



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 23

**An Act to amend various pension plans
in the public sector**

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 amends the Act respecting the Government and Public Employees Retirement Plan in order to provide for a new contribution formula applicable to pensionable salary if the salary exceeds 35% of the maximum pensionable earnings within the meaning of the Act respecting the Québec Pension Plan. The Act respecting the Government and Public Employees Retirement Plan is also amended to provide for the Government's payment of an annual amount to the employees' contribution fund at the Caisse de dépôt et placement du Québec to cover the contributions certain members would have paid into the fund had they not benefited from a reduction of their contributions under the new contribution formula.

The Act respecting the Government and Public Employees Retirement Plan and the Act respecting the Pension Plan of Management Personnel are amended to allow the Government to prescribe by regulation the rules, terms and conditions for establishing the rate of contribution applicable each year to the plans concerned. The rate is to be based on the result of the actuarial valuation of each of the plans.

The Act respecting the Government and Public Employees Retirement Plan is also amended to provide for the indexation of the part of the pension attributable to service credited through employee contributions between 30 June 1982 and 1 January 2000 by one half of the rate of increase of the Pension Index within the meaning of the Act respecting the Québec Pension Plan instead of by the excess of that rate over 3%, if certain conditions are met. The Government is empowered to index the part of the pension attributable to that service credited through government contributions. In addition, procedures for the transfer of funds are provided in order to maintain the current sharing of the cost of the plan should the Government decide not to index it.

The Acts establishing certain pension plans in the public sector are amended to allow members to accrue years of service over and above the 35 years now used in computing the pension, up to a maximum of 38.

Lastly, various technical, consequential and transitional amendments are introduced.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11);
- Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12);
- Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1).

Bill 23

AN ACT TO AMEND VARIOUS PENSION PLANS IN THE PUBLIC SECTOR

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

1. Section 17.2 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by replacing “section 115.1” in the first paragraph by “sections 115.1, 115.10.1 and 115.10.4”.

2. Section 29 of the Act is amended

(1) by replacing everything after “an amount” in the first paragraph by “established in accordance with the formula provided in Schedule II.1.1 if the pensionable salary exceeds 35% of the maximum pensionable earnings within the meaning of the Act respecting the Québec Pension Plan (chapter R-9).”;

(2) by replacing “the exemption of 35% is multiplied, for the purposes of the amount withheld,” wherever it appears in the second paragraph by “the amount of the maximum pensionable earnings is multiplied, for the purposes of the first paragraph,”.

3. Section 73.1 of the Act is amended

(1) by inserting “before (*insert the date of assent to this Act*)” after “under this plan” in paragraph 1;

(2) by replacing “have been recognized” in paragraphs 2 and 3 by “was recognized before (*insert the date of assent to this Act*)” and by replacing “has been designated” and “has been taken” in paragraph 3 by “was designated” and “was taken” respectively.

4. The Act is amended by inserting the following sections after section 77:

“77.0.1. The part of the pension attributable to service subsequent to 30 June 1982 but prior to 1 January 2000, paid out of the employees’ contribution fund, is indexed on 1 January following the receipt by the Minister of the report of the independent actuary or of the actuarial valuation update referred to in the first paragraph of section 174 by one half of the rate of increase of the

Pension Index determined in the Act respecting the Québec Pension Plan (chapter R-9) instead of being indexed in accordance with section 77 if

(1) the rate thus obtained is more advantageous;

(2) the actuarial valuation, the validity of whose assumptions has been confirmed by an independent actuary, or the actuarial valuation update shows a surplus that exceeds 20% of the actuarial value of the benefits payable out of the employees' contribution fund; and

(3) the part of the surplus that exceeds that 20% allows the financing of the additional cost of the indexation.

For the purposes of the first paragraph,

(1) "surplus" means any amount by which the actuarial value of the members' fund, within the meaning of the actuarial valuation, exceeds the actuarial value of the benefits accrued on the date of the valuation and payable out of the fund, as determined by that actuarial valuation or the update, as the case may be;

(2) "additional cost" means the value, established on 31 December of the year preceding the year during which the indexation applies, which corresponds to the difference between the actuarial value of the part of the pension referred to in the first paragraph that would be payable if it were indexed in accordance with the first paragraph and its actuarial value if it were indexed in accordance with subparagraph 2 of the first paragraph of section 77.

"77.0.2. If the indexation provided for in the first paragraph of section 77.0.1 applies, the Government may, not later than 1 July of the year during which the indexation applies, decide to index in accordance with that section the part of the pension referred to in that paragraph but payable out of the employers' contributory fund at the Caisse de dépôt et placement du Québec or, if that fund is exhausted, first out of the funds capitalized in accordance with section 32 and after that, out of the consolidated revenue fund."

5. Section 85.2 of the Act is amended by adding " , as well as sections 77.0.1 and 77.0.2, where applicable" at the end of the first paragraph.

6. Section 85.35 of the Act is replaced by the following section:

"85.35. This division applies to an employee in respect of a pension credit the employee obtained under this division after filing an application for the redemption of prior service received by the Commission before 1 July 2011."

7. Section 100.1 of the Act is replaced by the following section:

“100.1. This division applies to an employee in respect of a pension credit the employee obtained under this division as a result of the application of paragraph 1 of section 2 before (*insert the date of assent to this Act*), following a poll held before that date or following the filing of an application for the redemption of prior service received by the Commission before 1 July 2011.”

8. Section 115.10.1 of the Act is amended by replacing the first paragraph by the following paragraph:

“115.10.1. An employee who has held employment in a research centre within the meaning of section 6.2 is entitled to be credited, for pension purposes, with the years and parts of a year of service accumulated in that employment after 3 September 1991, at which time the research centre was subject to one of the sections to which the second paragraph of section 6.2 refers, if, on the date of the application for redemption, the employment is deemed to be pensionable employment or would be if the employee held the employment. For the purposes of this paragraph, any period in which the employee is entitled to salary insurance benefits or in which an employee avails herself of a maternity leave under the provisions concerning parental leave that form part of her conditions of employment is deemed to be a period of service.”

9. Section 115.10.4 of the Act, enacted by section 14 of chapter 29 of the statutes of 2010, is amended

(1) by replacing “after 30 June 2011 under section 220” in the first paragraph by “by an order made under section 220 after 30 June 2011”;

(2) by adding the following sentence at the end of the first paragraph: “For the purposes of this paragraph, any period in which the employee is entitled to salary insurance benefits or in which an employee avails herself of a maternity leave under the provisions concerning parental leave that form part of her conditions of employment is deemed to be a period of service.”

10. The Act is amended by inserting the following section after section 128:

“128.0.1. The Commission must, on or before 30 September of each year, establish the amount the Government must pay as compensation to the employees’ contribution fund at the Caisse de dépôt et placement du Québec in respect of the employees whose pensionable salary is lower than the maximum pensionable earnings within the meaning of the Act respecting the Québec Pension Plan (chapter R-9), such maximum being multiplied in accordance with the second paragraph of section 29.

The amount of the compensation is established in the manner prescribed by regulation. Its purpose is to compensate the difference between the amounts withheld as contributions by the employers and insurers, taking into account the application of section 29.3, and the amounts that would have been withheld

if the contribution formula described in the first paragraph of section 29, as it read on 31 December 2010, had been maintained.

The Commission must, within three months following the establishment of the amount of compensation, transfer that amount from the employers' contributory fund at the Caisse de dépôt et placement du Québec to the employees' contribution fund at the Caisse. If the employers' contributory fund is exhausted, the sums required for the transfer are taken first out of the funds capitalized in accordance with section 32 and after that, out of the consolidated revenue fund."

11. The Act is amended by inserting the following section after section 128.2:

"128.3. If the indexation provided for in the first paragraph of section 77.0.1 applies and if the Government has not availed itself of section 77.0.2, the Commission must, before 1 October of the year during which the indexation applies, transfer from the employees' contribution fund at the Caisse de dépôt et placement du Québec to the employers' contributory fund at the Caisse an amount equal to one half of the additional cost resulting from the indexation. The Commission establishes the cost at 31 December of the year preceding the year during which the indexation applies on the basis of the actuarial method and assumptions of the actuarial valuation."

12. Section 134 of the Act is amended

(1) by inserting the following subparagraph after subparagraph 15 of the first paragraph:

"(15.0.1) prescribe, for the purposes of section 128.0.1, the manner of establishing the amount of the compensation the Government must pay;";

(2) by replacing subparagraph 18 of the first paragraph by the following subparagraph:

"(18) establish, for the purposes of section 177, the rate of contribution applicable to the Government and Public Employees Retirement Plan each year, according to the rules, terms and conditions prescribed by the regulation and prescribe the factor used each year for the contribution formula;";

13. Section 174 of the Act is amended

(1) by replacing "send the report to the Minister within 90 days of its receipt" in the third paragraph by " , within 90 days of receiving the report, send the actuarial valuation and the report to the Minister";

(2) by adding the following paragraph at the end:

“In addition, the pension committee shall require the Commission to cause to be prepared by actuaries designated by the Commission an annual update of the actuarial valuation. The pension committee shall send the update to the Minister within 90 days of its receipt.”

14. Section 177 of the Act is amended by replacing the first paragraph by the following paragraph:

“177. The rate of contribution applicable to the Government and Public Employees Retirement Plan each year is determined according to the rules, terms and conditions prescribed by regulation. The rate is based on the result of the actuarial valuation referred to in the first paragraph of section 174 and is adjusted from 1 January following the receipt by the Minister of the report of the independent actuary and, for the two subsequent years, from 1 January of each year. The regulation may also prescribe a factor based on the actuarial valuation and adjusted in the same manner. The factor is to be used for the contribution formula described in section 29 so that the contributions withheld during the year by employers or insurers with respect to a pensionable salary which does not exceed the maximum pensionable earnings of the year will be comparable to the contributions that would have been withheld if the contribution formula described in that section, as it read on 31 December 2010, had been maintained.”

15. Section 192 of the Act is amended

(1) by replacing “and every person” in the first paragraph by “, every person”;

(2) by replacing “or by a body or class of bodies designated by the Government” in the first paragraph by “and every employee of a body designated by the Government or that is part of a class of bodies so designated”.

16. Section 194 of the Act is amended by replacing the second paragraph by the following paragraph:

“However, in the case of the retirement plan provided for by this Act, the Pension Plan of Management Personnel and the Pension Plan of Peace Officers in Correctional Services, the exemption computed on the basis of the maximum pensionable earnings within the meaning of the Act respecting the Québec Pension Plan (chapter R-9) in order to establish the annual amount to be withheld for the plan concerned is established proportionately to the ratio between the undeferred salary of the person, excluding any lump sum paid as an increase or adjustment of salary, and the salary the person would otherwise have received.”

17. Section 211 of the Act is amended by replacing the second paragraph by the following paragraph:

“However, in the case of the retirement plan provided for by this Act and the Pension Plan of Management Personnel, the exemption computed on the basis of the maximum pensionable earnings within the meaning of the Act respecting the Québec Pension Plan (chapter R-9) in order to establish the annual amount to be withheld for the plan concerned is established proportionately to the ratio between the salary paid to the person, excluding any lump sum paid as an increase or adjustment of salary, and the salary the person would otherwise have received.”

18. Section 220 of the Act is amended by inserting “II.1.1,” after “II.1,”.

19. The Act is amended by inserting the following schedule after Schedule II.1:

“SCHEDULE II.1.1

“(Section 29)

“AMOUNT WITHHELD ANNUALLY

“1. The amount employers must withhold each year under the first paragraph of section 29 is equal to the amount “A” obtained using the following formula:

$$RC \times [PS - ((E \times MPE) \times S)] - R = A$$

where

“RC” is the rate of contribution for the year established under section 177;

“PS” is the pensionable salary;

“E” is the percentage of exemption which is 33% for 2012, 31% for 2013, 29% for 2014, 27% for 2015 and 25% as of 2016;

“MPE” is the maximum pensionable earnings within the meaning of the Act respecting the Québec Pension Plan (chapter R-9) for the year;

“S” is the credited or harmonized service referred to in the second paragraph of section 29;

“R” is the reduction that corresponds to the higher of 0 and the result obtained using the following formula:

$$F \times ((MPE \times S) - PS) = R$$

where

“F” is the factor for the year established under section 177.”

ACT RESPECTING THE TEACHERS PENSION PLAN

20. Section 15.1 of the Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11) is amended by adding the following sentence at the end of the first paragraph: “In the case of a year of service over and above 35 years of service that is used to compute the pension, the salary required to arrive at the defined benefit limit is established as if that year were counted for the purposes of section 38.”

21. Section 16 of the Act is amended by replacing “35” in the last sentence of the first paragraph by “38”.

22. Section 20 of the Act is amended by replacing “35” in the last sentence by “38”.

23. Section 28.2 of the Act is amended by replacing “35” in the first sentence by “38”.

24. Section 28.5 of the Act is amended by replacing “35” in the first sentence by “38”.

25. Section 29 of the Act is amended by replacing “35” in the second paragraph by “38”.

26. Section 33.2 of the Act is amended by replacing “35” in the second paragraph by “38”.

27. Section 63 of the Act is amended by replacing “35 years” in the second paragraph by “the number of years of service that are used to compute the pension”.

ACT RESPECTING THE CIVIL SERVICE SUPERANNUATION PLAN

28. Section 58 of the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12) is amended by replacing “35” in the last sentence of the first paragraph by “38”.

29. Section 60.1 of the Act is amended by replacing “35” in the last sentence by “38”.

30. Section 62.1 of the Act is amended by adding the following sentence at the end of the first paragraph: “In the case of a year of service over and above 35 years of service that is used to compute the pension, the salary required to arrive at the defined benefit limit is established as if that year were counted for the purposes of section 63.3.”

31. Section 62.4 of the Act is amended by replacing “35” in the second paragraph by “38”.

32. Section 64 of the Act is amended by replacing “35 years” in the second paragraph by “the number of years of service that may be used to compute the pension”.

33. Section 69 of the Act is amended by replacing “35” in the second paragraph by “38”.

34. Section 99.6 of the Act is amended by replacing “35” in the first sentence by “38”.

35. Section 99.9 of the Act is amended by replacing “35” in the first sentence by “38”.

ACT RESPECTING THE PENSION PLAN OF MANAGEMENT PERSONNEL

36. Section 28.1 of the Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1) is amended by replacing “section 146” in the first paragraph by “section 146, 152.1 or 152.4”.

37. Section 104 of the Act is amended

(1) by inserting “before (*insert the date of assent to this Act*)” after “under this plan” in paragraph 1;

(2) by inserting “before (*insert the date of assent to this Act*)” after “recognized” in paragraphs 2 and 3.

38. Section 152.1 of the Act is amended by replacing the first paragraph by the following paragraph:

“152.1. An employee who has held employment in a research centre within the meaning of section 22.2 is entitled to be credited, for pension purposes, with the years and parts of a year of service accumulated in that employment after 3 September 1991, at which time the research centre was subject to one of the sections to which the second paragraph of section 22.2 refers, if, on the date of the application for redemption, the employment is deemed to be pensionable employment or would be if the employee held the employment. For the purposes of this paragraph, any period in which the employee is entitled to salary insurance benefits or in which an employee avails herself of a maternity leave under the provisions concerning parental leave that form part of her conditions of employment is deemed to be a period of service.”

39. Section 152.4 of the Act, enacted by section 25 of chapter 29 of the statutes of 2010, is amended

(1) by replacing “after 30 June 2011 under section 207” in the first paragraph by “by an order made under section 207 after 30 June 2011”;

(2) by adding the following sentence at the end of the first paragraph: “For the purposes of this paragraph, any period in which the employee is entitled to salary insurance benefits or in which an employee avails herself of a maternity leave under the provisions concerning parental leave that form part of her conditions of employment is deemed to be a period of service.”

40. Section 174 of the Act is replaced by the following section:

“174. The rate of contribution applicable to the plan each year is determined according to the rules, terms and conditions prescribed by regulation. The rate is based on the result of the actuarial valuation referred to in the first paragraph of section 171 and is adjusted from 1 January following the receipt by the Minister of the report of the independent actuary and, for the two subsequent years, from 1 January of each year.”

41. Section 196 of the Act is amended by replacing subparagraph 18 of the first paragraph by the following subparagraph:

“(18) establish, for the purposes of section 174, the rate of contribution applicable to the plan each year, according to the rules, terms and conditions prescribed by the regulation;”.

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

42. For the purposes of the provisions amended by sections 20 to 35, the years of service credited over and above 35 years of service that are used to compute the pension must be subsequent to 2010.

However, those provisions apply for service credited in 2011 if the employee or pensioner files an application with his or her employer and pays the contributions related to that service before 1 March 2012. Those provisions also apply for service credited in 2011 to

(1) employees exempt from contributions; and

(2) any employee covered by a salary insurance plan that provides that the insurer pay into the plan the contributions the employee would have paid if the employee or pensioner, as the case may be, files an application with his or her insurer and pays the contributions related to that service to the insurer before 1 March 2012.

43. Every employee who, before 1 January 1988, held casual employment defined by a regulation made under section 115.1 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) and contributed for service related to that employment is deemed to have

contributed in accordance with the provisions of that plan for service that may be redeemed under that section.

44. Sections 1 and 36, to the extent that they concern sections 115.10.1 and 152.1, respectively, and sections 8 and 38 have effect from 22 September 2010.

45. Sections 20 to 35 have effect from 1 January 2011.

46. Sections 1 and 36, to the extent that they concern sections 115.10.4 and 152.4, respectively, and sections 9 and 39 have effect from 1 July 2011.

47. This Act comes into force on (*insert the date of assent to this Act*), except sections 2, 10, 12, 14, 16 to 19, 40 and 41, which come into force on 1 January 2012.

