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# NATIONAL ASSEMBLY

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FIRST SESSION

FORTY-FIRST LEGISLATURE

## **Bill 15**

(2014, chapter 17)

### **An Act respecting workforce management and control within government departments, public sector bodies and networks and state-owned enterprises**

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**Introduced 9 October 2014**

**Passed in principle 6 November 2014**

**Passed 5 December 2014**

**Assented to 5 December 2014**

## EXPLANATORY NOTES

*This Act establishes rules to govern workforce management and control within public bodies mainly to monitor and provide a framework for changes in the workforce.*

*More specifically, the Act allows the Conseil du trésor and the minister responsible for each public body to obtain information on the workforce of public bodies, in particular through head count and planning mechanisms.*

*Control measures are provided for in relation to the staffing level of public bodies for each period specified by the Conseil du trésor.*

*For the purposes of these management and control rules, the Act assigns a leading role to the minister responsible for each public body concerned, in particular by entrusting that minister with the responsibility of collecting various information and distributing the staff assigned by the Conseil du trésor, and with certain auditing and sanction powers.*

*Special measures are also established for service contracts that a public body intends to enter into during the periods subject to workforce control measures, including making such service contracts subject to the authorization of the public body's chief executive officer and giving the Chair of the Conseil du trésor oversight powers.*

*In addition, the Public Administration Act is amended to confer auditing powers on the Chair of the Conseil du trésor. The Act respecting contracting by public bodies is also amended to specify the measures that the Conseil du trésor may require of a public body following an audit.*

*Lastly, various consequential and transitional provisions are included.*

**LEGISLATION AMENDED BY THIS ACT:**

- Public Administration Act (chapter A-6.01);
- Act respecting the Commission administrative des régimes de retraite et d'assurances (chapter C-32.1.2);
- Act respecting contracting by public bodies (chapter C-65.1);
- Act respecting occupational health and safety (chapter S-2.1).



## **Bill 15**

### **AN ACT RESPECTING WORKFORCE MANAGEMENT AND CONTROL WITHIN GOVERNMENT DEPARTMENTS, PUBLIC SECTOR BODIES AND NETWORKS AND STATE-OWNED ENTERPRISES**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### **CHAPTER I**

##### **PURPOSE AND SCOPE**

**1.** The purpose of this Act is to strengthen workforce management and control mechanisms within public bodies so as, in particular, to monitor and provide a framework for changes in the workforce.

**2.** For the purposes of this Act, the following are public bodies:

(1) government departments, as well as bodies and persons appointed or designated by the Government or a minister and whose personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1);

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

(3) general and vocational colleges established under the General and Vocational Colleges Act (chapter C-29);

(4) the Université du Québec and its constituent universities, research institutes and superior schools within the meaning of the Act respecting the Université du Québec (chapter U-1);

(5) health and social services agencies, public institutions and private institutions under agreement governed by the Act respecting health services and social services (chapter S-4.2), as well as the regional council established under the Act respecting health services and social services for Cree Native persons (chapter S-5);

(6) budget-funded bodies and bodies other than budget-funded bodies listed respectively in Schedules 1 and 2 to the Financial Administration Act (chapter A-6.001), including the persons listed in those schedules;

(7) government enterprises listed in Schedule 3 to the Financial Administration Act; and

(8) any other entity designated by the Government.

**3.** The Government may, on the recommendation of the Conseil du trésor, exempt a public body or class of public bodies referred to in section 2 from the application of all or part of this Act for a determined or undetermined period.

**4.** The National Assembly, a person appointed or designated by the National Assembly to an office under its jurisdiction together with the personnel directed by that person, and the Commission de la représentation are not subject to this Act except to the extent provided for by law.

## **CHAPTER II**

### **WORKFORCE MANAGEMENT AND CONTROL**

#### **DIVISION I**

##### **HEAD COUNT**

**5.** A public body periodically informs the minister responsible of its staffing level and the distribution of its staff by job class. It also sends the minister responsible any other workforce-related information determined by the Conseil du trésor.

The conditions and procedure for sending the information requested are determined by each minister responsible. The intervals at which the information is to be sent may vary depending on the information.

**6.** Each minister responsible sends the Chair of the Conseil du trésor a report describing the evolution of the workforce within the public bodies under the minister's responsibility. The Conseil du trésor determines the information to be presented in the report and the conditions and procedure for sending it.

The Conseil du trésor may require that special monitoring of a public body's workforce be carried out by a minister responsible.

#### **DIVISION II**

##### **PLANNING**

**7.** A three-year workforce plan aimed at optimizing work organization must be drawn up every three years by each public body. The plan is sent to the minister responsible in accordance with the conditions and procedure determined by the minister.

The workforce plan must set out retirement forecasts, workforce and work organization characteristics and any other information determined by the Conseil du trésor.

The minister responsible sends the Chair of the Conseil du trésor the workforce plan of the public bodies designated by the Chair of the Conseil du trésor.

**8.** If measures are taken under Division III, the public body concerned must, if applicable and as soon as possible, send its revised workforce plan to the minister responsible.

**9.** Every public body must make its workforce plan and, if applicable, its revised workforce plan, public.

**10.** Despite section 3, the Conseil du trésor may exempt a public body from the obligations set out in sections 7 and 8, in particular on the basis of the public body's size or available resources.

### **DIVISION III**

#### **CONTROL**

##### *§1.—Period of application*

**11.** This division applies only to the periods specified by the Conseil du trésor.

##### *§2.—Measures relating to the workforce*

**12.** The Conseil du trésor establishes the staffing level to be assigned to each minister for all the public bodies under the minister's responsibility that are not subject to the second paragraph of section 32 of the Public Administration Act (chapter A-6.01).

Despite the first paragraph, the Conseil du trésor establishes the staffing level of each public body referred to in paragraph 7 of section 2.

In addition to the information communicated under this chapter, the Conseil du trésor may determine additional information a minister responsible must send for the purposes of this section, as well as the conditions and procedure for sending it. A public body must provide the minister responsible with any information the minister requires to produce that additional information.

**13.** Each minister responsible distributes all or part of the staff assigned by the Conseil du trésor under the first paragraph of section 12 among the public bodies under the minister's responsibility and informs the Chair of the Conseil du trésor of the distribution carried out. The minister also informs the bodies concerned of the staffing level established under the second paragraph of that section.

**14.** A public body's workforce must be managed in a manner that maintains the services provided to the public.

A minister responsible may issue a directive to each public body subject to section 12 that the minister identifies with respect to the management of the workforce assigned to it.

§3. — *Measures relating to service contracts*

**15.** A public body may not enter into a service contract if the contract eludes the workforce-related control measures taken under this Act.

**16.** To enter into a service contract, a public body must be authorized by its chief executive officer. This power can be delegated by the chief executive officer in the case of a service contract with a natural person involving an expenditure of less than \$10,000 and, in other cases, an expenditure of less than \$25,000.

However, the authorization provided for in the first paragraph is not required if

(1) the public body, after being designated by the Conseil du trésor, made a directive on service contracts not subject to the authorization of its chief executive officer;

(2) the object of the service contract is set out in the directive; and

(3) the contract is entered into with a contractor other than a natural person.

Nor is the authorization provided for in the first paragraph required for a service contract with a natural person who does not operate a sole proprietorship in cases when the contract must be authorized by the Conseil du trésor under a policy or a directive concerning the management of the supply, service and construction contracts of public bodies issued under section 26 of the Act respecting contracting by public bodies (chapter C-65.1).

For the purposes of this Act, the chief executive officer of a public body is the person having the highest administrative authority, such as the deputy minister, the president, the director general or any other person responsible for the day-to-day management of the public body. However, in the case of a public body referred to in any of paragraphs 2 to 4 of section 2, the chief executive officer is the board of directors or, in the case of a school board, the council of commissioners. The board of directors or the council of commissioners may, despite the provisions of the first paragraph regarding delegation of the power to authorize the conclusion of certain service contracts, delegate all or part of the functions conferred on the chief executive officer of a body to its executive committee, the director general or, in the case of a university institution, a member of the senior administrative personnel within the meaning of the Act respecting educational institutions at the university level (chapter E-14.1).



**17.** A directive concerning service contracts not subject to the authorization of the chief executive officer of the public body must be made public not later than 30 days after it is made. The directive is also sent to the Chair of the Conseil du trésor who may, at any time, require the public body to amend the directive.

**18.** The chief executive officer of a public body that has a board of directors, other than a public body referred to in paragraph 3 or 4 of section 2, must inform the board of any service contract involving an expenditure of \$25,000 or more at the first meeting after the date the contract is entered into.

**19.** A public body must, at the request of the Chair of the Conseil du trésor, send the Chair any information the Chair determines regarding service contracts entered into during each reference period preceding a period specified under section 11.

The Chair determines the conditions and procedure for sending the information concerned and the length of any reference period, which cannot, however, exceed 24 months.

## **DIVISION IV**

### **REPORTING**

**20.** A public body must report on the application of this chapter in its annual report. The report must set out the public body's staffing level and the distribution of its staff by job class.

If a public body was assigned a staffing level under subdivision 2 of Division III, the public body must also

(1) indicate whether the staffing level was complied with and, if not, state the extent of the overstaffing as well as the means it has taken to correct the situation;

(2) include the information determined by the Conseil du trésor regarding service contracts involving an expenditure of \$25,000 or more.

**21.** A public body must, within 30 days after an authorization is granted by its chief executive officer under section 16, send the Chair of the Conseil du trésor any information the Chair determines regarding each service contract so authorized.

A public body must also send the Chair, at the intervals the Chair determines, any information the Chair determines regarding the other service contracts entered into during a period referred to in section 11 if the contracts involve an expenditure of \$25,000 or more.

The Chair determines the conditions and procedure for sending the information.

## **DIVISION V**

### **AUDIT**

**22.** Each minister exercises supervision and control, within the public bodies under the minister's responsibility, over compliance with the measures set out in this chapter, other than those relating to service contracts.

In that respect, the minister responsible is competent, in particular, to conduct an audit to verify the information provided by a public body and the public body's compliance with the workforce-related control measures. To that end, the minister responsible may designate a person in writing to conduct the audit.

**23.** A public body being audited must, at the request of the minister responsible or the person conducting the audit, send or otherwise make available all documents and information considered necessary to conduct the audit.

**24.** The Chair of the Conseil du trésor is competent to conduct an audit to determine whether the awarding of service contracts by a public body subject to Division III is in compliance with the measures set out in sections 15 to 19. Sections 27.1 to 27.4 of the Act respecting contracting by public bodies apply, with the necessary modifications, to such an audit.

## **DIVISION VI**

### **CORRECTIVE MEASURES AND SANCTIONS**

**25.** If a minister responsible considers that a public body under the minister's responsibility will not be able to comply with the workforce-related measures set out in Division III, the minister informs the chief executive officer of the body in writing and may require that corrective measures be, within the time the minister determines, drawn up and submitted to the minister for approval, with or without amendment.

**26.** If a minister considers that a public body under the minister's responsibility has not complied with the workforce management or control measures set out in this chapter, other than those relating to service contracts, or that the corrective measures drawn up under section 25 have not been implemented in a diligent manner, the minister may require the public body to take corrective and appropriate follow-up measures and to comply with any other measure determined by the minister, including oversight or monitoring measures.

**27.** In the cases referred to in section 26, all or part of a subsidy intended for a public body may be withheld or cancelled.

However, neither a subsidy for the transportation of schoolchildren nor a subsidy provided for in the second paragraph of section 477 of the Education Act or the second paragraph of section 470 of the Act respecting health services and social services may be withheld or cancelled.

**28.** In the case of a failure to comply with the measures relating to service contracts set out in Division III, the Conseil du trésor may recommend that the competent authority withhold or cancel all or part of a subsidy intended for a public body, other than a subsidy referred to in the second paragraph of section 27, for an amount equal to the value of any contract entered into in contravention of section 15 or 16.

### CHAPTER III

#### AMENDING PROVISIONS

##### PUBLIC ADMINISTRATION ACT

**29.** The Public Administration Act (chapter A-6.01) is amended by inserting the following chapter after Chapter VII:

#### “CHAPTER VII.1

##### “AUDIT

“**91.1.** The Chair of the Conseil du trésor may conduct an audit to verify a department’s or body’s compliance with this Act. The Chair may designate a person in writing to conduct the audit.

“**91.2.** A department or body being audited must, at the request of the Chair of the Conseil du trésor or the person designated to conduct the audit, send or otherwise make available all documents and information the Chair of the Conseil du trésor or, as applicable, the designated person considers necessary to conduct the audit.

“**91.3.** The Conseil du trésor may require the department or body to take corrective and appropriate follow-up measures and to comply with any other measure determined by the Conseil du trésor, including oversight or monitoring measures.”

##### ACT RESPECTING THE COMMISSION ADMINISTRATIVE DES RÉGIMES DE RETRAITE ET D’ASSURANCES

**30.** Section 10 of the Act respecting the Commission administrative des régimes de retraite et d’assurances (chapter C-32.1.2) is replaced by the following section:

“**10.** Chapter II, except section 29, of the Public Administration Act (chapter A-6.01) does not apply to the Commission.”

#### ACT RESPECTING CONTRACTING BY PUBLIC BODIES

**31.** Section 27.4 of the Act respecting contracting by public bodies (chapter C-65.1) is amended by adding the following sentence at the end: “The Conseil du trésor may then require the body to take corrective and appropriate follow-up measures and to comply with any other measure it determines, including oversight and monitoring measures, which may include the obligation to obtain the authorization of the Conseil du trésor in order to enter into public contracts.”

#### ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

**32.** Section 176.0.2 of the Act respecting occupational health and safety (chapter S-2.1) is amended by striking out “and 31, the first paragraph of section 32, sections 33”.

### CHAPTER IV

#### MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

**33.** The elements determined by the Conseil du trésor, the Chair of the Conseil du trésor or a minister responsible, as applicable, for the purposes of sections 5 to 7, 12 and 19 to 21 may vary depending on the public body.

**34.** If the Conseil du trésor establishes a staffing level for public bodies under the second paragraph of section 32 of the Public Administration Act (chapter A-6.01), sections 14 to 21 and 24 to 28 apply, with the necessary modifications, for each period the Conseil du trésor specifies under section 11.

**35.** Chapter II and section 38 apply despite any provision to the contrary in an Act, regulation, order, order in council, directive, decision, policy, budget rule, agreement, contract or any other similar instrument, subject, however, to the provisions of a collective agreement.

**36.** For the first application of section 3, the Government is deemed to have, on the recommendation of the Conseil du trésor, exempted the school boards governed by the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14), the Anti-Corruption Commissioner and the public bodies referred to in paragraph 4 of section 2 from the application of Division III of Chapter II of this Act.

**37.** For the first application of section 11, the Conseil du trésor is deemed to have determined that Division III of Chapter II applies from 1 January 2015 to 31 March 2016.

**38.** Despite section 12 and unless the Conseil du trésor decides otherwise, the total workforce, for the period from 1 January 2015 to 31 March 2015, of all the public bodies under a minister's responsibility that are not subject to the second paragraph of section 32 of the Public Administration Act must not exceed their total workforce for the corresponding period in 2014.

Likewise, for that period, the staffing level of each public body referred to in paragraph 7 of section 2 must not exceed its staffing level for the corresponding period in 2014.

For the purposes of section 13, the minister responsible must distribute the staff among the public bodies described in the first paragraph by not later than 15 December 2014.

**39.** The minister who is Chair of the Conseil du trésor is responsible for the administration of this Act.

**40.** This Act comes into force on 5 December 2014, except sections 7 to 10, which come into force on the date to be set by the Government.