



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 131

(1997, chapter 6)

An Act to amend the Act respecting the Ministère du Conseil exécutif and other legislative provisions as regards standards of ethics and professional conduct

Introduced 15 December 1995
Passage in principle 13 June 1996
Passage 18 March 1997
Assented to 20 March 1997

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EXPLANATORY NOTES

This bill provides that the Government will be empowered to make regulations to enact standards of ethics and professional conduct applicable to the public office holders specified in the bill and to require the boards of directors of government agencies and corporations to adopt codes of ethics and professional conduct applicable to such public office holders. The regulations applicable to such public office holders will also define the authorities responsible for, and the procedure governing, examinations and inquiries with respect to misconduct, provide for appropriate penalties, and indicate by which authorities the penalties are to be determined and are to be imposed.

The bill also requires the boards of directors of government agencies and corporations to adopt codes of ethics and professional conduct applicable to board members and certain designated persons who are not public office holders within the meaning of the Act.

The bill also imposes on various institutions in the sectors of education and health and social services the obligation to adopt standards of ethics and professional conduct applicable to their directors.

Lastly, the bill provides that any person who derives a benefit from a failure to comply with a standard established by regulation will be liable to the State for the value of the benefit obtained.

LEGISLATION AMENDED BY THIS BILL:

- Education Act (R.S.Q., chapter I-13.3);
- Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., chapter I-14);
- Act respecting the Ministère du Conseil exécutif (R.S.Q., chapter M-30).

Bill 131

An Act to amend the Act respecting the Ministère du Conseil exécutif and other legislative provisions as regards standards of ethics and professional conduct

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Act respecting the Ministère du Conseil exécutif (R.S.Q., chapter M-30) is amended by inserting, after section 3, the following division:

“DIVISION I.1

“STANDARDS OF ETHICS AND PROFESSIONAL CONDUCT

“§ 1. — *Public office holders*

“3.0.1 Public office holders shall be subject to the standards of ethics and professional conduct enacted by government regulation, including those relating to remuneration.

The following persons are public office holders:

(1) the members of the board of directors of, and members of, a government agency or government corporation within the meaning of the Auditor General Act (chapter V-5.01) other than a legal person less than one hundred per cent of the voting shares of which are held by a government agency or government corporation to which this subparagraph applies, and the persons holding administrative offices provided for by law within such an agency or corporation;

(2) the persons appointed or designated by the Government or by a minister to an office within any agency or corporation that is not a public body within the meaning of the Auditor General Act to whom subparagraph 1 does not apply.

A person already governed by standards of ethics or professional conduct under the Public Service Act (chapter F-3.1.1) shall, in addition, be subject to the standards prescribed under this division where that person's position is that of a public office holder.

This section does not apply to judges of a court within the meaning of the Courts of Justice Act (chapter T-16), to bodies every member of which is a judge of the Court of Québec or to the Conseil de la magistrature.

“3.0.2 The regulations made under section 3.0.1 may

(1) prescribe standards that vary according to the various classes of agencies, corporations or persons to which they apply or that apply only to certain classes of them;

(2) prescribe the rules with which public office holders are required to comply after the expiry of their term of office, and the period of compliance;

(3) regulate or prohibit certain practices relating to the remuneration of public office holders;

(4) require the members of the board of directors of, or members of, a government agency or a government corporation referred to in subparagraph 1 of the second paragraph of section 3.0.1 to establish, in conformity with the standards prescribed by the regulations, a code of ethics and professional conduct applicable to the persons referred to in that subparagraph and specify the matters to be addressed by the codes; the codes may prescribe standards that vary according to the various classes of persons to which they apply or that apply only to certain classes among them;

(5) establish the authorities responsible for, and the procedure governing, examinations of and inquiries into alleged or actual conduct that may be in contravention of the law, the regulations or the codes of ethics and professional conduct, prescribe appropriate penalties and determine the authorities that are to determine or impose such penalties;

(6) determine the terms and conditions according to which public office holders may be temporarily relieved of their duties.

The Government may, by regulation and according to the terms it determines, extend the jurisdiction of an existing authority or of its members to include the jurisdiction under subparagraph 5 of the first paragraph.

The government agency or government corporation must ensure public access to the code and publish it in its annual report.

The annual report shall, in addition, state the number of cases dealt with and the follow-up thereon and set out any breaches determined during the year by the disciplinary authorities, the determination thereof, any penalties imposed by the competent authorities and the names of any public office holders revoked or suspended during the year.

“§ 2. — *Government agencies and government corporations*

“3.0.3 The members of the board of directors of, and members of, every government agency or government corporation not referred to in subparagraph 1 of the second paragraph of section 3.0.1 must establish a code of ethics and professional conduct which is applicable to them.

The members of the board of directors of, and members of, every government agency or government corporation must establish a code of ethics and professional conduct applicable to every person who, at the request of the agency or corporation, acts as a director or member of any agency or corporation that is not a government agency or a government corporation.

Such codes shall set out the duties and obligations of the persons to which they apply, and may prescribe standards that vary according to the various classes of persons to which they apply or that apply only to certain classes of persons. Such codes must, among other things,

- (1) include preventive measures, in particular rules for the disclosure of interests;
- (2) deal with the identification of situations of conflict of interest;
- (3) regulate or prohibit practices relating to remuneration;
- (4) specify the duties and obligations of persons even after they leave office;
- (5) include enforcement mechanisms, in particular the designation of the persons charged with the enforcement of the code and provide for penalties.

The government agency or government corporation must ensure public access to the codes, and publish them in its annual report.

The annual report shall, in addition, state the number of cases dealt with and the follow-up thereon and set out any breaches determined during the year by the disciplinary authorities, the determination thereof, any penalties imposed by the competent authorities and the names of any persons revoked or suspended during the year.

“§ 3. — *Health and social services and education sectors*

“3.0.4 The members of the board of directors, or of the entity acting as such, of every body referred to below must establish a code of ethics and professional conduct which is applicable to them:

(1) every educational institution at the university level referred to in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1);

(2) every general and vocational college established under the General and Vocational Colleges Act (chapter C-29);

(3) every private institution accredited for the purposes of subsidies under the Act respecting private education (chapter E-9.1);

(4) every other educational institution more than half of whose operating expenses are paid out of appropriations appearing in the budget estimates tabled in the National Assembly;

(5) every public or private institution that is a party to an agreement and every regional board referred to in the Act respecting health services and social services (chapter S-4.2);

(6) the regional council established under the Act respecting health services and social services for Cree Native persons (chapter S-5).

The code shall set out the duties and obligations of the persons to which it applies, and may prescribe standards that vary according to the various classes of persons to which they apply or that apply only to certain classes of persons. The code must, among other things,

(1) include preventive measures, in particular rules for the disclosure of interests;

(2) deal with the identification of situations of conflict of interests;

- (3) regulate or prohibit practices relating to remuneration;
- (4) specify the duties and obligations of persons even after they leave office;
- (5) include enforcement mechanisms, in particular the designation of the persons charged with the enforcement of the code and provide for penalties.

The institution, college, board or council must ensure public access to the code, and publish it in its annual report.

The annual report shall, in addition, state the number of cases dealt with and the follow-up thereon and set out any breaches determined during the year by the disciplinary authorities, the determination thereof, any penalties imposed by the competent authorities and the names of any persons revoked or suspended during the year.

“§ 4. — *Various provisions*

“3.0.5 Persons or authorities charged, pursuant to this division, with examining or inquiring into alleged or actual conduct that may be contrary to standards of ethics or professional conduct, or charged, pursuant to this division, with determining or imposing appropriate penalties, may not be prosecuted by reason of acts performed in good faith in the performance of their duties.

“3.0.6 Any person who derives a benefit as a result of a failure to comply with any standard of ethics or professional conduct established under this division is liable to the State for the value of the benefit derived.”

2. The Education Act (R.S.Q., chapter I-13.3) is amended by inserting, after section 175, the following sections:

“175.1 The council of commissioners must, by by-law, establish a code of ethics and professional conduct which is applicable to the commissioners.

The code shall set out the duties and obligations of the commissioners, and may prescribe standards that vary according to the various classes of commissioners or that apply only to certain classes of commissioners. The code must, among other things,

- (1) include preventive measures, in particular rules for the disclosure of interests;
- (2) deal with the identification of situations of conflict of interest;
- (3) regulate or prohibit practices relating to remuneration;
- (4) specify the duties and obligations of commissioners even after they leave office;
- (5) include enforcement mechanisms, in particular the designation of the persons charged with the enforcement of the code and provide for penalties.

The school board must ensure public access to the code, and publish it in its annual report.

The annual report shall, in addition, state the number of cases dealt with and the follow-up thereon and set out any breaches determined during the year by the disciplinary authorities, the determination thereof, any penalties imposed by the competent authorities and the names of any commissioners revoked or suspended during the year.

“175.2 Persons or authorities charged with examining or inquiring into alleged or actual conduct that may be contrary to standards of ethics or professional conduct, or charged with determining or imposing appropriate penalties, may not be prosecuted by reason of acts performed in good faith in the performance of their duties.

“175.3 Any person who derives a benefit as a result of a failure to comply with any standard of ethics or professional conduct established under section 175.1 is liable to the State for the value of the benefit derived.”

3. The Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., chapter I-14) is amended by inserting, after section 185, the following sections:

“185.1 The council of commissioners must, by by-law, establish a code of ethics and professional conduct which is applicable to the commissioners.

The code shall set out the duties and obligations of the commissioners, and may prescribe standards that vary according to

the various classes of commissioners or that apply only to certain classes of commissioners. The code must, among other things,

(1) include preventive measures, in particular rules for the disclosure of interests;

(2) deal with the identification of situations of conflict of interest;

(3) regulate or prohibit practices relating to remuneration;

(4) include the duties and obligations of commissioners even after they leave office;

(5) include enforcement mechanisms, in particular the designation of the persons charged with the enforcement of the code and provide for penalties.

The school board must ensure public access to the code, and publish it in its annual report.

The annual report shall, in addition, state the number of cases dealt with and the follow-up thereon and set out any breaches determined during the year by the disciplinary authorities, the determination thereof, any penalties imposed by the competent authorities and the names of any commissioners revoked or suspended during the year.

“185.2 Persons or authorities charged with examining or inquiring into alleged or actual conduct that may be contrary to standards of ethics or professional conduct, or charged with determining appropriate penalties, may not be prosecuted by reason of acts performed in good faith in the performance of their duties.

“185.3 Any person who derives a benefit as a result of a failure to comply with any standard of ethics or professional conduct established under section 185.1 is liable to the State for the value of the benefit derived.”

4. The provisions of this Act come into force on 20 March 1997, except sections 3.0.3 and 3.0.4 of the Act respecting the Ministère du Conseil exécutif, enacted by section 1, and sections 2 and 3 which come into force on 1 January 1998.

