



NATIONAL ASSEMBLY OF QUÉBEC

SECOND SESSION

FORTY-SECOND LEGISLATURE

Bill 396

An Act for better air quality

Introduction

**Introduced by
Mr. Sol Zanetti
Member for Jean-Lesage**

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EXPLANATORY NOTES

The purpose of this bill is to fight air pollution by strengthening the control of the measures taken to ensure ambient air quality.

To that end, the bill creates the office of Air Quality Auditor, whose functions are to

(1) evaluate the effectiveness of applicable air quality standards in ensuring the protection of human health, taking into account, in particular, the cumulated effect of pollutants;

(2) order the preparation of an air pollution emergency plan and evaluate the effectiveness of the applicable measures set out by the plan;

(3) verify the reliability of the studies and the methodologies used as a basis by government departments and agencies with regard to air pollutant emissions;

(4) evaluate the effectiveness of the sampling and of the information system for collecting air quality data and make recommendations for their development;

(5) evaluate the effectiveness of the control mechanisms for application of the air pollutant emissions standards in force; and

(6) make recommendations and promote reflection on air quality-related issues.

The Air Quality Auditor is under the authority of the National Assembly and is to be appointed with the approval of two-thirds of the Members of the National Assembly.

The bill also creates a right of citizen initiative, which may be exercised with regard to any activity of an establishment governed by the Environment Quality Act. If a petition for a citizen initiative receives enough signatures, the Air Quality Auditor must then assess the risks of the activity referred to in the petition and the impacts of that activity on the environment and on public health.

The bill requires the Minister of Sustainable Development, Environment and Parks to table in the National Assembly, within six months following its coming into force, an action plan to ensure that pollutant emissions data by enterprise and sector of activity is public and continuously disseminated.

The bill also requires every operator of a source of contamination to which a standard under the Clean Air Regulation applies to have a system for continuously measuring and recording contaminants emitted into the atmosphere in place and be able to provide real-time data collected by the system.

The operation of a source of contamination resulting in an atmospheric concentration of a contaminant in excess of the limit prescribed by the Clean Air Regulation for that contaminant will be prohibited starting three years after the bill comes into force, thereby eliminating the acquired rights prescribed by that regulation.

Lastly, the bill makes every project related to residual materials management subject to the environmental impact assessment and review procedure.

LEGISLATION AMENDED BY THIS BILL:

- Environment Quality Act (chapter Q-2).

REGULATIONS AMENDED BY THIS BILL:

- Clean Air Regulation (chapter Q-2, r. 4.1);
- Regulation respecting the environmental impact assessment and review of certain projects (chapter Q-2, r. 23.1).

Bill 396

AN ACT FOR BETTER AIR QUALITY

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PURPOSE

1. The purpose of this Act is to fight air pollution by strengthening the control of the measures taken to ensure ambient air quality.

CHAPTER II

AIR QUALITY AUDITOR

DIVISION I

APPOINTMENT AND ORGANIZATION

2. On the joint motion of the Prime Minister, after consulting with the Leaders of the other authorized parties represented in the National Assembly and with the approval of two-thirds of its Members, the Assembly appoints an Air Quality Auditor (the Auditor).

3. The National Assembly determines in the same manner the remuneration, employment benefits and other conditions of employment of the Auditor.

4. The Auditor is under the authority of the National Assembly. He or she exercises the duties of office exclusively and on a full-time basis.

5. The Auditor is appointed for a fixed term of 10 years or less. At the expiry of the term, the Auditor remains in office until reappointed or replaced.

The Auditor may resign at any time by giving written notice to the President of the National Assembly. The Auditor may be dismissed only by a resolution of the Assembly approved by two-thirds of its Members.

6. If the Auditor 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 Air Quality Auditor for a period not exceeding six months. The Government determines the person's remuneration and conditions of employment.

DIVISION II

FUNCTIONS AND POWERS OF THE AIR QUALITY AUDITOR

7. The Auditor's functions are to

(1) evaluate the effectiveness of applicable air quality standards in ensuring the protection of human health, taking into account, in particular, the cumulated effect of pollutants;

(2) order the preparation of an air pollution emergency plan referred to in section 49 of the Environment Quality Act (chapter Q-2) and evaluate the effectiveness of the applicable measures set out in the plan;

(3) verify the reliability of the studies and the methodologies used as a basis by government departments and bodies with regard to air pollutant emissions;

(4) evaluate the effectiveness of the sampling and of the information system used to collect air quality data;

(5) evaluate the effectiveness of the control mechanisms for the application of the air pollutant emissions standards in force; and

(6) make recommendations and promote reflection on air quality-related issues.

8. The National Assembly may entrust the Auditor with any other special mandate on a matter within the Auditor's jurisdiction.

9. The Auditor must, at the request of the National Assembly, form working groups to examine specific matters.

The members of the working groups are not remunerated, except in the cases, on the conditions and to the extent determined by the Government. They are, however, entitled to the reimbursement of expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

10. The exercise of the Auditor's functions may include an investigation if the Auditor considers it appropriate.

For the purposes of an investigation, the Auditor or any other person asked by the Auditor to conduct an investigation has the powers and immunity provided for in the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

DIVISION III

AUDITOR'S REPORTS

11. Not later than 30 June each year, the Auditor sends the President of the National Assembly a report on the Auditor's activities for the preceding fiscal year.

The Auditor indicates in the report any issue arising from the Auditor's work that, in the latter's opinion, should be brought to the attention of the National Assembly. The Auditor also includes his or her findings and recommendations as regards the environment quality standards in force.

The President tables the report in the Assembly within 10 days after receiving it or, if the Assembly is not sitting, within 10 days after resumption.

12. The Auditor may, at any time, submit a special report to the National Assembly on any matter of such importance or urgency that the Assembly should not, in the Auditor's opinion, be made to wait for the presentation of the Auditor's annual report. Such a report is tabled in the Assembly in the manner established for the annual report.

13. The Minister must, within 30 days after the tabling of a report, establish an action plan to ensure the implementation of the recommendations made by the Auditor.

SECTION IV

FINANCIAL AND ADMINISTRATIVE PROVISIONS

14. The Auditor prepares annual budgetary estimates and submits them to the Office of the National Assembly, which approves them with or without modification.

The members of the Auditor's personnel are appointed in accordance with the Public Service Act (chapter F-3.1.1).

15. If, during a fiscal year, the Auditor foresees that the budget estimates approved by the Office of the National Assembly will be exceeded, the Auditor prepares supplementary budget estimates and submits them to the Office of the National Assembly, which approves them with or without modification.

16. Chapter III, Chapter IV with the exception of section 44, of the second and fourth paragraphs of section 45, of sections 46 and 53 and of the third paragraph of section 57, Chapter VI and section 73 of the Public Administration Act (chapter A-6.01) apply to the Auditor.

The Office of the National Assembly may, however, by a regulation adopted by a unanimous decision, derogate from that Act by specifying the provisions derogated from and the provisions that are to apply in their place.

17. The provisions of the Financial Administration Act (chapter A-6.001) applicable to budget-funded bodies, except sections 30 and 31, apply to the management of the Auditor’s financial resources.

The Office of the National Assembly may, however, by a regulation adopted by a unanimous decision, derogate from that Act by specifying the provisions derogated from and the provisions that are to apply in their place.

AMENDING PROVISIONS

ENVIRONMENT QUALITY ACT

18. The Act is amended by inserting the following chapter after section 19:

“CHAPTER II.2

“RIGHT OF CITIZEN INITIATIVE

“**19.0.1.** A right of citizen initiative may be exercised with regard to any activity of an establishment governed by this Act.

“**19.0.2.** The right of citizen initiative is exercised by filing a petition which must

(1) be addressed to the Minister;

(2) clearly and concisely state its object;

(3) be signed by at least 0.001% of the citizens residing in a municipality concerned by the petition and by at least 50 persons; and

(4) include the names and contact information of at least three persons designated as the group’s representatives and one person designated as the contact person.

“**19.0.3.** On receiving a petition that meets the conditions prescribed by section 19.0.2, the Minister shall publish, on the Minister’s department’s website or by any other means the Minister considers appropriate, a notice indicating the object of the petition as stated in the text filed, the number of signatures required and the date on which the petition signing period ends.

The petition signing period begins on the date the notice is published.

“19.0.4. To be entrusted to the Air Quality Auditor, a mandate relating to a petition must receive the support of at least 0.01% of the citizens residing in a municipality concerned by the petition and at least 100 persons. The petition signing period is 60 days.

“19.0.5. If the petition meets the criteria set out in section 19.0.4, the Minister must send a copy of it to the Air Quality Auditor within 30 days after the expiry of the petition signing period.

The Air Quality Auditor must then assess the risks of the activity referred to in the petition and the impacts of the activity on the environment and on public health and report his or her findings and recommendations to the Minister.”

19. The Act is amended by inserting the following section after section 47:

“48. The Minister must table in the National Assembly, not later than (*insert the date that is six months after the date of coming into force of this Act*), an action plan to ensure that pollutant emissions data by enterprise and sector of activity is public and continuously disseminated within three years after that date.”

20. The Act is amended by inserting the following subdivision after section 53:

“§3.—Application of air quality standards

“53.0.1. The air quality standards enacted under this Act and the regulations apply throughout the territory of Québec and enterprises operating in an area of federal jurisdiction are subject to those standards.”

CLEAN AIR REGULATION

21. The Clean Air Regulation (chapter Q-2, r. 4.1) is amended by inserting the following section after section 4:

“4.1. Every operator of a source of contamination to which a standard set out in this regulation applies must have a system for continuously measuring and recording contaminants emitted into the atmosphere in place and be able to provide real-time data collected by the system to the Minister of Sustainable Development, Environment and Parks.”

22. Section 197 of the Regulation is amended

(1) by striking out “As of 30 June 2011,” in the first paragraph;

(2) by inserting the following paragraph after the first paragraph:

“As of *(insert the date that is three years after the date of coming into force of this Act)*, the operation of a source of contamination is prohibited if it will likely result in a concentration, in the atmosphere, of a contaminant listed in Schedule K in excess of the limit prescribed for that contaminant in column 1 of that Schedule.”

REGULATION RESPECTING THE ENVIRONMENTAL IMPACT ASSESSMENT AND REVIEW OF CERTAIN PROJECTS

23. Sections 33 and 34 of Part II of Schedule 1 to the Regulation respecting the environmental impact assessment and review of certain projects (chapter Q-2, r. 23.1) are replaced by the following section:

“(33) RESIDUAL MATERIALS MANAGEMENT PROJECTS

Every project related to residual materials management is subject to the procedure.”

FINAL PROVISIONS

24. The Minister of Sustainable Development, Environment and Parks is responsible for the administration of this Act.

25. This Act comes into force on *(insert the date of assent to this Act)*, except section 20, which comes into force on *(insert the date that is one year after the date of coming into force of this Act)*.

