



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-EIGHTH LEGISLATURE

Bill 66

**An Act respecting the Laboratoire
de sciences judiciaires et de médecine
légale**

Introduction

**Introduced by
Mr. Jacques P. Dupuis
Minister of Public Security**

**Québec Official Publisher
2007**

EXPLANATORY NOTES

This bill establishes the Laboratoire de sciences judiciaires et de médecine légale as a legal person and a mandatary of the State. It defines its missions, the main mission being to conduct forensic examinations for public purposes, in particular to serve the administration of justice and support police investigations. The bill provides that the laboratory may carry out other expert examinations, even for private purposes, if they are not likely to come into conflict with the laboratory's missions. It provides that the laboratory may charge a fee for its services; however, expert examinations or mandates carried out for public purposes may be charged only with the authorization of the Minister.

In addition, the bill determines the rules relating to the organization and operation of the laboratory and more particularly to the composition of its board of directors. It also introduces financial provisions and the reporting rules to which the laboratory is to be subject.

Lastly, the bill includes amending and transitional provisions necessary to the establishment of the new entity.

LEGISLATION AMENDED BY THIS BILL:

- Financial Administration Act (R.S.Q., chapter A-6.001);
- Act respecting lotteries, publicity contests and amusement machines (R.S.Q., chapter L-6);
- Public Protector Act (R.S.Q., chapter P-32);
- Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2);
- Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2);
- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);

– Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1).

Bill 66

AN ACT RESPECTING THE LABORATOIRE DE SCIENCES JUDICIAIRES ET DE MÉDECINE LÉGALE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

ESTABLISHMENT

1. A forensic science laboratory to be known as the Laboratoire de sciences judiciaires et de médecine légale is hereby established.

2. The laboratory is a legal person and a mandatary of the State.

The laboratory binds none but itself when it acts in its own name.

The property of the laboratory forms part of the domain of the State, but the execution of its obligations may be levied against its property.

3. The head office of the laboratory is located in the territory of Ville de Montréal. Notice of the address of the head office and of any change of address is to be published in the *Gazette officielle du Québec*.

CHAPTER II

MISSIONS AND POWERS

4. The main mission of the laboratory is to carry out forensic examinations for public purposes, in particular to serve the administration of justice and support police investigations.

The laboratory also has as a mission to verify and certify gaming machines and devices used to detect different substances in the body.

To pursue its missions, the laboratory brings together and develops the skills and scientific expertise necessary for it to provide state-of-the-art specialized services.

5. In the pursuit of its missions, the laboratory is responsible, among other things, for

(1) examining bodies, performing autopsies and carrying out expert assessments in accordance with the Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2);

(2) updating the data on DNA profiles resulting from biological analyses for the National DNA Data Bank of Canada;

(3) conducting expert examinations, in particular of biological substances, firearms, documents and materials;

(4) providing training for investigative personnel and support staff in police organizations and faculties of medicine;

(5) providing consulting services and expert testimony;

(6) verifying and certifying gaming machines and electronic equipment directly linked to the casino lottery schemes operated in State casinos by Loto-Québec, and video lottery machines operated elsewhere than in a State casino by Loto-Québec or by a licence holder under section 52.15 of the Act respecting lotteries, publicity contests and amusement machines (R.S.Q., chapter L-6);

(7) verifying and certifying the screening devices used to ascertain the presence of alcohol in the blood and approved by the Minister under the Highway Safety Code (R.S.Q., chapter C-24.2);

(8) giving the Minister an opinion on any forensic question the Minister submits and, if necessary, making recommendations; and

(9) carrying out any mandate entrusted to it by an Act or by the Minister.

6. The laboratory may carry out other expert examinations or mandates on contract, even for private purposes, if they are not likely to come into conflict with the laboratory's missions. The laboratory must inform the Minister of any such contract.

7. The laboratory may charge a fee for its services. However, expert examinations and mandates carried out for public purposes may be charged only with the authorization of the Minister.

8. The laboratory may alienate the expertise it has acquired or developed and the related intellectual property.

9. In accordance with the Act respecting the Ministère des Relations internationales (R.S.Q., chapter M-25.1.1) or the Act respecting the Ministère du Conseil exécutif (R.S.Q., chapter M-30), the laboratory may enter into an agreement with a government other than that of Québec, with a department of such a government, with an international organization or with a body of such a government or organization.

In the same manner, the laboratory may enter into an agreement and take part in joint projects with a Québec government department or body or with any person or agency.

CHAPTER III

ORGANIZATION AND OPERATION

10. The laboratory is administered by a board of directors consisting of nine members, including the chair, the president and chief executive officer of the laboratory and the Deputy Minister of Public Security or the Deputy Minister's representative.

11. The members of the board of directors are appointed by the Government, except the Deputy Minister of Public Security, who is appointed *ex officio*. Board members, other than the chair and the president and chief executive officer, are appointed for a term of up to three years after consultation with persons or bodies that the Minister considers representative of the sectors concerned by the operations of the laboratory.

12. The chair of the board of directors is appointed for a term of up to five years. The chair presides at meetings of the board and sees to its smooth operation.

13. The president and chief executive officer is appointed on the recommendation of the board of directors, taking into consideration the expertise and experience profile approved by the board. If the board does not make a recommendation within a reasonable time, the Government may appoint the president and chief executive officer after notifying the board members.

The president and chief executive officer is appointed for a term of up to five years. The office of president and chief executive officer is a full-time position.

The president and chief executive officer is responsible for the direction and management of the laboratory within the framework of its by-laws and policies. The president and chief executive officer proposes strategic directions to the board of directors, as well as a capital plan and an operating plan for the laboratory. The president and chief executive officer assumes any other function assigned by the board.

14. If the president and chief executive officer is absent or unable to act, the board of directors may designate a member of the laboratory's personnel to exercise the functions of that position.

15. The board of directors appoints a vice-chair from among its members to act as chair if the chair is absent or unable to act.

16. On the expiry of their term, the members of the board of directors remain in office until replaced or reappointed.

17. A vacancy on the board of directors is filled in accordance with the applicable rules governing appointments.

Non-attendance at a number of board meetings determined by the laboratory's internal management rules constitutes a vacancy in the cases and circumstances specified in the rules.

18. The president and chief executive officer may not, on pain of forfeiture of office, have a direct or indirect interest in an enterprise that places the president and chief executive officer's personal interests in conflict with the laboratory's interests. However, forfeiture is not incurred if the interest devolves to the president and chief executive officer by succession or gift, provided it is renounced or disposed of with dispatch.

Any other board member who has such an interest must, on pain of forfeiture of office, disclose it in writing to the chair of the board and abstain from participating in any discussion or decision involving that enterprise. The board member must also withdraw from the meeting for the duration of the discussion or vote on the matter.

19. The Government determines the remuneration, employee benefits and other conditions of employment of the president and chief executive officer.

The other board members receive no remuneration except in the cases, on the conditions and to the extent determined by the Government. They are, however, entitled to the reimbursement of the expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

20. The members of the laboratory's personnel are appointed in accordance with the laboratory's staffing plan.

Subject to the provisions of a collective agreement, the laboratory determines the standards and scales of remuneration, employee benefits and other conditions of employment of the members of its personnel in accordance with the conditions defined by the Government.

21. The laboratory establishes rules of ethics and professional conduct applicable to its employees.

22. The laboratory may establish internal management rules.

23. The laboratory may hold meetings anywhere in Québec.

The quorum at meetings of the board of directors is the majority of its members.

Decisions of the board are made by a majority vote of the members present. In the case of a tie-vote, the chair has a casting vote.

24. The minutes of the meetings of the board of directors, approved by the board and certified by the chair or any other person authorized by the board, are authentic. The same applies to documents and copies emanating from the laboratory or forming part of its records, when signed or certified by any of those persons.

25. A deed, document or writing is binding on the laboratory, and may be attributed to it, only if it is signed by the chair of the board of directors, the president and chief executive officer or a member of the laboratory's personnel and, in the latter case, only to the extent determined by the by-laws of the laboratory.

The laboratory may, by by-law and subject to specified conditions, allow a signature to be affixed by means of an automatic device, an electronic signature to be affixed, or a facsimile of a signature to be engraved, lithographed or printed on specified documents. However, the facsimile has the same force as the signature itself only if the document is countersigned by a person referred to in the first paragraph.

The by-laws must be published.

CHAPTER IV

FINANCIAL PROVISIONS AND REPORTS

26. The laboratory may not, without the Government's authorization,

(1) make a financial commitment in excess of the limits or contrary to the conditions determined by the Government;

(2) contract a loan that causes the total of its current outstanding loans to exceed the amount determined by the Government;

(3) acquire or dispose of assets in excess of the limits or contrary to the conditions determined by the Government; or

(4) accept a gift or legacy to which a charge or condition is attached.

27. The Government may, on the conditions and in the manner it determines,

(1) secure the payment in capital and interest of any loan contracted by the laboratory and guarantee the performance of its other obligations; and

(2) authorize the Minister of Finance to advance to the laboratory any amount considered necessary to meet its obligations or carry out its missions.

[[The sums required for the purposes of this section are to be taken out of the consolidated revenue fund.]]

28. The Minister may, on the conditions the Minister determines, and with the authorization of the Government and in its name, grant the laboratory a subsidy to provide for the performance of its obligations or carry out its missions.

29. The operations of the laboratory are funded by the revenue it derives from the fees it charges and the other monies it receives.

30. The monies received by the laboratory must be allocated to the payment of its obligations. The laboratory retains any surpluses, unless the Government decides otherwise.

31. Each year, the laboratory submits a plan of action and its budgetary estimates for the following fiscal year to the Minister for approval, on the date and in the form determined by the Minister.

32. The laboratory formulates a business plan that respects the form, content and schedule required by the Minister. The plan must be approved by the Minister.

On expiry, the business plan continues to apply until a new plan is approved.

33. The laboratory must also provide the Minister with any information the Minister may require on its operations.

34. The fiscal year of the laboratory ends on 31 March.

35. Not later than 31 July each year, the laboratory must file its financial statements and a report of activities for the preceding fiscal year with the Minister.

The financial statements and report of activities must contain all the information required by the Minister.

36. The Minister tables the financial statements and the report of activities in the National Assembly within 30 days after receiving them or, if the Assembly is not sitting, within 30 days of resumption.

37. The books and accounts of the laboratory are audited by the Auditor General each year and whenever so ordered by the Government. The audit report must be submitted with the financial statements of the laboratory.

CHAPTER V

AMENDING PROVISIONS

38. Schedule 2 to the Financial Administration Act (R.S.Q., chapter A-6.001) is amended by inserting the following in alphabetical order:

“Laboratoire de sciences judiciaires et de médecine légale”.

39. Section 52.15 of the Act respecting lotteries, publicity contests and amusement machines (R.S.Q., chapter L-6) is amended by replacing “a laboratory which is under the responsibility of the Minister” in the first paragraph by “the Laboratoire de sciences judiciaires et de médecine légale”.

40. Section 119 of the Act is amended by striking out subparagraph *c.1* of the first paragraph.

41. Section 121.0.2 of the Act is amended by replacing “laboratory referred to in section 52.15” by “Laboratoire de sciences judiciaires et de médecine légale”.

42. Section 15 of the Public Protector Act (R.S.Q., chapter P-32) is amended by adding the following paragraph at the end:

“(8) the Laboratoire de sciences judiciaires et de médecine légale.”

43. Section 65 of the Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2) is amended

(1) by replacing “Laboratoire de médecine légale du Québec or the Laboratoire de police scientifique du Québec” in the first paragraph by “Laboratoire de sciences judiciaires et de médecine légale”;

(2) by replacing “the laboratories” in the second paragraph by “the laboratory”.

44. Section 67 of the Act is amended by replacing “Laboratoire de police scientifique du Québec” by “Laboratoire de sciences judiciaires et de médecine légale”.

45. Section 75 of the Act is amended by replacing “Laboratoire de médecine légale du Québec” in the second paragraph by “Laboratoire de sciences judiciaires et de médecine légale”.

46. Section 76 of the Act is amended

(1) by replacing “The director of the Laboratoire de médecine légale du Québec and the director of the Laboratoire de police scientifique du Québec” in the second paragraph by “The president and chief executive officer of the Laboratoire de sciences judiciaires et de médecine légale”;

(2) by replacing “their” in the fourth line of the second paragraph by “the president and chief executive officer’s”.

47. Section 182 of the Act is amended by replacing “, that the professional in the field of health is not a civil servant, within the meaning of the Public Service Act (chapter F-3.1.1), employed at the Laboratoire de médecine légale du Québec or is not bound to the latter by a service contract” by “and that the health professional is not a member of the personnel of the Laboratoire de sciences judiciaires et de médecine légale or does not act under a service contract entered into with that laboratory”.

48. Schedule C to the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2) is amended by inserting the following in alphabetical order:

“– The Laboratoire de sciences judiciaires et de médecine légale”.

49. Schedule 1 to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by inserting the following in paragraph 1 in alphabetical order:

“The Laboratoire de sciences judiciaires et de médecine légale”.

50. Schedule II to the Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1) is amended by inserting the following in paragraph 1 in alphabetical order:

“the Laboratoire de sciences judiciaires et de médecine légale”.

51. Section 6 of the Terms and conditions respecting the signing of certain deeds, documents and writings of the Ministère de la Sécurité publique, enacted by Order in Council 356-2004 (2004, G.O. 2, 1282), is amended by replacing “, a director general and the director of the Laboratoire de sciences judiciaires et de médecine légale” by “and a director general”.

CHAPTER VI

TRANSITIONAL PROVISIONS

52. The Laboratoire de sciences judiciaires et de médecine légale established by this Act replaces the Minister of Public Security and the laboratory that exercised those functions before (*insert the date of coming into force of section I*) as regards the functions assigned to it by this Act. It acquires the rights and assumes the obligations of the Minister or the laboratory, as the case may be.

53. The laboratory becomes, without continuance of suit, a party to all proceedings to which the Minister of Public Security was a party with respect to the functions assigned to the laboratory by this Act.

54. To the extent and on the conditions it determines, the Government may transfer to the laboratory any document or property in the possession of the Minister of Public Security on (*insert the date of coming into force of section 1*) that is required for the exercise of the laboratory's functions.

55. The Government appoints the laboratory's first president and chief executive officer for a term of up to three years without having to respect the procedure prescribed in section 13.

56. Employees of the Ministère de la Sécurité publique who, on (*insert the date preceding the date of coming into force of this section*), are assigned to the functions conferred on the Laboratoire de sciences judiciaires et de médecine légale by this Act become, subject to the conditions of employment applicable to them, employees of the laboratory insofar as a decision by the Conseil du trésor providing for their transfer is made before (*insert the date that is 24 months after the date of coming into force of this section*).

57. Employees of the laboratory continue to be represented by any certified associations that represented them at the time they were transferred from the Ministère de la Sécurité publique to the laboratory and the collective agreements in force at that time continue to apply.

58. An employee transferred to the laboratory under section 56 who, at the time of the transfer, was a permanent public servant may request a transfer to a position in the public service or take part in a competition for promotion for such a position, in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

Section 35 of the Public Service Act applies to such an employee who takes part in a competition for promotion for a position in the public service.

59. An employee referred to in section 58 who applies for a transfer to a position in the public service or takes part in a competition for promotion may ask the chair of the Conseil du trésor for an assessment of the classification the employee would be assigned in the public service. The assessment must take into account the employee's classification in the public service on the date of the transfer to the laboratory and the experience and training acquired in the course of employment with the laboratory.

If an employee is transferred to a position in the public service under section 58, the deputy minister or chief executive officer determines the employee's classification in accordance with the assessment provided for in the first paragraph.

If an employee is promoted under section 58, the classification assigned to the employee must take into account the criteria set out in the first paragraph.

60. In the event of a partial or total discontinuance of the operations of the laboratory or a shortage of work, an employee referred to in section 58 is entitled to be placed on reserve in the public service with the classification held before the date of the transfer to the laboratory.

In that case, the chair of the Conseil du trésor determines the employee's classification taking into account the criteria set out in the first paragraph of section 59.

61. An employee who, in accordance with the applicable conditions of employment, refuses to be transferred to the laboratory is assigned to the laboratory until the chair of the Conseil du trésor is able to place the employee in accordance with section 100 of the Public Service Act. The same applies to a person placed on reserve under section 60, which person remains in the employ of the laboratory.

62. Subject to remedies available under a collective agreement, an employee referred to in section 56 who is dismissed may bring an appeal under section 33 of the Public Service Act.

[[**63.** The sums required to carry out this Act during the first fiscal year of the Laboratoire de sciences judiciaires et de médecine légale are taken out of the consolidated revenue fund to the extent determined by the Government.]]

CHAPTER VII

FINAL PROVISIONS

64. Not later than (*insert the date occurring five years after the date of coming into force of section 1*), and every five years after that, the Minister must report to the Government on the carrying out of this Act. The report must include recommendations on a review of the missions of the laboratory. It must also include an assessment of the effectiveness and performance of the laboratory.

The Minister must table the report in the National Assembly within 30 days of its receipt by the Government or, if the Assembly is not sitting, within 30 days of resumption.

65. The Minister of Public Security is responsible for the administration of this Act.

66. This Act comes into force on the date or dates to be set by the Government.

