



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 133

**An Act respecting the governance and
management of the information
resources of public bodies and
government enterprises**

Introduction

**Introduced by
Madam Michelle Courchesne
Minister responsible for Government Administration
and Chair of the Conseil du trésor**

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EXPLANATORY NOTES

This bill establishes a framework for the governance and management of information resources applicable to government departments and to most public bodies, including those in the education network and the health and social services network.

The position of chief information officer is created, and the main functions of that position are defined. The chief information officer will be responsible for implementing the policies and directives made under this bill, overseeing their application and coordinating their execution. The chief information officer will also be responsible, among other things, for advising the Conseil du trésor on information resources and for providing public bodies with the tools and assistance they need to efficiently manage their information resources.

The designation of network and sectoral information officers is provided for and their functions are defined.

The management tools public bodies must establish for the governance and management of their information resources are identified. Hence, in accordance with the terms and particulars defined by the Conseil du trésor, public bodies must:

(1) establish a three-year plan of resource information projects and activities;

(2) establish a spending program detailing the use of the moneys that will be spent on such projects and activities during the fiscal year;

(3) engage in project follow-up, in the cases determined by the Conseil du trésor;

(4) draw up a review of each project or project phase authorized under the bill; and

(5) draw up an annual review of achievements and benefits.

Public bodies must have their annual spending programs approved, and their information resource projects authorized by, depending on the case, the Government, the Conseil du trésor, the Minister of Education, Recreation and Sports, the Minister of Health

and Social Services, the public body's board of directors or, if no board exists, the public body's most senior officer.

Government enterprises must adopt a policy that, among other things, reflects the objectives of this Act.

The Conseil du trésor is granted various powers and responsibilities, such as the power to issue directives and the responsibility of developing policies on information resource governance and management in the public bodies and proposing them to the Government.

The Conseil du trésor may also, on the recommendation of the chief information officer and under the conditions it determines, confer upon another public body, including the Centre de services partagés du Québec, the responsibility of carrying out all or part of a public body's information resource project.

Lastly, transitional and consequential provisions are introduced, in particular with regard to the first sectoral information officers appointed, information resource projects already in progress and the policies of certain bodies with regard to the security and management of information resources.

LEGISLATION AMENDED BY THIS BILL:

- Public Administration Act (R.S.Q., chapter A-6.01);
- Act respecting the National Assembly (R.S.Q., chapter A-23.1);
- Act respecting parental insurance (R.S.Q., chapter A-29.011);
- Act respecting the Commission administrative des régimes de retraite et d'assurances (R.S.Q., chapter C-32.1.2);
- Act respecting the Ministère des Services gouvernementaux (R.S.Q., chapter M-26.1);
- Act respecting occupational health and safety (R.S.Q., chapter S-2.1);
- Act respecting the Société de l'assurance automobile du Québec (R.S.Q., chapter S-11.011);

– Act respecting the Agence du revenu du Québec (*insert the year and chapter number of that Act*).

Bill 133

AN ACT RESPECTING THE GOVERNANCE AND MANAGEMENT OF THE INFORMATION RESOURCES OF PUBLIC BODIES AND GOVERNMENT ENTERPRISES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

OBJECT AND SCOPE

1. The object of this Act is to set out rules for the governance and management of information resources in public bodies and government enterprises with a view to

(1) implementing an integrated and coordinated system of governance aimed at providing quality services to individuals and enterprises;

(2) optimizing operations by sharing and pooling know-how, information, infrastructures and resources; and

(3) ensuring rigor and transparency in the management of moneys spent on information resources.

2. For the purposes of this Act, the following are public bodies:

(1) government departments;

(2) the budget-funded bodies listed in Schedule 1 to the Financial Administration Act (R.S.Q., chapter A-6.001), and the Sûreté du Québec;

(3) the bodies other than budget-funded bodies listed in Schedule 2 to that Act, the Caisse de dépôt et placement du Québec, the Commission administrative des régimes de retraite et d'assurances, the Commission de la santé et de la sécurité du travail, the Conseil de gestion de l'assurance parentale in the performance of its fiduciary functions, the Régie des rentes du Québec and the Société de l'assurance automobile du Québec in the performance of its fiduciary functions;

(4) school boards, the Comité de gestion de la taxe scolaire de l'île de Montréal, general and vocational colleges, and the university institutions listed in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (R.S.Q., chapter E-14.1);

(5) health and social services agencies and public institutions governed by the Act respecting health services and social services (R.S.Q., chapter S-4.2), legal persons and joint procurement groups referred to in section 383 of that Act, the Cree Board of Health and Social Services of James Bay established under the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5), and the health communication centres governed by the Act respecting pre-hospital emergency services (R.S.Q., chapter S-6.2); and

(6) other bodies designated by the Government.

Persons designated or appointed by the Government or a minister and listed in Schedules 1 and 2 to the Financial Administration Act, together with the personnel directed by them, are considered to be budget-funded bodies and bodies other than budget-funded bodies, respectively, in the exercise of the functions assigned to them by law or by the Government or the Minister.

3. The National Assembly, a person appointed or designated by the National Assembly to an office under its jurisdiction together with the personnel directed by that person, and the Commission de la représentation, are not subject to this Act except to the extent provided for by law.

4. For the purposes of this Act, “government enterprises” means the bodies listed in Schedule 3 to the Financial Administration Act.

5. The Government may, on the recommendation of the Conseil du trésor, exempt a public body or category of public bodies referred to in section 2 or a government enterprise referred to in section 4 from all or part of this Act.

CHAPTER II

INFORMATION OFFICERS

DIVISION I

CHIEF INFORMATION OFFICER

6. In accordance with the Public Service Act (R.S.Q., chapter F-3.1.1), the Government appoints a chief information officer to an office within the secretariat of the Conseil du trésor.

7. The functions of the chief information officer include

(1) implementing the policies and directives made under this Act, overseeing their application and coordinating their execution;

(2) advising the Conseil du trésor on all aspects of information resources, in particular with regard to strategies, policies, budgets, management frameworks, standards, systems and acquisitions, and making recommendations on those matters;

(3) consolidating the three-year plan and the reviews filed by public bodies;

(4) coordinating the implementation of information resource initiatives, particularly those aimed at organizational transformation and, more specifically, e-government information resource initiatives centred on the needs of individuals, enterprises and public bodies;

(5) rethinking and modernizing the architecture of the enterprise of government, in particular with regard to information security, information assets and information management;

(6) defining information security rules, including authentication rules, which may be complemented by specific rules adopted under this Act;

(7) communicating information best practices to public bodies and government enterprises, and informing the Conseil du trésor of the results observed and the benefits obtained;

(8) publishing guides, proposing practices and offering services to support public bodies and government enterprises with respect to their information resources; and

(9) exercising any other function assigned by the chair of the Conseil du trésor or by the Government.

DIVISION II

NETWORK INFORMATION OFFICERS

8. The Minister of Education, Recreation and Sports, after consultation with the chief information officer, designates a network information officer for the public bodies referred to in subparagraph 4 of the first paragraph of section 2.

9. The Minister of Health and Social Services, after consultation with the chief information officer, designates a network information officer for the public bodies referred to in subparagraph 5 of the first paragraph of section 2.

10. The functions of the network information officers include

(1) ensuring that the public bodies in their sector apply the governance and management rules established under this Act;

(2) coordinating and promoting the organizational transformation of those bodies;

(3) reporting to the chief information officer on the progress and results of projects and other activities carried out by those bodies with respect to information resources;

(4) consolidating the three-year plan and the reviews filed by those bodies;

(5) participating in the consultative bodies established under this Act;

(6) advising the minister responsible for their sector on information resources; and

(7) exercising any other function required under this Act.

The network information officer designated under section 9 is also responsible, in keeping with the rules defined under paragraph 6 of section 7, for defining specific information security rules covering, among other things, the protection of personal and other confidential information which, after being approved by the Conseil du trésor, are applicable to the entire network for which the officer is responsible, as well as to public bodies in the health and social services sector in the cases set out in an Act administered by the Minister of Health and Social Services. The officer also exercises any other function required under such an Act.

DIVISION III

SECTORAL INFORMATION OFFICERS

11. The Deputy Minister or the chief executive officer of a public body referred to in subparagraphs 1 to 3 or 6 of the first paragraph of section 2 or, if applicable, in section 3, designates a sectoral information officer after consultation with the chief information officer.

12. The functions of sectoral information officers include

(1) ensuring that the public body to which they are attached applies the governance and management rules established under this Act;

(2) assisting in the organizational transformation of that body;

(3) seeing to the activities of that body that relate to information resources, in particular with regard to the development, maintenance and updating of applications and to the use of computers;

(4) reporting to the chief information officer on the progress and results of projects and other activities carried out by that body with respect to information resources;

(5) ensuring the longevity of the information assets of that body;

- (6) participating in the consultative bodies established under this Act;
- (7) advising their deputy minister or the chief executive officer of the public body to which they are attached on information resources; and
- (8) exercising any other function required under this Act.

CHAPTER III

PUBLIC-BODY GOVERNANCE AND MANAGEMENT

DIVISION I

PLANNING, PROGRAMMING, FOLLOW-UP AND REVIEW

13. For the purposes of information resource governance and management, a public body must

- (1) establish a three-year plan of projects and activities;
- (2) establish a spending program detailing the use of the moneys that will be spent on such projects and activities during the fiscal year;
- (3) engage in project follow-up, in the cases determined by the Conseil du trésor;
- (4) draw up a review of each project or project phase authorized under Division II; and
- (5) draw up an annual review of achievements and benefits.

The Conseil du trésor may determine the terms and particulars of the management tools referred to in the first paragraph, including the information they must contain, the form they must take, the timeframe for their filing and, if applicable, the intervals when they must be revised.

The public body must forward the documents prepared under this section to its sectoral or network information officer who, if applicable, makes a summary of the information, gives an advisory opinion on it and makes recommendations to the relevant authority identified in section 14.

DIVISION II

APPROVAL AND AUTHORIZATION

14. The annual spending program established under subparagraph 2 of the first paragraph of section 13 must be approved

- (1) by the Conseil du trésor in the case of a public body referred to in subparagraph 1 or 2 of the first paragraph of section 2, or in section 3;

(2) by the board of directors of the public body or, if no board exists, by the most senior officer of the body, in the case of a public body referred to in subparagraph 3 or 6 of the first paragraph of section 2;

(3) by the Minister of Education, Recreation and Sports or the Minister of Health and Social Services, in the case of a public body referred to in subparagraph 4 or 5 respectively of the first paragraph of section 2. However, these ministers may, in the cases and under the terms they determine, delegate their power to grant such approval to the board of directors of the public body concerned or, if no board exists, to the most senior officer of the public body.

15. All information resource projects of a public body must, in accordance with the criteria determined by the Conseil du trésor, be authorized by the same authority that approves its annual spending program under section 14.

However, an information resource project considered by the Conseil du trésor to be of government-wide interest must be authorized by the Government. The Conseil du trésor must inform the public body in advance of its reasons for considering the project to be of government-wide interest.

For the purposes of this Act, “information resource project” means all the actions taken to develop, upgrade, acquire, update and maintain information resources, whether applications or physical assets.

The Conseil du trésor may determine the terms and particulars of the authorization applications, including the information they must contain, the form they must take and the timeframe for their filing.

The public body must forward a copy of the application to its network or sectoral information officer, who gives an advisory opinion on it and makes recommendations to the authority referred to in the first paragraph or, if applicable, to the Government.

An authorization may be subject to conditions and apply to a single phase of a project.

16. An information officer referred to in the third paragraph of section 13 or the fifth paragraph of section 15 must, in all cases, forward to the chief information officer a copy of the summaries, advisory opinions and recommendations sent to the relevant authority identified in section 14.

The sectoral or network information officer must also forward to the chief information officer, when so requested by that officer, a copy of the information and documents received from the public body under sections 13 and 15.

CHAPTER IV

GOVERNMENT-ENTERPRISE GOVERNANCE AND MANAGEMENT

17. Government enterprises must adopt, within the time set by the Conseil du trésor, an information resource governance and management policy that reflects the objectives of this Act and provides, among other things, for the implementation of management tools and approval and authorization mechanisms similar to those provided for in Chapter III.

Those enterprises must make their policy public within 30 days after adopting it.

CHAPTER V

RESPONSIBILITIES OF THE CONSEIL DU TRÉSOR

18. The Conseil du trésor is responsible for developing policies on information resource governance and management and proposing them to the Government.

19. In addition to exercising the powers conferred upon it by this Act, the Conseil du trésor may prepare an information resource governance and management directive applicable to public bodies or to a category of public bodies.

Without limiting the generality of the foregoing, the directive may

(1) adopt rules to ensure the security of information resources, which includes the protection of personal and other confidential information;

(2) adopt measures to ensure coherence in government actions and to allow the pooling of infrastructures or services, and determine management procedures; and

(3) establish consultative bodies involving, among others, the information officers.

A directive requires the approval of the Government and is applicable from the date set in the directive. Once approved, a directive is binding on the public bodies concerned.

20. The Conseil du trésor may determine information resource standards for public bodies or for a category of public bodies.

It may also determine guidelines for public bodies on the principles or practices to be preferred in managing information resources.

In addition, it may approve the specific rules defined under the second paragraph of section 10.

21. Despite any provision to the contrary in another Act, the Conseil du trésor may, on the recommendation of the chief information officer and under the conditions it determines, confer on the Centre de services partagés du Québec or on another public body the Conseil du trésor designates, the responsibility of carrying out all or part of a public body’s information resource project.

The decision of the Conseil du trésor must provide for, among other things, the remuneration of the designated public body.

The designated public body may require that the public body affected by the decision provide it with the documents and information concerning the project.

CHAPTER VI

AMENDING PROVISIONS

PUBLIC ADMINISTRATION ACT

22. Section 24 of the Public Administration Act (R.S.Q., chapter A-6.01) is amended by inserting the following subparagraph after subparagraph 1 of the second paragraph:

“(1.1) an annual review of its achievements with respect to information resources, and of the benefits obtained;”.

23. Chapter VI of the Act, comprising sections 64 to 66, is repealed.

24. Section 72 of the Act is amended by replacing “, physical and information” in the first paragraph by “or physical”.

25. Section 74 of the Act is amended by replacing “, physical or information” in the first paragraph by “or physical”.

ACT RESPECTING THE NATIONAL ASSEMBLY

26. Section 110.2 of the Act respecting the National Assembly (R.S.Q., chapter A-23.1) is amended by replacing “Chapter VI and section 73 of the Public Administration Act (chapter A-6.01)” by “section 73 of the Public Administration Act (chapter A-6.01) and the Act respecting the governance and management of the information resources of public bodies and government enterprises (*insert the year and chapter number of this Act*)”.

ACT RESPECTING PARENTAL INSURANCE

27. Section 115.14 of the Act respecting parental insurance (R.S.Q., chapter A-29.011) is amended by replacing “, section 78 insofar as it relates

to human resources and Chapter VI” by “and section 78 insofar as it relates to human resources”.

ACT RESPECTING THE COMMISSION ADMINISTRATIVE DES RÉGIMES DE RETRAITE ET D'ASSURANCES

28. Section 7 of the Act respecting the Commission administrative des régimes de retraite et d'assurances (R.S.Q., chapter C-32.1.2) is repealed.

29. Section 10 of the Act is amended by replacing “, the second paragraph of section 32 and Chapter VI” by “and the second paragraph of section 32”.

ACT RESPECTING THE MINISTÈRE DES SERVICES GOUVERNEMENTAUX

30. Section 3 of the Act respecting the Ministère des Services gouvernementaux (R.S.Q., chapter M-26.1) is amended by replacing the second paragraph by the following paragraph:

“The Minister is to coordinate the implementation of the government policies and guidelines made under this Act, and ensure follow-up.”

31. Section 5 of the Act is repealed.

32. Section 6 of the Act is amended by replacing “, physical and information” in paragraph 2 by “and physical”.

ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

33. Section 167.1 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) is repealed.

34. Section 176.0.1 of the Act is amended by inserting “in the case of services other than those relating to information resources” after “(chapter C-8.1.1)”.

ACT RESPECTING THE SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC

35. Section 23.0.15 of the Act respecting the Société de l'assurance automobile du Québec (R.S.Q., chapter S-11.011) is replaced by the following section:

“**23.0.15.** The Société, in the exercise of its functions as trustee, must adopt a contracting policy and make it public not later than 30 days after its adoption. The policy must be consistent with applicable intergovernmental public procurement liberalization agreements and reflect the principles set out in sections 2 and 14 of the Act respecting contracting by public bodies (chapter C-65.1).”

ACT RESPECTING THE AGENCE DU REVENU DU QUÉBEC

36. Section 26 of the Act respecting the Agence du revenu du Québec (*insert the year and chapter number of that Act*) is amended by striking out “and an information resource management and security policy” in subparagraph 11 of the second paragraph.

37. Section 38 of the Act is amended by replacing “chief” by “sectoral”.

CHAPTER VII

TRANSITIONAL AND FINAL PROVISIONS

38. A person who is exercising the functions of chief information officer on (*insert the date preceding the date of coming into force of this section*) continues to exercise those functions until appointed or replaced under this Act.

39. Despite section 11, a person who, on (*insert the date preceding the date of coming into force of this section*), is a person in authority in a public body referred to in that section and whose functions are mainly related to information resources is designated, without further formality, the first sectoral information officer of that body.

40. The obligation of a public body to establish and obtain approval for its information resource spending program for a fiscal year applies to fiscal years beginning more than 90 days after (*insert the date of coming into force of this section*).

41. The obligation of a public body to obtain authorization for an information resource project that satisfies the criteria determined by the Conseil du trésor does not apply to projects in progress on (*insert the date of coming into force of this section*).

42. Any decision about information resources made by the Conseil du trésor under section 66 or 74 of the Public Administration Act (R.S.Q., chapter A-6.01) continues to apply to the extent that it is not inconsistent with this Act or with a directive or policy drawn up under this Act, until the decision is replaced by a decision on the same subject made under this Act.

43. A policy on the security and management of information resources that is in force in a public body on (*insert the date of coming into force of this section*) continues to apply to the extent that it is not inconsistent with this Act or with a directive or policy drawn up under this Act.

44. Not later than (*insert the date that is five years after the coming into force of this section*), and subsequently every five years, the chair of the Conseil du trésor must report to the Government on the carrying out of this Act and the advisability of maintaining it in force or amending it.

The report must be tabled in the National Assembly within 30 days or, if the Assembly is not sitting, within 30 days of resumption.

45. The chair of the Conseil du trésor is responsible for the administration of this Act.

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

