



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-EIGHTH LEGISLATURE

Bill 71
(2008, chapter 23)

An Act to amend the Auditor General Act and other legislative provisions

Introduced 18 December 2007
Passed in principle 3 June 2008
Passed 19 June 2008
Assented to 20 June 2008

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EXPLANATORY NOTES

The object of this Act is to allow the Auditor General, for any fiscal year in which a grant is made by a public body or a government agency to a body in the health and social services network or the education network whose name appears on the list of such bodies that are part of the reporting entity defined in the Government's annual financial statements included in the public accounts tabled in the National Assembly, to act as the auditor of that grant beneficiary's books and accounts.

The Act also allows the Auditor General to audit the books and accounts of certain bodies and agencies to which the Auditor General Act does not apply but which are related to bodies or agencies to which that Act applies.

Consequently, the Act specifies the scope of the Auditor General's audit of the books and accounts of those grant beneficiaries and related bodies or agencies. It also empowers the Auditor General to oversee the work of the auditors who audit the books and accounts of those grant beneficiaries and related bodies or agencies.

The Act further provides expressly that the Auditor General is not required to audit the books and accounts of budget-funded bodies within the meaning of the Public Administration Act every year.

Moreover, the Act proposes that the books and accounts of a health and social services agency be audited annually by an auditor whom the agency's board of directors is authorized to appoint.

The Act also proposes that the books and accounts of the Agence métropolitaine de transport be audited by the Auditor General annually and whenever the Government so orders.

The Act amends the Act respecting the governance of state-owned enterprises with regard to certain obligations to assess the effectiveness and performance of the enterprises governed by that Act.

Lastly, the Act contains consequential amendments and transitional provisions.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting the Agence métropolitaine de transport (R.S.Q., chapter A-7.02);
- Public Service Act (R.S.Q., chapter F-3.1.1);
- Act respecting the governance of state-owned enterprises (R.S.Q., chapter G-1.02);
- Police Act (R.S.Q., chapter P-13.1);
- Act respecting the Régie du logement (R.S.Q., chapter R-8.1);
- Act respecting health services and social services (R.S.Q., chapter S-4.2);
- Transport Act (R.S.Q., chapter T-12);
- Courts of Justice Act (R.S.Q., chapter T-16);
- Auditor General Act (R.S.Q., chapter V-5.01).

Bill 71

AN ACT TO AMEND THE AUDITOR GENERAL ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 22 of the Auditor General Act (R.S.Q., chapter V-5.01) is amended by inserting the following paragraph after paragraph 2:

“(2.1) funds and other property of a body or agency described in section 30.2; and”.

2. Section 23 of the Act is amended by adding the following paragraph at the end:

“The Auditor General is not required to audit the books and accounts of a budget-funded body within the meaning of the Public Administration Act (chapter A-6.01) every year.”

3. The Act is amended by inserting the following sections after section 30:

“30.1. If the Auditor General considers it advisable, the Auditor General may, for any fiscal year in which a grant is made by a public body or a government agency to a body in the health and social services network or the education network whose name appears on the list of such bodies that are part of the reporting entity defined in the Government’s annual financial statements included in the public accounts tabled in the National Assembly, act as the auditor of that grant beneficiary’s books and accounts.

The Auditor General shall notify the grant beneficiary in writing of the Auditor General’s decision to audit the beneficiary’s books and accounts for a specified fiscal year. From the date of the notice, the Auditor General is, without further formality, the auditor of the grant beneficiary’s books and accounts for the fiscal year specified in the notice.

Sections 25, 26 and 29 apply, with the necessary modifications, to the Auditor General’s audit of the books and accounts of any grant beneficiary referred to in the first paragraph.

“30.2. If the Auditor General considers it advisable, the Auditor General may audit the books and accounts of a body or agency not described in section 4 or 5 that meets the following conditions:

(1) at least half of its revenues are derived directly or indirectly from the consolidated revenue fund or any other fund managed by a public body, a government agency or a grant beneficiary referred to in the first paragraph of section 30.1; and

(2) at least half of its members or directors are appointed by a body or agency described in any of sections 3, 4 and 30.1 or a combination of such bodies and agencies and, if applicable, by a minister, or at least half of its members or directors are delegated by or represent a body or agency described in any of sections 3, 4 and 30.1 or a combination of such bodies and agencies.

The Auditor General shall send written notice of the decision to audit the books and accounts for a specified fiscal year to the board of directors or, if there is none, to the executive. From the date of the notice, the Auditor General is, without further formality, the auditor of the books and accounts for the fiscal year specified in the notice.

Sections 25, 26 and 29 apply, with the necessary modifications, to the Auditor General's audit of those books and accounts."

4. Section 31 of the Act is amended by replacing "or government enterprise" in the third line by ", government enterprise, grant beneficiary referred to in the first paragraph of section 30.1, or body or agency described in section 30.2".

5. Section 32 of the Act is replaced by the following section:

"32. The auditor of the books and accounts of a government agency, government enterprise, grant beneficiary referred to in the first paragraph of section 30.1, or body or agency described in section 30.2, other than the Auditor General, must, at the latter's request and with dispatch, provide the Auditor General with a copy of

(1) the annual financial statements of the government agency, government enterprise, grant beneficiary, or body or agency;

(2) the audit report on those statements; and

(3) any other report of the auditor to the board of directors, the executive or the chief executive officer, as the case may be, of the agency, grant beneficiary referred to in the first paragraph of section 30.1, or body or agency described in section 30.2 on the auditor's findings and recommendations."

6. Section 34 of the Act is amended

(1) by replacing "or government enterprise" at the end of the first paragraph by ", government enterprise, grant beneficiary referred to in the first paragraph of section 30.1, or body or agency described in section 30.2";

(2) by replacing “or government enterprise” at the end of the second paragraph by “, government enterprise, grant beneficiary, or body or agency”.

7. Section 40 of the Act is amended by adding the following paragraph at the end:

“In addition, section 38 applies, with the necessary modifications, to the report of the Auditor General on the annual financial statements of a grant beneficiary referred to in the first paragraph of section 30.1 or of a body or agency described in section 30.2 and on those of any fund they administer.”

8. Section 42 of the Act is amended by inserting the following subparagraph after subparagraph 5 of the first paragraph:

“(6) bodies or agencies described in section 30.2.”

9. Section 43 of the Act is amended by inserting “, those of grant beneficiaries referred to in the first paragraph of section 30.1 and bodies or agencies described in section 30.2” after “government enterprises” in paragraph 1.

10. Section 47 of the Act is amended by inserting “, grant beneficiaries referred to in the first paragraph of section 30.1, bodies or agencies described in section 30.2” after “government enterprises” in the third line of the first paragraph.

11. Section 48 of the Act is amended by inserting “, grant beneficiaries” after “enterprises” in the first line of the first paragraph.

12. Section 54 of the Act is amended by inserting “, grant beneficiaries referred to in the first paragraph of section 30.1, bodies or agencies described in section 30.2” after “government enterprises” in the third line.

ACT RESPECTING THE AGENCE MÉTROPOLITAINE DE TRANSPORT

13. Section 89 of the Act respecting the Agence métropolitaine de transport (R.S.Q., chapter A-7.02) is amended by replacing the first sentence by the following sentence: “The books and accounts of the Agency are audited by the Auditor General annually and whenever the Government so orders.”

PUBLIC SERVICE ACT

14. Section 125 of the Public Service Act (R.S.Q., chapter F-3.1.1) is replaced by the following section:

“**125.** The books and accounts of the Commission are audited by the Auditor General.”

ACT RESPECTING THE GOVERNANCE OF STATE-OWNED ENTERPRISES

15. Section 15 of the Act respecting the governance of state-owned enterprises (R.S.Q., chapter G-1.02) is amended

(1) by inserting “in the case of La Financière agricole du Québec, Investissement Québec, the Régie de l’assurance maladie du Québec, the Société de l’assurance automobile du Québec, the Société des alcools du Québec, the Société des loteries du Québec, the Société générale de financement du Québec and the Société immobilière du Québec,” before “adopting” at the beginning of paragraph 15;

(2) by replacing “by an independent firm” at the end of paragraph 15 by “by the Auditor General or, if the Auditor General considers it appropriate and has so informed the board of directors, by an independent firm”.

16. Section 41 of the Act is amended by striking out “to be carried out by an independent firm at the request of the board of directors” at the end of the second paragraph.

POLICE ACT

17. Section 211 of the Police Act (R.S.Q., chapter P-13.1) is replaced by the following section:

“**211.** The books and accounts of the ethics committee are audited by the Auditor General.”

ACT RESPECTING THE RÉGIE DU LOGEMENT

18. Section 27 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1) is replaced by the following section:

“**27.** The books and accounts of the board are audited by the Auditor General.”

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

19. Section 395 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is replaced by the following section:

“**395.** The agency is subject to sections 280 and 288 to 295, with the necessary modifications, with respect to the reports it must transmit to the Minister and the audits of its books and accounts which it must cause to be carried out.”

20. Division III.2 of Chapter IV of Title I of Part IV.1 of the Act, comprising section 530.31.5, is repealed.

TRANSPORT ACT

21. Section 30 of the Transport Act (R.S.Q., chapter T-12) is amended by replacing “shall be audited by the Auditor General each year and also whenever the Government so orders; the reports of the Auditor General must accompany the annual report of the Commission” by “are audited by the Auditor General”.

COURTS OF JUSTICE ACT

22. Section 246.40 of the Courts of Justice Act (R.S.Q., chapter T-16) is replaced by the following section:

“246.40. The books and accounts of the committee are audited by the Auditor General.”

TRANSITIONAL AND FINAL PROVISIONS

23. Section 89 of the Act respecting the Agence métropolitaine de transport (R.S.Q., chapter A-7.02), as amended by section 13 of this Act, applies from the fiscal year 2008.

24. This Act comes into force on 20 June 2008.

