



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 162
(1997, chapter 71)

An Act to amend various legislative provisions concerning retirement

Introduced 30 October 1997
Passage in principle 13 November 1997
Passage 4 December 1997
Assented to 9 December 1997

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EXPLANATORY NOTES

This bill amends various Acts respecting retirement to give effect to certain fiscal rules applicable to pension plans which provide that a plan member ceases to participate in the pension plan before 31 December of the year in which the member reaches 69 years of age.

In addition, the bill proposes a number of amendments to make the retirement incentive measures provided for in the Act respecting the Pension Plan of Certain Teachers, the Act respecting the Government and Public Employees Retirement Plan, the Act respecting the Teachers Pension Plan and the Act respecting the Civil Service Superannuation Plan more accessible to eligible members. However, employers under the Government and Public Employees Retirement Plan are not authorized, except in certain cases, to employ a person who has retired under a retirement incentive measure before the lapse of two years from the date of retirement.

Lastly, the bill clarifies the Act respecting the Government and Public Employees Retirement Plan, in particular in respect of the pension plan applicable to federal government employees who are transferred to a position that constitutes pensionable employment under the pension plan established by that Act.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting the conditions of employment and the pension plan of the Members of the National Assembly (R.S.Q., chapter C-52.1);
- Act respecting the Pension Plan of Certain Teachers (R.S.Q., chapter R-9.1);
- Act respecting the Pension Plan of Peace Officers in Correctional Services (R.S.Q., chapter R-9.2);
- Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3);
- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);

- Act respecting retirement plans for the mayors and councillors of municipalities (R.S.Q., chapter R-16);
- Act to amend various legislative provisions of the pension plans in the public and parapublic sectors (1997, chapter 50).

Bill 162

AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS CONCERNING RETIREMENT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

ACT RESPECTING THE CONDITIONS OF EMPLOYMENT AND THE PENSION PLAN OF THE MEMBERS OF THE NATIONAL ASSEMBLY

1. Section 21 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly (R.S.Q., chapter C-52.1) is amended by replacing the words “he attains 71” in the second line by the words “the Member attains 69”.
2. Section 32 of the said Act is amended by replacing the words “71 years of age, even if he” in the second line of the second paragraph by the words “69 years of age, even if the person”.
3. Section 36 of the said Act is amended by replacing the figure “71” in the fifth line by the figure “69”.
4. Section 49 of the said Act is amended by replacing the figure “71” in the fifth line of the third paragraph by the figure “69”.

ACT RESPECTING THE PENSION PLAN OF CERTAIN TEACHERS

5. Section 35.7 of the Act respecting the Pension Plan of Certain Teachers (R.S.Q., chapter R-9.1), enacted by section 9 of chapter 50 of the statutes of 1997, is amended by inserting the words “a paid-up annuity certificate or” after the word “which” in the fourth line of the first paragraph.

ACT RESPECTING THE PENSION PLAN OF PEACE OFFICERS IN CORRECTIONAL SERVICES

6. Section 7 of the Act respecting the Pension Plan of Peace Officers in Correctional Services (R.S.Q., chapter R-9.2) is amended by replacing the words “he attains 71” in the first and second lines of paragraph 2 by the words “the employee attains 69”.
7. Section 8 of the said Act is amended by replacing the words “he attains 71” in the second line by the words “the employee attains 69”.

8. Section 15 of the said Act is amended by replacing the word “him” in the fourth line of the first paragraph by the words “the employee under the plan”.

9. Section 44 of the said Act, amended by section 2 of chapter 53 of the statutes of 1996, is again amended

(1) by replacing the first line of the first paragraph by the following :

“44. An employee who ceases to participate in the plan is entitled to a pension if the employee”;

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

“The pension shall be granted on the date on which the employee retires in accordance with section 53.”

10. Section 45 of the said Act, amended by section 3 of chapter 53 of the statutes of 1996, is again amended by inserting the words “, on the date on which the employee ceases to participate in the plan,” after the word “pension” in the first line.

11. Section 50 of the said Act is amended by replacing the words “to him” in the fifth line by the words “to the employee, at the time the employee ceased to participate in the plan,”.

12. Section 51 of the said Act, amended by section 6 of chapter 53 of the statutes of 1996, is again amended by adding, at the end, the following paragraph :

“However, where the employee continues to hold pensionable employment under the plan after 30 December of the year in which the employee attains 69 years of age, the reduction provided for in the first paragraph applies from the month following that date as if the employee had retired.”

13. Section 53 of the said Act is amended

(1) by replacing the words “he retires or at the latest from 31 December of the year in which he attains 71 years of age” in the second and third lines by the words “the employee retires”;

(2) by adding, at the end, the following paragraph :

“An employee is presumed to retire on the day after the day on which the employee ceases to participate in the plan. However, if the employee continues to hold pensionable employment under the plan after 30 December of the year in which the employee attains 69 years of age, the day after the day on which the employee ceases to hold such employment is the day on which the employee retires.”

14. Section 75 of the said Act, amended by section 11 of chapter 53 of the statutes of 1996, is again amended by replacing the figure “71” in the second line of the second paragraph by the figure “69”.

15. Section 88 of the said Act is amended by replacing the words “his benefits at the latest from 31 December of the year in which he attains 71” in the second and third lines by the words “benefits not later than 31 December of the year in which the pensioner attains 69”.

16. Section 95 of the said Act is amended by replacing the words “he attains 71” in the third line by the words “the pensioner attains 69”.

17. Section 97 of the said Act is amended by replacing the words “he attains 71” in the third line by the words “the pensioner attains 69”.

18. Section 101 of the said Act is amended by replacing the word “retired” in the second line of paragraph 1 by the words “ceased to participate in this plan”.

19. Section 124 of the said Act is amended by replacing the figure “71” in the second line by the figure “69”.

20. Section 132 of the said Act is amended by adding, at the end, the following paragraph :

“Even if no application for payment is made, payment of benefits payable under this plan shall begin not later than 31 December of the year in which the employee attains 69 years of age or, if the employee still holds pensionable employment under the plan on that date, from the date on which the employee retires.”

ACT RESPECTING THE PENSION PLAN OF ELECTED MUNICIPAL OFFICERS

21. Section 9 of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3) is amended

(1) by replacing the figure “71” in the fourth line of the first paragraph by the figure “69”;

(2) by replacing the figure “69” in the second line of the second paragraph by the figure “67”;

(3) by replacing the figure “71” in the second line of subparagraph 2 of the second paragraph by the figure “69”.

22. Section 28 of the said Act is amended by replacing the figure “71” in the second line by the figure “69”.

23. Section 36 of the said Act is amended by replacing the figure “71” in the fifth line by the figure “69”.

24. Section 39 of the said Act is amended

(1) by replacing the words “he attains 71” in the fourth line of the first paragraph by the words “the pensioner attains 69”;

(2) by replacing the words “he attains 71” in the third and fourth lines of the second paragraph by the words “the pensioner attains 69”.

25. Section 40 of the said Act is amended by replacing the figure “71” in the second line of the first paragraph by the figure “69”.

26. Section 80 of the said Act is amended

(1) by replacing the figure “71” in the sixth line of the first paragraph by the figure “69”;

(2) by replacing the words “he attains 71” in the second line of the second paragraph by the words “a participant attains 69”.

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

27. Section 10.0.1 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by inserting the words “, where the agreement so provides,” after the word “may” in the fourth line of the first paragraph.

28. Section 100 of the said Act is amended by adding, at the end of the first paragraph, the following sentence: “An employee may have years or parts of years of past service as a paid trainee credited in accordance with the second paragraph of section 86.”

29. Section 104 of the said Act is amended by adding, at the end of the first paragraph, the following sentence: “An employee may have years or parts of years of past service as a paid trainee credited in accordance with the second paragraph of section 86.”

30. Section 215.5.0.2 of the said Act is amended by replacing the words “or the first paragraph of section 215.5.0.1” in the third line of paragraph 2 by the words “, the first paragraph of section 215.5.0.1 or the first paragraph of section 215.5.1”.

ACT RESPECTING RETIREMENT PLANS FOR THE MAYORS AND COUNCILLORS OF MUNICIPALITIES

31. Section 25 of the Act respecting retirement plans for the mayors and councillors of municipalities (R.S.Q., chapter R-16) is amended by replacing the figure “71” in the second line of the second paragraph by the figure “69”.

ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS OF THE PENSION PLANS IN THE PUBLIC AND PARAPUBLIC SECTORS

32. Section 101 of the Act to amend various legislative provisions of the pension plans in the public and parapublic sectors (1997, chapter 50) is amended

(1) by replacing “95 or 96” in the third line by “99 or 100”;

(2) by replacing “95 or 96” in the second line of paragraph 1 by “99 or 100”.

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

33. A person participating in the Government and Public Employees Retirement Plan, the Teachers Pension Plan, the Civil Service Superannuation Plan, the Pension Plan of Certain Teachers or in any of the pension plans established under sections 10 and 10.0.1 of the Act respecting the Government and Public Employees Retirement Plan, who is employed in an educational institution referred to in Schedule I to the Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11) and who, owing to the age factor, becomes eligible for a pension pursuant to the temporary measures referred to in subparagraphs 1 and 2 of the first paragraph of section 85.33 of the Act respecting the Government and Public Employees Retirement Plan within two months after 30 June 1997 is deemed to be eligible for a pension pursuant to those measures on 1 July 1997.

A person referred to in the first paragraph who meets the conditions set forth in subparagraphs 1 to 3 of the first paragraph of section 85.22 of the Act respecting the Government and Public Employees Retirement Plan, in paragraph 1 of section 66.1 of the Act respecting the Teachers Pension Plan, in paragraphs 1 and 2 of section 99.22 of the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12), in paragraph 1 of section 35.1 of the Act respecting the Pension Plan of Certain Teachers, in paragraph 1 of section 86.1 of the Régime de retraite des employés en fonction au Centre hospitalier Côte des Neiges, enacted by Order in Council 1170-97 dated 10 September 1997, or in paragraph 1 of section 90.1 of the Pension Plan for federal employees transferred to employment with the gouvernement du Québec, enacted by Order in Council 1197-97 dated 17 September 1997, may cease to participate in the pension plan, retire and benefit from the measures referred to in the first paragraph not later than 30 days from the date of receipt of a pension estimate prepared by the Commission administrative des régimes de retraite et d’assurances.

Notwithstanding section 125 of the Act respecting the Government and Public Employees Retirement Plan, the provisions of the first and second paragraphs concerning the pension plans established under sections 10 and 10.0.1 of that Act shall not operate to increase the employee contributions, and the additional costs resulting from the application of those provisions shall be paid out of the actuarial surplus of each of those plans, respectively.

34. No employer referred to in the Government and Public Employees Retirement Plan may allow a person who has benefited from any of the temporary measures or departure incentives referred to in section 85.33 or 215.11.9 of the Act respecting the Government and Public Employees Retirement Plan to return to pensionable employment under that plan before the lapse of two years from the date of the person's retirement or to perform, within that time, any work under a contract of employment, for the benefit of the employer, through an employment agency.

No employer referred to in the plan may, within that time, enter into a contract for services or a contract of enterprise with a person referred to in the first paragraph, with an enterprise directly or indirectly controlled by such a person or with a third person in circumstances where a person referred to in the first paragraph would be one of the main contractees.

However, the first and second paragraphs do not apply under exceptional circumstances relating to work organization or client services.

Where the persons referred to in the first paragraph would be unionizable employees within the meaning of the Act respecting the Government and Public Employees Retirement Plan for the purposes of the financing of the measures referred to in that paragraph, the exceptional circumstances shall be determined by the committee of representatives of employers and employees established to ensure the follow-up of the temporary measures within the framework of an agreement with the Government.

Where the persons referred to in the first paragraph would be non-unionizable employees within the meaning of that Act for the purposes of the financing of the measures referred to in that paragraph, those exceptional circumstances shall be determined

(1) in respect of employers whose employees are appointed and remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1), by the Conseil du trésor;

(2) in respect of employers of the education or health sector, by the minister responsible for the sector concerned;

(3) in respect of employers that are Crown corporations or government bodies whose conditions of employment and standards and scales of remuneration of the personnel are determined by the Government or approved

by the Conseil du trésor under section 22 of the Financial Administration Act (R.S.Q., chapter A-6), by the minister responsible for the corporation or body concerned;

(4) in respect of other employers, by the Conseil du trésor;

(5) in respect of any employer, in the case of persons appointed by the Government, by the Government.

The committee of representatives of employers and employees established, after consultation with the associations representing non-unionizable employees referred to in Title IV.0.1 of the Act respecting the Government and Public Employees Retirement Plan, to ensure the follow-up of the temporary measures referred to in subparagraphs 1 and 2 of the first paragraph of section 85.33 of that Act in respect of persons who would be non-unionizable employees within the meaning of that Act for the purposes of the financing of those measures, and to ensure the follow-up of the measures provided for in Title IV.1.1 of that Act shall be informed of the exceptional circumstances determined under the fifth paragraph.

35. The provisions of the Act respecting the Government and Public Employees Retirement Plan, the Act respecting the Teachers Pension Plan and the Act respecting the Civil Service Superannuation Plan as well as the provisions referred to in section 37 of the Act respecting the Pension Plan of Certain Teachers concerning a pensioner's return to work do not apply in respect of persons having benefited from the temporary measures referred to in subparagraphs 1 and 2 of the first paragraph of section 85.33 of the Act respecting the Government and Public Employees Retirement Plan who have returned to pensionable employment under the plan after 31 August 1997 owing to exceptional circumstances relating to work organization or client services determined in accordance with section 34. Those persons do not participate in those pension plans during the period in which those provisions do not apply.

36. The provisions of the Act respecting the Government and Public Employees Retirement Plan concerning a pensioner's return to work do not apply before 1 December 1997 in respect of an employee having benefited from the temporary measures provided for in Title IV.1.1 of that Act who has returned to pensionable employment under the plan before that date. The employee does not participate in the plan during the period in which those provisions do not apply.

The committee referred to in the sixth paragraph of section 34 shall be informed of the cases where an employee referred to in the first paragraph holds pensionable employment under the Government and Public Employees Retirement Plan after 30 September 1997.

37. The committees referred to in the fourth and sixth paragraphs of section 34 may determine the cases, terms and conditions in or under which a

person to whom any of the measures referred to in subparagraphs 1 and 2 of the first paragraph of section 85.33 of the Act respecting the Government and Public Employees Retirement Plan or in Title IV.1.1 of that Act applies may benefit from those measures after the time limit for doing so has expired.

For the purposes of the first paragraph, the committee referred to in the fourth paragraph of section 34 has jurisdiction in respect of the persons who would be unionizable employees within the meaning of that Act for the purposes of the financing of the measures referred to in subparagraphs 1 and 2 of the first paragraph of that section 85.33, and the committee referred to in the sixth paragraph of section 34 has jurisdiction in respect of the persons who would be non-unionizable employees within the meaning of that Act for the purposes of the financing of the measures referred to in the first paragraph.

38. For the purposes of the provisions of the Act respecting the Government and Public Employees Retirement Plan that concern the redemption of years or parts of years of service, the rate of interest provided for in Schedule VI to that Act is, for the period beginning on 1 August 1997, 8.60% in respect of an application for the redemption of years or parts of years of service filed by an employee within 30 days from the date the employee receives a statement of benefits and a pension estimate from the Commission administrative des régimes de retraite et d'assurances in connection with the implementation of the measures provided for in Title IV.1.1 of that Act.

The rate of interest provided for in the first paragraph also applies in respect of any other application for redemption made, during the period in which the measures provided for in the said Title IV.1.1 were applicable, by an employee who has made an application for redemption in accordance with the first paragraph.

39. Sections 1 to 4, 6, 7, 9 to 26 and 31, adapted as required, apply to persons who reach 70 or 71 years of age in 1997.

40. Section 30 has effect from 16 March 1995.

41. Sections 5, 28 and 29 have effect from 22 March 1997.

42. Section 32 has effect from 19 June 1997.

43. This Act comes into force on 9 December 1997.