



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 394

**An Act respecting the Agence québécoise
du cancer**

Introduction

**Introduced by
Mr. Éric Caire
Member for La Peltrie**

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EXPLANATORY NOTES

The purpose of this bill is to create an agency, the Agence québécoise du cancer, for the pooling of cancer control resources.

As part of its mission, defined in this bill, the Agency will be responsible for developing a comprehensive cancer control plan and for coordinating, in collaboration with the other players in the health and social services system, the planning, development, delivery and evaluation of cancer services. It will also be responsible for setting up and managing a national standardized cancer register.

In addition, the bill contains amending and transitional provisions, in particular with regard to transfers of employees from the Ministère de la Santé et des Services sociaux to the Agency.

LEGISLATION AMENDED BY THIS BILL:

- Financial Administration Act (R.S.Q., chapter A-6.001);
- Act respecting the governance of state-owned enterprises (R.S.Q., chapter G-1.02);
- 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 health services and social services (R.S.Q., chapter S-4.2).

Bill 394

AN ACT RESPECTING THE AGENCE QUÉBÉCOISE DU CANCER

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

ESTABLISHMENT

1. A legal person is established under the name “Agence québécoise du cancer” (“the Agency”).

2. The Agency is a mandatary of the State.

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

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

3. The head office of the Agency is located in the territory of Ville de Québec.

Notice of the location and any relocation of the Agency’s head office is published in the *Gazette officielle du Québec*.

CHAPTER II

MISSION AND POWERS

4. The Agency’s mission is to reduce the incidence of cancer and cancer-related deaths in Québec, to increase cancer survival rates, to improve quality of life for people living with cancer and their family members, and to promote and maintain innovation, quality and accountability at all levels in Québec’s fight against cancer.

5. The Agency’s functions, in the pursuit of its mission, include

(1) implementing, updating and monitoring a cancer control plan that covers the whole cancer control continuum, that is, research, prevention, screening, investigation, care, services, support and follow-up;

(2) coordinating, in collaboration with the other players in the health and social services system, the planning, development, delivery and evaluation of cancer services;

(3) implementing a performance management and accountability system applicable at all levels of the organization and delivery of cancer services in the health and social services network;

(4) introducing and maintaining a comprehensive cancer services accreditation program;

(5) developing and managing an integrated cancer research plan;

(6) developing health promotion, cancer prevention and cancer education programs and participating in their implementation;

(7) collaborating with community organizations in setting up a permanent cancer control forum bringing together experts, community organizations, representatives of public institutions, representatives of civil society and people living with cancer, and providing financial support to the forum;

(8) developing and coordinating basic and continuing cancer education programs for professionals and service providers working in the health and social services network and for community organizations;

(9) establishing and managing a national standardized cancer register;

(10) advising the Minister of Health and Social Services on strategies, policies, and the planning of cancer services and of staffing in cancer-related fields; and

(11) making recommendations to the Government on support measures for people living with cancer and their family members.

6. The Minister and the Agency may enter into an agreement under which they undertake to carry out, on each other's behalf and subject to the terms of the agreement, specific operations related to the Agency's mission or the Minister's functions.

The agreement provides for the remuneration of the Agency or the Minister, if expedient.

The agreement also defines the duties, powers and responsibilities of the partners in cancer control, namely, the Ministère de la Santé et des Services sociaux, the Minister, the relevant branches and divisions within the Government, the institutions referred to in section 79 of the Act respecting health services and social services (R.S.Q., chapter S-4.2), the health and social services agencies established under section 339 of that Act, and the Agency.

The agreement must be approved by the Government.

7. The Agency may enter into an agreement with any person for the carrying out of its mission, subject to the terms of the agreement.

The Agency may enter with community organizations and private enterprises into agreements aimed at ensuring their active participation at all levels of decision-making and of services planning, management and evaluation.

8. Subject to the applicable legislative provisions, the Agency 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.

9. The Government may, on the Agency's recommendation, make regulations determining

(1) the content of the cancer control plan referred to in paragraph 1 of section 5, the comprehensive accreditation program referred to in paragraph 4 of section 5, the integrated cancer research plan referred to in paragraph 5 of section 5, and the national standardized cancer register referred to in paragraph 9 of section 5, and the applicable conditions and procedures;

(2) the manner in which the permanent cancer control forum referred to in paragraph 7 of section 5 is to be set up and operated;

(3) the form and nature of the collaboration referred to in paragraph 7 of section 5;

(4) the content and target audiences of the basic and continuing cancer education programs referred to in paragraph 8 of section 5; and

(5) the content and terms of the agreements under sections 6, 7 and 8, and the division of duties, powers and responsibilities among the various partners in cancer control.

CHAPTER III

ORGANIZATION AND OPERATION

10. The Agency is administered by a board of directors consisting of 13 members, namely,

(1) the president and chief executive officer of the Agency, who is a member of the board by virtue of office;

(2) 12 other members, appointed by the Government as follows:

(a) four persons from a cancer-related scientific or professional field;

- (b) two representatives of the Coalition Priorité Cancer au Québec;
- (c) a representative of an institution referred to in section 79 of the Act respecting health services and social services;
- (d) a representative of the health and social services agencies established under section 339 of the Act respecting health services and social services;
- (e) a representative of the Institut national de santé publique du Québec;
- (f) a representative of the Minister of Health and Social Services;
- (g) a representative of the Institut national d'excellence en santé et en services sociaux; and
- (h) a representative of cancer-related community organizations.

11. The Government appoints the president and chief executive officer of the Agency for a term of up to five years and the other board members for a term of up to four years.

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

12. The Government appoints the chair and the vice-chair of the board of directors from among the board members.

13. The offices of chair of the board of directors and president and chief executive officer may not be held concurrently.

14. The president and chief executive officer is responsible for the administration and direction of the Agency in keeping with its regulations, by-laws and policies. The office of president and chief executive officer is a full-time position.

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

15. The chair calls and presides at meetings of the board of directors, sees to the proper conduct of the board's proceedings and exercises any other functions assigned by the board.

The vice-chair exercises the functions of the chair when the latter is absent or unable to act.

16. A vacancy on the board of directors, other than in the position of chair or president and chief executive officer, is filled by the Government for the unexpired portion of the term of the member to be replaced.

Non-attendance at a number of board meetings determined by the Agency's by-laws constitutes a vacancy in the cases and circumstances specified in the by-laws.

17. The remuneration, employment benefits and other conditions of employment of the president and chief executive officer are determined by the Government.

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

18. 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 person presiding at the meeting has a casting vote.

19. The members of the board of directors may waive notice of a meeting. Attendance at a meeting of the board constitutes a waiver of notice, unless the members are present to contest the legality of the meeting.

20. If all agree, the board members may take part in a meeting by means of equipment enabling all participants to communicate directly with one another.

21. Written resolutions, signed by all board members entitled to vote, have the same value as if they had been adopted during a meeting of the board of directors.

A copy of all such resolutions is kept with the minutes of the proceedings or other equivalent record book.

22. The minutes of the meetings of the board of directors, approved by the board and certified by the chair, the president and chief executive officer, the secretary or another person authorized by the Agency, are authentic. The same applies to documents and copies emanating from the Agency or forming part of its records, if they are so certified.

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

24. The Agency 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 section 23.

25. The Agency may determine, by by-law, the mode of operation of the board of directors. It may form an executive committee, a scientific committee and any other committee, determine their mode of operation and delegate powers of the board to them.

26. The Agency adopts standards of ethics and professional conduct for its personnel. The standards must contain provisions that include, as a minimum, the requirements for public servants under the Public Service Act (R.S.Q., chapter F-3.1.1). The standards are published by the Agency in its operations report.

27. The members of the personnel of the Agency are appointed in accordance with the staffing plan established by by-law of the Agency.

Subject to the provisions of a collective agreement, the standards and scales of remuneration, employment benefits and other conditions of employment of the members of its personnel are determined by by-law of the Agency in accordance with the conditions defined by the Government.

28. The Minister may issue directives concerning the policies and general objectives to be pursued by the Agency.

Directives are submitted to the Government for approval. Once approved, they are binding on the Agency.

Directives are tabled in the National Assembly within 15 days of their approval by the Government or, if the Assembly is not sitting, within 15 days of resumption.

CHAPTER IV

FINANCIAL PROVISIONS

29. The Agency may not, without the Government's authorization,

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

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

(3) acquire or hold shares in a legal person or an interest in a partnership in excess of the limits or contrary to the conditions determined by the Government;

(4) dispose of shares in a legal person or an interest in a partnership in excess of the limits or contrary to the conditions determined by the Government;

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

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

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

(1) guarantee payment of the principal and interest on any loan contracted by the Agency and guarantee its obligations; and

(2) authorize the Minister of Finance to advance to the Agency any amount considered necessary to meet its obligations or pursue its mission.

31. The Agency finances its activities out of the amounts it receives and the appropriations it is granted annually for that purpose by Parliament. Any surplus amount remains with the Agency, unless the Government decides otherwise.

32. Each year, the Agency submits its budgetary estimates for the following fiscal year to the Minister, in accordance with the form and content and the schedule that the Minister determines.

The estimates are submitted to the Minister for approval.

CHAPTER V

ACCOUNTS AND REPORTS

33. The fiscal year of the Agency ends on 31 March.

34. Not later than 31 July, the Agency must file its financial statements and operations report for the preceding fiscal year with the Minister.

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

35. The Minister tables the financial statements and operations report in the National Assembly within 30 days of their receipt or, if the Assembly is not sitting, within 30 days of resumption.

36. The Auditor General audits the books and accounts of the Agency each year and whenever so ordered by the Government.

The Auditor General's report must be submitted with the Agency's financial statements and operations report.

37. The Agency must communicate to the chair of the Conseil du trésor any information the chair of the Conseil requires on the Agency's operations or those of its subsidiaries.

CHAPTER VI

AMENDING PROVISIONS

38. Schedule 2 to the Financial Administration Act (R.S.Q., chapter A-6.001) is amended by inserting "Agence québécoise du cancer" in alphabetical order.

39. Schedule I to the Act respecting the governance of state-owned enterprises (R.S.Q., chapter G-1.02) is amended by inserting "Agence québécoise du cancer" in alphabetical order.

40. 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 Agence québécoise du cancer" in alphabetical order.

41. Section 431 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended by inserting the following subparagraph after subparagraph 7 of the second paragraph:

"(7.1) see that the Act respecting the Agence québécoise du cancer (*insert the year and chapter number of this bill*) is applied;".

CHAPTER VII

TRANSITIONAL AND MISCELLANEOUS PROVISIONS

42. The documents of the Ministère de la Santé et des Services sociaux relating to cancer control and the documents of its Direction de la lutte contre le cancer become documents of the Agency to the extent and on the conditions the Government determines.

43. Subject to the conditions of employment applicable to them, the employees of the Ministère de la Santé et des Services sociaux assigned to the Direction de la lutte contre le cancer in office on (*insert the date of coming into force of this section*) become employees of the Agency, provided that a

decision of the Conseil du trésor providing for their transfer is made before *(insert the date occurring one year after the date of coming into force of this section)*.

44. The employees of the Agency who are represented by a certified association at the time of their transfer continue to be represented by that association, and the collective agreements in force at that time continue to apply.

45. Subject to the conditions of employment applicable to them, the employees referred to in section 43 hold the positions and perform the duties assigned to them by the Agency.

46. An employee of the Agency referred to in section 43 who, when appointed to the Agency, was a public servant with permanent tenure 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).

47. Section 35 of the Public Service Act applies to an employee referred to in section 46 who takes part in a competition for promotion for a position in the public service.

48. An employee referred to in section 46 who applies for a transfer 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 on the last day of employment in the public service and the experience and training acquired in the course of employment with the Agency.

If an employee is transferred under section 46, 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 46, the classification assigned to the employee must take into account the criteria set out in the first paragraph.

49. In the event of a partial or total discontinuance of the operations of the Agency or a shortage of work, an employee referred to in section 46 is entitled to be placed on reserve in the public service with the classification held on the last day of employment in the public service.

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 48.

50. A person who, in accordance with the applicable conditions of employment, refuses to be transferred to the Agency is assigned to the Agency until the chair of the Conseil du trésor is able to place the person in accordance with section 100 of the Public Service Act. The same applies to a person placed on reserve in accordance with section 49, who remains in the employ of the Agency in the meantime.

51. Subject to remedies available under a collective agreement, an employee referred to in section 43 whose employment is terminated or who is dismissed may bring an appeal under section 33 of the Public Service Act.

52. Despite sections 11 and 17, the Government appoints the Agency's first president and chief executive officer before 1 September 2010, for a term not exceeding three years.

The Government also appoints the board of directors under section 10 before 1 September 2010.

53. The Minister must enter with the Agency into an agreement under section 6 before 1 September 2010.

54. Before 1 September 2010, the Minister must table in the National Assembly a proposal for pooling the resources allocated to cancer control and breast cancer control and the related government grant and transfer payment programs.

In accordance with section 31, the Minister must also table in the National Assembly a budget for fiscal years 2010-2011 and 2011-2012. The budget must include the appropriations granted for the resources referred to in the first paragraph.

55. The Minister must table the cancer control plan referred to in paragraph 1 of section 5, including the measures set out in the cancer control program entitled *Programme québécois de lutte contre le cancer* and the related priority areas for 2007 to 2012, before 31 December 2010.

56. The transfer of a branch from one government department to another under this Act, the transfer of a minister's functions, or the exercise of a minister's functions under the direction of another minister must be ordered by the Government in accordance with section 9 of the Executive Power Act (R.S.Q., chapter E-18) before 31 December 2010. The Agency is considered to be a minister or a government department for the purposes of this section.

A minister to whom branches or functions are transferred or assigned has the same powers and performs the same duties, in relation to those branches or functions, as the minister who formerly had control of or responsibility for them or the other minister under whose direction the minister acts.

An order under the fourth paragraph of section 6 has the effect of an order under section 9 of the Executive Power Act.

57. Subject to section 59, subparagraph *g* of paragraph 2 of section 10 reads as follows:

“(g) a representative of the Agence d’évaluation des technologies et des modes d’intervention en santé;”.

The board member referred to in the first paragraph is appointed and continues in office until the board member referred to in subparagraph *g* of paragraph 2 of section 10 is appointed.

58. The Minister of Health and Social Services is responsible for the administration of this Act.

59. This Act comes into force on (*insert the date of assent to this Act*), except subparagraph *g* of paragraph 2 of section 10, which comes into force on the date set by the Government. The first paragraph of section 57 ceases to have effect on that date.

