



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 439
(1998, chapter 42)

An Act respecting Institut national de santé publique du Québec

Introduced 12 May 1998
Passage in principle 19 May 1998
Passage 19 June 1998
Assented to 20 June 1998

**Québec Official Publisher
1998**

EXPLANATORY NOTES

This bill establishes a public health institute for Québec, to be known as the “Institut national de santé publique du Québec”.

The mission of the institute will be to provide support to the Minister of Health and Social Services and the regional boards in connection with their responsibilities in the field of public health. The institute will also be responsible for administering the public laboratories that perform expert tasks for all the health and social services institutions in Québec.

The institute will be a legal person and a mandatary of the State, and will be administered by a board of governors of fifteen members drawn from various sectors with an interest in the field of public health.

The bill deals with the internal organization of the institute, and also provides that the Minister will be able to require the close and immediate collaboration of the institute in situations where public health is endangered by an event or a particular situation that creates an emergency.

The bill also contains transitional provisions, including provisions dealing with the transfer of the laboratory operations to be administered by the institute.

LEGISLATION AMENDED BY THIS BILL :

- Public Health Protection Act (R.S.Q., chapter P-35);
- 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).

Bill 439

AN ACT RESPECTING INSTITUT NATIONAL DE SANTÉ PUBLIQUE DU QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

CHAPTER I

ESTABLISHMENT AND NATURE

1. A public health institute, to be known as “Institut national de santé public du Québec”, is hereby established.
2. The institute is a legal person and a mandatary of the State.

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

The institute binds only itself when acting in its own name.

CHAPTER II

MISSION AND FUNCTIONS

3. The mission of the institute is to provide support to the Minister of Health and Social Services and to the regional boards established under the Act respecting health services and social services (R.S.Q., chapter S-4.2) in connection with their responsibilities in the field of public health.

More specifically, the mission of the institute shall involve

- (1) contributing to the development, consolidation, dissemination and application of knowledge in the field of public health;
- (2) informing the Minister of the impact of public policies on the health and well-being of the population of Québec;
- (3) informing the population of the state of public health and well-being, and of emerging problems, their causes, and the most effective means of preventing or resolving them;
- (4) collaborating with universities in designing and updating undergraduate, graduate and postgraduate programs in the field of public health;

(5) in collaboration with universities and the professional orders concerned, designing and implementing continuing education programs in the field of public health;

(6) in collaboration with the various research organizations and funding bodies, developing and promoting research in the field of public health;

(7) establishing channels of communication with various organizations, both within Canada and at the international level, to promote cooperation and the exchange of information;

(8) carrying out any other expert task in the field of public health that is entrusted to it by the Minister.

4. The functions of the institute shall also include

(1) administering the Québec public health laboratory known as “Laboratoire de santé publique du Québec”, whose main function is to provide specialized laboratory services in the field of microbiology;

(2) administering the Québec toxicology centre known as “Centre de toxicologie du Québec”, whose main function is to provide specialized laboratory services in the field of toxicology;

(3) administering the provincial laboratory screening service known as “Service provincial de dépistage par laboratoire”, whose main function is to provide audiological and radiological screening services;

(4) administering the poison centre known as “Centre antipoison”, whose main function is to provide expert assistance in the area of intoxication;

(5) administering any other laboratory performing a public health function for all of Québec that the Minister places under the institute’s management.

The Minister may require the institute to terminate the operations of any such organization, or to redefine its mission.

5. The Minister may issue directives to the institute concerning its objectives and policy.

Each directive must be submitted to the Government for approval and, once approved, must be complied with by the institute.

Each such directive must be laid before the National Assembly within 15 days of being approved. If the Assembly is not sitting, it must be tabled within 15 days of resumption.

6. The institute may enter into an agreement, in accordance with the law, with a government other than the Government of Québec, a department of

such a government, an international organization, or an agency of such a government or organization, in the pursuit of its mission or the exercise of its functions.

7. The institute may enter into a contract with a university in Québec to enable it to participate in university-level training and internship programs, but the contract must be approved by the Minister of Health and Social Services and the Minister of Education.

CHAPTER III

ORGANIZATION

8. The head office of the institute shall be located within the territory of the Communauté urbaine de Québec, at the place determined by the Government. Notice of the location or of any change of location of the head office shall be published in the *Gazette officielle du Québec*.

The institute may hold its meetings at any place in Québec.

9. The board of governors of the institute shall be composed of the following persons, who shall become members of the board upon their appointment by the Government, after consultation by the Minister with the sectors concerned in the case of the persons referred to in subparagraphs 3 and 4:

- (1) one person appointed to act as the chief executive officer of the institute;
- (2) five persons from the health and social services system, including two public health directors appointed under the Act respecting health services and social services (R.S.Q., chapter S-4.2);
- (3) four persons from the education sector;
- (4) four persons from various socio-economic sectors.

The Deputy Minister of Health and Social Services or the representative of the Deputy Minister shall also be a member of the board.

10. The chief executive officer of the institute shall be appointed for a term of not more than five years, and the other members of the board of governors appointed under the first paragraph of section 9 shall be appointed for a term of not more than four years.

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

11. The chief executive officer shall preside at meetings of the board of governors and see to the proper functioning of the board.

The chief executive officer is also responsible for the administration and direction of the institute within the scope of its regulations, by-laws and policies.

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

13. The office of chief executive officer is a full-time position and the attention of the chief executive officer must, except with the authorization of the Government, be devoted exclusively to the affairs of the institute and the duties of chief executive officer.

If the chief executive officer is absent or unable to act, the Minister of Health and Social Services may appoint an acting chief executive officer.

14. The chief executive officer may not, on pain of forfeiture of office, have a direct or indirect interest in an enterprise that would conflict with the interest of the institute. However, forfeiture of office is not incurred where the interest devolves to the chief executive officer by succession or gift, provided it is renounced or disposed of with dispatch.

Any other member of the board having such an interest must, on pain of forfeiture of office, disclose the interest in writing to the board and withdraw from meetings while any matter relating to the enterprise in which the interest is held is being discussed or voted upon.

15. The Government shall fix the remuneration, employment benefits and other conditions of employment of the chief executive officer.

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

16. The quorum at meetings of the board is a majority of its members, including the chief executive officer or, where applicable, the vice-chair of the board.

In the case of a tie-vote, the chief executive officer has the casting vote.

17. The board of governors may establish an executive committee composed of not fewer than five members of the board, including the chief executive officer, and a public health director, determine its functions and powers and fix the term of office of its members.

18. The institute may make by-laws concerning the exercise of its powers and its internal management.

The by-laws may, in particular, provide that absence from a specified number of meetings, in the cases and circumstances determined in the by-laws, constitutes a vacancy.

19. The members of the personnel of the institute shall be appointed in accordance with the staffing plan and the standards established by regulation by the institute. The pay scales and rates, the employment benefits and the other conditions of employment of the members of the personnel shall also be determined by regulation.

Regulations under this section must be approved by the Government.

CHAPTER IV

TASKS ASSIGNED BY THE MINISTER IN EMERGENCY SITUATIONS

20. Where public health is endangered by an event or a particular situation that creates an emergency, the Minister may order the institute to perform, as part of its mission, the tasks assigned by the Minister with priority over its other tasks.

In such a case, all regional boards and institutions to which the legislation respecting health services and social services applies must, unless otherwise provided, furnish all the information required by the institute. They must also, to the extent possible, provide the institute with all the assistance it needs to perform the tasks expressly assigned by the Minister.

CHAPTER V

MEDICAL STAFF

21. The institute must prepare and forward to the Minister a medical staffing plan setting out the medical staff needed for the pursuit of its mission. The plan must specify the number of general practitioners, medical specialists by specialty, and dentists in general practice or specialized practice who may practise their profession for the institute. The plan must also specify where such staff will practise.

In preparing the plan, the institute shall have regard to any growth or reduction objectives notified by the Minister.

22. The Minister shall approve the institute's medical staffing plan with or without amendment, having regard to regional medical staffing plans prepared under the Act respecting health services and social services (R.S.Q., chapter S-4.2).

23. The plan must be revised every three years, and shall continue to have effect until the Minister has ruled on its revision.

CHAPTER VI

FINANCIAL PROVISIONS AND REPORTS

24. The fiscal year of the institute shall end on 31 March.

25. Not later than 31 August each year, the institute shall file its financial statements with the Minister together with a report of its operations for the preceding fiscal year.

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

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

The competent committee of the National Assembly shall examine the financial statements and the report.

27. The books and accounts of the institute shall be audited by the Auditor General each year and whenever so ordered by the Government.

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

28. The institute shall, each year, submit its budgetary estimates for the ensuing fiscal year to the Minister for approval, on the date and in the form determined by the Minister.

29. The Government may, subject to the terms and conditions it determines,

(1) guarantee the payment of the capital of and interest on any loan contracted by the institute, and the performance of its obligations ;

(2) authorize the Minister of Finance to advance to the institute any amount considered necessary for the performance of its obligations or the pursuit of its mission.

The sums paid under this section shall be taken out of the consolidated revenue fund.

30. The institute may not, without the authorization of the Minister,

(1) acquire, construct or dispose of immovable property ;

(2) acquire material and equipment the cost of which exceeds the amount determined by the Minister ;

(3) accept gifts, bequests, subsidies or other contributions to which charges or conditions are attached that occasion expenditures exceeding the amount determined by the Minister ;

(4) contract loans or make financial commitments in an amount exceeding the amount determined by the Minister or in the cases determined by the Minister ;

(5) grant loans or make gifts.

The Minister's powers of authorization under this section may be delegated to the Deputy Minister of Health and Social Services.

31. The institute must provide the Minister with all the information required by the latter concerning its operations, within the time and in the form specified by the Minister.

CHAPTER VII

MISCELLANEOUS AND FINAL PROVISIONS

32. In the pursuit of its mission to inform the population of the state of public health and well-being, the institute shall act in collaboration with the public health directors and, where possible, forward in advance to the Minister the information it intends to make public.

33. The institute must adopt a policy concerning intellectual property rights, including, in particular, the copyright and patent rights connected with any invention, discovery, process, apparatus, text, research or report produced by a person at the request of the institute.

The institute must also adopt a policy concerning the services it provides to regional boards and health and social services institutions.

The policies must be approved by the Minister, with or without amendment, before being implemented.

34. Sections 17 to 27 of the Act respecting health services and social services (R.S.Q., chapter S-4.2), with the necessary modifications, apply to the records kept by the institute in relation to the tests, examinations and consultations provided by the laboratories and organizations referred to in section 4, to the extent that the records contain personal medical information.

This section applies notwithstanding the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1).

35. Upon the coming into force of this section, the institute and each institution currently operating one of the laboratories or organizations listed in subparagraphs 1 to 4 of the first paragraph of section 4 shall take the necessary steps to transfer operations to the institute.

The same applies to any laboratory referred to in subparagraph 5 of the first paragraph of section 4 upon its being placed by the Minister under the management of the institute.

36. The terms and conditions of each transfer of operations shall be fixed by agreement between the parties, and must receive the prior approval of the Government.

Each agreement must, in particular, contain the necessary provisions

(1) to effect a transfer of the employees affected by the transfer of operations;

(2) to effect a transfer of the equipment and movable property needed by the institute to operate the laboratory or organization concerned;

(3) to effect a transfer of any subsidies, contributions or other monies relating to the transferred operations.

37. If the institute and an institution are unable to conclude an agreement under section 36 within six months, the terms and conditions of the transfer of operations may be fixed by an order of the Government.

If the order provides for a transfer of assets, the Government may order that the transfer be made gratuitously. The Government must, in particular, take into account public subscriptions for, and government subsidies paid in relation to, the acquisition and maintenance of those assets.

The parties must proceed with the transfer of assets within the time and in accordance with the terms and conditions determined by the Government.

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

39. The employees, including the senior management officers, of the Ministère de la Santé et des Services sociaux whose principal or secondary tasks are likely to come under the responsibility of the institute shall, subject to the provisions of a collective agreement that are applicable to them, become employees of the institute to the extent that an order in council providing for their transfer is made before (*insert here the date occurring one year after the date of coming into force of this section*).

Such employees shall occupy the positions and exercise the functions assigned to them by the institute, subject to the provisions of a collective agreement that are applicable to them.

40. Every employee transferred under section 39 who, on (*insert here the date of coming into force of this section*), was a public servant with permanent tenure within the meaning of the Public Service Act (R.S.Q., chapter F-3.1.1), and whose transfer or appointment to the institute occurred within 12 months after that date, 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.

41. Section 35 of the Public Service Act (R.S.Q., chapter F-3.1.1) applies to an employee referred to in section 39 who enters a competition for promotion to a position in the public service.

42. Every employee referred to in section 39 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 on which 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 institute.

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

Where an employee of the institute is promoted pursuant to section 41, the employee's classification must take account of the criteria set out in the first paragraph.

43. Where some or all of the operations of the institute are discontinued or if there is a shortage of work, an employee of the institute referred to in section 39 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 42.

44. A person placed on reserve pursuant to section 43 shall remain in the employ of the institute until the chairman of the Conseil du trésor is able to assign the person a position.

45. Subject to any remedy available under a collective agreement, an employee referred to in section 39 who is dismissed may bring an appeal under section 33 of the Public Service Act (R.S.Q., chapter F-3.1.1).

46. Section 31 of the Public Health Protection Act (R.S.Q., chapter P-35), amended by section 2 of chapter 77 of the statutes of 1997, is again amended by inserting, at the beginning, “With the exception of the Institut national de santé publique du Québec,”.

47. 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 section 120 of chapter 63 of the statutes of 1997, is again amended by inserting “The Institut national de santé publique du Québec” at the place determined by the alphabetical order of the French text.

48. 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, and 296-98 and 297-98 dated 18 March 1998, and by sections 35 of chapter 26, 33 of chapter 27, 13 of chapter 36, 631 of chapter 43, 57 of chapter 50, 121 of chapter 63, 52 of chapter 79 and 37 of chapter 83 of the statutes of 1997, is again amended by inserting “the Institut national de santé publique du Québec” in paragraph 1 at the place determined by the alphabetical order of the French text.

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