



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 154

**An Act to implement certain
recommendations of the report of the
committee on the remuneration of
judges for 2016–2019**

Introduction

**Introduced by
Madam Stéphanie Vallée
Minister of Justice**

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EXPLANATORY NOTES

The purpose of this bill is to implement, with regard to the pension plan of presiding justices of the peace, the National Assembly resolution of 9 February 2017 concerning the recommendations of the report of the committee on the remuneration of judges for 2016–2019.

To that end, the bill provides that, from 1 January 2017, presiding justices of the peace participate in the pension plan of judges of the Court of Québec and of certain municipal courts, and in a plan providing for supplementary benefits, rather than continuing as members of the Pension Plan of Management Personnel.

The bill allows presiding justices of the peace, under certain conditions, to apply for years or parts of a year of service credited under the Pension Plan of Management Personnel while they held office as presiding justices of the peace to be transferred to the pension plan of judges of the Court of Québec and of certain municipal courts.

The bill maintains certain provisions applicable to the Pension Plan of Management Personnel as they read on 31 December 2016, for years or parts of a year of service that are not transferred to the pension plan of judges of the Court of Québec and of certain municipal courts.

In addition, the bill provides for an increase, as of 30 June 2019, in the contribution rate applicable to the pension plan of judges of the Court of Québec and of certain municipal courts and to the plan providing for supplementary benefits.

Lastly, the bill contains consequential amendments and includes miscellaneous and transitional provisions.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting the Pension Plan of Management Personnel (chapter R-12.1);
- Courts of Justice Act (chapter T-16).

REGULATIONS AMENDED BY THIS BILL:

- Regulation respecting the partition and assignment of benefits accrued under the pension plans of the judges of the Court of Québec and of certain municipal courts (chapter T-16, r. 4);
- Supplementary benefits plan for judges covered by the pension plan provided for in Part V.1 of the Courts of Justice Act (chapter T-16, r. 6).

REGULATION ENACTED BY THIS BILL:

- Regulation respecting the pension plan provided for in Part V.1 of the Courts of Justice Act (*insert the year and chapter number of this Act and the number of the section of this Act that enacts the Regulation*).

Bill 154

AN ACT TO IMPLEMENT CERTAIN RECOMMENDATIONS OF THE REPORT OF THE COMMITTEE ON THE REMUNERATION OF JUDGES FOR 2016–2019

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

COURTS OF JUSTICE ACT

1. Section 122 of the Courts of Justice Act (chapter T-16) is amended

(1) by adding the following sentence at the end of the second paragraph:
“It may, in addition, specify in the plan the years of service as a presiding justice of the peace in office to which the plan applies.”;

(2) in the fourth paragraph,

(a) by inserting “or 175” after “115”;

(b) by replacing “or judge responsible for the professional development of judges of the Court” by “, judge responsible for the professional development of judges of the Court or justice responsible for presiding justices of the peace”.

2. Section 122.3 of the Act is amended by inserting “and presiding justices of the peace” after “Québec” in the second paragraph.

3. Section 168 of the Act is amended by replacing “satisfies the requirements for eligibility for his or her pension” in the first paragraph by “is eligible for his or her pension under paragraph 1, 2 or 3 of section 224.3”.

4. Section 178 of the Act is repealed.

5. The heading of Part V.1 of the Act is replaced by the following heading:

“PENSION PLAN OF JUDGES OF THE COURT OF QUÉBEC, JUDGES
OF CERTAIN MUNICIPAL COURTS AND PRESIDING JUSTICES OF
THE PEACE”.

6. Section 224.1 of the Act is amended by inserting “, and to presiding justices of the peace” after “(chapter C-72.01)” in the second paragraph.

7. Section 224.2 of the Act is amended

(1) in the first paragraph,

(a) by replacing “to 8% of the judge’s annual salary. The contributions shall be reduced to 1% of the judge’s annual salary when the judge has accumulated 21.7 years of service and continues to hold office” by “to a percentage of the judge’s annual salary. That percentage is established by government regulation and may vary according to the conditions prescribed in the regulation”;

(b) by inserting “or 175” after “115”;

(c) by replacing “or judge responsible for the professional development of judges of the Court” by “, judge responsible for the professional development of judges of the Court or justice responsible for presiding justices of the peace”;

(2) in the second paragraph,

(a) by inserting “or 175” after “section 122.0.1”;

(b) by inserting “or 175” after “115”;

(c) by replacing “who is a party to an agreement granting leave with deferred pay under section 122.0.1 is the salary received by the judge in each of the years covered by the agreement” by “who is granted leave with deferred pay under section 122.0.1 or 175 is the salary received by the judge in each of the years the judge was on leave”.

8. The Act is amended by inserting the following section after section 224.3:

“224.3.1. The number of years and parts of a year of service considered for pension eligibility purposes under section 224.3, with respect to the years and parts of a year transferred in accordance with section 224.30, is

(1) for the purposes of paragraphs 2 and 4 of section 224.3, the number of years and parts of a year of service recognized for eligibility purposes under the Act respecting the Pension Plan of Management Personnel (chapter R-12.1) that have been transferred; and

(2) for the purposes of paragraph 3 of section 224.3, half of the number of years and parts of a year of service recognized for eligibility purposes under the Act respecting the Pension Plan of Management Personnel that have been transferred.”

9. Section 224.4 of the Act is amended by replacing “paid with accrued interest” in the first paragraph by “the judge paid and those transferred to this pension plan, with accrued interest”.

10. Section 224.5 of the Act is amended by adding the following paragraph at the end:

“The contributions transferred to this pension plan also bear interest at the same rate from the date of their transfer until the first day of the month in which the payment of benefits begins or in which the contributions are refunded.”

11. Section 224.7 of the Act is amended

(1) in the first paragraph,

(a) by inserting the following subparagraph after subparagraph 1:

“(1.1) subsequent to 31 December 2016 and during which a presiding justice of the peace held judicial office or was granted leave without pay or leave with deferred pay under section 175, to the extent that the justice paid the contributions required under section 224.2, and subject to the applicable fiscal rules;”;

(b) by inserting “or pursuant to section 224.30” at the end of subparagraph 3;

(c) by adding the following subparagraph after subparagraph 4:

“(5) subsequent to 31 December 2016 and in respect of which a presiding justice of the peace receives benefits, as a salary replacement under an employee benefits plan established under section 175, including any year or part of a year during which the justice was relieved from duties under section 168.”;

(2) by adding the following sentence at the end of the third paragraph: “The same applies to years of service in respect of which a judge received a refund of the contributions transferred to this plan.”.

12. Section 224.9 of the Act is amended

(1) in the second paragraph,

(a) by inserting “or 175” after “115”;

(b) by replacing “or judge responsible for the professional development of judges of the Court” by “, judge responsible for the professional development of judges of the Court or justice responsible for presiding justices of the peace”;

(2) by replacing “covered by an agreement granting leave without pay or leave with deferred pay under section 122.0.1 is the salary that the judge would have received if the judge had not been a party to such an agreement” in the fifth paragraph by “during which the judge was granted leave without pay or leave with deferred pay under section 122.0.1 or 175 is the salary the judge would have received if the judge had not been granted such leave”.

13. Section 224.13 of the Act is amended by inserting “and those transferred to this plan” after “paid” in the second paragraph.

14. Section 224.15 of the Act is amended by replacing “dies before reaching 65 years of age and before the judge’s age and years of service total 80 or more” by “died before reaching 65 years of age and was not eligible for a pension under paragraph 3 of section 224.3”.

15. Section 224.22 of the Act is amended by replacing “the total of the contributions paid” in the first paragraph by “the total of the contributions paid and those transferred to this plan”.

16. Section 224.24 of the Act is amended by inserting “or under section 175” after “122”.

17. Section 224.26 of the Act is amended by inserting “, and of those transferred to this plan” after “2000”.

18. Section 224.29 of the Act is amended by adding the following paragraph at the end:

“The same applies to contributions transferred to this plan.”

19. The Act is amended by inserting the following sections after section 224.29:

“224.30. With regard to a person who held office as a presiding justice of the peace on 31 December 2016, the years and parts of a year credited under the Act respecting the Pension Plan of Management Personnel (chapter R-12.1) while the person held office may be credited under the pension plan provided for in this Part on an actuarially equivalent basis established at 31 December 2016, if the application is received by Retraite Québec not later than 1 September 2018.

The years and parts of a year of service are so credited, beginning with the most recent service, until the actuarial value of the benefits established for those years and parts of a year of service under the pension plan provided for in this Part reaches the actuarial value of the benefits accrued by the person under the Pension Plan of Management Personnel, without exceeding the service credited to the person under that plan.

The actuarial value of the benefits accrued under the Pension Plan of Management Personnel is established in accordance with the actuarial economic assumptions and actuarial methods used in the actuarial valuation prepared in accordance with section 246.26 and on the basis of the data as at 31 December 2013 and the actuarial demographic assumptions used in the actuarial valuation of the Pension Plan of Management Personnel that was the subject of a report received by the Minister responsible for the Act respecting the Pension Plan of Management Personnel on 24 October 2016. However, that actuarial value must be at least equal to the higher of the following amounts: the total of the contributions, including any interest accrued under sections 73, 77, 205 and 206

of the Act respecting the Pension Plan of Management Personnel until the date of the transfer, and the actuarial value of the benefits accrued, established in accordance with the actuarial assumptions and methods prescribed by the regulation made under subparagraph 2 of the first paragraph of section 215.13 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10).

The actuarial value of benefits recognized under the pension plan provided for in this Part is established in accordance with the actuarial assumptions and methods used in the actuarial valuation prepared in accordance with section 246.26 and on the basis of the data as at 31 December 2013.

This section does not apply to years and parts of a year credited to a presiding justice of the peace under the Act respecting the Pension Plan of Management Personnel while he held office as a justice of the peace before 30 June 2004.

“224.31. The spouse of a person who held office as a presiding justice of the peace on 31 December 2016 and who died after that date but before 2 September 2018 may, in the person’s place and stead, make the application referred to in the first paragraph of section 224.30, in accordance with the same conditions as those applicable to the person and to the extent that Retraite Québec has not already received an application from the person.

“224.32. The contributions transferred to this plan under sections 224.30 and 246.24 include any amount paid by the judge and any contribution from which the judge was exempt under another pension plan and which has been transferred to this plan. They also include any interest accrued on such amounts in accordance with the relevant pension plan and transferred to this plan.”

20. Section 246.24 of the Act is amended by inserting “, as presiding justice of the peace” after “Court of Québec” in the first paragraph.

21. Section 246.26 of the Act is amended

(1) by inserting “or transferred” after “except contributions paid” in the second paragraph;

(2) by inserting “, including those transferred to it,” after “to the pension plan provided for in Part V.1” in the third paragraph;

(3) by inserting the following paragraph after the third paragraph:

“With respect to presiding justices of the peace, the cost of the pension plan provided for in Part V.1, except contributions paid by the justices to that plan and contributions that were transferred to it, shall be borne by the Government.”

ACT RESPECTING THE PENSION PLAN OF MANAGEMENT PERSONNEL

22. Section 211.2 of the Act respecting the Pension Plan of Management Personnel (chapter R-12.1) is replaced by the following sections:

“211.2. The provisions applicable to this plan, as they read on 31 December 2016, continue to apply to presiding justices of the peace or to persons who have previously held that office, but only with regard to the years or parts of a year credited under this plan while they hold or held such an office. However, section 181.1 of this Act, as it read on 1 January 2017, applies to them.

This section does not apply to years and parts of a year credited to a presiding justice of the peace under this Act while he or she held office as a justice of the peace before 30 June 2004.

“211.2.1. The years and parts of a year credited to this plan and transferred in accordance with section 224.30 of the Courts of Justice Act (chapter T-16) may not be taken into account for eligibility purposes or for the purpose of computing the pension granted under this plan. For the purpose of computing the pension, however, the annualized pensionable salary and contributory period of such a year may be selected.

A person whose years or parts of a year are so credited to the pension plan provided for in Part V.1 of the Courts of Justice Act forfeits no other right, benefit or advantage the person would have been entitled to claim under this plan.”

REGULATION RESPECTING THE PARTITION AND ASSIGNMENT OF BENEFITS ACCRUED UNDER THE PENSION PLANS OF THE JUDGES OF THE COURT OF QUÉBEC AND OF CERTAIN MUNICIPAL COURTS

23. The title of the Regulation respecting the partition and assignment of benefits accrued under the pension plans of the judges of the Court of Québec and of certain municipal courts (chapter T-16, r. 4) is replaced by the following title:

“REGULATION RESPECTING THE PARTITION AND ASSIGNMENT OF BENEFITS ACCRUED UNDER THE PENSION PLANS OF JUDGES OF THE COURT OF QUÉBEC, JUDGES OF CERTAIN MUNICIPAL COURTS AND PRESIDING JUSTICES OF THE PEACE”.

24. Section 5 of the Regulation is amended by replacing all occurrences of “section 246.24” by “sections 224.30 and 246.24”.

25. Section 7 of the Regulation is amended by inserting “and the amounts transferred to this plan,” after “paid”.

SUPPLEMENTARY BENEFITS PLAN FOR JUDGES COVERED BY THE PENSION PLAN PROVIDED FOR IN PART V.1 OF THE COURTS OF JUSTICE ACT

26. Sections 2 and 3 of the Supplementary benefits plan for judges covered by the pension plan provided for in Part V.1 of the Courts of Justice Act (chapter T-16, r. 6) are amended by adding the following paragraph at the end:

“The first paragraph does not apply to the years of service credited pursuant to section 224.30 of the Act.”

27. Section 4 of the Plan is amended by replacing “while the judge’s age and years of service total 80 or more” in the first paragraph by “in accordance with paragraph 3 of section 224.3 of the Act”.

28. Section 10 of the Plan is amended by replacing “8%” in the first paragraph by “9%”.

REGULATION RESPECTING THE PENSION PLAN PROVIDED FOR IN PART V.1 OF THE COURTS OF JUSTICE ACT

29. The Regulation respecting the pension plan provided for in Part V.1 of the Courts of Justice Act, the text of which appears below, is enacted.

“REGULATION RESPECTING THE PENSION PLAN PROVIDED FOR IN PART V.1 OF THE COURTS OF JUSTICE ACT

“1. The rate provided for in the first paragraph of section 224.2 of the Courts of Justice Act (chapter T-16) is 8%.

Despite the first paragraph, that rate is 1% of the annual salary of the judge or presiding justice of the peace when he or she has accumulated 21.7 years of service and continues to hold office.

“2. The interest rate applicable to contributions paid into the pension plan provided for in Part V.1 of the Act and those transferred to it is 6% compounded annually.”

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

30. Retraite Québec must transfer, from the funds of the Pension Plan of Management Personnel to the Consolidated Revenue Fund, for the years and parts of a year of service credited to a justice under section 224.30 of the Courts of Justice Act (chapter T-16), the actuarial value of the benefits accrued by the justice under the Pension Plan of Management Personnel, without exceeding the actuarial value of the equivalent benefits to which he or she is entitled under the pension plan provided for in Part V.1 of that Act. Those actuarial values are the ones established in accordance with section 224.30.

The sums transferred under the first paragraph bear interest, compounded annually, at the nominal rates of the actuarial economic assumptions of the actuarial valuation prepared in accordance with section 246.26 and on the basis of the data as at 31 December 2013, from 31 December 2016 until the date of transfer of the sums. The latter are taken out according to the terms set out in Division II of Chapter X of the Act respecting the Pension Plan of Management Personnel (chapter R-12.1) for the payment of benefits.

31. Retraite Québec must reimburse, if applicable, out of the employees' contribution fund referred to in section 176 of the Act respecting the Pension Plan of Management Personnel, to a person whose years and parts of a year of service credited under the Pension Plan of Management Personnel have been transferred to the pension plan provided for in Part V.1 of the Courts of Justice Act under section 224.30 of that Act, any amount by which the total amount of contributions accumulated with interest under sections 73, 77, 205 and 206 of the Act respecting the Pension Plan of Management Personnel exceeds the amount of the actuarial value of the benefits accrued to the person under the pension plan provided for in Part V.1 of the Courts of Justice Act, if the total amount of those contributions accumulated with interest is equal to or greater than the actuarial value of the benefits accrued under the Pension Plan of Management Personnel, established in accordance with the actuarial assumptions and methods prescribed by the regulation made under subparagraph 2 of the first paragraph of section 215.13 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10).

Retraite Québec must transfer, if applicable, into a locked-in retirement account, with regard to a person whose years and parts of a year of service credited under the Pension Plan of Management Personnel have been transferred to the pension plan provided for in Part V.1 under section 224.30 of the Courts of Justice Act, any amount by which the actuarial value of the benefits accrued under the first plan, established in accordance with the actuarial assumptions and methods prescribed by the regulation made under subparagraph 2 of the first paragraph of section 215.13 of the Act respecting the Government and Public Employees Retirement Plan, exceeds the amount of the actuarial value of the benefits accrued to the person under the pension plan provided for in Part V.1 of the Courts of Justice Act, if the actuarial value of the benefits accrued under the Pension Plan of Management Personnel, established in accordance with the actuarial assumptions and methods prescribed by the regulation made under subparagraph 2 of the first paragraph of that section 215.13, is greater than the total amount of the contributions accumulated with interest under sections 73, 77, 205 and 206 of the Act respecting the Pension Plan of Management Personnel.

32. A presiding justice of the peace is considered, within the meaning of the pension plan provided for in Part V.1 of the Courts of Justice Act, to have retired or to have been entitled to the refund provided for in section 224.4 of that Act on the date the justice retired under the Pension Plan of Management Personnel, provided that date was subsequent to 31 December 2016 but prior to *(insert the date of assent to this Act)*.

To take into account the justice's membership in the pension plan provided for in Part V.1 of the Courts of Justice Act, Retraite Québec must review or cancel the pension the justice receives under the Pension Plan of Management Personnel. The review or cancellation must be carried out within six months following the date of receipt of the application referred to in the first paragraph of section 224.30 of the Courts of Justice Act or, in the absence of such an application, within six months following 1 September 2018. Section 146.1 and the second paragraph of section 147 of the Act respecting the Government and Public Employees Retirement Plan do not apply to amounts owing to Retraite Québec following such a review or cancellation.

33. To take into account the years and parts of a year of service credited under section 224.30 of the Courts of Justice Act, Retraite Québec must review or cancel a pension received under the Pension Plan of Management Personnel by a person whose date of retirement under the pension plan provided for in Part V.1 of the Courts of Justice Act is prior to the date of receipt of the application referred to in the first paragraph of that section 224.30. Retraite Québec must also review the amount of the pension received by the person under the pension plan provided for in Part V.1 of the Courts of Justice Act.

The review or cancellation referred to in the first paragraph must be carried out within six months following the date of receipt of the application referred to in the first paragraph of section 224.30. Section 146.1 and the second paragraph of section 147 of the Act respecting the Government and Public Employees Retirement Plan do not apply to amounts owing to Retraite Québec following such a review or cancellation.

34. The Regulation respecting the pension plan provided for in Part V.1 of the Courts of Justice Act, enacted by section 29, is deemed to have been made by the Government under sections 224.2 and 224.29 of the Courts of Justice Act, amended by sections 7 and 18, respectively.

35. In section 158.0.2 of the Act respecting the Government and Public Employees Retirement Plan, sections 122 and 127 and Parts V.1, VI.2 and VI.3 of the Courts of Justice Act, the Regulation respecting the partition and assignment of benefits accrued under the pension plans of judges of the Court of Québec, judges of certain municipal courts and presiding justices of the peace (chapter T-16, r. 4) and the Supplementary benefits plan for judges covered by the pension plan provided for in Part V.1 of the Courts of Justice Act (chapter T-16, r. 6), “judge” and “judges” also mean presiding justices of the peace, unless the context indicates otherwise.

36. Sections 1 to 18, section 19 where it enacts section 224.32 of the Courts of Justice Act, and sections 20 to 27, 29 and 35 have effect from 1 January 2017. However, from 30 June 2019, section 1 of the Regulation respecting the pension plan provided for in Part V.1 of the Courts of Justice Act, enacted by section 29, is to be read as if “8%” in the first paragraph were replaced by “9%”.

37. This Act comes into force on (*insert the date of assent to this Act*), except section 28, which comes into force on 30 June 2019.

