



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 397

Parliamentary Budget Officer Act

Introduction

**Introduced by
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Member for Rousseau**

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EXPLANATORY NOTES

This bill creates the position of Parliamentary Budget Officer to facilitate parliamentary scrutiny of the state of public finances and assessment of the financial impact for the Government of projected expenditures and the cost of measures proposed by Members.

Under the bill, the National Assembly appoints a Parliamentary Budget Officer, in particular, to review public finances and produce annual and quarterly reports on the subject.

The Parliamentary Budget Officer prepares a pre-election report presenting the Officer's opinion on the plausibility of forecasts and assumptions contained in the pre-election report published by the Minister of Finance.

The Officer is authorized to assess the financial impact for the Government of projected expenditures and the cost of measures proposed by Members.

This bill also amends the Act respecting the Ministère des Finances, mandating the Minister of Finance to prepare and publish a pre-election report on the state of public finances.

Lastly, the bill contains provisions governing the Parliamentary Budget Officer's organization as well as miscellaneous, amending and final provisions.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting the Ministère des Finances (chapter M-24.01).

Bill 397

PARLIAMENTARY BUDGET OFFICER ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PURPOSE

1. The purpose of this Act is to create the position of Parliamentary Budget Officer to facilitate parliamentary scrutiny of the state of public finances and assessment of the financial impact for the Government of projected expenditures and the cost of measures proposed by Members.

CHAPTER II

PARLIAMENTARY BUDGET OFFICER

DIVISION I

APPOINTMENT AND ORGANIZATION

2. On the joint motion of the Premier and the Leader of the Official Opposition, after consulting with the Leaders of the other authorized parties represented in the National Assembly, and with the approval of two thirds of the Members, the National Assembly appoints a Parliamentary Budget Officer to be responsible for the administration of this Act.

3. In the same manner, the National Assembly determines the remuneration, employee benefits and other conditions of employment of the Parliamentary Budget Officer.

4. The Parliamentary Budget Officer comes under the National Assembly. The Officer's powers are those conferred by law.

5. Before taking office, the Parliamentary Budget Officer must take the oath set out in Schedule I before the President of the National Assembly.

6. The Parliamentary Budget Officer performs the duties of office exclusively and on a full-time basis.

7. The Parliamentary Budget Officer is appointed for a fixed term of five years.

If the term expires in a year when a general election is held, it is extended, without further formality, to the following year.

The term may be renewed, but an Officer may not remain in office more than 10 years.

On expiry of the term, the Officer remains in office until reappointed or replaced.

8. The Parliamentary Budget Officer may resign at any time by giving notice in writing to the President of the National Assembly.

The President informs the National Assembly within three days of receiving the notice or, if the Assembly is not sitting, within three days of resumption.

9. The Parliamentary Budget Officer may be removed only by a resolution of the National Assembly approved by two thirds of the Members.

10. If the Parliamentary Budget Officer leaves office or is unable to act, the Government may, after consulting with the Leaders of the authorized parties represented in the National Assembly, designate a person to act as Parliamentary Budget Officer for a period not exceeding six months. The Government determines the designated person's remuneration and conditions of employment.

DIVISION II

DUTIES

11. The Parliamentary Budget Officer performs the duties of office independently and impartially.

§1.—Review of public finances

12. The Parliamentary Budget Officer prepares an annual report presenting an objective portrait of the Government's economic and financial forecasts.

The report also assesses the long-term viability of the Government's finances to determine if policy changes are required, based on the budgetary consequences of trends in the economy and government spending programs, in order to ensure a sustainable public debt.

The Officer may include any comments the Officer considers appropriate in connection with the work involving the report.

13. The Parliamentary Budget Officer forwards the annual report to the President of the National Assembly within 90 days of the day the Minister of Finance tables the public accounts in the National Assembly, under section 87 of the Financial Administration Act (chapter A-6.001), and publishes the report by any means the Officer considers appropriate.

The President tables the annual report in the National Assembly within three days of receiving it or, if the Assembly is not sitting, within three days of resumption.

14. The Parliamentary Budget Officer prepares a report presenting a prospective analysis of program expenditures for each quarter of the fiscal year.

The first quarter begins on 1 April and ends on 30 June.

The Officer forwards a quarterly report to the President of the National Assembly within 30 days of the end of a quarter and publishes the report by any means the Officer considers appropriate.

The President tables each report in the National Assembly within three days of receiving it or, if the Assembly is not sitting, within three days of resumption.

§2. — Pre-election audit of public finances

15. Prior to a general election that follows the expiry of a Legislature, the Parliamentary Budget Officer prepares a report presenting the Officer's opinion on the plausibility of the economic forecasts and assumptions, projected components of the financial framework and estimated expenditures, broken down by field of activity, contained in the pre-election report published by the Minister of Finance on the date specified in section 23.1 of the Act respecting the Ministère des Finances (chapter M-24.01).

The Officer may include any comments the Officer considers appropriate in connection with the work involving the pre-election report.

16. The Parliamentary Budget Officer's opinion on the plausibility of the forecasts must cover at least the first three fiscal years reported on.

However, if the pre-election report is published in February under the second paragraph of section 23.1 of the Act respecting the Ministère des Finances, the opinion must cover at least the three fiscal years following the fiscal year that includes the date on which the report was published.

17. The report prepared by the Parliamentary Budget Officer is forwarded to the President of the National Assembly, who tables it in the National Assembly within three days of receiving it or, if the Assembly is not sitting, within three days of resumption.

The Officer publishes the report, at the same time, by any means the Officer considers appropriate.

The Officer must send the opinion to the Minister of Finance no later than the Monday preceding the publication date of the pre-election report required under section 23.1 of the Act respecting the Ministère des Finances.

§3.—*Assessment of the financial impact of a Member's proposal*

18. At the request of a Member of the National Assembly, the Parliamentary Budget Officer prepares and confidentially provides an assessment of the financial impact for the Government of projected expenditures and the cost of proposed measures.

During an election period, the Officer prepares such an assessment in the same manner for any Member from the previous Legislature.

19. A request for assessment of a projected expenditure or the cost of a proposed measure must

- (1) be addressed to the Parliamentary Budget Officer in writing;
- (2) fully outline the projected expenditure or proposed measure;
- (3) state the purpose and intention of the projected expenditure or proposed measure;
- (4) state the cost of the initiative;
- (5) identify the known sources of financing of the initiative; and
- (6) include any other relevant information.

20. The Member must, at the Parliamentary Budget Officer's request, provide any other information the Officer considers necessary to assess the financial impact for the Government.

21. The Parliamentary Budget Officer's conclusions subsequent to the Member's assessment request are made public by the Officer in response to a written request from the Member.

22. An assessment request may be withdrawn at any time on a written notice from the Member who made the request.

23. If the Parliamentary Budget Officer is unable to present the conclusions of the assessment to the Member before the Legislature expires, and if the Member is not re-elected, the request is deemed to have been withdrawn immediately on the date the Secretary General of the National Assembly receives the list of candidates declared elected.

DIVISION III

POWERS, IMMUNITIES AND PREROGATIVES

§1.—Powers

24. Subject to this Act and any other Acts otherwise applicable to the Parliamentary Budget Officer, the Officer must, at the times and intervals and in the manner the Officer determines, conduct the reviews and investigations necessary for the performance of the Officer's duties.

25. For the performance of the Parliamentary Budget Officer's duties, the Officer may assign the employees of and professionals under contract to the Officer to public bodies and government agencies, to grant beneficiaries, if they are bodies in the health and social services network or the education network whose names appear 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 any other body, association or person whose funds and other property come under the Officer's authority and to any other body not listed in section 26 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, government agency or grant beneficiary mentioned in the first paragraph of this section;

(2) at least half of its members or directors are appointed by a body or agency listed in the first paragraph of this section or in section 26 or 27 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 listed in the first paragraph of this section or in section 26 or 27 or a combination of such bodies or agencies.

The Officer sends a written notice of a decision to analyze the books and accounts for the fiscal year specified by the Officer to the board of directors or, in the absence of a board, to the executive.

The board of directors or executive must provide the Officer with the premises and equipment the Officer considers necessary.

26. For the purposes of this Act, the following are public bodies: the Government, the Conseil exécutif, the Conseil du trésor and government departments.

The Lieutenant-Governor, the National Assembly, the Public Protector, any person designated by the National Assembly to perform duties that come under the Assembly and whose personnel is, by law, appointed in accordance with the Public Service Act (chapter F-3.1.1), and any body to which the National

Assembly or one of its committees appoints the majority of the members are considered public bodies for the purposes of this Act.

27. For the purposes of this Act, government agencies are agencies, other than the bodies mentioned in section 26, that are instituted by or in accordance with an Act, or by a decision of the Government, the Conseil du trésor or a minister, and that meet one of the following conditions:

(1) all or part of their operating appropriations are provided under that heading in the estimates tabled in the National Assembly;

(2) their employees are required by law to be appointed in accordance with the Public Service Act;

(3) the Government or a minister appoints at least half of their members or directors;

(4) more than 50% of the voting shares of their capital stock are part of the domain of the State or are owned by a public body or another government agency.

The Public Curator is considered a government agency for the purposes of this Act.

28. The bodies, agencies, grant beneficiaries, associations or persons listed in section 25 and their directors, executive officers and employees must allow the Parliamentary Budget Officer, on request, to have access to and make copies of records, reports, documents and data, in whatever form, relevant to the Officer's work under the law, and provide the Officer with any related information or explanations.

This section applies despite the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

This section prevails over any contrary provision of any subsequent general law or special Act, unless the law or Act expressly states that it applies despite this section.

29. The Parliamentary Budget Officer, or a representative designated by the Officer in writing, may, in the performance of duties, examine any person under oath and oblige the person to produce any document. The Officer or representative is vested for such purposes with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

30. The Parliamentary Budget Officer and persons acting on behalf of or under the direction of the Officer are bound by secrecy regarding any information obtained in the performance of their duties and must take the necessary measures to maintain its confidentiality.

The Officer may communicate information necessary for the performance of these duties that is not confidential within the meaning of sections 53 to 62 of the Act respecting Access to documents held by public bodies and the Protection of personal information.

§2. — *Immunities*

31. Despite any general law or special Act, neither the Parliamentary Budget Officer nor the employees of or professionals under contract to the Officer may be compelled to give testimony relating to information obtained in the performance of their duties or to produce any document containing such information.

32. Neither the Parliamentary Budget Officer nor the Officer's employees may be prosecuted for an act or omission in good faith in the performance of their duties.

33. No civil action may be instituted because of the publication of one of the Parliamentary Budget Officer's reports under this Act or any other Act or the publication in good faith of an extract or summary of such a report.

34. Except on a question of jurisdiction, no extraordinary recourse provided in articles 834 to 850 of the Code of Civil Procedure (chapter C-25) may be exercised, nor any injunction granted, nor any other provisional remedy taken against the Parliamentary Budget Officer or the employees of and professionals under contract to the Officer in the performance of their duties.

A judge of the Court of Appeal may, on a motion, summarily annul any writ issued or any order or injunction granted contrary to this section.

§3. — *Prerogatives*

35. All employees of and professionals under contract to the Parliamentary Budget Officer must observe the rules of security and discretion applicable to the employees of public bodies, government agencies and grant beneficiaries mentioned in the first paragraph of section 25, bodies or agencies listed in section 25 and all other bodies, associations or persons whose funds and other property are subject to audit or investigation.

36. The Parliamentary Budget Officer may, in writing, authorize an assistant or other senior staff member of the Officer to sign any report on the Officer's behalf, other than the reports the Officer presents to the National Assembly.

37. Without further formality, the Parliamentary Budget Officer establishes policies governing human resources management planning, organization and development.

38. Subject to the appropriations granted by Parliament, the Parliamentary Budget Officer determines the maximum number of staff members needed to perform the duties of office, their assignment and the level of their positions.

39. The Parliamentary Budget Officer may, in accordance with the standards and conditions the Officer determines by regulation, conclude

(1) contracts required in the performance of duties; and

(2) agreements with public or private organizations for staff transfers or assignments.

Such a regulation is subject to approval by the Office of the National Assembly. The President of the National Assembly tables the regulation in the National Assembly within three days of receiving it or, if the Assembly is not sitting, within three days of resumption.

40. The Parliamentary Budget Officer submits annual budget estimates to the Office of the National Assembly.

41. After being examined and, if applicable, amended by the Office of the National Assembly, the Parliamentary Budget Officer's budget estimates are incorporated into the estimates tabled in the National Assembly.

42. The Parliamentary Budget Officer may report to the National Assembly if the Officer considers the amended budget estimates to be insufficient. The Officer submits the report to the President of the National Assembly.

The President tables the report in the National Assembly within three days of receiving it or, if the Assembly is not sitting, within three days of resumption.

43. The Parliamentary Budget Officer may submit supplementary budget estimates to the Office of the National Assembly if, during a fiscal year, the Officer foresees expenditures exceeding the appropriations granted by Parliament. In such a case, sections 41 and 42 apply with the necessary modifications.

44. The provisions of the Financial Administration Act applicable to budget-funded bodies, except sections 30 and 31, apply to the management of the Parliamentary Budget Officer's financial resources.

45. The Public Administration Act (chapter A-6.01), except subparagraph 6 of the first paragraph and the second paragraph of section 9, sections 10 to 23, subparagraphs 1.1 and 3 of the second paragraph and the third paragraph of section 24, sections 25 to 28 and 44, the fourth paragraph of section 45, sections 46, 48, 49, 50 and 53, the third paragraph of section 57 and sections 74, 75 and 78, applies to the Parliamentary Budget Officer. The report mentioned in section 24 of that Act is included in the Officer's annual report.

The strategic plan adopted by the Officer in accordance with section 8 of the Public Administration Act is tabled in the National Assembly by the President of the National Assembly.

46. Subject to this Act, the Parliamentary Budget Officer's resources are managed in accordance with the Acts, regulations and rules applicable to the Officer.

However, the Office of the National Assembly may, by regulation, authorize the Officer to make an exception to any provision of a regulation made or approved by the Government or by the Conseil du trésor, or of a policy, directive or decision of the Government, a government department, the Conseil du trésor or a government agency if, in the Officer's opinion, the provision constitutes a hindrance to the performance of the Officer's duties.

The regulation must specify the provision concerned and the provision to be substituted for it.

The President of the National Assembly tables the regulation in the National Assembly within three days of its adoption or, if the Assembly is not sitting, within three days of resumption.

DIVISION IV

AUDIT OF THE ACCOUNTS OF THE PARLIAMENTARY BUDGET OFFICER

47. The Office of the National Assembly appoints an auditor for a specified time to audit, in particular, the books and accounts relating to the Parliamentary Budget Officer.

The auditor may not be a public servant or a person employed, under contract or otherwise, by a public body or government agency.

No later than 15 December each year, the auditor submits a report to the President of the National Assembly, who tables it in the National Assembly within three days of receiving it or, if the Assembly is not sitting, within three days of resumption.

DIVISION V

MISCELLANEOUS PROVISIONS

48. No later than 1 January 2020 and every five years after that, the Parliamentary Budget Officer must report on the implementation of this Act and, if applicable, the advisability of amending it.

The report is submitted to the President of the National Assembly, who tables it in the National Assembly within 15 days of receiving it or, if the Assembly

is not sitting, within 15 days of resumption. The competent committee of the National Assembly examines the report.

CHAPTER III

AMENDING PROVISIONS

49. Section 4 of the Act respecting the Ministère des Finances (chapter M-24.01) is amended by inserting the following paragraph after paragraph 6:

“(6.1) prepare and publish, prior to the general election that follows the expiry of a Legislature, a pre-election report on the state of public finances;”.

50. The Act is amended by inserting the following chapter after section 23:

“CHAPTER III.1

“PRE-ELECTION REPORT

“23.1. The Minister shall publish a pre-election report on the first Monday in August preceding the expiry of a Legislature as provided for in section 6 of the Act respecting the National Assembly (chapter A-23.1).

However, if a Legislature expires on 27 February, or 28 February in the case of a leap year, of the fifth calendar year following the year that includes the most recent general election polling day in accordance with the second paragraph of section 6 of the Act respecting the National Assembly, the Minister shall publish a new pre-election report on the Monday immediately preceding the expiry of the Legislature.

The opinion of the Parliamentary Budget Officer, presented in the report required under section 15 of the Parliamentary Budget Officer Act (*insert the year and chapter number of this Act*), must be attached to the pre-election report.

“23.2. The Minister shall include the following in the pre-election report, with any necessary revisions:

(1) the economic forecasts and assumptions appearing in the Budget Plan presented in the most recent Budget Speech;

(2) the projected components of the Government’s financial framework appearing in the Budget Plan;

(3) the estimated expenditures, established in collaboration with the Chair of the Conseil du trésor and broken down by field of State activity; and

(4) the reports required under section 15 of the Balanced Budget Act (chapter E-12.00001) and section 11 of the Act to reduce the debt and establish the Generations Fund (chapter R-2.2.0.1).

“23.3. The projected components of the Government’s financial framework shall be presented in the pre-election report for a period of five consecutive fiscal years, and the estimated expenditures, broken down by field of State activity, for a period of three consecutive fiscal years, beginning, in both cases, with the fiscal year that includes the date on which the report was published.

“23.4. The Minister shall send the draft report to the Parliamentary Budget Officer not later than the first working day of the ninth week preceding its publication date to enable the Officer to prepare the report required under section 15 of the Parliamentary Budget Officer Act (*insert the year and chapter number of this Act*).

The Minister shall inform the Officer of any changes the Minister makes to the draft report up to the time the Minister receives the Officer’s opinion in accordance with the third paragraph of section 17 of the Parliamentary Budget Officer Act.

“23.5. On the date the pre-election report is published, the Minister shall send it, with the Parliamentary Budget Officer’s opinion attached to it, to the President of the National Assembly, who shall table them before the National Assembly within three days after receiving them or, if the Assembly is not sitting, within three days of resumption.

As soon as the pre-election report and attached opinion are sent to the President of the National Assembly, the Minister shall publish them by any means the Minister considers appropriate, without waiting for the President to table them.”

FINAL PROVISION

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

SCHEDULE I
(*Section 5*)

OATH OF OFFICE

I, (*name*), declare under oath that I will be loyal, bear allegiance to constituted authority, and fulfill the duties of my office honestly, in compliance with the law.

