



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 53

(1999, chapter 34)

An Act respecting the Corporation d'hébergement du Québec

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Assented to 19 June 1999

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EXPLANATORY NOTES

This bill gives effect to the reform of government accounting policies announced by the Minister of Finance in the Budget Speech of 31 March 1998. To that end, the bill provides that the Corporation d'hébergement du Québec, established on 10 September 1974 under Part III of the Companies Act, is to become a legal person with share capital and a mandatary of the State.

The Corporation's mission is to provide to stakeholders in the health and social service sector the technical and financial expertise and the financing necessary for the management, construction, maintenance and acquisition of the required installations, equipment and infrastructures. The mission of the Corporation includes owning property used or to be used by bodies or agencies of the health and social service sector.

The bill contains provisions relating to the operation and organization of the Corporation, financial provisions concerning, in particular, the authorized capital of the Corporation and provisions concerning the financial commitments that the Corporation and its subsidiaries are authorized to make.

Lastly, the bill includes amending, transitional and final provisions.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1);
- Financial Administration Act (R.S.Q., chapter A-6);
- Archives Act (R.S.Q., chapter A-21.1);
- Act respecting the Caisse de dépôt et placement du Québec (R.S.Q., chapter C-2);
- Act respecting the protection of non-smokers in certain public places (R.S.Q., chapter P-38.01);
- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);

- Act respecting health services and social services (R.S.Q., chapter S-4.2);
- Securities Act (R.S.Q., chapter V-1.1).

Bill 53

AN ACT RESPECTING THE CORPORATION D'HÉBERGEMENT DU QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

CHAPTER I

CONTINUANCE AND MISSION

1. The Corporation d'hébergement du Québec, constituted on 10 September 1974 by letters patent issued under Part III of the Companies Act (R.S.Q., chapter C-38), becomes a legal person with share capital. The Corporation d'hébergement du Québec may be designated by the abbreviation "CHQ".

2. The Corporation is a mandatary of the State. The property of the Corporation forms part of the domain of the State, but the execution of the obligations of the Corporation may be levied against its property.

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

3. The mission of the Corporation is to provide to stakeholders in the health and social service sector, for consideration and in a self-financing perspective, technical and financial expertise and the financing necessary for the management, construction, maintenance and acquisition of health and social service installations, equipment and infrastructures.

The mission of the Corporation includes owning property used or to be used by a health and social services institution, regional board or regional council referred to in the Act respecting health services and social services (R.S.Q., chapter S-4.2) or in the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5), or by any person, partnership or association designated by the Minister or the Government.

4. In the pursuit of its mission, the Corporation may, in particular,

(1) manage installations in the health and social service sector;

(2) invest in, carry out or facilitate the carrying out of construction, acquisition, investment or financing projects relating to installations, equipment or infrastructures in the health and social service sector;

(3) provide financial support and technical expertise to the Minister and stakeholders in the health and social service sector to foster the carrying out of projects, activities or particular operations falling within the scope of their mission;

(4) develop property management expertise in the health and social sector in partnership with the private sector.

5. The Corporation must carry out any mandate entrusted to it by the Government in any field in which the Corporation exercises its powers and jurisdiction, and the cost of which is borne by the Government.

6. The Corporation may, according to law, 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.

The Corporation may, in the same manner, enter into an agreement and take part in joint projects with a Québec government department or body or with any person or agency.

7. The Corporation may, with the authorization of the Government, acquire or establish any subsidiary required in the pursuit of its mission.

A legal person or partnership is a subsidiary of the Corporation if the Corporation holds more than 50% of the voting rights attached to all the issued and outstanding shares of the legal person or more than 50% of the interests in the partnership, or if the Corporation may elect a majority of the directors of the legal person or partnership.

8. Subsidiaries all of whose shares are held directly or indirectly by the Corporation are mandataries of the State. The provisions of this Act apply to such subsidiaries, with the necessary modifications, except sections 1, 13 to 17, the first paragraph of section 18, sections 20, 28, 29, 31 to 37, the second paragraph of section 40 and sections 41 to 76.

9. The Corporation shall 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) make a financial commitment in excess of the limits or in contravention of the terms and conditions determined by the Government;

(3) acquire or hold shares issued by a legal person or an interest in a partnership in excess of the limits or in contravention of the terms and conditions determined by the Government;

(4) transfer shares issued by a legal person or an interest in a partnership in excess of the limits or in contravention of the terms and conditions determined by the Government;

(5) acquire or transfer other assets in excess of the limits or in contravention of the terms and conditions determined by the Government;

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

The Government may prescribe that one of the provisions of the first paragraph applies to all or only one of the subsidiaries of the Corporation.

However, the provisions of the first paragraph do not apply to transactions between the Corporation and a subsidiary or between subsidiaries.

10. The Corporation may acquire by expropriation any immovable or real right necessary for the pursuit of its mission.

11. Notwithstanding any inconsistent provision, where a public institution referred to in any of the Acts mentioned in the second paragraph of section 3 must ensure the financing of major expenditures resulting from a financial reorganization or the carrying out of an investment project related to the institution's installations or infrastructures, the Minister may, on the terms and conditions the Minister determines, authorize the institution

(1) to obtain a loan from the Corporation and to hypothecate any property owned by the institution to secure the repayment of the loan;

(2) to transfer any property it owns to the Corporation to enable the Corporation to carry out any planned investment project, and to receive, as consideration, the sum necessary for the payment of any debt pertaining to the transferred property and, where applicable, to the financing of expenditures incurred in connection with its financial reorganization;

(3) to lease any property transferred to the Corporation in return of a rent that ensures the repayment of the principal of and interest on any sum paid to the institution by the Corporation or, as the case may be, assumed by the Corporation for the carrying out of an investment project;

(4) to resume, if necessary, ownership of the property once the Corporation has been repaid in full.

The provisions of the Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1) do not apply to a transfer or resumption of ownership of property referred to in this section.

CHAPTER II

ORGANIZATION AND OPERATION

12. The head office of the Corporation shall be located in the territory of the Communauté urbaine de Québec. Notice of the location of the head office shall be published in the *Gazette officielle du Québec*.

13. The affairs of the Corporation shall be administered by a board of directors composed of the following persons, who shall become members of the board upon their appointment by the Government:

- (1) one person appointed to act as the chief executive officer;
- (2) four persons exercising functions in the health and social service sector;
- (3) two persons exercising functions in the economic sector, other than the financial sector;
- (4) two persons exercising functions in the financial sector.

14. The chief executive officer of the Corporation shall be appointed for a term not exceeding five years; the term of the other members of the board of directors shall not exceed three years.

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

15. A person shall cease to be a member of the board of directors upon ceasing to qualify for appointment to the board.

16. The chief executive officer shall also be the chair of the board of directors of the Corporation.

The chief executive officer shall see that the decisions of the board of directors are carried out and be responsible for the administration and management of the Corporation within the scope of its by-laws and policies. The office of chief executive officer is a full-time position.

The chair of the board of directors shall call and preside at meetings of the board and see to the proper operation of the board. The chair shall also exercise any other functions assigned to the chair by the board of directors.

17. The members of the board of directors shall designate a vice-chair from among their number, who shall chair the board of directors when the chief executive officer is absent or unable to act.

18. Any vacancy on the board of directors, other than in the position of chief executive officer, shall be filled in accordance with the rules of

appointment set out in section 13 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 Corporation, in the cases and circumstances specified therein, constitutes a vacancy.

19. The Government shall determine the remuneration, employee benefits and other conditions of employment of the chief executive officer.

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

20. The board of directors may hold its meetings at any place in Québec.

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

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

22. The minutes of a meeting of the board of directors, approved by the board and certified by the chair or the vice-chair of the board of directors, the secretary or any other person so authorized by the Corporation, are authentic, as are documents and copies of documents emanating from the Corporation or forming part of its records where so certified.

23. An intelligible transcription of a decision or other data stored by the Corporation on a computer or any other computer storage medium is a document of the Corporation and is proof of its contents where certified true by a person referred to in section 22.

24. A document is binding on the Corporation or may be attributed to it only if it is signed by the chief executive officer, the vice-chair of the board of directors or the secretary or, to the extent determined in the internal by-laws of the Corporation, by another member of the Corporation's personnel.

The rules governing the delegation of signing authority may provide for subdelegation and the mechanics thereof.

25. The internal by-laws of the Corporation may allow, subject to the conditions and on the documents determined therein, that a signature be affixed by means of an automatic device, that a signature be electronic or that a facsimile of a signature be engraved, lithographed or printed. However, the facsimile has the same force as the signature itself only if the document is countersigned by a person referred to in section 24.

26. The Corporation may, in its internal by-laws, fix any other operating procedure of the board of directors, establish an executive committee or any other committee, and delegate the exercise of its powers to such a committee.

The by-laws may also provide for the delegation of the powers of the board of directors to a member of the personnel of the Corporation.

27. The secretary and the other members of the personnel of the Corporation shall be appointed in accordance with the staffing plan established by regulation of the Corporation. The regulation shall also determine the conditions of appointment, the pay scales and rates, the employee benefits and the other conditions of employment of the members of the personnel.

The by-laws must be submitted to the Government for approval.

28. Any member of the personnel of the Corporation who has a direct or indirect interest in an enterprise causing the personal interest of the member of the personnel to conflict with that of the Corporation must, on pain of dismissal, disclose the interest in writing to the chief executive officer.

29. Notwithstanding the provisions of sections 49 to 49.5 of the Financial Administration Act (R.S.Q., chapter A-6), the Corporation may, by regulation,

(1) establish the conditions concerning contracts entered into by the Corporation and determine the cases in which a call for tenders is required ;

(2) determine the conditions and procedure for the purchase and acquisition of goods and services.

The regulation shall be submitted to the Government for approval.

30. No regulation of the Corporation is subject to ratification by the shareholder.

31. The Minister may issue directives concerning the policy and general objectives to be pursued by the Corporation.

The directives must be approved by the Government, and come into force on the day of their approval. Once approved, they are binding on the Corporation and the Corporation must comply with them.

Every directive shall be tabled in the National Assembly within 15 days of being approved by the Government or, if the Assembly is not sitting, within 15 days of resumption.

32. The provisions of Part II of the Companies Act (R.S.Q., chapter C-38), except the provisions of sections 159 to 162, 179, 184, 189 and subsection 3 of section 196, and the provisions of sections 89.1 to 89.4 of Part I and sections 123.87 to 123.89 of Part IA of the said Act apply to the Corporation.

CHAPTER III**FINANCIAL PROVISIONS**

33. The authorized share capital of the Corporation is \$500,000,000, divided into 5,000,000 shares having a par value of \$100 each.

34. The shares of the Corporation shall form part of the domain of the State and shall be allotted to the Minister of Finance.

35. The Minister of Finance may, with the authorization of the Government, pay to the Corporation, out of the consolidated revenue fund, the sum of \$500,000,000 for 5,000,000 fully paid shares of its share capital for which certificates shall be issued to the Minister.

The payment may be made in one or more instalments; if it is made in more than one instalment, each must be authorized by the Government.

36. After a reduction in the share capital of the Corporation and an equivalent repayment of capital to the Minister of Finance under the Act respecting the reduction of the share capital of legal persons established in the public interest and of their subsidiaries (R.S.Q., chapter R-2.2.1), the Minister of Finance may, with the authorization of the Government and on the conditions it determines, subscribe for shares of the Corporation for an amount that shall not exceed the amount of the repayment. The shares shall be paid out of the consolidated revenue fund. Certificates shall be issued when the shares are fully paid.

37. The Government may, on the terms and conditions it determines, transfer any property forming part of the domain of the State to the Corporation and receive in return any property, including shares of the capital of the Corporation.

38. A transfer of property pursuant to section 37 is registered in the land register on presentation of a declaration describing the transfer, referring to the order in council, containing the description of the immovable property transferred and indicating the effective date of the transfer.

39. Subject to the provisions of the business plan referred to in section 47, the Corporation may determine a tariff of commitment, professional and other fees for the use of the goods and services it provides.

40. The Government may, on the terms and conditions it determines,

(1) guarantee the payment of the principal of and interest on any loan contracted by the Corporation or a subsidiary referred to in section 8, and the execution of its obligation;

(2) make any commitment in relation to the carrying out or financing of an initiative in which the Corporation or one of its subsidiaries is participating;

(3) authorize the Minister of Finance to advance to the Corporation or one of its subsidiaries any amount considered necessary for the fulfilment of their obligations or the pursuit of their mission.

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

41. The Corporation shall finance its operations out of the revenues it derives from the leasing and management of its immovables, its financial interventions, its investments, the fees, commissions and management charges it collects and the other sums it receives.

More particularly, the principal of and interest on any loan the Corporation has contracted on or after (*insert here the date of coming into force of this section*) shall be repaid out of the revenues from the institutions in the health and social services network which receive their funding mainly from the Government, and the revenues from the other users of the goods and services it provides.

42. The Corporation may deposit with the Minister of Finance, to be managed by the Minister of Finance, sums intended for the payment of the principal of any loan, in order to constitute a sinking fund for the purpose of repaying out of such sums the principal of the loan, at the maturities under the terms of the loan.

The provisions of the second paragraph of section 469 of the Act respecting health services and social services apply in respect of the use of revenues of the sinking fund.

43. The dividends payable by the Corporation shall be fixed by the Government.

CHAPTER IV

ACCOUNTS AND REPORTS

44. The fiscal year of the Corporation ends on 31 March.

45. The Corporation shall, not later than 31 July each year, file with the Minister its financial statements, a report of operations for the preceding fiscal year and an assessment of its operations for the year just ended.

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

46. The Minister shall table the report of operations and the financial statements of the Corporation in the National Assembly within 30 days of receiving them or, if the Assembly is not sitting, within 30 days of resumption.

47. The Corporation shall establish, according to the form, content and intervals fixed by the Government, a business plan that must include the operations of its subsidiaries. The plan must be submitted to the Government for approval.

48. The business plan shall, on expiry, continue in force until a new plan is approved.

49. The books and accounts of the Corporation shall be audited by the Auditor General each year and whenever ordered by the Government.

The auditor's report must be submitted with the Corporation's report of operations and financial statements.

50. The Corporation shall communicate to the Minister any information required by the Minister concerning its operations and the operations of its subsidiaries.

51. Before 1 April of each year, the Corporation shall prepare an operating budget, which it shall transmit to the Minister.

52. The Corporation shall establish a three-year investment plan, submit the plan to the Government for approval and shall establish an annual investment plan, which it shall transmit to the Minister.

The Government shall determine the form and content of the three-year investment plan and the time in which it must be submitted.

CHAPTER V

AMENDING PROVISIONS

53. The words and figures "referred to in section 471 of that Act" and "referred to in section 471 of the said Act" are struck out wherever they appear in the following provisions:

(1) the first paragraph of section 7 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1);

(2) subparagraph 3.1 of the first paragraph of section 69.6 of the Financial Administration Act (R.S.Q., chapter A-6);

(3) paragraph 6.1 of the Schedule to the Archives Act (R.S.Q., chapter A-21.1);

(4) section 20.5 of the Act respecting the Caisse de dépôt et placement du Québec (R.S.Q., chapter C-2);

(5) the second paragraph of section 4 of the Act respecting the protection of non-smokers in certain public places (R.S.Q., chapter P-38.01).

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

54. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), amended by orders in council 1493-96 dated 4 December 1996, 629-97 dated 13 May 1997, 788-97 dated 18 June 1997, 1105-97 dated 28 August 1997, 1652-97 dated 17 December 1997, 296-98 and 297-98 dated 18 March 1998, 730-98 dated 3 June 1998, 764-98 dated 10 June 1998, 1155-98 dated 9 September 1998 and 1524-98 dated 16 December 1998, and by section 35 of chapter 26 of the statutes of 1997, section 33 of chapter 27 of the statutes of 1997, section 13 of chapter 36 of the statutes of 1997, section 631 of chapter 43 of the statutes of 1997, section 57 of chapter 50 of the statutes of 1997, section 121 of chapter 63 of the statutes of 1997, section 52 of chapter 79 of the statutes of 1997, section 37 of chapter 83 of the statutes of 1997, section 61 of chapter 17 of the statutes of 1998, section 48 of chapter 42 of the statutes of 1998 and section 53 of chapter 44 of the statutes of 1998, is again amended by inserting the following in paragraph 1 at the place determined by the alphabetical order:

“the Corporation d’hébergement du Québec”.

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

55. Section 266 of the Act respecting health services and social services (R.S.Q., chapter S-4.2), amended by section 85 of chapter 39 of the statutes of 1998, is again amended by striking out the second paragraph.

56. Section 471 of the said Act is amended

(1) by striking out “, which is incorporated for exclusively charitable purposes,” in the first paragraph;

(2) by replacing the second paragraph by the following paragraph:

“This section applies only to obligations and loans contracted before (*insert here the date of coming into force of section 41 of this Act*).”

57. Sections 472, 473 and 474 of the said Act are repealed.

58. Section 485 of the said Act is amended by striking out “, and to the Corporation d’hébergement du Québec”.

59. Section 488.1 of the said Act is repealed.

SECURITIES ACT

60. Section 41 of the Securities Act (R.S.Q., chapter V-1.1) is amended by striking out “, incorporated under Part III of the Companies Act (chapter C-38)” in subparagraph *c* of paragraph 2.

CHAPTER VI

TRANSITIONAL AND FINAL PROVISIONS

61. The Corporation shall remit to the Minister of Finance, on the terms and conditions the latter determines, an amount equal to the Corporation's accumulated assets as at 31 March 1999. The Minister shall subscribe for and pay the Corporation for shares of a value equivalent to that amount for which certificates shall be issued to the Minister.

62. Subject to the provisions determining the conditions of employment applicable to the employees of the Ministère de la Santé et des Services sociaux on (*insert here the date of coming into force of this section*), every employee designated by order in council becomes an employee of the Corporation.

63. Every employee referred to in section 62 shall hold the office and exercise the functions assigned to the employee by the Corporation, subject to the provisions of a collective agreement that are applicable to them.

64. Every employee of the Corporation who, on being appointed to the Corporation, was a public servant with permanent tenure may apply for a transfer to a position in the public service or enter a competition for promotion to such a position in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

65. Section 35 of the Public Service Act applies to an employee referred to in section 64 who enters a competition for promotion to a position in the public service.

66. Every employee referred to in section 64 who applies for a transfer or enters a competition for promotion may apply to the chairman of the Conseil du trésor for an assessment of the classification that would be assigned to the employee in the public service. The assessment must take account of the classification that the employee had in the public service on the date the employee left the public service, as well as the years of experience and the formal training acquired in the course of employment with the Corporation.

If the employee is transferred subsequent to the application of the first paragraph, the deputy minister or the chief executive officer of the body shall assign to the employee a classification in keeping with the assessment provided for in the first paragraph.

Where the employee is promoted pursuant to section 65, the employee's classification must be based on the criteria set out in the first paragraph.

67. Where some or all of the operations of the Corporation are discontinued or if there is a shortage of work, an employee referred to in section 64 is entitled to be placed on reserve in the public service with the classification the employee had on the date on which the employee left the public service.

In such a case, the chairman of the Conseil du trésor shall, where applicable, establish the employee's classification on the basis of the criteria set out in the first paragraph of section 66.

68. A person who, in accordance with the conditions of employment applicable, refuses to be transferred to the Corporation shall be assigned to it until the chairman 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 who is placed on reserve pursuant to section 67, who shall remain in the employ of the Corporation.

69. Subject to any remedy available under a collective agreement, an employee referred to in section 64 who is terminated or dismissed may bring an appeal under section 33 of the Public Service Act.

70. The directors of the Corporation in office on (*insert here the date of coming into force of section 1 of this Act*) shall remain in office until the date determined by the Government.

71. The records, documents and archives of the Ministère de la Santé et des Services sociaux relating to the operations within the scope of the mission of the Corporation are transferred to the Corporation.

72. Notwithstanding sections 58 and 59, the Corporation shall continue to be governed by the rules applicable to the awarding of contracts until a regulation is made by the Corporation pursuant to section 29.

73. The provisions of the regulations and by-laws made by the Corporation shall remain applicable to the extent that they are compatible with this Act, until they are repealed, replaced or amended by regulations and by-laws made under this Act.

74. The status of the Corporation is deemed not to have been changed with regard to obligations contracted before (*insert here the date of coming into force of section 1 of this Act*) until full performance of its obligations.

75. The appropriations granted for the fiscal year 1999-2000 to the Ministère de la Santé et des Services sociaux for the financing of the operations within the scope of the mission of the Corporation shall, to the extent determined by the Government, be used for the purposes of this Act.

The other sums required for the purposes of this Act during that fiscal year shall be taken out of the consolidated revenue fund, to the extent determined by the Government.

76. As regards loans contracted by the Corporation, not repaid at the time section 1 of this Act comes into force, and for which the payment by instalments provided for in relation to a subsidy granted in the name of the Government by the Minister of Health and Social Services is no longer made, the Corporation shall henceforth assume, in respect of a lender or trust company, the undertakings contracted by the Minister according to the prescribed terms and conditions, including the payment of sums into the sinking funds in accordance with sections 468 and 469 of the Act respecting health services and social services.

For the purposes of the first paragraph, the undertakings of the Minister shall be assumed by the Corporation out of the revenues from the institutions of the health and social services network the financial resources of which are provided for by the Government.

77. The Minister of Health and Social Services is responsible for the administration of this Act.

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