



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 441
(1998, chapter 44)

An Act respecting the Institut de la statistique du Québec

Introduced 14 May 1998
Passage in principle 26 May 1998
Passage 19 June 1998
Assented to 20 June 1998

Québec Official Publisher
1998

EXPLANATORY NOTES

This bill establishes the Institut de la statistique du Québec, a body which may also be designated under the name “Statistique Québec”.

The mission of the Institut will be to provide reliable and objective statistical information on the situation of Québec as regards all aspects of Québec society for which such information is pertinent. The Institut will also be responsible, among other things, for establishing and keeping up to date a Québec population record and for informing the public on the comparative state and evolution of the total remuneration of the unionized employees of the public and parapublic sectors.

The bill sets out the powers of the Institut, provides that the Institut will be headed by a director general appointed by the Government, establishes the rules governing the organization of the Institut and sets out the obligations of the director general and personnel of the Institut as regards the communication of information obtained by the Institut.

The bill contains financial, penal and amending provisions, as well as transitional provisions for the transfer to the Institut of the rights and obligations of the Bureau de la statistique du Québec, the Institut de recherche et d’information sur la rémunération and Santé Québec and, in relation to surveys on the total remuneration, the Ministère du Travail.

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);
- Health Insurance Act (R.S.Q., chapter A-29);
- Labour Code (R.S.Q., chapter C-27);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Act respecting municipal territorial organization (R.S.Q., chapter O-9);

- 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);
- Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1).

LEGISLATION REPLACED BY THIS BILL :

- Act respecting the Bureau de la statistique (R.S.Q., chapter B-8).

Bill 441

AN ACT RESPECTING THE INSTITUT DE LA STATISTIQUE DU QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

CHAPTER I

ESTABLISHMENT, MISSION AND FUNCTIONS

1. A body to be known as the “Institut de la statistique du Québec” is hereby established.

The Institut may also be designated under the name “Statistique Québec”.

2. The mission of the Institut is to provide reliable and objective statistical information on the situation of Québec as regards all aspects of Québec society for which such information is pertinent.

The Institut shall be the central authority for the production and dissemination of statistical information for the government departments and bodies, except information produced for administrative purposes. The Institut shall be responsible for the carrying out of statistical surveys of general interest.

3. The Institut shall establish and keep up to date a Québec population record.

The Institut shall, for that purpose, collect and compile data on births, marriages and deaths, immigration and emigration.

The Institut shall also prepare each year an estimate of the population of municipalities.

4. The Institut shall inform the public on the comparative state and evolution of the total remuneration of the employees governed by a collective agreement of the Government and of the school boards, colleges and institutions, and the total remuneration of other Québec employees of any category it determines.

Not later than 30 November each year, the Institut shall publish a report of its findings.

The terms “school boards”, “colleges” and “institutions” shall, for the purposes of the first paragraph, have the same meaning as in section 1 of the

Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2).

5. In the pursuit of its mission, the Institut may

(1) collect, compile, integrate, analyse and disseminate information and process the information in such a manner that comparisons in and outside Québec may be made;

(2) collaborate with the government departments and bodies in the use of administrative data for statistical purposes;

(3) facilitate, as required, the coordination of the statistical activities of the government departments and bodies, in particular to avoid duplication;

(4) recommend definitions, codes or concepts to facilitate the production of statistics and ensure the comparability of statistics;

(5) provide scientific or technical services in the field of statistics to government departments and bodies and to its other clients;

(6) take any initiative to foster cooperation between government departments and bodies in the use of new information and communication technologies to facilitate the production and dissemination of government statistical information;

(7) develop methodologies, integration frameworks and other necessary tools.

6. The Institut may form committees to allow for the participation of persons who do not form part of the personnel of the Institut in the pursuit of the mission and functions of the Institut.

7. The Minister may, in accordance with the law, enter into an agreement with a government other than the Government of Québec or a department of such a government, with an international organization or with a body of such a government or organization providing for the carrying out of this Act.

8. The entering into of an agreement in the field of statistics referred to in subdivision 2 of Division II of the Act respecting the Ministère du Conseil exécutif (R.S.Q., chapter M-30) or Chapter III of the Act respecting the Ministère des Relations internationales (R.S.Q., chapter M-25.1.1), by a minister or a government body and a statistics body must be recommended in advance by the minister responsible for the administration of this Act.

9. The Institut may enter into an agreement with a public body within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) providing for the collection, exchange, transmission, analysis and dissemination of information.

For the purposes of this section, any public body may enter into an agreement with the Institut.

10. An agreement under section 7 or 9 must provide that

(1) the person who provides information is informed, at the time the information is collected, that the information is being collected for use both by the Institut and by the other party to the agreement;

(2) the information provided by a person will not be transmitted to the other party to the agreement if the person gives written notice to the Institut that the person is opposed to the transmission.

However, subparagraph 2 shall be without effect if the other party to the agreement is authorized by law to require the person to comply with the request for information, under pain of penalty.

11. Where the Institut collects information from a person, it must first provide identification and inform the person

(1) of the purpose of the survey;

(2) that the request is a request for which a reply is obligatory or optional;

(3) of any data-sharing agreement and of the right to oppose in writing, in accordance with section 10, the communication of the information to the other party to the agreement.

The director general shall determine that a request is a request for which a reply is obligatory if, in the opinion of the director general, it is necessary to ensure the reliability of the statistics produced.

Every request for information by the Institut for the purposes of this Act for which a reply is obligatory must be complied with and the information must be transmitted within the time and on the form prescribed by the Institut.

12. A person having custody of records, registers or other documents of a public body must allow the Institut to have access to them for the purposes of this Act.

13. The Government may confer on the Institut any mandate related to the pursuit of its mission.

The Institut must indicate in its annual report any mandate received under the first paragraph.

CHAPTER II

ORGANIZATION

14. The Institut shall be directed by a director general appointed by the Government.

15. The director general shall be appointed for a term of five years. At the end of that term, the director general shall remain in office until replaced or reappointed.

16. If the director general is absent or unable to act, the minister responsible for the administration of this Act may appoint an acting director general.

17. The Government shall determine the remuneration, employment benefits and other conditions of employment of the director general.

18. The director general shall be responsible for the administration of the Institut and the supervision of its personnel.

The office of director general is a full-time position, and the attention of the director general, except where authorized by the Government, must be devoted exclusively to the duties of the office of director general.

19. The director general shall not, under pain of forfeiture of office, have any direct or indirect interest in an enterprise that puts the director general's interest in conflict with that of the Institut.

However, forfeiture is not incurred if such an interest devolves to the director general by succession or gift, provided the director general renounces or disposes of it with dispatch.

20. The members of the personnel of the Institut shall be appointed and remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

21. No act, document or writing is binding on or may be attributed to the Institut unless it is signed by the director general, a member of the personnel of the Institut or the holder of a position and, in the latter two cases, only so far as determined by the director general.

22. The director general may, on the conditions the director general determines, allow the director general's signature to be affixed by means of an automatic device to the documents the director general determines.

The director general may also allow a facsimile of the signature of the director general to be engraved, lithographed or printed on the documents the director general determines. The facsimile must be countersigned by a person authorized for that purpose by the director general.

23. Any document or copy of a document emanating from the Institut or forming part of its records, signed or certified by a person referred to in section 21, is authentic.

24. The secretariat of the Institut shall be established in the territory of the national capital, at any place determined by the Government. Notice of the location or of any change of the location of the secretariat shall be published in the *Gazette officielle du Québec*.

CHAPTER III

CONFIDENTIALITY

25. The director general, public servants and any other person whose services are used by the director general in the exercise of the director general's functions shall not disclose or cause to be disclosed, by any means whatsoever, any information obtained under this Act if disclosure would allow information to be associated with a specific person, enterprise, body or association.

26. Notwithstanding section 25, information may be disclosed with prior consent in writing from the person, enterprise, body or association concerned.

Information may also be disclosed without such prior consent in the following cases :

(1) an agreement entered into under section 10 so provides ;

(2) disclosure of the information is required for the purposes of a prosecution under this Act ;

(3) communication of the information is authorized by the director general in accordance with sections 27 to 29.

27. The director general may, except in respect of nominative information, authorize in writing the communication of information collected by public bodies for their own purposes and communicated to the Institut ; however, such information is subject, when communicated to the Institut, to the confidentiality requirements to which it was subject when gathered and shall not be disclosed by the Institut except to the extent and in the manner agreed upon with the respondents by those who gathered it or the director general.

28. The director general may authorize in writing the communication of information obtained for the purposes of this Act in the form of an index or list

(1) of the names and addresses of legal persons, enterprises, associations or establishments according to sectors of economic activity ;

(2) of the names and addresses of legal persons, enterprises, associations or establishments that fall within given classes according to the number of employees ;

(3) of products extracted, obtained, processed, manufactured, transported, stored, purchased, sold or shipped or of services provided by legal persons, enterprises, associations or establishments in the course of their operations.

Notwithstanding section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information, an index or list provided for in the first paragraph may contain information relating to a natural person who operates an enterprise or an establishment.

29. The director general may authorize in writing the communication of information defined by any Act as public information.

30. Except for the purposes of a prosecution under this Act, a person referred to in section 25 may not be compelled to reveal what was disclosed to that person or what that person learned in the exercise of the functions described in paragraphs 1 and 5 of section 5 or to produce a document prepared or obtained in the exercise of those functions before a court or before a body or a person exercising an adjudicative function.

Notwithstanding section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information, no person may have access to such a document.

This section also applies to any person who is in possession of a copy of any document used in the collection of information for the purposes of this Act.

CHAPTER IV

FINANCIAL PROVISIONS AND REPORTS

31. The fiscal year of the Institut shall end on 31 March.

32. The Institut shall file with the Minister, on or before 30 June each year, its financial statements and a report of its operations for the preceding fiscal year. The report shall contain a list of the statistical surveys carried out during that period.

The financial statements and the report of operations shall contain any information required by the Minister.

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

The competent parliamentary committee of the National Assembly shall examine the financial statements and the report of operations and shall, where required, hear for that purpose the representatives of the Institut.

34. The Institut shall, each year, transmit to the Minister for approval its budget estimates for the following fiscal year, at the time and according to the form and content determined by the Minister.

35. Each year, and whenever so ordered by the Government, the books and accounts of the Institut shall be audited by the Auditor General.

The auditor's report must be transmitted with the report of operations and the financial statements of the Institut.

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

(1) authorize the Institut to contract loans by notes, bonds or otherwise ;

(2) guarantee the payment of the capital of and interest on any loan contracted by the Institut and the performance of any of its obligations ;

(3) authorize the Minister of Finance to advance to the Institut any amount considered necessary for the performance of its obligations or the exercise of its functions and powers.

The sums required for the purposes of subparagraphs 2 and 3 shall be taken out of the consolidated revenue fund.

37. The sums received by the Institut shall be applied to the financing of its operations and the performance of its obligations.

38. The Institut may not make payments or assume obligations, except those provided for in section 36, for an amount that exceeds, in the same fiscal year, the sums at its disposal for the year in which the payments are made or the obligations assumed.

This section shall not operate to prevent the Institut from making commitments for more than one fiscal year.

39. The Institut may invest the sums at its disposal for its administration under this Act

(1) in demand deposits or term deposits of less than one year with the Caisse de dépôt et placement du Québec, a bank or a savings and credit union ;

(2) in securities for a term of less than one year issued or guaranteed by the Government of Québec or of Canada.

40. Subject to the confidentiality requirements imposed by Chapter III, the Institut must furnish to the Minister any information the Minister requires on its operations.

CHAPTER V

PENAL PROVISIONS

41. A person is guilty of an offence where the person

(1) discloses, contrary to this Act and without reasonable excuse, information obtained for the purposes of this Act;

(2) makes use of information obtained in the exercise of the person's functions to obtain undue advantage for the person or any other person;

(3) obtains or attempts to obtain, under the pretence of the exercise of the person's functions, information that the person is not authorized to obtain;

(4) provides false identification or pretends to be a person referred to in section 25 to obtain information;

(5) incites or encourages a person referred to in section 25 to disclose, contrary to this Act, information obtained for the purposes of this Act;

(6) refuses or neglects, without reasonable excuse, in the case of a request for which a reply is obligatory, to comply with a request for information, to fill out a request for information or to transmit the reply to a request for information within the time and in the form prescribed;

(7) knowingly provides false information in reply to a request for information made under this Act;

(8) having custody of records, registers or documents of a public body, an enterprise or an association, does not allow a person referred to in section 25 to have access thereto for the purposes of this Act.

42. Any person who contravenes section 41 is liable to a fine of \$200 to \$1,000 and, for any subsequent offence, to a fine of \$500 to \$2,500.

CHAPTER VI

AMENDING PROVISIONS

ACT RESPECTING ACCESS TO DOCUMENTS HELD BY PUBLIC BODIES AND THE PROTECTION OF PERSONAL INFORMATION

43. Section 79 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) is amended

(1) by replacing "Bureau" in the second line of the second paragraph by "Institut";

(2) by replacing “the Bureau de la statistique (chapter B-8)” in the third line of the second paragraph by “the Institut de la statistique du Québec (1998, chapter 44)”.

44. Schedule A to the said Act is amended by striking out the following :

“An Act respecting the Bureau Sections 16 to 18”
de la statistique
(chapter B-8)

HEALTH INSURANCE ACT

45. Section 67 of the Health Insurance Act (R.S.Q., chapter A-29), amended by section 128 of chapter 63 of the statutes of 1997, is again amended by replacing “to the Bureau de la statistique du Québec constituted under the Act respecting the Bureau de la statistique (chapter B-8)” in the second and third lines of the fifth paragraph by “to the Institut de la statistique du Québec established under the Act respecting the Institut de la statistique du Québec (1998, chapter 44)”.

LABOUR CODE

46. Section 1 of the Labour Code (R.S.Q., chapter C-27) is amended

(1) by striking out “, of the Institut de recherche et d’information sur la rémunération” in the fourteenth line of subparagraph 3 of paragraph *l*;

(2) by adding, after subparagraph 3.2 of paragraph *l*, the following :

“(3.3) a public servant of the Institut de la statistique du Québec assigned to functions referred to in section 4 of the Act respecting the Institut de la statistique du Québec (1998, chapter 44);”.

47. Section 111.8 of the said Code is amended by replacing “the Institut de recherche et d’information sur la rémunération provided for in section 19 of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors” in the fifth, sixth and seventh lines of subsection 4 by “the Institut de la statistique du Québec provided for in section 4 of the Act respecting the Institut de la statistique du Québec (1998, chapter 44)”.

ACT RESPECTING THE MINISTÈRE DU REVENU

48. Section 69.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), amended by section 43 of chapter 57 of the statutes of 1997, by section 119 of chapter 63 of the statutes of 1997 and by section 355 of chapter 85 of the statutes of 1997, is again amended by replacing subparagraph *k* of the second paragraph by the following :

“(k) the Institut de la statistique du Québec, solely to the extent that the information is necessary for the purposes of the Act respecting the Institut de la statistique du Québec (1998, chapter 44);”.

49. Section 71 of the said Act is amended by adding, at the end of the second paragraph, the following: “Moreover, the first paragraph does not apply to information held by the Institut de la statistique du Québec.”

ACT RESPECTING MUNICIPAL TERRITORIAL ORGANIZATION

50. Section 29 of the Act respecting municipal territorial organization (R.S.Q., chapter O-9) is amended by adding, at the end of the first paragraph, “based on the estimate of the Institut de la statistique du Québec”.

ACT RESPECTING THE PROCESS OF NEGOTIATION OF THE COLLECTIVE AGREEMENTS IN THE PUBLIC AND PARAPUBLIC SECTORS

51. Chapter II of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2) is repealed.

52. Section 53 of the said Act is amended by replacing “by the Institut of the report contemplated in section 19” in the first line by “by the Institut de la statistique du Québec of the report provided for in section 4 of the Act respecting the Institut de la statistique du Québec (1998, chapter 44)”.

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

53. 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, 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 and by section 37 of chapter 83 of the statutes of 1997, is again amended by striking out “the Institut de recherche et d’information sur la rémunération” in paragraph 1.

ACT RESPECTING NORTHERN VILLAGES AND THE KATIVIK REGIONAL GOVERNMENT

54. Section 3 of the Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1) is amended by adding, at the end of the first paragraph, “based on the estimate of the Institut de la statistique du Québec”.

CHAPTER VII

TRANSITIONAL AND FINAL PROVISIONS

55. The Institut de la statistique du Québec acquires the rights and assumes the obligations of the Bureau de la statistique du Québec, the Institut de recherche et d'information sur la rémunération and Santé Québec and of the Ministère du Travail to the extent, in the case of the Ministère du Travail, that such rights and obligations relate to surveys regarding total remuneration.

56. The physical resources, records and documents of the bodies referred to in section 55 become the resources, records and documents of the Institut de la statistique du Québec insofar as the Institut succeeds to the rights and obligations of those bodies.

57. The term of office of the members of the Institut de recherche et d'information sur la rémunération ends on (*insert here the date of coming into force of this section*).

58. The employees of the Institut de recherche et d'information sur la rémunération and the employees of Santé Québec who are in office on (*insert here the date preceding the date of coming into force of this section*) and who are designated by an order of the Government shall become employees of the Institut de la statistique du Québec, on the terms and conditions provided in such order. Employees so transferred are deemed to have been appointed in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1) and shall be remunerated accordingly.

The Conseil du trésor may establish any rule, standard or policy relating to the classification, rate of remuneration, tenure or any other condition of employment applicable to the employees referred to in the first paragraph.

59. The members of the personnel of the Ministère du Travail assigned to the carrying out of surveys regarding total remuneration and designated by an order of the Government and the members of the personnel of the Bureau de la statistique du Québec shall become, without further formality, the members of the personnel of the Institut de la statistique du Québec.

60. In any text, a reference to the Bureau de la statistique du Québec, to the Institut de recherche et d'information sur la rémunération or to Santé Québec shall, unless the context indicates otherwise, be a reference to the Institut de la statistique du Québec.

61. The appropriations granted for the fiscal year (*insert here the fiscal year in which this section comes into force*) to the Institut de recherche et d'information sur la rémunération and to the Bureau de la statistique, the sums in a fund managed by the Bureau de la statistique on (*insert here the date preceding the date of coming into force of section 55*) and the appropriations relating to the members of the personnel of the Ministère du Travail referred

to in section 59 shall be transferred to the Institut de la statistique du Québec as well as, to the extent provided by the Government, any other appropriations from the Ministère des Finances and the Ministère du Travail.

The sums held by or on behalf of Santé Québec and any appropriations from the Ministère de la Santé et des Services sociaux for the fiscal year (*insert here the fiscal year in which this section comes into force*) shall be transferred to the Institut de la statistique du Québec to the extent provided by the Government.

62. This Act replaces the Act respecting the Bureau de la statistique (R.S.Q., chapter B-8).

63. The minister designated by the Government is responsible for the administration of this Act.

64. This Act comes into force on the date or dates to be fixed by the Government.