



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 393

**An Act to provide a framework for
appointments to certain senior positions
and to standardize certain aspects of the
appointment of administrative judges
and decision-makers**

Introduction

**Introduced by
Mr. Benoit Charette
Member for Deux-Montagnes**

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EXPLANATORY NOTES

This bill introduces a process whereby Members of the National Assembly must be consulted regarding appointments to certain senior positions, and allows temporary appointments to be made when the session stands prorogued or the National Assembly has been dissolved.

Another similar consultation process is introduced whereby a committee set up by the Commission de la fonction publique must be consulted regarding appointments to other senior positions when the candidates are not part of the Québec public service and regarding appointments of the members of certain boards of directors.

The bill proposes that the National Assembly appoint, with the approval of two thirds of its Members, the president and chief executive officer, president and director general, director general or chair of certain public bodies.

In all cases, a report is sent to the appointing authority. It specifies the recruitment method used and the type of evaluation conducted, and is made public by the appointing authority.

A person appointed to a senior position may not invoke the appointment as being temporary employment in the Québec public service with a view to acquiring permanent tenure unless the person successfully completes a probationary period of at least two years and an evaluation concludes that the person is competent to perform the duties of an administrator of state.

Except in an urgent situation or for reasonable cause, no appointments may be made or renewed within 60 days before the issue of an order instituting a general election.

Appointments may only be renewed within 90 days before the end of employment.

No transition allowance or severance pay is paid to a person who resigns or who accepts a position in public office or in the public service.

The professional competencies required to hold the office of administrative judge or decision-maker are standardized.

Any candidate for such an office must be independent, impartial and honest.

The term of office of an administrative judge or decision-maker is four years and may be renewed only once for the same duration.

Bill 393

AN ACT TO PROVIDE A FRAMEWORK FOR APPOINTMENTS TO CERTAIN SENIOR POSITIONS AND TO STANDARDIZE CERTAIN ASPECTS OF THE APPOINTMENT OF ADMINISTRATIVE JUDGES AND DECISION-MAKERS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

SENIOR POSITIONS

1. Before appointing a person to a position listed in Schedule I, the appointing authority sends the name of the candidate considered fit to hold that position to the Committee on Public Administration of the National Assembly.

2. The members of the Committee on Public Administration meet the candidate to evaluate the candidate's experience and competencies.

The members summarize their observations and conclusions in a report submitted to the appointing authority.

Among other things, the report must specify the recruitment method used and the type of evaluation conducted.

3. The report of the Committee on Public Administration on the candidate is made public by the appointing authority within 30 days after its receipt.

4. A person appointed to a position listed in Schedule I may not invoke the appointment as being temporary employment in the Québec public service with a view to acquiring permanent tenure under the Public Service Act (chapter F-3.1.1), unless

(1) the person successfully completes a probationary period of at least two years; and

(2) an evaluation conducted by the members of the Committee on Public Administration concludes that the person is competent to perform the specific and general duties of an administrator of state.

This section applies despite section 14 of the Public Service Act.

5. The authority responsible for making an appointment that must be evaluated by the Committee on Public Administration may appoint a person when the procedure set out in sections 1 to 4 cannot be followed owing to the prorogation of the session or the dissolution of the National Assembly.

The appointment ceases to have effect, however, on the expiry of 90 days after resumption of the National Assembly, unless it is ratified in the manner described in sections 1 to 4, with the necessary modifications.

6. Before appointing a person to a position listed in Schedule II, the appointing authority sends the name of the candidate considered fit to hold that position, if that candidate is not a member of the public service, to the Commission de la fonction publique established by the Public Service Act.

7. On receiving a candidate's name, the Commission de la fonction publique sets up a committee to evaluate the candidate's experience and competencies.

The evaluation committee consists of a member of the Commission, who chairs the committee, two persons who hold a senior position in the public service or who have retired from such a position, and two persons in management positions outside the public service.

The members of the evaluation committee are assisted by public servants of the Commission.

8. The members of the evaluation committee are entitled to the reimbursement of transportation, meal and accommodation expenses in accordance with the Directive sur les frais remboursables lors d'un déplacement et autres frais inhérents approved by Conseil du trésor decision C.T. 194603 dated 30 March 2000.

In addition to the reimbursement of those expenses, evaluation committee members who are not members of the Commission de la fonction publique or employees of a government department or body are entitled to a fee of \$100 for each half-day of committee meetings they attend.

Expenses and fees are authorized by the chair of the Commission and paid out of sums voted for that purpose by Parliament.

9. The members of the evaluation committee meet the candidate who is not a member of the public service to evaluate the candidate's experience and competencies.

The members summarize their observations and conclusions in a report submitted to the appointing authority.

Among other things, the report must specify the recruitment method used and the type of evaluation conducted.

10. The evaluation committee's report on the candidate is made public by the appointing authority within 30 days after its receipt.

11. A person who is appointed to a position listed in Schedule II may not invoke the appointment as being temporary employment in the Québec public service with a view to acquiring permanent tenure under the Public Service Act, unless

(1) the person successfully completes a probationary period of at least two years; and

(2) an evaluation conducted by the members of the Committee on Public Administration concludes that the person is competent to perform the specific and general duties of an administrator of state.

This section applies despite section 14 of the Public Service Act.

12. On the proposal of the Committee on Public Administration and with the approval of two thirds of the Members, the National Assembly appoints the president and chief executive officer, president and director general, director general or chair of a body listed in Schedule III.

13. Before proposing a person considered fit to hold a position referred to in section 12, the members of the Committee on Public Administration meet the candidate to evaluate the candidate's experience and competencies.

The members summarize their observations and conclusions in a report submitted to the President of the National Assembly.

Among other things, the report must specify the recruitment method used and the type of evaluation conducted.

14. The report of the Committee on Public Administration on the candidate is made public by the President of the National Assembly within 30 days after its receipt.

15. A person appointed to a position referred to in section 12 may not invoke the appointment as being temporary employment in the Québec public service with a view to acquiring permanent tenure under the Public Service Act, unless

(1) the person successfully completes a probationary period of at least two years; and

(2) an evaluation conducted by the members of the Committee on Public Administration concludes that the person is competent to perform the specific and general duties of an administrator of state.

This section applies despite section 14 of the Public Service Act.

16. Sections 6 to 11 apply, with the necessary modifications, to the appointment of the chair or of a member of the board of directors of a body listed in Schedule III.

17. Except in an urgent situation or for reasonable cause, no appointments may be made or renewed under this Act within 60 days before the issue of an order instituting a general election.

18. When an appointment is made or renewed within 60 days before the issue of an order instituting a general election, the appointment must be ratified within 90 days after resumption of the National Assembly

(1) in the manner described in sections 1 to 4, with the necessary modifications, for an appointment to one of the positions listed in Schedule I;

(2) in the manner described in sections 6 to 11, with the necessary modifications, for an appointment to one of the positions listed in Schedule II;

(3) in the manner described in sections 12 to 15, with the necessary modifications, for an appointment to one of the positions referred to in section 12; and

(4) in the manner described in sections 6 to 11, with the necessary modifications, for an appointment to one of the positions referred to in section 16.

19. An appointment may only be renewed, where permitted by law, within 90 days before the end of the employment.

20. No transition allowance or severance pay is paid to a person appointed under this Act who resigns from office or who accepts a position in public office or in the public service.

CHAPTER II

ADMINISTRATIVE JUDGE AND DECISION-MAKER

21. Before appointing a person to the office of administrative judge or decision-maker in a body listed in Schedule IV, the appointing authority ensures that the candidate has the required competencies, including

(1) the necessary technical competencies in relation to the mission of the body in which the candidate is to perform the functions of office;

(2) the competencies, skills and aptitudes required to serve in a decision-making capacity; and

(3) a minimum of 10 years of work experience related to the position to be filled.

22. The appointing authority also ensures that the candidate is independent, impartial and honest.

23. The term of an appointment made under this chapter is four years and may be renewed only once for the same duration.

FINAL PROVISION

24. This Act comes into force on *(insert the date of assent to this Act)*.

SCHEDULE I
(*Section 1*)

Secretary General of the Conseil exécutif

Secretary of the Conseil du trésor

Deputy ministers

Chief forester

Delegates general of Québec

Members of the Commission de la fonction publique

Chair of the board of directors and chief executive officer of the Commission de la santé et de la sécurité du travail

President of the Office de la protection du consommateur

President and director general of the Centre de services partagés du Québec

SCHEDULE II
(Section 6)

Associate secretaries general and deputy secretaries of the Ministère du Conseil exécutif

Associate secretaries and deputy secretaries of the Conseil du trésor

Associate or assistant deputy ministers

Director general of the Institut de la statistique du Québec

Members of the Office de la protection du consommateur

SCHEDULE III
(Sections 12 and 16)

Autorité des marchés financiers

Caisse de dépôt et placement du Québec

Commission administrative des régimes de retraite et d'assurances

Commission de la capitale nationale

Hydro-Québec

Investissement Québec

La Financière agricole du Québec

Régie de l'assurance maladie du Québec

Régie des rentes du Québec

Société de l'assurance automobile du Québec

Société des alcools du Québec

Société des établissements de plein air du Québec

Société des loteries du Québec

Société d'habitation du Québec

Société québécoise des infrastructures

Sûreté du Québec

SCHEDULE IV
(Section 21)

Administrative Tribunal of Québec

Bureau de décision et de révision

Comité de déontologie policière

Commission d'accès à l'information

Commission de la fonction publique

Commission des lésions professionnelles

Commission municipale du Québec

Commission de protection du territoire agricole du Québec

Commission québécoise des libérations conditionnelles

Commission des relations du travail

Commission des transports du Québec

Régie des alcools, des courses et des jeux

Régie de l'énergie

Régie du logement

Régie des marchés agricoles et alimentaires du Québec

