reconstituted municipality" and "reorganization" have the meanings assigned by the Act respecting the exercise of certain municipal powers in certain urban agglomerations (2004, chapter 29)."

ACT RESPECTING THE CONSULTATION OF CITIZENS WITH RESPECT TO THE TERRITORIAL REORGANIZATION OF CERTAIN MUNICIPALITIES

155. Section 64 of the Act respecting the consultation of citizens with respect to the territorial reorganization of certain municipalities (2003, chapter 14) is amended by adding the following paragraph after the second paragraph:

"However, the Minister may decide to assign to any reconstituted municipality, according to the allocation scheme the Minister determines, all or part of the property acquired by the transition committee, out of a sum of money granted by the Government, to fulfil its mission. The Minister may also transfer to any reconstituted municipality, according to the allocation scheme the Minister determines, all or part of the debts of the transition committee arising from loans the committee contracted for the municipality's benefit."

156. The said Act is amended by inserting the following section after section 78:

"**78.1.** The Minister may, where no transition committee has been established in respect of a city described in section 51, designate a person to participate, together with the administrators and employees of the city and with any persons elected in advance in the reconstituted municipality, in the establishment of the conditions most conducive to facilitating the transition between the successive municipal administrations in the sector concerned in respect of which the person is designated.

Unless otherwise provided for in the instrument of designation and subject to any order made under section 50, sections 53, 60 to 64, 67, 70 to 75, 77, 78 and 89 apply, with the necessary modifications, in respect of the person the Minister designates."

157. Section 84 of the said Act is amended by adding the following paragraph after the third paragraph:

"The first three paragraphs apply, with the necessary modifications, to the sums of money allocated by the Government in respect of any person designated under section 78.1 or the fourth paragraph of section 125."

158. Section 85 of the said Act is amended by adding the following paragraph at the end:

"A loan by-law that the municipality adopts to finance the reimbursement need not be approved by qualified voters."

159. Section 88 of the said Act is amended

(1) by inserting the following paragraph after the first paragraph:

"Any decision by which Ville de Montréal removes a local development centre having jurisdiction in the sector or changes the territory in which the centre has jurisdiction must, to come into force, be approved by the Minister.";

(2) by replacing "the Minister's power of approval" in the first and second lines of the second paragraph by "the Minister's power of approval under either of the first two paragraphs";

(3) by inserting "under the first paragraph" after "Approval" in the first line of the third paragraph.

160. Section 120 of the said Act is amended

(1) by replacing "Divisions II and III state" in the first line of the first paragraph by "Division III states";

(2) by replacing "both for dealing with the effect of the reorganization of a city on personnel and for sharing the assets and liabilities of the city" in the second and third lines of the first paragraph by "for sharing the assets and liabilities of a city";

(3) by adding "It may also depart from a principle in order to comply with a directive issued by the Minister to complete, clarify or correct the principles referred to in the first paragraph." at the end of the second paragraph.

161. Section 125 of the said Act is amended by adding the following sentence at the end of the first paragraph: "The agreement must, in addition, establish the rights and remedies available to any employee who believes he or she has been wronged as a consequence of the application of the rules and procedure relating to the transfer."

162. The said Act is amended by inserting the following section after section 134:

"**134.1.** The mediator-arbitrator is entitled to the remuneration and reimbursement of expenses that the Minister of Labour determines.

Expenses arising from the payment of that remuneration and the reimbursement of those expenses are assumed by the transition committee or the person designated under the fourth paragraph of section 125. The committee or person is deemed to assume the expenses under a contractual obligation binding the committee to the mediator-arbitrator."

TITLE VII

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

CHAPTER I

MISCELLANEOUS PROVISIONS

163. Any reconstituted municipality whose territory corresponds to the territory of a former municipality that, immediately before the constitution of the city, was recognized under the second paragraph of section 29.1 of the Charter of the French language (R.S.Q., chapter C-11), is deemed to have obtained such a recognition.

164. If the charter of a central municipality within the meaning of section 129 confers on the council of that municipality the obligation or power to adopt a land development plan for the municipality, the plan may not contain any element over which the urban agglomeration has jurisdiction.

The obligation is performed or the power exercised by the regular council of the municipality.

165. The jurisdiction of the Communauté métropolitaine de Montréal over air purification is considered to be an urban agglomeration power, to the extent that all or part of that jurisdiction is delegated to Ville de Montréal.

CHAPTER II

TRANSITIONAL FINANCIAL PROVISIONS

166. For the purposes of this chapter, "Act" means the Act respecting municipal taxation (R.S.Q., chapter F-2.1).

167. The three fiscal years for which the first assessment roll is drawn up specifically for any related municipality are

(1) in the case of the urban agglomerations of La Tuque, Sainte-Agathe-des-Monts and Sainte-Marguerite–Estérel, the fiscal years 2006, 2007 and 2008;

(2) in the case of the urban agglomerations of Montréal, Québec and Mont-Laurier, the fiscal years 2007, 2008 and 2009; and

(3) in the case of the urban agglomerations of Îles-de-la-Madeleine, Mont-Tremblant, Cookshire-Eaton and Rivière-Rouge, the fiscal years 2008, 2009 and 2010.

In the case of the urban agglomeration of Longueuil, the only fiscal year for which the first assessment roll drawn up specifically for any related municipality

applies is the fiscal year 2006. Subparagraph 2 of the first paragraph applies to the second assessment roll drawn up specifically for such a municipality.

168. In the case of any related municipality of an urban agglomeration referred to in subparagraph 2 or 3 of the first paragraph of section 167, the part of the city's assessment roll that includes the immovables or business establishments situated in the territory of the related municipality, updated in accordance with the Act, is the roll applicable for a fiscal year preceding those for which the first fiscal roll of that municipality must be drawn up under that subparagraph.

In the case of a related municipality of an urban agglomeration referred to in subparagraph 2 of the first paragraph of section 167, that roll is deemed to be in its third year of application in 2006. In the case of a related municipality of an urban agglomeration referred to in subparagraph 3 of that paragraph, that roll is deemed to be in its second and third years of application, respectively, in 2006 and 2007.

169. The city's property assessment roll or roll of rental values updated in accordance with the Act is the urban agglomeration property roll or the urban agglomeration rental roll for any preceding fiscal year referred to in section 168.

170. The assessor must produce a separate summary for each part of the city's property assessment roll that is the property assessment roll of a related municipality. The summary is considered to be the summary of a roll.

In addition to those separate summaries, the assessor may continue to produce an aggregate summary for the city's property assessment roll. The aggregate summary or all the separate summaries, at the assessor's option, is or are considered to be the urban agglomeration property assessment roll.

171. If the urban agglomeration council, the regular council of the central municipality or the council of a reconstituted municipality takes advantage of the various general property tax rates scheme for a fiscal year referred to in the second paragraph, the coefficient calculated under the third or fourth paragraph is used for the purpose of establishing the maximum specific rate applicable in respect of the rate specific to the category of industrial immovables or to the category of immovables consisting of six or more dwellings.

The fiscal years concerned are

(1) in the case of an urban agglomeration referred to in subparagraph 1 of the first paragraph of section 167 or in the second paragraph of that section, a fiscal year for which the property assessment roll coming into force on 1 January 2006 applies; and

(2) in the case of an urban agglomeration referred to in subparagraph 2 or 3 of the first paragraph of section 167, a fiscal year preceding the fiscal year in which the first property assessment roll drawn up specifically for each related municipality comes into force.

In the case of the tax imposed by the urban agglomeration council, the coefficient is calculated by applying sections 244.44 to 244.45.4 or 244.47 to 244.48.1 of the Act, as the case may be, with the following modifications:

(1) the rolls compared are the city's property assessment roll applicable for the fiscal year 2005, and

(*a*) in the case of an urban agglomeration referred to in subparagraph 1 of the first paragraph of section 167 or in the second paragraph of that section, the first property assessment roll referred to in section 82; and

(*b*) in the case of an urban agglomeration referred to in subparagraph 2 or 3 of the first paragraph of section 167, the urban agglomeration property roll referred to in section 169;

(2) the coefficient applicable for the fiscal year 2005 is the coefficient determined on the basis of the city's decision as to the establishment of a rate specific to the category concerned for that fiscal year, according to the following rules if the city did not act in a uniform manner for its whole territory:

(*a*) if it set a single rate specific to the category concerned for part of its territory, that rate is taken into consideration as if it had been set for the whole territory; and

(*b*) if it set two or more rates specific to the category concerned for different parts of its territory, the highest rate is taken into consideration as if it had been set for the whole territory.

In the case of the tax imposed by the regular council of the central municipality or the council of a reconstituted municipality, the coefficient is calculated by applying sections 244.44 to 244.45.4 or 244.47 to 244.48.1 of the Act, as the case may be, with the following modifications:

(1) the rolls compared are the part of the city's property assessment roll applicable for the fiscal year 2005 that includes the immovables situated in the territory of the municipality, and

(*a*) in the case of an urban agglomeration referred to in subparagraph 1 of the first paragraph of section 167 or in the second paragraph of that section, the first property assessment roll drawn up specifically for the municipality; and

(*b*) in the case of an urban agglomeration referred to in subparagraph 2 or 3 of the first paragraph of section 167, the municipality's property assessment roll referred to in section 168;

(2) the coefficient applicable for the fiscal year 2005 is the coefficient determined on the basis of the city's decision as to the establishment of a rate specific to the category concerned for that fiscal year, according to the following rules if the city did not act in a uniform manner for the whole territory that has become the territory of the central municipality:

(*a*) if it set a single rate specific to the category concerned for a part of the territory that has become the territory of the central municipality, that rate is taken into consideration as if it had been set for the whole territory; and

(*b*) if it set two or more rates specific to the category concerned for different parts of the territory that has become the territory of the central municipality, the highest rate is taken into consideration as if it had been set for the whole territory; and

(3) in the case of the maximum specific rate applicable in respect of the rate specific to the category of industrial immovables, the only alterations to the city's roll that are taken into account, among those referred to in sections 244.45.1 to 244.45.3 of the Act, are the alterations that concern immovables situated in the territory of the municipality.

172. In the case of any related municipality of an urban agglomeration referred to in subparagraph 1 of the first paragraph of section 167 that applies the measure for averaging the variation in the taxable values resulting from the coming into force of the roll as regards its roll coming into force on 1 January 2006, the preceding roll referred to in sections 253.28 to 253.31 of the Act is the part of the city's assessment roll, applicable in 2005, that includes the immovables or business establishments situated in the territory of the related municipality.

173. In the case of an urban agglomeration referred to in subparagraph 1 of the first paragraph of section 167, neither the urban agglomeration council nor the regular council of the central municipality or the council of a reconstituted municipality may exercise the powers under Division IV.4 of Chapter XVIII of the Act concerning the abatement or surcharge applicable to certain property taxes, for any of the fiscal years for which the first property assessment roll drawn up specifically for each related municipality applies.

174. In the case of any related municipality referred to in subparagraph 1 of the first paragraph of section 167 that applies the measure concerning the transitional diversification of the rates of certain property taxes for the fiscal year 2006 or the fiscal year 2007, the preceding roll referred to in sections 253.56 to 253.58 of the Act is the part of the city's assessment roll, applicable in 2005, that includes the immovables situated in the territory of the related municipality.

175. Despite section 110, in the case of the urban agglomeration of Montréal, the urban agglomeration council may continue to apply the rules referred to in that section for the fiscal year 2006 as regards the taxes and other

methods of financing that it imposes to finance the expenditures related to the exercise of one of the urban agglomeration powers over water supply, water purification, and residual materials disposal and reclamation.

176. For the purpose of determining whether a related municipality is eligible, for the fiscal year 2006, under the equalization scheme established by the regulation made under paragraph 7 of section 262 of the Act and for the purpose of determining, where applicable, the sum payable to that municipality under that scheme for that fiscal year,

(1) the competent assessor for the city's property assessment roll applicable for the fiscal year 2005

(*a*) fills out the form which, under the regulation made under paragraph 1 of section 263 of the Act, must be completed using information included in the summary of the roll, as if the part of the city's property assessment roll including the immovables situated in the territory becoming the territory of the related municipality were the roll of the related municipality and as if a summary of that roll had been produced during the last quarter of 2004 to reflect the state of that roll on the applicable date, according to the regulation, for the purpose of the fiscal year 2005; and

(*b*) sends the Minister the form referred to in subparagraph *a*, duly completed, before 1 May 2006;

(2) the standardized property value per inhabitant of the related municipality for the fiscal year 2005, except for the purpose of establishing the median of such values, is established on the basis of

(*a*) the part of the city's standardized property value for the fiscal year 2005 that is attributable to the territory becoming the territory of the related municipality, according to the form referred to in subparagraph *a* of paragraph 1; and

(*b*) the part of the city's population as at 1 January 2005 that is attributable to the territory becoming the territory of the related municipality, as stated in an order of the Minister based on an estimate of the Institut de la statistique du Québec;

(3) the average value of the dwellings situated in the territory of the related municipality for the fiscal year 2005, except for the purpose of establishing the median of such values, is established on the basis of

(*a*) the number of dwellings situated in the territory becoming the territory of the related municipality and their taxable value, according to the form referred to in subparagraph *a* of paragraph 1, among the dwellings taken into consideration for the purpose of establishing the average value of the dwellings situated in the territory of the city for the fiscal year 2005; and

(*b*) the comparative factor established for the city's property assessment roll for the fiscal year 2005 under section 264 of the Act; and

(4) for the purpose of establishing the median of the standardized property values per inhabitant and the median of the average values of the dwellings for the fiscal year 2005, the values referred to in paragraphs 2 and 3 are not taken into account, and if the form relating to the summary of the city's property assessment roll for that fiscal year is received by the Minister before 1 November 2005, the standardized property value per inhabitant and the average value of the city's dwellings established on the basis of that form are taken into account.

CHAPTER III

OTHER TRANSITIONAL PROVISIONS

177. The Minister determines in advance the population of each related municipality, based on an estimate of the Institut de la statistique du Québec and taking into account the territory of each related municipality as it will stand following the reorganization of the city. The Minister may determine in the same manner the population of a borough as it will stand following the reorganization.

The Minister publishes a notice of the populations figures so determined in the *Gazette officielle du Québec*.

A population figure so determined by the Minister is valid until replaced by the population figure determined in an order made under section 29 of the Act respecting municipal territorial organization (R.S.Q., chapter O-9) that takes into account the reorganization of the city.

178. As of the time the majority of candidates elected to positions on the council of a related municipality in an election referred to in section 121 have made the oath under section 313 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2), the council may perform the acts normally performed in anticipation of the start of a fiscal year, such as adopting the budget and the related by-laws and resolutions, as well as other acts whose effective date is delayed, however, until the date on which the city is reorganized.

The same applies, with the necessary modifications, to any borough council.

In the case of a reconstituted municipality, the council exists, for the purposes of the performance of those acts, as if the municipality existed between the time referred to in the first paragraph and the date on which the city is reorganized.

179. As of the day on which all the councils of the related municipalities are operational as set out in section 178 or the day on which all the mayors of

those related municipalities who have been elected at the election referred to in section 121 have made the oath, whichever is later, the urban agglomeration council is or may be established, depending on whether the rules set out in the order made under section 135 prescribe that all the members of that council sit on the council by virtue of office or that some members must be designated.

The urban agglomeration council may perform the acts referred to in the first paragraph of section 178 and, to that end, exists as if the urban agglomeration existed in the form provided for in Title II between the day on which it is established and the date on which the city is reorganized.

180. As of the day on which a person's term in the position to which the person was elected at the election referred to in section 121 begins until the date on which the city is reorganized, the person may hold that position and the position of city council member concurrently.

181. Any by-law or resolution of the urban agglomeration council, the regular council of the central municipality or the council of the reconstituted municipality that deals with the remuneration, compensation, reimbursement of expenses or any other component of remuneration provided for in the Act respecting the remuneration of elected municipal officers (R.S.Q., chapter T-11.001) regarding the council members may have retroactive effect to the date on which the council was able to begin to act under section 178 or 179.

The retroactive effect given under the first paragraph also applies to the other conditions of employment related to remuneration, such as employee and employer contributions to the pension plan.

In the case of a person referred to in section 180, the amount of the remuneration and compensation that would be payable to the person for the period referred to in that section, under a by-law referred to in the first paragraph, is reduced by the amount the person receives from the city as remuneration and compensation for that period.

CHAPTER IV

EFFECTIVE DATES AND COMING INTO FORCE

182. Titles II to IV apply to an urban agglomeration as of the reorganization of the city whose territory corresponds to the urban agglomeration.

The same applies for sections 148 to 154 and 163 to 165.

183. Sections 156, 157 and 160 to 162 have effect from 18 December 2003.

184. Section 159 has effect from 11 November 2004.

185. This Act comes into force on 17 December 2004.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SEVENTH LEGISLATURE

Bill 78
(2004, chapter 33)

An Act to amend the Act respecting the Caisse de dépôt et placement du Québec

Introduced 11 November 2004
Passage in principle 23 November 2004
Passage 15 December 2004
Assented to 17 December 2004

Québec Official Publisher
2004

EXPLANATORY NOTES

This bill amends the Act respecting the Caisse de dépôt et placement du Québec to define the objectives to be pursued by the Fund in performing its mission.

It establishes new governance rules, particularly as regards the composition and functioning of the board of directors and the criteria for selecting its members. It provides for the creation of three committees by the board of directors — an audit committee, a governance and ethics committee and a human resources committee — and defines the role of each.

The bill also establishes that the offices of chair of the board and president and chief executive officer are to be two separate functions. It requires that the Fund adopt an investment policy for each specialized portfolio it holds and introduces new rules of ethics for the Fund, its officers and employees, and its wholly-owned subsidiaries.

Lastly, the bill contains transitional measures and concordance amendments.

Bill 78

AN ACT TO AMEND THE ACT RESPECTING THE CAISSE DE DÉPÔT ET PLACEMENT DU QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The heading of Division I of the Act respecting the Caisse de dépôt et placement du Québec (R.S.Q., chapter C-2) is replaced by the following heading:

"CONSTITUTION AND MISSION OF THE FUND".

2. Section 4 of the said Act is amended

(1) by replacing "Legal persons all of whose shares are held directly or indirectly by the Fund" in the fourth paragraph by "The Fund's wholly-owned subsidiaries";

(2) by adding the following paragraph at the end:

"In this Act, "wholly-owned subsidiary" means a legal person all of whose common shares are held directly or indirectly by the Fund."

3. The said Act is amended by inserting the following section after section 4:

"**4.1.** The mission of the Fund is to receive moneys on deposit as provided by law and manage them with a view to achieving optimal return on capital within the framework of depositors' investment policies while at the same time contributing to Québec's economic development."

4. Section 5 of the said Act is amended

(1) by replacing "The Fund shall be administered by a board of directors consisting of the general manager of the Fund, the president of the Régie des rentes du Québec and nine other members appointed for three years by the Government which shall fix" in the first paragraph by "The affairs of the Fund shall be administered by a board of directors consisting of no fewer than 9 and no more than 15 members including a chair and the president and chief executive officer, who is a member of the board by virtue of office. Board members other than the chair and the president and chief executive officer are appointed by the Government for a term of up to five years, after consultation with the board. The Government shall fix";

(2) by replacing "each of them" in the fifth line of the first paragraph by "all board members but the president and chief executive officer";

(3) by replacing the second and third paragraphs by the following paragraph:

"The term of a board member, with the exception of the chair and the president and chief executive officer, may be renewed for up to a combined total of ten years."

5. The said Act is amended by inserting the following sections after section 5:

"**5.1.** The Government shall appoint the chair of the board of directors.

The chair is appointed for a renewable term of up to five years.

"**5.2.** The office of chair of the board of directors is a part-time position.

The offices of chair of the board of directors and president and chief executive officer may not be held concurrently.

"**5.3.** The board of directors shall appoint the president and chief executive officer taking into account the expertise and experience profile established by the Fund and with the approval of the Government.

The president and chief executive officer is appointed for a term of up to five years, which may be renewed.

The board of directors shall determine the remuneration and other conditions of employment of the president and chief executive officer in keeping with parameters set by the Government after consultation with the board.

"**5.4.** At least three quarters of the members of the board of directors must reside in Québec.

"**5.5.** At least two thirds of the members of the board of directors, including the chair, must be independent. They must have no relationships or interests likely to affect the quality of their decisions with regard to the interests of the Fund.

An independent member must not, on pain of removal from office,

(1) be in the employ of the Fund or one of its wholly-owned subsidiaries or have been so in the three years preceding appointment to office or be related to a person, within the meaning of the third paragraph of section 40, who has such an employment status;

(2) be in the employ of the Government or a government agency or enterprise within the meaning of sections 4 and 5 of the Auditor General Act (chapter V-5.01);

(3) have other ties as determined by the Government by regulation.

"**5.6.** Independent members are chosen in light of the expertise and experience profile established by the board of directors, if any.

"**5.7.** The chair of the board of directors shall preside at the meetings of the board and see to its proper operation. The chair shall also see to the proper operation of the board committees.

In the case of a tie vote, the chair has a casting vote.

The chair shall also assume such other responsibilities as are assigned by the board but may not act as an officer.

"**5.8.** On the recommendation of a majority of the members of the board of directors, the chair may ask the Government to dismiss a member of the board.

"**5.9.** If the chair of the board of directors is absent or unable to act, the Government may appoint a substitute, who must be an independent person. The board may designate an independent member to exercise the functions of the chair until a substitute is appointed.

"**5.10.** If the board of directors has not appointed a president and chief executive officer as required in section 5.3 within a reasonable time, the Government may appoint a president and chief executive officer after notifying the board members.

"**5.11.** If the president and chief executive officer is absent or unable to act, the board of directors may designate a member of the Fund's personnel to exercise the functions of that office.

"**5.12.** The president and chief executive officer shall be responsible for the direction and management of the Fund within the scope of its regulations and policies. The president and chief executive officer represents the Fund and is its most senior officer. The president and chief executive officer shall assume such other responsibilities as are assigned by the board of directors.

The office of president and chief executive officer is a full-time position.

"**5.13.** The president and chief executive officer shall see that the board of directors, on its request, has adequate human, material and financial resources, particularly as regards external experts, to perform its functions and for its committees to perform their functions.

"**5.14.** The president and chief executive officer may be removed from office by a vote of two thirds of the members of the board of directors, with the approval of the Government."

6. Sections 6, 7 and 8 of the said Act are repealed.

7. Section 9 of the said Act is amended by replacing "general manager" by "president and chief executive officer".

8. Section 10 of the said Act is replaced by the following section:

"**10.** Any vacancy on the board of directors shall be filled in accordance with the rules of appointment set out in this Act.

Absence from the number of board meetings determined by the board by resolution constitutes a vacancy in the cases and circumstances indicated in the resolution."

9. Section 12 of the said Act is repealed.

10. Section 13 of the said Act is amended by replacing "section 15" in the second paragraph by "paragraph *a* of section 23 and section 33.1".

11. The said Act is amended by inserting the following sections after section 13:

"**13.1.** The board of directors shall by resolution

(1) establish risk management guidelines and policies;

(2) determine delegations of authority;

(3) approve the Fund's strategic plan, business plan, budgets, financial statements and annual report;

(4) approve human resources policies as well as the standards and scales of remuneration and other conditions of employment of officers other than the president and chief executive officer, of employees of the Fund, and of the most senior officer of each of its wholly-owned subsidiaries;

(5) approve the appointment and remuneration of officers reporting directly to the president and chief executive officer and of the most senior officer of each wholly-owned subsidiary, on the recommendation of the president and chief executive officer;

(6) approve investment policies, standards and procedures;

(7) adopt a socially-responsible investment policy;

(8) approve rules of ethics and professional conduct applicable to members of the boards of directors of the Fund and its wholly-owned subsidiaries, and to the officers and employees of the Fund and its wholly-owned subsidiaries;

(9) assign a mandate to any auditor, subject to section 48; and

(10) designate the members of board committees.

"**13.2.** The board of directors shall appraise the integrity of internal controls, information disclosure controls and information systems, and approve a financial disclosure policy.

The board of directors shall hear the Auditor General at the latter's request.

The board of directors shall also see that the audit committee exercises its functions properly.

"**13.3.** The board of directors must provide for the establishment of the following committees:

(1) an audit committee;

(2) a human resources committee; and

(3) a governance and ethics committee.

"**13.4.** The audit committee, the human resources committee and the governance and ethics committee must be composed solely of independent members.

The audit committee must include members with accounting or financial expertise.

"**13.5.** The board of directors may establish other board committees to examine specific issues or facilitate the proper functioning of the Fund, and may define their mandates.

"**13.6.** Each board committee shall submit to the board of directors a summary of its proceedings to be included in the Fund's annual report.

"**13.7.** The chair of the board of directors may take part in any meeting of a board committee.

"**13.8.** The functions of the audit committee include

(1) seeing that internal control mechanisms are put in place and ensuring that they are sufficient and effective;

(2) ensuring that a risk management process is put in place;

(3) monitoring the quality and functioning of the systems and processes put in place by the Fund and its wholly-owned subsidiaries to ensure that resources are acquired and utilized with appropriate emphasis on the economy, efficiency and effectiveness of these resources, and ensuring that a plan is prepared for that purpose;

(4) following up its recommendations and the implementation of measures taken under paragraph 3;

(5) hearing the internal auditor on the application of paragraphs 1 to 4;

(6) reviewing any activity likely to be detrimental to the Fund's financial health that is brought to its attention by the auditor or an officer;

(7) approving the internal audit plan;

(8) examining the financial statements with the Auditor General;

(9) submitting the financial statements to the board of directors and recommending their approval.

"**13.9.** The audit committee shall notify the board of directors in writing on finding operations or management practices that are unsound or not in compliance with law, regulation or the policies of the Fund or its wholly-owned subsidiaries.

"**13.10.** The functions of the human resources committee include

(1) seeing that human resources policies are put in place;

(2) establishing expertise and experience profiles for the purposes of the appointment of the president and chief executive officer and independent members; and

(3) evaluate the performance of the president and chief executive officer.

"**13.11.** The functions of the governance and ethics committee include

(1) establishing governance rules;

(2) developing structures and procedures to ensure that the board of directors acts independently from the Fund's management;

(3) defining the mandates of the board committees; and

(4) establishing rules of ethics and professional conduct applicable to members of the board of directors and to officers and employees of the Fund and of its wholly-owned subsidiaries."

12. Section 14 of the said Act is repealed.

13. Section 15 of the said Act is replaced by the following section:

"**15.** The Fund shall, by a resolution of its board of directors, determine the standards and scales of remuneration and other conditions of employment of its officers and other employees and of the officers and other employees of its wholly-owned subsidiaries in accordance with the conditions defined by the Government."

14. Section 16 of the said Act is amended

(1) by replacing "general manager" in the first line by "president and chief executive officer";

(2) by replacing "and the officers and employees thereof," in the second line by "the officers and employees of the Fund and the members of the boards of directors and the officers and employees of wholly-owned subsidiaries of the Fund".

15. Section 17 of the said Act is replaced by the following section:

"**17.** Except on a question of jurisdiction, no recourse under article 33 of the Code of Civil Procedure (chapter C-25) or extraordinary recourse within the meaning of that Code may be exercised, nor any injunction granted against the Fund, the members of its board of directors acting in their official capacity, its wholly-owned subsidiaries or the members of their respective boards of directors acting in their official capacity.

A judge of the Court of Appeal may, upon a motion, annul by a summary proceeding any decision made or order or injunction issued contrary to the first paragraph."

16. Section 21 of the said Act is amended by striking out the first and third paragraphs.

17. Section 22 of the said Act is amended

(1) by inserting "a cash flow fund and" after "general fund," in the third line of the first paragraph;

(2) by striking out the second paragraph;

(3) by replacing the third paragraph by the following paragraph:

"The Fund receives demand deposits, terms deposits and participation deposits.";

(4) by striking out the sixth paragraph.

18. The said Act is amended by inserting the following section after section 22:

"**22.1.** The Fund shall advise its depositors on investment matters. It may enter with each of its depositors into a service agreement stating the services it offers, the functions and responsibilities it assumes, the information and communication channels it agrees to use and the accountability measures to which it commits itself."

19. Section 31 of the said Act is amended by striking out the second paragraph.

20. The said Act is amended by inserting the following section after section 31.1:

"**31.2.** The Fund may acquire and hold units of indexed funds.

The Fund may also acquire shares in a limited partnership or a diversified real estate fund provided the number of shares subscribed does not exceed 2% of the Fund's total assets."

21. Section 33.1 of the said Act is amended by inserting the following subparagraphs after subparagraph *c* of the first paragraph:

"(*c*.1) credit derivative contracts;

"(*c*.2) equity derivative contracts;".

22. Section 34 of the said Act is amended by replacing "section 32" in paragraph *c* by "sections 31.2 and 32".

23. The said Act is amended by inserting the following section after section 34:

"**34.1.** For the purposes of sections 31.2 and 34, the Fund shall include in its own investments the proportion attributable to it of the common shares and other securities held by a legal person more than 30% of whose common shares are held by the Fund."

24. Section 36.2 of the said Act is replaced by the following section:

"**36.2.** The Fund shall adopt an investment policy for each specialized portfolio. The investment policy for a specialized portfolio must establish

(1) return on investment targets;

(2) benchmark indices;

(3) risk tolerance limits; and

(4) qualifying securities."

25. Section 37.1 of the said Act is amended

(1) by replacing "or in offering, managing or distributing securitized assets" at the end of subparagraph *c* of the first paragraph by ", in offering, managing or distributing securitized assets or in issuing debt securities";

(2) by replacing "5 to 14.1" in the sixth line of the second paragraph by "5 to 13.11".

26. Section 40 of the said Act is replaced by the following section:

"**40.** The Fund shall not make any financial transaction with a legal person or a partnership operating an enterprise in which any member of its board of directors or the board of directors of one of its wholly-owned subsidiaries, any of its officers or employees or any officer or employee of such a subsidiary or any Member of the National Assembly has an interest, as determined by government regulation.

This prohibition also applies when the interest in an enterprise referred to in the first paragraph is held by a person related to a member of the board of directors, to an officer or an employee of the Fund or of such a subsidiary, or to a Member of the National Assembly.

For the purposes of this section, "related persons" means persons connected by blood relationship, marriage, civil union, *de facto* union, adoption or any other tie determined by regulation of the Government."

27. Section 42 of the said Act is amended by replacing "General Manager" in the second paragraph by "president and chief executive officer".

28. The said Act is amended by inserting the following section after section 42:

"**42.1.** An officer or employee of the Fund or of one of its wholly-owned subsidiaries who has a direct or indirect interest in any matter that puts that person's personal interest in conflict with the interest of the Fund or such a subsidiary must disclose that personal interest in writing to the chair of the board of directors of the Fund or of the subsidiary, under pain of dismissal."

29. Section 46 of the said Act is amended by adding the following paragraphs at the end:

"(*j*) the report of the audit committee on the performance of its mandate;

"(*k*) the report of the human resources committee on the remuneration of the chief executive officer and the five most highly remunerated officers reporting directly to the chief executive officer of the Fund and its wholly-owned subsidiaries; and

"(*l*) the report of the governance and ethics committee on the activities carried out during the fiscal year, including its assessment of the structures and procedures put in place to ensure the independence of the board of directors."

30. Section 48 of the said Act is amended by adding the following paragraphs at the end:

"The Auditor General shall make sure that the obligations set out in paragraphs 3 and 4 of section 13.8 are met and, for that purpose, may request that the audit committee provide all documents and information that he considers necessary.

The Auditor General shall send his findings and recommendations to the audit committee.

The Auditor General shall indicate in the report any subject or case arising from the application of this section that, in his opinion, should be brought to the attention of the National Assembly."

31. Section 49 of the said Act is amended by replacing "respecting its operations which he may require" by "that the Minister may require on its operations and activities and those of its wholly-owned subsidiaries."

32. Section 50 of the said Act is amended by replacing "42" by "42.1".

33. The said Act is amended by inserting the following sections after section 51:

"**51.1.** No later than every ten years, the Minister shall report to the Government on the carrying out of this Act and make recommendations on the advisability of maintaining it in force or amending it.

The report shall be tabled in the National Assembly within 30 days or, if the Assembly is not sitting, within 30 days of resumption.

"**51.2.** The Minister of Finance is responsible for the administration of this Act."

TRANSITIONAL AND FINAL PROVISIONS

34. The general manager is continued in office as president and chief executive officer of the Caisse de dépôt et placement du Québec for the remainder of the general manager's term.

The vice-chair of the board of directors and other members appointed under section 5 of the Act respecting the Caisse de dépôt et placement du Québec as it read on (*insert the date preceding the date of coming into force of this section*) remain on the board until reappointed or replaced. Section 5.5 and the first paragraph of section 13.4 of that Act, enacted by sections 5 and 11, respectively, do not apply to them.

35. The president and chief executive officer of the Caisse de dépôt et placement du Québec shall exercise the office of chair of the board of directors until that office is filled in accordance with section 5.1 of the Act respecting the Caisse de dépôt et placement du Québec.

36. This Act comes into force on 15 January 2005 or any earlier date to be set by the Government.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SEVENTH LEGISLATURE

Bill 84
(2004, chapter 41)

An Act to amend the Courts of Justice Act

Introduced 10 December 2004
Passage in principle 16 December 2004
Passage 16 December 2004
Assented to 17 December 2004

Québec Official Publisher
2004

EXPLANATORY NOTES

This bill amends the Courts of Justice Act to give legislative effect to the resolution passed by the National Assembly on 4 June 2004 as regards the recognition of the pensionable salary of judges of the Court of Québec whose salary is protected under section 116 of that Act.

The bill also makes concordance amendments to the Supplementary Benefits Plan for Judges Covered by the Pension Plan Established under Part VI of the Courts of Justice Act.

LEGISLATION AMENDED BY THIS BILL:

– Courts of Justice Act (R.S.Q., chapter T-16).

Bill 84

AN ACT TO AMEND THE COURTS OF JUSTICE ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 224.9 of the Courts of Justice Act (R.S.Q., chapter T-16) is amended by inserting the following paragraph after the third paragraph:

"A judge having held the office of chief judge, senior associate chief judge or associate chief judge for at least seven years is deemed, for the sole purpose of determining the amount of the judge's pension, to have received, for each of the years taken into consideration, an annual salary at least equivalent to that of a puisne judge."

2. Section 231 of the said Act is amended by inserting the following paragraph after the third paragraph:

"A judge having held the office of chief judge, senior associate chief judge or associate chief judge for at least seven years is deemed, for the sole purpose of determining the amount of the judge's pension, to have received, for each of the years taken into consideration, an annual salary at least equivalent to that of a puisne judge."

3. Section 11 of the Supplementary Benefits Plan for Judges Covered by the Pension Plan Established under Part VI of the Courts of Justice Act, enacted by Order in Council 326-93 dated 17 March 1993 (1993, G.O. 2, 1949) and amended by Orders in Council 793-93 dated 9 June 1993 (1993, G.O. 2, 3247), 322-94 dated 9 March 1994 (1994, G.O. 2, 1211), 1477-95 dated 15 November 1995 (1995, G.O. 2, 3208) and 1473-2001 dated 12 December 2001 (2001, G.O. 2, 6861), is again amended by replacing section 11 by the following section:

"**11.** To calculate the supplementary benefits payable under this plan, the average salary is determined in accordance with section 231 of the Act."

4. This Act also applies to a judge who is already retired on 17 December 2004, held the office of chief judge, senior associate chief judge or associate chief judge for at least seven years and received a lump sum as a salary adjustment after 1 January 2000. It applies from the date of retirement.

5. This Act comes into force on 17 December 2004.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SEVENTH LEGISLATURE

Bill 216
(Private)

An Act respecting Desjardins Trust Inc. and Desjardins Specialized Financial Services Management Inc.

Introduced 11 November 2004
Passage in principle 16 December 2004
Passage 16 December 2004
Assented to 17 December 2004

Québec Official Publisher
2004

Bill 216

(Private)

AN ACT RESPECTING DESJARDINS TRUST INC. AND DESJARDINS SPECIALIZED FINANCIAL SERVICES MANAGEMENT INC.

AS Desjardins Trust Inc. was incorporated as a trust company by letters patent issued on 27 September 1962 and registered on 24 October 1962 under the Trust Companies Act (R.S.Q. 1977, chapter C-41), under the company name Société de fiducie du Québec;

As supplementary letters patent were issued on 5 December 1974 under the Trust Companies Act in order to change the company name to Fiducie du Québec;

As supplementary letters patent were issued on 28 September 1988, under the Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01), which replaced the Trust Companies Act, in order to again change the company name, to Desjardins Trust Inc.;

As Desjardins Trust Inc. is a wholly-owned subsidiary of Desjardins Specialized Financial Services Management Inc., itself a wholly-owned subsidiary of Desjardins Financial Corporation Inc., which is a wholly-owned subsidiary of the Fédération des caisses Desjardins du Québec;

As it is expedient for Desjardins Trust Inc. to be continued as a federal trust company governed by the Trust and Loan Companies Act (Statutes of Canada, 1991, chapter 45);

As there is no legislation in Québec authorizing the continuance of a provincial trust company as a federal trust company governed by the Trust and Loan Companies Act;

As, before the continuance, Desjardins Trust Inc. and Desjardins Specialized Financial Services Management Inc. wish to transfer the shares they hold in the capital stock of their subsidiaries and other movable and immovable property to the Fédération des caisses Desjardins du Québec through one or more holding companies controlled by the federation, and as they must also at that time acquire securities issued by the federation or by such a holding company;

As the provisions of the Act respecting trust companies and savings companies governing the operations a Québec trust company carries on with restricted parties and those pertaining to the transfer of property do not allow Desjardins Trust Inc. to be party with a holding company controlled by the Fédération des caisses Desjardins du Québec or another restricted party to a contract for the transfer of certain property, nor to acquire certain securities from the federation or from such a holding company;

As section 474 of the Act respecting financial services cooperatives (R.S.Q., chapter C-67.3) does not allow a holding company controlled by the Fédération des caisses Desjardins du Québec and established under the laws of Québec for the sole purpose of holding the shares of a legal person that only carries on activities similar to those the federation is authorized to carry on to hold property other than the shares of that legal person;

As Desjardins Trust Inc. and Desjardins Specialized Financial Services Management Inc. also wish to transfer movable and immovable property they own to one or more legal persons belonging to the Fédération des caisses Desjardins du Québec group and as it is expedient to facilitate such transfers, particularly as regards their opposability;

As it is expedient to grant Desjardins Trust Inc. and the Fédération des caisses Desjardins du Québec all the powers connected with the property surrendered by Desjardins Specialized Financial Services Management Inc. and the three legal persons successively known as Desjardins Industrial Credit Inc. and now dissolved which, at the time of their dissolution, were part of the Fédération des caisses Desjardins du Québec group;

As it is expedient to pass an Act to protect the interests of the persons who do business with Desjardins Trust Inc., taking into consideration the fact that rights and obligations of Desjardins Trust Inc. will eventually be assumed by one or more of the holding companies controlled by the Fédération des caisses Desjardins du Québec and ultimately by the Fédération des caisses Desjardins du Québec itself;

As the directors and shareholders of Desjardins Trust Inc. and the directors and shareholder of Desjardins Specialized Financial Services Management Inc. have adopted a resolution agreeing to the passing of this Act and the implementation of each and every action and provision provided for in it;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. In this Act,

"Desjardins group" means the group made up of the Federation, the legal persons or partnerships referred to in section 3 of the Act respecting financial services cooperatives (R.S.Q., chapter C-67.3) and Desjardins Credit Union Inc.;

"Desjardins Industrial Credit" means any of the following three legal persons formerly known as Desjardins Industrial Credit Inc., namely,

(1) Desjardins Industrial Credit Inc., a legal person constituted on 17 September 1975 under the Companies Act (R.S.Q., chapter C-38), whose name was changed on 30 December 1994 to 9012-8190 Québec Inc., and that was dissolved on 17 May 1995;

(2) 9010-4852 Québec Inc., a legal person constituted on 14 October 1994 under the Companies Act, whose name was changed on 30 December 1994 to Desjardins Industrial Credit Inc. and again on 30 December 1997 to 9058-1141 Québec Inc., and that was dissolved on 17 January 2001; and

(3) 9054-1384 Québec Inc., a legal person constituted on 5 September 1997 under the Companies Act, whose name was changed on 30 December 1997 to Desjardins Industrial Credit Inc., and that was dissolved on 29 December 2003;

"Desjardins Management" means Desjardins Specialized Financial Services Management Inc.;

"Desjardins Trust" means Desjardins Trust Inc.; and

"Federation" means the Fédération des caisses Desjardins du Québec.

2. Despite sections 69, 120, 133 and 154 to 160 of the Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01),

(1) Desjardins Trust and Desjardins Management may transfer property to the Federation directly or through one or more holding companies controlled by the Federation. The terms and conditions of a transfer of property under this section must first be set out in a transfer agreement and approved by the Agence nationale d'encadrement du secteur financier, which may set the terms, conditions and restrictions it deems appropriate; and

(2) Desjardins Trust may acquire securities issued by a restricted party. Such an acquisition requires the prior approval of the Agence nationale d'encadrement du secteur financier and the Agency may, for that purpose, impose the conditions and restrictions it considers appropriate.

(3) Desjardins Trust may acquire property from a restricted party. The terms and conditions of an acquisition of property under this section must first be set out in an acquisition agreement and approved by the Agence nationale d'encadrement du secteur financier, which may set the terms, conditions and restrictions it considers appropriate.

3. Property transferred by Desjardins Trust or Desjardins Management to a holding company controlled by the Federation under the terms of an agreement referred to in section 2 is deemed to have been acquired by that holding company under section 474 of the Act respecting financial services cooperatives.

4. When a transferee acquires property from Desjardins Trust or Desjardins Management, a suit, action, application, motion or other proceeding brought or a power or recourse exercised or that could be brought or exercised by or against Desjardins Trust or Desjardins Management in a court of justice, an administrative tribunal or a government body in Québec in respect of property or activities transferred may not be suspended, interrupted or cancelled, but may be continued, brought or exercised on behalf of or against the transferee without continuance of suit on written notice by the latter duly served on all restricted parties and filed of record.

5. In every notarial deed or deed under private signature, in every judgment or court order, or in any document involving or naming Desjardins Trust or Desjardins Management and pertaining to debts secured by movable or immovable securities, or to movable or immovable property acquired on realization of such securities or through the exercise of any other recourse, that were subsequently transferred in whole or in part by Desjardins Trust or Desjardins Management to one or more legal persons belonging to the Federation group, under the terms of one or more transfers that may have been successive, including a transfer by Desjardins Management to Desjardins Trust and then by Desjardins Trust to another legal person belonging to the Federation group, the name of the transferee is substituted by operation of law for the name of Desjardins Trust or Desjardins Management, from the effective date of the transfer, with the same effects as if it appeared in the document.

The substitution under this section is effected and may be set up against anyone without it being necessary to observe the formalities set out in articles 1641, 1642, 1645 and 3003 of the Civil Code or to publish or file this Act, the act of transfer or any other document evidencing the substitution with regard to those rights in any register in Québec. The registrar must accept for registration any act that mentions the substitution under this section although the act of transfer or this Act may not have been published.

6. Nothing in this Act affects the rights of a person with a claim against Desjardins Trust or Desjardins Management or diminishes, modifies or affects the liability of either one toward that person. However, all such rights may be exercised against the transferee of the property that is the subject of the claim.

7. Despite any provision to the contrary, Desjardins Trust and the Federation each have the power and capacity

(1) to grant total or partial acquittance for any loan made by Desjardins Industrial Credit and surrendered by it or transferred to Desjardins Trust or Desjardins Management, or to grant, with or without consideration, total or partial release of the registration of any security or other right of a movable or immovable nature registered in the name of Desjardins Industrial Credit that arises from a contract, judgment or Act;

(2) to grant total or partial acquittance for any loan acquired by Desjardins Management that may be surrendered by it or to grant, with or without consideration, total or partial release of the registration of a security or other right of a movable or immovable nature registered in the name of Desjardins Management that arises from a contract, judgment or Act;

(3) to transfer, with or without consideration, property of a movable or immovable nature that was surrendered by Desjardins Industrial Credit or may be surrendered by Desjardins Management; and

(4) to correct, for and on behalf of Desjardins Industrial Credit or Desjardins Management, any act, contract or proceedings to which Desjardins Industrial Credit or Desjardins Management is a party.

An act of acquittance, release, transfer or correction made by Desjardins Trust or the Federation under this section is registered by filing that act, which must refer to this Act and the acts constituting the rights cancelled, transferred or corrected, give their registration numbers and, if required by the Civil Code, include a description of the movable or immovable property concerned. The power and capacity of Desjardins Trust and the Federation to act on behalf and in the name of the holder of the rights affected by such a cancellation, transfer or correction result from this section. The registrar must accept for registration any act referred to in this section that mentions that Desjardins Trust or the Federation is acting on behalf of and in the name of the holder of the rights referred to in this Act and that is certified by an advocate or a notary. The capacity of Desjardins Trust or the Federation to act on behalf of and in the name of the holder of those rights is then held to have been verified within the meaning of article 3009 of the Civil Code.

8. Desjardins Trust is authorized to apply for letters patent of continuance under the Trust and Loan Companies Act (Statutes of Canada, 1991, chapter 45).

9. On the date stated in the letters patent of continuance, Desjardins Trust ceases to be a Québec company within the meaning of section 6 of the Act respecting trust companies and savings companies.

10. This Act comes into force on 17 December 2004.

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SEVENTH LEGISLATURE

Bill 219
(Private)

An Act respecting the Association des policiers provinciaux du Québec

Introduced 11 November 2004
Passage in principle 16 December 2004
Passage 16 December 2004
Assented to 17 December 2004

Québec Official Publisher
2004

Bill 219

(Private)

AN ACT RESPECTING THE ASSOCIATION DES POLICIERS PROVINCIAUX DU QUÉBEC

AS the Association des policiers provinciaux du Québec was constituted as an association under the Professional Syndicates Act (R.S.Q., chapter S-40) on 5 April 1966;

As section 13.04 of the articles and operating by-laws of the Association confers on the general assembly of active members the power to ratify or revoke decisions that are made and that are submitted to it by the executive committee and the conference of delegates of the Association;

As section 13.03 of the articles and operating by-laws of the Association provides that the quorum for the general assembly of members is 250 active members;

As the articles and operating by-laws of the Association, and their subsequent amendments, and the other decisions made by the executive committee and the conference of delegates were never validly ratified by the general assembly of active members because the quorum required for the valid constitution and operation of the general assembly could not be reached;

As section 9 of the Professional Syndicates Act provides that the Association may establish and administer special funds for assistance in case of illness for the benefit of its members;

As the Association adopted by-laws entitled "Règlements du régime d'assurance-maladie de l'Association des policiers provinciaux du Québec" establishing a health insurance plan for its members, which plan came into force on 1 January 1980;

As section 3.06 of the health insurance plan by-laws provides that the executive committee of the Association may amend the provisions of the plan at any time provided that the amendments are ratified by the general assembly of active members;

As several amendments were made to the health insurance plan after it came into force without being validly ratified by the general assembly of active members of the Association because the quorum required for the valid constitution and operation of the general assembly could not be reached;

As the approval required by sections 9 and 29 of the Professional Syndicates Act with respect to the articles and by-laws governing a special fund for assistance in case of illness was never obtained;

As it is in the interest of the Association des policiers provinciaux du Québec that these irregularities be remedied;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. From 17 December 2004 and until sections 13.02 and 13.03 of the articles and operating by-laws of the Association des policiers provinciaux du Québec are amended according to the procedure set out in the articles and by-laws, the general assembly of active members of the Association may be held on the same date as the conference of delegates, and the quorum for that general assembly is 175 active members.

2. In the event that the general assembly of active members of the Association approves the articles and operating by-laws of the Association des policiers provinciaux du Québec adopted on 6 February 1966 and all amendments made to those articles and operating by-laws from the date they were adopted to 31 August 2004, the articles and operating by-laws and the amendments so approved are deemed to have been ratified and to be enforceable from the date they were adopted by the executive committee of the Association.

The same applies to the decisions made by the executive committee and the conference of delegates from the date the Association des policiers provinciaux du Québec was formed until 31 August 2004.

3. In the event that the general assembly of active members of the Association approves the health insurance plan by-laws of the Association des policiers provinciaux du Québec in force since 1 January 1980 and all amendments made to those by-laws from the date they came into force to 31 August 2004, except the amendment adopted on 31 May 2003 eliminating the requirement to submit amendments to the health insurance plan to an assembly of active members of the Association for ratification, the by-laws and the amendments so approved are deemed to have been ratified by the general assembly of active members of the Association and approved in accordance with sections 9 and 29 of the Professional Syndicates Act. They are deemed to be enforceable from the date they were adopted by the executive committee of the Association.

4. No irregularity or illegality may be alleged against the articles and operating by-laws, the decisions made by the executive committee and the conference of delegates or the by-laws of the health insurance plan of the Association des policiers provinciaux du Québec referred to in sections 1, 2 and 3, except the amendment mentioned in section 3, on the grounds that they were not ratified by the general assembly of active members of the Association or that they were not approved in accordance with sections 9 and 29 of the Professional Syndicates Act.

5. This Act does not affect cases pending or decisions or judgments already rendered.

6. This Act comes into force on 17 December 2004.

Treasury Board

Gouvernement du Québec

T.B. 201864, 20 December 2004

An Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10)

Regulation — Amendments

Regulation to amend the Regulation under the Act respecting the Government and Public Employees Retirement Plan

WHEREAS, under subparagraph 10 of the first paragraph of section 134 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10), the Government may, by regulation, determine when and how funds are transferred to the plan;

WHEREAS under the first paragraph of section 134, the Government may make the Regulation after the Commission administrative des régimes de retraite et d'assurances has consulted the Comité de retraite referred to in section 164 of the Act;

WHEREAS the Comité de retraite has been consulted;

WHEREAS the Government made the Regulation under the Act respecting the Government and Public Employees Retirement Plan by Order in Council 1845-88 dated 14 December 1988;

WHEREAS it is expedient to amend the Regulation;

WHEREAS, under section 40 of the Public Administration Act (R.S.Q., c. A-6.01), the Conseil du trésor shall, after consulting the Minister of Finance, exercise the powers conferred on the Government by an Act that establishes a pension plan applicable to personnel of the public and parapublic sectors, except certain powers;

WHEREAS the Minister of Finance has been consulted;

THEREFORE, THE CONSEIL DU TRÉSOR DECIDES:

THAT the Regulation to amend the Regulation under the Act respecting the Government and Public Employees Retirement Plan, attached to this Decision, is hereby made.

SERGE MARTINEAU,
Clerk of the Conseil du trésor

Regulation to amend the Regulation under the Act respecting the Government and Public Employees Retirement Plan*

An Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10, s. 134, 1st par., subpar. 10)

1. Schedule I to the Regulation under the Act respecting the Government and Public Employees Retirement Plan is amended

(1) by inserting the following after paragraph 3:

"3.1. Promotional salary increase:

Years of service	Rate
0	0.0350
1	0.0319
2	0.0290
3	0.0263
4	0.0237
5	0.0213
6	0.0191
7	0.0171
8	0.0152
9	0.0135
10	0.0119
11	0.0105

* The Regulation under the Act respecting the Government and Public Employees Retirement Plan, made by Order in Council 1845-88 dated 14 December 1988 (1988, *G.O.* 2, 4154), was last amended by the regulation made by Conseil du trésor Decision T.B. 201421 dated 3 August 2004 (2004, *G.O.* 2, 2509). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2004, updated to 1 September 2004.

Years of service	Rate
12	0.0092
13	0.0081
14	0.0071
15	0.0062
16	0.0054
17	0.0047
18	0.0041
19	0.0036
20	0.0032
21	0.0028
22	0.0025
23	0.0023
24	0.0022
25	0.0021
26	0.0021
27 or +	0.0021";

(2) by replacing paragraphs 9, 10 and 11 by the following:

"(9) Withdrawal rate (male and female):

Select service

Service	Rate
0	0.2400
1	0.0800
2	0.0400
3	0.0300
4	0.0200

Maximum service

Age	Male	Female
21	0.0220	0.0210
22	0.0210	0.0200
23	0.0200	0.0190
24	0.0190	0.0170
25	0.0180	0.0160
26	0.0170	0.0150
27	0.0160	0.0140
28	0.0150	0.0130
29	0.0140	0.0120
30	0.0130	0.0110
31	0.0120	0.0100
32	0.0120	0.0100
33	0.0110	0.0090
34	0.0100	0.0080
35	0.0100	0.0080
36	0.0090	0.0080
37	0.0090	0.0070
38	0.0080	0.0070

Maximum service

Age	Male	Female
39	0.0080	0.0070
40	0.0080	0.0060
41	0.0070	0.0060
42	0.0070	0.0060
43	0.0070	0.0060
44	0.0070	0.0060
45	0.0070	0.0070
46	0.0070	0.0070
47	0.0070	0.0070
48	0.0070	0.0070
49	0.0070	0.0080
50	0.0070	0.0080
51	0.0080	0.0090
52	0.0080	0.0090
53	0.0080	0.0100
54	0.0090	0.0110
55	0.0000	0.0000
56	0.0000	0.0000
57	0.0000	0.0000
58	0.0000	0.0000
59	0.0000	0.0000

(10) Proportion of members having a spouse at death:

Age	Male	Female	Age	Male	Female
18	0.018	0.077	65	0.837	0.447
19	0.036	0.125	66	0.829	0.421
20	0.065	0.200	67	0.820	0.394
21	0.109	0.269	68	0.810	0.365
22	0.166	0.327	69	0.800	0.336
23	0.251	0.374	70	0.789	0.309
24	0.366	0.412	71	0.777	0.284
25	0.447	0.442	72	0.765	0.262
26	0.484	0.466	73	0.753	0.242
27	0.519	0.484	74	0.739	0.225
28	0.551	0.498	75	0.725	0.210
29	0.582	0.510	76	0.710	0.196
30	0.610	0.520	77	0.694	0.185
31	0.636	0.530	78	0.676	0.173
32	0.660	0.541	79	0.658	0.162
33	0.681	0.551	80	0.638	0.150
34	0.701	0.562	81	0.618	0.137
35	0.719	0.571	82	0.596	0.122
36	0.735	0.581	83	0.573	0.107
37	0.749	0.589	84	0.549	0.091
38	0.762	0.597	85	0.524	0.076
39	0.774	0.604	86	0.498	0.061
40	0.784	0.611	87	0.470	0.047
41	0.794	0.617	88	0.441	0.035
42	0.802	0.621	89	0.411	0.024
43	0.810	0.625	90	0.380	0.016

Age	Male	Female	Age	Male	Female
44	0.817	0.628	91	0.344	0.010
45	0.823	0.630	92	0.302	0.006
46	0.829	0.630	93	0.262	0.004
47	0.835	0.629	94	0.224	0.003
48	0.840	0.627	95	0.189	0.002
49	0.844	0.624	96	0.157	0.002
50	0.848	0.621	97	0.127	0.001
51	0.852	0.616	98	0.101	0.001
52	0.856	0.612	99	0.078	0.001
53	0.859	0.606	100	0.059	0.000
54	0.862	0.599	101	0.043	0.000
55	0.864	0.591	102	0.031	0.000
56	0.866	0.581	103	0.021	0.000
57	0.866	0.571	104	0.014	0.000
58	0.866	0.559	105	0.009	0.000
59	0.866	0.547	106	0.006	0.000
60	0.864	0.534	107	0.003	0.000
61	0.860	0.520	108	0.002	0.000
62	0.856	0.505	109	0.001	0.000
63	0.851	0.488	110	0.000	0.000
64	0.845	0.469			

(11) Age of spouse:

i. the male spouse of a member is presumed to be 1 year older;

ii. the female spouse of a member is presumed to be 4 years younger.".

2. This Regulation comes into force on the day it is made.

6673

Index

Abbreviations: **A**: Abrogated, **N**: New, **M**: Modified