



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 44
(2006, chapter 55)

An Act to amend various legislative provisions concerning retirement

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Passage 14 December 2006
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EXPLANATORY NOTES

This bill contains various amendments to the Acts constituting the public sector pension plans, arising in particular from recommendations made by the pension committees.

Thus, the bill amends the pension plans in order to clarify regulatory powers, eliminate certain obligations related to actuarial valuations, establish or standardize the wording used in relation to the computation of interest, and change the number of arbitrators who may act under the Government and Public Employees Retirement Plan.

The bill also amends the public sector pension plans in order to determine the pensionable salary of employees on adoption leave for the purpose of computing the amount of their contributions and pension, and set the maximum number of contributory days credited, without contributions, to an employee on maternity leave at 135 instead of 130.

In addition, the bill introduces measures relating to the membership of certain legal persons accredited as home child care coordinating offices in the pension plan established under the Act to facilitate the establishment of a pension plan for employees working in childcare services.

The bill also introduces amendments affecting the pension plan established under the Act respecting the Syndical Plan of the Sûreté du Québec in order, in particular, to allow the capitalization of member and employer contributions.

The bill makes it possible to terminate the pension plan of the non-teaching staff of the Commission des écoles catholiques de Montréal as at 31 January 2007, in compliance with the wishes of the active members of the plan, and allows them to participate in the Government and Public Employees Retirement Plan.

Lastly, the bill contains various technical and consequential amendments to simplify the administration of the public sector pension plans.

LEGISLATION AMENDED BY THIS BILL:

- Act to facilitate the establishment of a pension plan for employees working in childcare services (R.S.Q., chapter E-12.011);
- Police Act (R.S.Q., chapter P-13.1);
- 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 Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11);
- Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12);
- Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1).

Bill 44

AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS CONCERNING RETIREMENT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE PENSION PLAN OF CERTAIN TEACHERS

1. Section 8 of the Act respecting the Pension Plan of Certain Teachers (R.S.Q., chapter R-9.1) is amended by inserting “, 29.2” after “29.1” in the last line of the first paragraph.

ACT RESPECTING THE PENSION PLAN OF PEACE OFFICERS IN CORRECTIONAL SERVICES

2. Section 9 of the Act respecting the Pension Plan of Peace Officers in Correctional Services (R.S.Q., chapter R-9.2) is amended by inserting the following paragraph after the first paragraph:

“In the case of an adoption leave, the pensionable salary is the basic salary the employee would have been entitled to receive for the period during which the employee receives benefits, or would receive benefits if the employee had applied for them, under the Québec parental insurance plan established under the Act respecting parental insurance (chapter A-29.011) or the employment insurance plan established under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23).”

3. Section 21 of the Act is amended by replacing “130” in the second line of the first paragraph by “135”.

4. Section 35 of the Act is amended by replacing “the rate” in the next to last line of the first paragraph by “an annual rate”.

5. Section 36 of the Act is amended by replacing “determined for each period in” in the fourth line of the second paragraph by “determined in”.

6. Section 41.9 of the Act is amended by replacing “and” in the next to last line by “to”.

7. Section 41.12 of the Act is amended by replacing “determined for each period in” in the second line of the third paragraph by “determined in”.

8. The Act is amended by inserting the following section after section 42.1:

“42.1.1. The employer must withhold from any indemnity the employer pays to an employee because of an adoption leave an amount equal to the amount the employer would have withheld if the employee had not taken such a leave.”

9. Section 72 of the Act is amended by striking out the last paragraph.

10. The Act is amended by inserting the following section after section 74:

“74.0.1. For the purposes of this Act, subject to any contrary provision, the word “interest” used alone refers to the interest compounded annually at the rates determined for each period in Schedule VI to the Act respecting the Government and Public Employees Retirement Plan (chapter R-10).

The applicable rates determined in Schedule VI to that Act are the rates determined for each period according to the period of application of those rates provided for by the relevant sections. The applicable rate determined in Schedule VII to that Act is the rate in force on the day that precedes the date the period of application of that rate begins as provided in the relevant sections, unless otherwise provided.”

11. Section 126 of the Act is amended by striking out the second paragraph.

12. Section 135 of the Act is amended by replacing “determined, for each period, in” in the next to last line of the second paragraph by “determined in”.

13. Section 136 of the Act is amended

(1) by replacing “determined, for each period, in” in the second line of the second paragraph by “determined in”;

(2) by replacing “à l’article 406 et à” in the fourth line of the second paragraph in the French text by “de l’article 406 et de”.

14. Section 137 of the Act is amended by replacing the second and third lines of the second paragraph by the following lines:

“annually, at the rates determined in Schedule VI to the Act respecting the Government and Public Employees Retirement Plan or section”.

15. Section 143.6 of the Act is amended by replacing the last two lines of the first paragraph by the following lines:

“granted are credited to the employee or person in accordance with section 23 of this Act, as it read before 1 January 2005, on the last date on which the employee or person once again began contributing to this plan before 1 January 2005.”

16. Section 143.16 of the Act is amended

(1) by replacing “determined for each period in” in the seventh line of the last paragraph by “determined in”;

(2) by replacing “under section 406 of the Act respecting the Pension Plan of Management Personnel and in” in the tenth and eleventh lines of the last paragraph by “in section 406 of the Act respecting the Pension Plan of Management Personnel and”.

17. Section 143.20 of the Act is amended

(1) by replacing “at the rate” in the twelfth line of the first paragraph by “, compounded annually, at the rates”;

(2) by replacing “204, 205” in the next to last line of the first paragraph by “205, 206”.

**ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES
RETIREMENT PLAN**

18. Section 14 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by inserting the following paragraph after the first paragraph:

“In the case of an adoption leave, the pensionable salary is the basic salary the employee would have been entitled to receive for the period during which the employee receives benefits, or would receive benefits if the employee had applied for them, under the Québec parental insurance plan established under the Act respecting parental insurance (chapter A-29.011) or the employment insurance plan established under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23).”

19. Section 22 of the Act is amended by replacing “130” in the last line of the first paragraph by “135”.

20. The Act is amended by inserting the following section after section 29.1:

“29.2. The employer must withhold from any indemnity the employer pays to an employee because of an adoption leave an amount equal to the amount the employer would have withheld if the employee had not taken such a leave.”

21. Section 46.1 of the Act is amended by inserting “, compounded annually,” after “interest” in the first line of the last paragraph.

22. Section 85.20 of the Act is amended by striking out the second paragraph.

23. Section 85.21 of the Act is amended by striking out “, except the second paragraph of section 85.20,” in the first and second lines.

24. Section 89 of the Act is replaced by the following section:

“**89.** The pension credit may be increased on 1 January following the filing of the actuarial valuation of the service redeemed if the valuation shows that an upward adjustment should be made. The Government may establish, by regulation, the rules and procedures that apply to the increase of pension credits; those rules and procedures may vary with the categories of pension credits and persons the Government determines.”

25. Section 109.4 of the Act is amended by replacing the last paragraph by the following paragraph:

“The amounts established under this section are payable in a lump sum.”

26. Section 109.9 of the Act is amended

(1) by replacing “determined for each period in” in the second line of the third paragraph by “determined in”;

(2) by replacing “établi à” in the fourth line of the fourth paragraph in the French text by “de”.

27. Section 134 of the Act is amended

(1) by inserting the following subparagraph after subparagraph 11.3 of the first paragraph:

“(11.3.1) establish, for the purpose of section 89, the rules and procedures that apply to the increase of pension credits for the categories of pension credits and persons it determines;”;

(2) by striking out subparagraph 22 of the first paragraph.

28. Section 137 of the Act is amended

(1) by striking out “, 109.4” in the first line of subparagraph 1 of the second paragraph;

(2) by striking out “, 138.3” in the fourth line of the third paragraph.

29. Section 147.0.5 of the Act is amended by striking out “and section 147.0.2” in the second line.

30. Section 158 of the Act is amended by replacing “the fifth paragraph of section 109.4” in the next to last and last lines of the first paragraph by “section 26”.

31. Section 158.5 of the Act is amended by adding “, and those of the pension plan established under the Act respecting the Syndical Plan of the Sûreté du Québec (chapter R-14) shall be paid in accordance with section 67.3 of the Police Act (chapter P-13.1)” at the end.

32. Section 174 of the Act is amended

(1) by striking out “, of the Teachers Pension Plan and of the Civil Service Superannuation Plan” in the third and fourth lines of the first paragraph;

(2) by replacing “des régimes” in the last line of the second paragraph in the French text by “du régime”.

33. Section 178 of the Act is amended by replacing “one of the plans mentioned in section 174” in the second line by “the Government and Public Employees Retirement Plan”.

34. Section 183 of the Act is amended by replacing “two arbitrators” in the second line of the first paragraph by “three arbitrators”.

35. Section 187 of the Act is amended by inserting “and, if provided for under the plan, each payment of an indemnity paid because of an adoption leave” after “salary” in the third line of the first paragraph.

36. Section 191 of the Act is amended by replacing “204, 205” in the tenth line of the second paragraph by “205, 206”.

ACT RESPECTING THE TEACHERS PENSION PLAN

37. Section 11 of the Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11) is amended by inserting the following paragraph after the first paragraph:

“In the case of an adoption leave, the pensionable salary is the basic salary the teacher would have been entitled to receive for the period during which the teacher receives benefits, or would receive benefits if the teacher had applied for them, under the Québec parental insurance plan established under the Act respecting parental insurance (chapter A-29.011) or the employment insurance plan established under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23).”

38. Section 19 of the Act is amended by replacing “130” in the last line of the first paragraph by “135”.

39. Section 23 of the Act is amended by replacing “with interest at 5%, compounded annually,” in the second and third lines of the second paragraph by “with interest, compounded annually, at the rate of 5%”.

40. Section 28.7 of the Act is repealed.

41. The Act is amended by inserting the following section after section 29.1:

“29.1.0.1. The employer must withhold from any indemnity the employer pays to a teacher because of an adoption leave an amount equal to the amount the employer would have withheld if the teacher had not taken such a leave.”

ACT RESPECTING THE CIVIL SERVICE SUPERANNUATION PLAN

42. Section 51 of the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12) is amended by inserting the following paragraph after the first paragraph:

“In the case of an adoption leave, the pensionable salary is the basic salary the officer would have been entitled to receive for the period during which the officer receives benefits, or would receive benefits if the officer had applied for them, under the Québec parental insurance plan established under the Act respecting parental insurance (chapter A-29.011) or the employment insurance plan established under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23).”

43. Section 67 of the Act is amended by replacing “130” in the last line of the first paragraph by “135”.

44. The Act is amended by inserting the following section after section 69.0.1:

“69.0.1.1. The employer must withhold from any indemnity the employer pays to an officer because of an adoption leave an amount equal to the amount the employer would have withheld if the officer had not taken such a leave.”

45. Section 99.21 of the Act is repealed.

46. Section 109 of the Act is amended by striking out paragraph 8.1.

ACT RESPECTING THE PENSION PLAN OF MANAGEMENT PERSONNEL

47. Section 25 of the Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1) is amended by inserting the following paragraph after the first paragraph:

“In the case of an adoption leave, the pensionable salary is the basic salary the employee would have been entitled to receive for the period during which the employee receives benefits, or would receive benefits if the employee had

applied for them, under the Québec parental insurance plan established under the Act respecting parental insurance (chapter A-29.011) or the employment insurance plan established under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23).”

48. Section 36 of the Act is amended by replacing “130” in the last line of the first paragraph by “135”.

49. The Act is amended by inserting the following section after section 43:

“**43.1.** The employer must withhold from any indemnity the employer pays to an employee because of an adoption leave an amount equal to the amount the employer would have withheld if the employee had not taken such a leave.”

50. Section 68 of the Act is amended by inserting “, compounded annually,” after “interest” in the first line of the fourth paragraph.

51. Section 118 of the Act is amended by replacing “or paternity” in the third line of the third paragraph by “, paternity or adoption”.

52. Section 138.3 of the Act is amended by replacing the last paragraph by the following paragraph:

“The amounts established under this section are payable in a lump sum.”

53. Section 138.8 of the Act is amended

(1) by replacing “for each period in Schedule VII to the Act respecting the Pension Plan of Management Personnel (chapter R-12.1)” in the second, third and fourth lines of the third paragraph by “in Schedule VII”;

(2) by striking out “to that Act” in the sixth line of the third paragraph;

(3) by striking out “to the Act respecting the Government and Public Employees Retirement Plan” in the fourth and fifth lines of the fourth paragraph.

54. Section 196 of the Act is amended by striking out subparagraphs 5.2 and 21 of the first paragraph.

55. Section 203 of the Act is amended by replacing “in the second paragraph of section 138.2” in the last line of the first paragraph by “in section 40”.

MISCELLANEOUS AND FINAL PROVISIONS

56. Section 1 of the Act to facilitate the establishment of a pension plan for employees working in childcare services (R.S.Q., chapter E-12.011), amended by section 138 of chapter 47 of the statutes of 2005, is again amended by replacing “and of associations representing those permit holders” at the end

by “, of associations representing those permit holders and of legal persons accredited by the Minister as home child care coordinating offices referred to in the second paragraph of section 40 and in section 158 of that Act”.

57. Section 2 of the Act, amended by section 139 of chapter 47 of the statutes of 2005, is again amended by replacing the first paragraph by the following paragraph:

“**2.** Unless excluded by the pension plan, the permit holders and accredited legal persons referred to in section 1 are required to become a party to the pension plan referred to in that section from the time the plan is established or from the time the permit is issued or the accreditation is granted if the permit is issued or the accreditation is granted after the plan is established. The associations representing the permit holders may become a party to the pension plan.”

58. Section 3 of the Act is amended by replacing “the permit holders referred to in section 1 or to an association representing such permit holders” in the second and third lines of the first paragraph by “the accredited legal persons and permit holders referred to in section 1 and to the associations representing such permit holders”.

59. Despite section 57, legal persons accredited as home child care coordinating offices before 14 December 2006 are required to become a party to the pension plan on that date.

60. Section 67 of the Police Act (R.S.Q., chapter P-13.1) is replaced by the following sections:

“**67.** The contribution fund of the members of the pension plan referred to in the first paragraph of section 65 is established at the Caisse de dépôt et placement du Québec. The employers’ contributory fund is also established at the Caisse.

“**67.1.** Member contributions to the pension plan referred to in the first paragraph of section 65, with respect to years of service prior to 1 January 2007, shall be paid into the consolidated revenue fund. Member contributions with respect to years of service subsequent to 31 December 2006, except those concerning ancillary benefits, and related employer contributions to the pension plan shall be paid into the funds referred to in section 67, in accordance with the provisions of the plan. However, in the case of an officer who is a member of the plan on 31 December 2006, member and employer contributions shall be paid into the consolidated revenue fund if the officer sends the Commission administrative des régimes de retraite et d’assurances a written notice to that effect before 31 January 2007.

“**67.2.** Any benefits except ancillary benefits and any reimbursement or sum resulting from a transfer related to the pension plan referred to in the first paragraph of section 65 shall be paid out of

(1) the consolidated revenue fund for years of service prior to 1 January 2007; or

(2) the funds referred to in section 67, in accordance with the provisions of the plan, for years of service subsequent to 31 December 2006.

If the employers' contributory fund is exhausted, the sums that were to be taken out of that fund shall be taken out of the consolidated revenue fund. In the case of officers who sent the Commission administrative des régimes de retraite et d'assurances the notice referred to in section 67.1, the payments referred to in the first paragraph shall also be paid out of the consolidated revenue fund.

“67.3. The administration expenses of the pension plan referred to in the first paragraph of section 65, except those related to ancillary benefits, shall be paid out of the funds referred to in section 67, in accordance with the provisions of the plan.

If the employers' contributory fund is exhausted, the sums that were to be taken out of that fund shall be taken out of the consolidated revenue fund. In the case of officers who sent the Commission administrative des régimes de retraite et d'assurances the notice referred to in section 67.1, the payment referred to in the first paragraph shall also be paid out of the consolidated revenue fund.

“67.4. The Caisse de dépôt et placement du Québec shall administer:

(1) the sums deposited in the employers' contributory fund under the pension plan referred to in the first paragraph of section 65, in accordance with the investment policy of the Minister of Finance; and

(2) the sums deposited in the plan members' contribution fund, in accordance with the provisions of the plan.

“67.5. Plan members' contributions with respect to the ancillary benefits provided for in the pension plan referred to in the first paragraph of section 65 shall be paid in accordance with the provisions of the plan, and the payment and administration of those benefits shall be paid in accordance with those provisions.

“67.6. A benefit or reimbursement payable under the pension plan referred to in the first paragraph of section 65 is untransferable and unseizable.

“67.7. On the basis of the actuarial valuation required by the Minister of Finance, the Minister shall determine the amounts that could, from year to year, but at the latest every three years, be capitalized at prescribed periods to take into account undertakings of the Government with respect to the pension plan referred to in the first paragraph of section 65 regarding years of service

subsequent to 31 December 2006. The amounts so capitalized shall be drawn from the consolidated revenue fund.”

61. Section 353.3 of the Act is amended by replacing “having neither reached 65 years of age nor accumulated the maximum number of years of credited service under the plan referred to in section 353.4” in the fifth, sixth and seventh lines of the first paragraph by “not having reached 65 years of age”.

62. Section 353.4 of the Act is amended by striking out “or accumulating the maximum number of years of credited service under the plan, whichever occurs first” in the second and third lines of the second paragraph.

63. The pension plan of the non-teaching staff of the Commission des écoles catholiques de Montréal terminates on 31 January 2007 if, before 22 November 2006, more than half the employees who are members of the plan on 1 November 2006 have expressed in writing their wish to become members of the Government and Public Employees Retirement Plan. The termination of the plan applies despite sections 204 to 207 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1) and applies to all members and beneficiaries of the plan on the date of termination. The Régie des rentes du Québec is then deemed to have rendered, on 31 January 2007, a decision ordering the termination of the plan. Despite sections 212, 212.1, 236 and 237 of the Supplemental Pension Plans Act, the benefits to which the members and beneficiaries are entitled are established for the purposes of the termination report and paid in the manner prescribed in this section.

The active members of the plan on 31 January 2007 become members of the Government and Public Employees Retirement Plan on 1 February 2007. In accordance with section 101 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), those employees are awarded a pension credit for the value of their benefits accrued under the plan, on the basis of the hypotheses set forth in Schedule I to the Regulation under the Act respecting the Government and Public Employees Retirement Plan made by Order in Council 1845-88 dated 14 December 1988 (1988, G.O. 2, 4154) in force on 1 November 2006. An amount equal to the value of the benefits is transferred to the Commission administrative des régimes de retraite et d’assurances.

On the date and according to the conditions and procedures prescribed by the Government, the Commission administrative des régimes de retraite et d’assurances assumes payment of the pension of all members and beneficiaries whose pension payments begin before 1 February 2007 and all non-active members at that date whose pension payments, under the plan, begin after 31 January 2007. The pensions are paid in accordance with sections 80, 82 and 83 of the Act respecting the Government and Public Employees Retirement Plan.

Despite section 102 of the Act respecting the Government and Public Employees Retirement Plan, the amounts transferred to the Commission administrative des régimes de retraite et d'assurances to assume the obligations conferred on it under this section are paid into a special fund at the Caisse de dépôt et placement du Québec. All the benefits referred to in this section and the administrative expenses relating to those benefits are paid first out of that fund and then out of the consolidated revenue fund. As of 1 February 2007, the benefits may not be the object of an increase other than increases provided for under the pension plan at the date of its termination; nor may the benefits give rise to an adjustment to the pension paid by the Government and Public Employees Retirement Plan.

If an actuarial valuation identifies a surplus pertaining to the benefits referred to in this section, the Commission must transfer the part of the surplus the minister responsible for the Act respecting the Government and Public Employees Retirement Plan specifies to the consolidated revenue fund. Once the Commission has met all the obligations conferred on it under this section, it must transfer any balance in the special fund referred to in the fourth paragraph to the consolidated revenue fund.

64. The first regulation made, after the date of coming into force of this Act, under section 89 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) may, if it so provides, have effect from any date not prior to 1 January 2006.

65. The first regulation made, after the date of coming into force of this Act, under paragraph 2 of section 130 of the Act respecting the Pension Plan of Peace Officers in Correctional Services (R.S.Q., chapter R-9.2), subparagraph 4 of the first paragraph of section 134 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), paragraph 4 of section 73 of the Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11), paragraph 2 of section 109 of the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12) or subparagraph 4 of the first paragraph of section 196 of the Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1) may, if it so provides, have effect from any date not prior to 14 May 2006.

66. The first regulation made, after the date of coming into force of this Act, under subparagraph 1 of the first paragraph of section 215.13 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) in application of sections 79.3 and 81.15 of the Act respecting labour standards (R.S.Q., chapter N-1.1) may, if it so provides, have effect from any date not prior to 1 May 2003.

67. Sections 1, 2, 13, 14, 22, 23, 29 and 30 of the Regulation to amend various regulations under the pension plans of the public and parapublic sectors made by Conseil du trésor decision 202419 (2005, G.O. 2, 1727), sections 12 and 13 of the Regulation under the Act respecting the Pension Plan of Management Personnel made by Conseil du trésor decision 202420 (2005,

G.O. 2, 1733), and sections 1 and 2 of the Regulation to amend the Regulation under the Act respecting the Pension Plan of Peace Officers in Correctional Services made by Conseil du trésor decision 202422 (2005, G.O. 2, 1739), have effect from 1 July 2002.

68. Section 5 of the Regulation to amend the Regulation under the Act respecting the Pension Plan of Peace Officers in Correctional Services made by Conseil du trésor decision 202422 (2005, G.O. 2, 1739), insofar as it enacts sections 8.3.1 and 8.3.2, has effect from 1 January 2005.

69. Section 51 has effect from 1 July 2002.

70. Section 15 has effect from 1 January 2005.

71. Sections 9 and 10 have effect from 1 June 2005.

72. Sections 1, 2, 8, 18, 20, 35, 37, 41, 42, 44, 47 and 49 have effect from 1 January 2006 in respect of adoption leaves that began after 31 December 2005.

Sections 3, 19, 38, 43 and 48 have effect from 1 January 2006 in respect of maternity leaves that began after 31 December 2005.

73. This Act comes into force on 14 December 2006, except section 31 and sections 60 to 62, which come into force on 1 January 2007, and sections 6, 26 and 53, which come into force on the date or dates to be set by the Government.