



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 131
(2005, chapter 41)

**An Act to amend the Courts of Justice
Act and the Act respecting municipal
courts**

**Introduced 15 November 2005
Passage in principle 29 November 2005
Passage 8 December 2005
Assented to 13 December 2005**

**Québec Official Publisher
2005**

EXPLANATORY NOTES

This bill amends the Courts of Justice Act to provide for the designation, by the chief judge of the Court of Québec, of a judge responsible for the professional development of the judges of the Court of Québec. It also amends that Act and the Act respecting municipal courts to allow the Government to fix, by order, the additional remuneration attached to the function of judge responsible for the professional development of judges of the Court of Québec and that attached to the function of judge responsible for a municipal court.

The bill also grants a judge who participates in a pension plan provided for in Part V.1 or Part VI of the Courts of Justice Act the right to retire early if he has reached 55 years of age and accumulated at least 5 years of service, subject to the reduction of his pension.

Under the bill, a municipality that establishes a municipal court must provide the judges with the secretarial services required to exercise the functions of office.

Furthermore, the bill provides that the period during which a judge is granted leave without pay or leave with deferred pay is taken into account, on the conditions determined by the Government, in the computation of years of service for the purposes of the pension plan provided for in Part VI of the Courts of Justice Act.

The bill also allows the Government to determine, by order, the rate of contribution of municipalities to the pension plans provided for in Parts V.1 and VI of the Courts of Justice Act and in the supplementary benefits plans with regard to the judges of the municipal courts to whom those plans apply.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting municipal courts (R.S.Q., chapter C-72.01);
- Courts of Justice Act (R.S.Q., chapter T-16).

Bill 131

AN ACT TO AMEND THE COURTS OF JUSTICE ACT AND THE ACT RESPECTING MUNICIPAL COURTS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 93.1 of the Courts of Justice Act (R.S.Q., chapter T-16) is amended by replacing the second sentence of the first paragraph by the following sentence: “Unless the judge resumes judicial duties under the second paragraph, the judge is deemed to have ceased to hold office on the day preceding the day on which the judge satisfies any of the pension eligibility requirements set out in paragraphs 1, 2 and 3 of sections 224.3 and 228 and section 246.3, depending on the pension plan.”

2. The Act is amended by inserting the following after section 105.5:

“§3.1 — *Judge responsible for the professional development of judges of the Court*

“**105.6.** With the approval of the Government, the chief judge shall designate from among the judges of the Court a judge responsible for the professional development of judges of the Court for a term not exceeding three years. The term is renewable.

The chief judge shall determine the functions of the judge responsible for professional development.

“**105.7.** The judge responsible for professional development shall remain in office notwithstanding the expiry of his term of office until he is replaced or designated for another term.

If the judge responsible for professional development is absent or unable to act, the chief judge may designate another judge to exercise the first judge’s functions until the first judge resumes his duties or is replaced.”

3. Section 115 of the Act is amended by replacing “or associate coordinating judge” in the third and fourth lines by “, associate coordinating judge or judge responsible for the professional development of judges of the Court”.

4. Section 117 of the Act is amended

(1) by replacing “or an associate coordinating judge” in the first and second lines by “, an associate coordinating judge or the judge responsible for the professional development of judges of the Court”;

(2) by striking out “de celui-ci” in the third line of the French text.

5. Section 122 of the Act is amended by replacing “or associate coordinating judge” in the sixth line of the fourth paragraph by “, associate coordinating judge or judge responsible for the professional development of judges of the Court”.

6. Section 122.3 of the Act is amended by adding the following sentence at the end of the third paragraph: “The order may have effect from 1 January following the date on which the Minister of Justice receives the actuarial valuation or any later date fixed in the order.”

7. Section 123 of the Act is amended by replacing “122.3” in the first line by “122.2”.

8. Section 224.2 of the Act is amended by replacing “or associate coordinating judge” in the seventh line of the first paragraph by “, associate coordinating judge or judge responsible for the professional development of judges of the Court”.

9. Section 224.3 of the Act is amended by adding the following paragraph at the end:

“(4) has reached 55 years of age and accumulated at least 5 years of service.”

10. Section 224.9 of the Act is amended

(1) by replacing “or associate coordinating judge” in the sixth and seventh lines of the second paragraph by “, associate coordinating judge or judge responsible for the professional development of judges of the Court”;

(2) by inserting “leave without pay or” after “agreement granting” in the second line of the fifth paragraph.

11. Section 224.10 of the Act is replaced by the following section:

“224.10. The pension of a judge who availed himself of paragraph 2 of section 224.3 shall be reduced, if applicable, for its duration, by the amount resulting from the application of the minimum reduction provided for in the Income Tax Act (Revised Statutes of Canada (1985), chapter 1, 5th Supplement).

The pension of a judge who availed himself of paragraph 4 of section 224.3 shall be reduced, for its duration, by the amount obtained by multiplying the amount of the pension established pursuant to the first paragraph of

section 224.8 by 0.5% per month, computed for each month comprised between the date on which payment of the pension begins and the nearest date on which the judge would otherwise have been eligible for a pension under section 224.3. However, the amount thus obtained may not be less than the amount that would have been obtained under the first paragraph.”

12. Section 224.15 of the Act is amended by replacing “with” in the fourth line by “with the first paragraph of”.

13. Section 228 of the Act is amended by adding the following paragraph at the end:

“(4) he has reached 55 years of age and has 5 years of service or more to his credit.”

14. Section 229 of the Act is amended

(1) by adding “, or during which the judge was granted leave without pay or leave with deferred pay under section 122.0.1, subject to the applicable fiscal rules” at the end of subparagraph 1 of the first paragraph;

(2) by adding the following paragraph after the first paragraph:

“The Government shall fix, by order, the conditions that must be fulfilled so that a year or part of a year during which a judge was granted leave without pay or leave with deferred pay may be counted for the purposes of the pension plan.”

15. Section 231 of the Act is amended

(1) by replacing “or associate coordinating judge” in the tenth line of the second paragraph by “, associate coordinating judge or judge responsible for the professional development of judges of the Court”;

(2) by striking out “a judge on leave without pay or” in the eleventh line of the second paragraph;

(3) by adding the following paragraph at the end:

“For the purposes of this section, the salary pertaining to a year of service covered by an agreement granting leave without pay or leave with deferred pay under section 122.0.1 is the salary the judge would have received if the judge had not been a party to such an agreement.”

16. Section 232.1 of the Act is replaced by the following section:

“232.1. The pension of a judge who availed himself of paragraph 3 of section 228 is reduced, if applicable, for its duration, by the amount resulting

from the application of the minimum reduction provided for in the Income Tax Act (Revised Statutes of Canada (1985), chapter 1, 5th Supplement).

The pension of a judge who is eligible for retirement under paragraph 4 of section 228 shall be reduced, for its duration, by the amount obtained by multiplying the amount of the pension established pursuant to the first paragraph of section 230 by 0.5% per month, computed for each month comprised between the date on which the judge is eligible for retirement and the nearest date on which the judge would otherwise have been eligible for retirement under section 228.”

17. Section 237 of the Act is amended by replacing “with” in the third line by “with the first paragraph of”.

18. Section 246.26.1 of the Act is amended

(1) by replacing “by-law” in the first line of the first paragraph by “order”;

(2) by replacing the last sentence of the first paragraph by the following sentence: “The order may have effect from 1 January following the date on which the Minister of Justice receives the actuarial valuation or any later date fixed in the order.”

19. Section 49 of the Act respecting municipal courts (R.S.Q., chapter C-72.01) is amended by replacing “and of associate president judge” in the second line of the third paragraph by “, of associate president judge and of judge responsible for a municipal court”.

20. Section 69 of the Act is amended by adding the following paragraph at the end:

“The municipality is also required to provide the judge with the secretarial services required to exercise the functions of office.”

21. The Regulation respecting the contribution of a municipality that joins the pension plan provided for in Part VI of the Courts of Justice Act, enacted by Order in Council 1828-92 (1993, G.O. 2, 3) and amended by Orders in Council 793-93 (1993, G.O. 2, 3247) and 1476-95 (1995, G.O. 2, 3207) applies, with the necessary modifications, to the pension plan provided for in Part V.1 of the Act.

For the period from 1 January 2001 to 31 December 2004, the rate of contribution of the municipalities to the pension plan provided for in Part V.1 of the Act, with regard to the judges of the municipal courts to whom it applies, is set at the amount by which 10.81% of the annual salary, including any additional remuneration, paid to the judge or that would have been paid to the judge if he had not been granted leave without pay or leave with deferred pay, exceeds the contribution paid by the judge.

From 1 January 2005 and until a new rate is determined by order under section 246.26.1 of the Courts of Justice Act (R.S.Q., chapter T-16), the rate of contribution of the municipalities to the pension plan provided for in Part V.1 of the Act, with regard to the judges of the municipal courts to whom it applies, is set at the amount by which 10.81% of the annual salary, including any additional remuneration, paid to the judge or that would have been paid to the judge if he had not been granted leave without pay or leave with deferred pay, exceeds the contribution paid by the judge.

From 1 January 2005 and until a new rate is determined by order under section 122.3 of the Courts of Justice Act, the rate of contribution of the municipalities to the supplementary benefits plan for the judges of the municipal courts to whom the pension plan provided for in Part V.1 of the Act applies is set at the amount by which 29.63% of the annual salary, including any additional remuneration, paid to the judge or that would have been paid to the judge if he had not been granted leave without pay or leave with deferred pay exceeds the contribution of the municipality and the contribution of the judge paid to the pension plan provided for in Part V.1 of the Act and any contribution the judge paid to his supplementary benefits plan.

22. From 1 January 2005 and until a new rate is determined by order under section 246.26.1 of the Courts of Justice Act (R.S.Q., chapter T-16), the rate of contribution of the municipalities to the pension plan provided for in Part VI of the Act with regard to the judges of the municipal courts to whom it applies is set at 8.60% of the annual salary, including any additional remuneration, paid to the judge or that would have been paid to the judge if he had not been granted leave without pay or leave with deferred pay.

From 1 January 2005 and until a new rate is determined by order under section 122.3 of the Courts of Justice Act, the rate of contribution of the municipalities to the supplementary benefits plan of the judges of the municipal courts to whom the pension plan provided for in Part VI of the Act applies is set at 13.36% of the annual salary, including any additional remuneration, paid to the judge or that would have been paid to the judge if he had not been granted leave without pay or leave with deferred pay.

23. The provisions of this Act have effect from 1 July 2004 except

(1) section 14 and paragraphs 2 and 3 of section 15, which have effect from 30 May 2001;

(2) section 20;

(3) the first and second paragraphs of section 21, which have effect from 1 January 2001; and

(4) the third and fourth paragraphs of section 21 and section 22, which have effect from 1 January 2005.

24. This Act comes into force on 13 December 2005, except section 20, which comes into force on the date to be set by order of the Government.