



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 133
(2011, chapter 19)

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

**Introduced 8 December 2010
Passed in principle 3 May 2011
Passed 9 June 2011
Assented to 13 June 2011**

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EXPLANATORY NOTES

This Act 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 Act, 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 Act; 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 ACT:

- 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);
- Election Act (R.S.Q., chapter E-3.3);
- Act respecting the Ministère des Services gouvernementaux (R.S.Q., chapter M-26.1);
- Public Protector Act (R.S.Q., chapter P-32);
- 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);
- Auditor General Act (R.S.Q., chapter V-5.01).

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 based on the provision of quality services to individuals and enterprises and the preservation of the Government's digital heritage;

(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), except those referred to in subparagraph 5, and the Sûreté du Québec;

(3) the bodies other than budget-funded bodies listed in Schedule 2 to that Act, except those referred to in subparagraph 5 and the Agence du revenu du Québec, as well as 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), health communication centres within the meaning of the Act respecting pre-hospital emergency services (R.S.Q., chapter S-6.2), the Health and Welfare Commissioner, the Corporation d'urgences-santé, Héma-Québec, the Institut national d'excellence en santé et en services sociaux, the Institut national de santé publique du Québec and the Office des personnes handicapées du Québec; 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, the Agence du revenu du Québec and the Caisse de dépôt et placement du Québec.

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 to human resources in relation to those information resources, and making recommendations on those matters;

(3) consolidating the three-year plans and compiling all the pertinent information contained in 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 government enterprise architecture, 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) taking the necessary measures to ensure that public bodies consider open-source software on the same footing as any other software;

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

(10) 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 plans and compiling all the pertinent information contained in 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;
- (7) defining, as necessary and in accordance with the rules set out in this Act, specific information management rules, including information security rules, which after being approved by the Conseil du trésor will apply to all or some of the public bodies in their sector;
- (8) taking the necessary measures to ensure that those bodies consider open-source software on the same footing as any other software; and
- (9) exercising any other function required under this Act.

The specific rules defined under subparagraph 7 of the first paragraph by the network information officer designated under section 9 may, in the cases provided for in an Act administered by the Minister of Health and Social Services, also apply to bodies and persons in the health and social services network. That network information officer also exercises any functions 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 any of 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.

Despite the first paragraph, a particular public body may, after consultation with the chief information officer, enter into an agreement with the Minister responsible or with another public body under that Minister's jurisdiction,

specifying that the sectoral information officer for the department or other public body may also act as sectoral information officer for that particular public body.

12. The functions of sectoral information officers include

(1) ensuring that each 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) taking the necessary measures to ensure that each public body to which they are attached considers open-source software on the same footing as any other software;

(5) 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;

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

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

(8) advising the deputy minister or the chief executive officer of each public body to which they are attached on information resources and related human resources;

(9) defining, as necessary and in keeping with the rules set out in accordance with this Act, specific information management rules, including information security rules, which, after being approved by the Conseil du trésor, will apply to one or more of the public bodies to which they are attached; and

(10) 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 prepares a summary, gives an advisory opinion and makes recommendations to

(1) the relevant authority identified in section 14, in the case of the documents of a body referred to in any of subparagraphs 3 to 6 of the first paragraph of section 2; or

(2) the chief information officer, in the case of the documents of a public body referred to in subparagraph 1 or 2 of the first paragraph of section 2 or, if applicable, in section 3. In these cases, the chief information officer must prepare a summary, give an advisory opinion and make recommendations to the Conseil du trésor.

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, lease, update and maintain information resources, whether applications or physical assets.

However, for the purposes of this Act, an information resource project does not include research and technological development projects carried out in the context of teaching or research under the direction of a professor, researcher, senior lecturer, student, intern, technician, or research professional at a university institution referred to in subparagraph 4 of the first paragraph of section 2, or at an affiliated institution.

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 time frame for their filing.

A public body must immediately forward a copy of the application to its network or sectoral information officer, who gives an advisory opinion and makes recommendations to the same party determined under the third paragraph of section 13.

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

16. The sectoral or network information officer attached to a body referred to in any of subparagraphs 3 to 6 of the first paragraph of section 2 must, in all cases, forward without delay, to the chief information officer, a copy of the summaries, advisory opinions and recommendations sent to the relevant authority identified in section 14, so that the chief information officer may give an opinion and make recommendations to that authority and, if appropriate, to the Conseil du trésor.

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.

18. The Agence du revenu du Québec must give the chief information officer information on its information resource projects and activities, including information on the expertise and know-how it has developed.

This information must be provided on the conditions and in the manner set by agreement.

CHAPTER V

RESPONSIBILITIES OF THE CONSEIL DU TRÉSOR

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

20. 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) provide for rules to ensure the security of information resources, which includes the protection of personal and other confidential information;

(2) provide for 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.

21. 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 the principles and practices to be emphasized in the field of information resource management, including the necessity of considering open-source software on the same footing as other software, which will serve as a reference for public bodies.

In addition, it may approve the specific information management rules defined by the network and sectoral information officers.

22. 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

23. 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;”.

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

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

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

27. Section 77.1 of the Act, enacted by section 2 of chapter 16 of the statutes of 2011, is amended

(1) by striking out paragraph 5;

(2) by replacing “, physical and information” in paragraph 8 by “and physical”.

ACT RESPECTING THE NATIONAL ASSEMBLY

28. Section 110.2 of the Act respecting the National Assembly (R.S.Q., chapter A-23.1) is amended by striking out “Chapter VI”.

ACT RESPECTING PARENTAL INSURANCE

29. 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

30. 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.

31. 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”.

ELECTION ACT

32. Section 488.2 of the Election Act (R.S.Q., chapter E-3.3) is amended by replacing “subparagraph 3” in the first paragraph by “subparagraphs 1.1 and 3”.

ACT RESPECTING THE MINISTÈRE DES SERVICES GOUVERNEMENTAUX

33. 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.”

34. Section 5 of the Act is repealed.

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

PUBLIC PROTECTOR ACT

36. Section 35.1 of the Public Protector Act (R.S.Q., chapter P-32) is amended by replacing “subparagraph 3” in the first paragraph by “subparagraphs 1.1 and 3”.

ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

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

38. 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

39. 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).”

AUDITOR GENERAL ACT

40. Section 67 of the Auditor General Act (R.S.Q., chapter V-5.01) is amended by replacing “subparagraph 3” in the first paragraph by “subparagraphs 1.1 and 3”.

CHAPTER VII

TRANSITIONAL AND FINAL PROVISIONS

41. A person who is exercising the functions of chief information officer on 12 June 2011 continues to exercise those functions until appointed or replaced under this Act.

42. Despite section 11, a person who, on 12 June 2011, 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.

43. 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 13 June 2011.

44. 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 13 June 2011.

45. 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.

46. A policy on the security and management of information resources that is in force in a public body on 13 June 2011 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.

47. Not later than 13 June 2016, 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.

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

49. This Act comes into force on 13 June 2011, except section 27, which comes into force on the date of coming into force of section 2 of chapter 16 of the statutes of 2011.