



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 130
(2002, chapter 53)

**An Act to amend the Environment
Quality Act and other legislative
provisions**

**Introduced 6 November 2002
Passage in principle 28 November 2002
Passage 13 December 2002
Assented to 17 December 2002**

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EXPLANATORY NOTES

This bill amends the Environment Quality Act to transfer certain powers to determine fees from the Government to the Minister of the Environment. It provides that any regulation prescribing fees or charges relating to water must also provide that they are to be paid to the Fonds national de l'eau. In addition, the bill authorizes the Government to prescribe the payment to RECYC-QUÉBEC of waste-disposal charges or elimination fees. As well, the bill removes the requirement to hold a permit to bore and drill for groundwater and introduces a requirement to have certain notices entered in a register kept by the Minister for the purpose of making the notices public.

The bill amends the Act respecting the Ministère de l'Environnement, the Cities and Towns Act and the Municipal Code of Québec to specify the conditions under which the State and the municipalities will have access to private lands to assess the location, quantity, quality and vulnerability of the groundwater.

LEGISLATION AMENDED BY THIS BILL :

- Cities and Towns Act (R.S.Q., chapter C-19);
- Municipal Code of Québec (R.S.Q., chapter C-27.1);
- Act respecting the Ministère de l'Environnement (R.S.Q., chapter M-15.2.1);
- Environment Quality Act (R.S.Q., chapter Q-2).

Bill 130

AN ACT TO AMEND THE ENVIRONMENT QUALITY ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 24.4 of the Environment Quality Act (R.S.Q., chapter Q-2), enacted by section 2 of chapter 35 of the statutes of 2002, is repealed.

2. Section 31 of the said Act, amended by section 1 of chapter 59 of the statutes of 2001, is again amended

(1) in paragraph *e.1*, by inserting “fees or charges” after “waste-disposal”, by replacing “and” before “advance elimination” by a comma, by inserting “or charges, and fees or charges related to the use, management or purification of water” after “elimination fees” and by adding “pertaining in particular to the determination of the persons or municipalities required to pay such fees or charges, the conditions applicable to their collection and the interest and penalties exigible in case of non-payment” at the end of that paragraph ;

(2) by striking out “, and fix the duties and fees exigible for its issue and, in such cases as he shall determine, for its amendment or renewal ; these duties and fees may vary depending upon the class, nature, extent or cost of the project in respect of which any such document is requested, amended or renewed” in paragraph *g* ;

(3) by adding the following paragraphs :

“A regulation made under subparagraph *e.1* of the first paragraph prescribing fees or charges related to the use, management or purification of water must provide that those fees or charges are to be paid to the Fonds national de l’eau for the purpose for which that fund is intended.

A regulation made under subparagraph *e.1* of the first paragraph prescribing waste-disposal or elimination fees or charges may provide that all or part of those fees or charges are to be paid to the Société québécoise de récupération et de recyclage for the purpose of the carrying out of its functions in the field of residual materials recovery and reclamation.”

3. The said Act is amended by inserting the following section after section 31 :

“31.0.1. The Minister may, by order, determine

(1) the fees payable by an applicant for the issue, renewal or modification of an authorization, approval, certificate, permit, depollution attestation or permission under this Act or the regulations. The fees shall be fixed on the basis of the costs incurred to process the application ;

(2) the annual fees payable by the holder of an authorization, approval, certificate, permit, depollution attestation or permission and who, each year, is subject to control or monitoring measures, in particular the submitting of information or documents to the Minister. The fees shall be fixed on the basis of the costs incurred by the control or monitoring measures ; and

(3) the fees payable by a person who must file with the Minister an attestation of environmental conformity under section 95.1 or a notice in relation to a project exempt from the application of section 22 under a regulatory provision. The fees shall be fixed on the basis of the costs incurred to examine the documents.

The fees may vary according to the nature, scope or cost of the project, the class of source of contamination or the complexity of the technical and environmental aspects of the file.

The Minister may also fix the terms and conditions of payment of the fees.

Every ministerial order made under this section shall be published in the *Gazette officielle du Québec* and come into force in accordance with the provisions of the Regulations Act (chapter R-18.1).”

4. Section 31.41 of the said Act, amended by section 6 of chapter 35 of the statutes of 2002, is again amended

(1) by striking out paragraph 6 ;

(2) by replacing “fees and annual duties” by “annual fees” in paragraph 6.2.

5. Section 31.69 of the said Act, enacted by section 2 of chapter 11 of the statutes of 2002, is amended by striking out paragraph 4.

6. Section 32.9 of the said Act is amended by adding “and give them effect from the date of the application for approval or any later date the Minister indicates” at the end of the first paragraph.

7. Sections 45.4 and 45.5 of the said Act are repealed.

8. Section 46 of the said Act is amended

(1) by striking out paragraph *q* ;

(2) by inserting the following subparagraph after subparagraph 3 of paragraph *s* :

“(3.1) prescribe, where a standard requires the delimitation of the supply area or a protection area of a water collection facility, the requirement for the owner or any other custodian of land that may be subject to the delimitation to allow free access to the land for that purpose at any reasonable time, conditional, however, on prior notification of at least twenty-four hours of the intention to enter upon the land, restoration of the premises to their former state and compensation for any damage suffered by the owner or custodian;”.

9. Section 70.11 of the said Act is amended by striking out “and” after “Minister,” in the first paragraph and by adding “and who pays the fees prescribed by an order made under section 31.0.1” at the end of that paragraph.

10. Section 70.14 of the said Act is amended by adding “and pays the fees prescribed by an order made under section 31.0.1” at the end.

11. Section 70.15 of the said Act is amended by inserting the following subparagraph after subparagraph 3 of the first paragraph :

“(3.1) fails to pay the fees prescribed by an order made under section 31.0.1 ; or”.

12. Section 70.16 of the said Act is amended by adding “and pays the fees prescribed by an order made under section 31.0.1” at the end of the first sentence of the first paragraph.

13. Section 70.19 of the said Act is amended by striking out subparagraph 11 of the first paragraph.

14. Section 109 of the said Act, amended by section 7 of chapter 11 of the statutes of 2002, is again amended by adding the following paragraph :

“Whoever, in contravention of the provisions of an order made under subparagraph 2 or 3 of the first paragraph of section 31.0.1, fails to pay the fees prescribed is also guilty of an offence and is liable to the penalties provided for in the first paragraph.”

15. Section 118.5 of the said Act, amended by section 11 of chapter 11 of the statutes of 2002, is again amended by inserting the following subparagraph after subparagraph *b* of the first paragraph :

“(b.1) all notices that, under a regulation, must be given to the Minister in relation to projects exempt from the application of section 22;”.

16. Section 119 of the said Act is amended by adding the following paragraph :

“Every functionary or employee of a municipality designated by the Minister to perform the duties of inspector for the purposes of enforcing the regulatory

provisions made under this Act and specified in the instrument of designation may also exercise the powers conferred by the first paragraph.”

17. Section 121 of the said Act is amended

(1) in the first paragraph by striking out “an inspector appointed pursuant to section 69.3 or” and replacing “contemplated in” by “or employee referred to in”;

(2) in the second paragraph by striking out “inspector or” and inserting “or employee” after “functionary”.

18. Section 122.1 of the said Act is amended

(1) by striking out “or” at the end of subparagraph *c* of the first paragraph;

(2) by inserting the following subparagraph after subparagraph *c* of the first paragraph:

“(c.1) the holder of the certificate fails to pay the fees prescribed by an order made under section 31.0.1; or”.

19. Section 14 of the Act respecting the Ministère de l’Environnement (R.S.Q., chapter M-15.2.1) is amended by adding the following paragraphs:

“The person who, as owner or lessee or in any other capacity has the custody of the land shall give free access to the land at any reasonable time to the person referred to in the first paragraph, in particular for the purpose of carrying out the research, inventories, studies or analyses required to assess the location, quantity, quality or vulnerability of groundwater present in the land, subject, however, to that person restoring the premises to their former state and compensating the owner or custodian of the land, as the case may be, for any damage. In addition, access to the land is subject to the requirement that the owner or custodian be given prior notice of at least 48 hours of the person’s intention to enter upon the land for the above-mentioned purposes.

Whoever contravenes the provisions of the second paragraph or hinders an authorized person in the exercise of the person’s duties, is liable to a fine of not less than \$500 and not more than \$5,000. The fine is doubled in the case of a second or subsequent offence.”

20. Section 427 of the Cities and Towns Act (R.S.Q., chapter C-19) is amended by adding the following paragraphs:

“In addition to the officers and employees, any person authorized by the municipality may also enter upon any land, including land within a 48 km radius outside the territory of the municipality, for the purpose of

(1) searching for a new source of water supply intended to supply a waterworks or public well and carrying out the inventories, studies and analyses required to assess the location, quantity, quality and vulnerability of the groundwater;

(2) delimiting the supply area and protection areas of any existing or planned source of water supply intended to supply a waterworks or public well and assessing the vulnerability of the groundwater present in those areas.

The exercise of the powers under this section is subject, however, to restoring the premises to their former state and compensating the owner or person in charge of the land, as the case may be, for any damage. In addition, in the cases described in the second paragraph, the municipality is bound, except in the case of emergency, to give the owner or any other person in charge of the land prior notice of at least 48 hours of the person's intention to enter upon the land for the purposes mentioned in that paragraph."

21. The Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended by inserting the following article after article 563.3 :

"563.4. The owners or occupants of lands situated in the territory of a municipality or in neighbouring local municipal territories not more than 48 km distant, must give free access to their lands at any reasonable time to persons authorized by the municipality for the purpose of

(1) searching for a new source of water supply intended to supply water to the inhabitants of the municipality or supply a waterworks or public well referred to in article 557 and carrying out the inventories, studies and analyses required to assess the location, quantity, quality and vulnerability of the groundwater;

(2) delimiting the supply area and protection areas of any existing or planned source of water supply intended to supply water to the inhabitants of the municipality or supply a waterworks or public well referred to in article 557 and assessing the vulnerability of the groundwater present in those areas.

Access to the lands is subject, however, to restoring the premises to their former state and compensating the owners or occupants, as the case may be, for any damage; the municipality is also bound, except in the case of emergency, to give the owners or occupants prior notice of at least 48 hours of the person's intention to enter upon their lands for the above-mentioned purposes."

22. This Act comes into force on 17 December 2002, except section 1, paragraph 2 of section 2, sections 3 to 5, 9 to 14 and 18, which come into force on the date or dates to be fixed by the Government.