



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 135
(2017, chapter 28)

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

**Introduced 25 April 2017
Passed in principle 5 October 2017
Passed 7 December 2017
Assented to 7 December 2017**

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EXPLANATORY NOTES

This Act changes the information resource governance and management rules applicable to public bodies and government enterprises.

It modifies the functions of information officers and the structure of their group of positions, in particular by enhancing the chief information officer's role. The network and sectoral information officers are replaced by information officers who will be appointed by a minister and attached to a department and all the public bodies under that minister's responsibility, unless the Conseil du trésor authorizes a public body to designate its own information officer.

A governance committee composed of the chief information officer and the information officers is established to strengthen the governance of information resources. Its mandate includes identifying opportunities for optimizing, sharing and pooling information services and assets.

The management tools that a public body must establish for the governance and management of its information resources are redefined by distinguishing those that will be required for the purposes of investment and expenditure planning from those that will be applicable to information resource projects.

Under the Act, public bodies are required to prepare, in accordance with the conditions and procedures determined by the Conseil du trésor, various planning documents that will allow the chief information officer to prepare each year a government information resource investment and expenditure plan which is to be made public.

The Conseil du trésor is given the power to determine various measures applicable, in particular, with respect to the stages and follow-up of the information resource projects of public bodies and to required opinions and authorizations. The Chair of the Conseil is also given the power to conduct audits.

The chief information officer is given the power to require a public body to report on an information resource project. In addition, the chief information officer is required to periodically publish a report on certain information resource projects.

The planning and management tools applicable to government enterprises are also modified and the Agence du revenu du Québec loses its special status as a government enterprise within the meaning of the Act respecting the governance and management of the information resources of public bodies and government enterprises.

The Government may require, according to the conditions it determines, that a public body use a service of, or transfer information assets to, another public body.

Lastly, various consequential and transitional provisions are included.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting the Centre de services partagés du Québec (chapter C-8.1.1);
- Act respecting the governance and management of the information resources of public bodies and government enterprises (chapter G-1.03);
- Public Infrastructure Act (chapter I-8.3);
- Act respecting the Ministère de la Santé et des Services sociaux (chapter M-19.2);
- Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies (chapter O-7.2);
- Act respecting the sharing of certain health information (chapter P-9.0001).

ORDER IN COUNCIL AMENDED BY THIS ACT:

- Order in Council 1091-2012 dated 21 November 2012 (2012, G.O. 2, 5454, French only) concerning the partial exemption of the Autorité des marchés financiers from the application of the Act respecting the governance and management of the information resources of public bodies and government enterprises.

ORDER IN COUNCIL REPEALED BY THIS ACT:

- Order in Council 245-2014 dated 5 March 2014 (2014, G.O. 2, 1273, French only) concerning the partial exemption of the Société de l'assurance automobile du Québec from the application of the Act respecting the governance and management of the information resources of public bodies and government enterprises.

Bill 135

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

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

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

1. Section 1 of the Act respecting the governance and management of the information resources of public bodies and government enterprises (chapter G-1.03) is amended by replacing paragraph 3 by the following paragraphs:

“(3) ensuring rigorous and transparent planning of how amounts allocated to information resources will be used while promoting, among other things, the efficient management of public funds;

“(4) fostering best practices in information resource project management; and

“(5) allowing the implementation of guidelines common to all public bodies.”

2. Section 2 of the Act, amended by section 78 of chapter 21 of the statutes of 2017, is again amended

(1) by striking out “and the Agence du revenu du Québec” in subparagraph 3 of the first paragraph;

(2) by replacing “and the Office des personnes handicapées du Québec” in subparagraph 5 of the first paragraph by “, the Office des personnes handicapées du Québec and the Régie de l’assurance maladie du Québec”.

3. Section 4 of the Act is amended by replacing “the Agence du revenu du Québec and the Caisse de dépôt et placement du Québec” by “the Caisse de dépôt et placement du Québec and the Commission de la construction du Québec”.

4. The heading of Chapter II of the Act is replaced by the following heading:

“CHIEF INFORMATION OFFICER AND INFORMATION OFFICERS”.

5. Section 7 of the Act is amended

(1) by inserting the following paragraphs before paragraph 1:

“(0.1) developing, and submitting to the Conseil du trésor, an overall vision for information resources;

“(0.2) facilitating a good match between, on the one hand, government priorities and the priorities of public bodies and, on the other hand, the possibilities offered by information resources in terms of supporting those bodies’ transformation projects and day-to-day activities;”;

(2) by replacing paragraph 3 by the following paragraph:

“(3) drawing up the information resource investment and expenditure plan required under section 16.1 and any other planning document requested by the Chair of the Conseil du trésor;”;

(3) by replacing “communicating information best practices to” in paragraph 7 by “disseminating best practices and innovative solutions and approaches with respect to information resources among”;

(4) by replacing paragraph 8 by the following paragraph:

“(8) taking the necessary measures to ensure that public bodies consider all the technologies offering potential savings or benefits and all the development or acquisition models available to meet their needs, including open-source software;”.

6. Division II of Chapter II of the Act is replaced by the following division:

“DIVISION II

“INFORMATION OFFICERS

“8. The incumbent minister of a department, after consultation with the chief information officer, designates an information officer within the department for the department and all the other public bodies under the minister’s responsibility.

However, the Conseil du trésor may, on the recommendation of the minister responsible for a body referred to in the first paragraph, authorize the body to designate its own information officer. In such a case, the designation is made by the chief executive officer of the body after consultation with the chief information officer. As of that designation, no information officer designated in accordance with the first paragraph performs functions for that public body.

For the purposes of this Act, the chief executive officer of the public body is the person having the highest administrative authority, such as the deputy minister, the president, the director general or any other person responsible for the day-to-day management of the body. However, in the case of a public body referred to in subparagraph 4 or 4.1 of the first paragraph of section 2, the chief executive officer of the body is the board of governors or, in the case of a school board, the council of commissioners.

“9. Despite the first paragraph of section 8, a minister may, after consultation with the chief information officer, enter with another minister into an agreement under which the information officer designated by the latter under that paragraph is to also act as information officer for the minister’s department and for the other public bodies under the minister’s responsibility.

“10. An information officer designated under the first paragraph of section 8 and attached to the public bodies referred to in subparagraph 4, 4.1 or 5 of the first paragraph of section 2 may be designated as “network information officer”.

“10.1. The functions of an information officer include

(1) ensuring that each public body to which the information officer is attached applies the governance and management rules established under this Act and that the guidelines determined under the second paragraph of section 21 are implemented;

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

(3) reporting to the chief information officer on the progress and results of the information resource projects of each of those bodies;

(4) ensuring, if the information officer is attached to two or more public bodies, the consolidation of the planning tools produced by those bodies;

(5) participating in the governance committee established under section 12.1;

(6) advising the chief executive officer of each public body to which the information officer is attached on all aspects of information resources, in particular as regards innovative approaches and solutions that could meet its needs;

(7) defining, as necessary and in keeping with the rules established in accordance with this Act, specific information management rules, including information security rules, which, after being approved by the Conseil du trésor, will be applicable to all or some of the public bodies to which the information officer is attached;

(8) taking the necessary measures to ensure that the bodies to which the information officer is attached consider all the technologies offering potential savings or benefits and all the development or acquisition models available to meet their needs, including open-source software;

(9) ensuring the longevity of the information assets of the public bodies to which the information officer is attached; and

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

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

“10.2. If the chief information officer is of the opinion that an information officer is not exercising the information officer’s functions in accordance with the Act, the chief information officer may recommend to the person who designated the information officer that the information officer be replaced.”

7. Division III of Chapter II of the Act is repealed.

8. The Act is amended by inserting the following chapter before Chapter III:

“CHAPTER II.1

“GOVERNANCE COMMITTEE

“12.1. A governance committee composed of the chief information officer and all the information officers is established. The mandate of the committee, which is chaired by the chief information officer, includes

(1) developing guidelines to be proposed to the Conseil du trésor;

(2) ensuring concerted implementation of the guidelines determined by the Conseil du trésor; and

(3) identifying opportunities for optimizing, sharing and pooling information resource services and information assets, in particular by promoting their interoperability.”

9. Chapter III of the Act is replaced by the following chapter:

“CHAPTER III

“PUBLIC BODY PLANNING AND MANAGEMENT

“DIVISION I

“PLANNING

“13. For the purposes of the development of government-wide information resource planning, a public body must

(1) establish an information resource master plan that sets out, among other things, its risk management practices and the measures relating to information resources that will be implemented to achieve its mission and its strategic priorities in keeping with the guidelines determined under the second paragraph of section 21;

(2) establish an information resource investment and expenditure program;

(3) compile and keep up to date an inventory of its information assets, including an evaluation of their condition;

(4) provide a portrait of the workforce assigned to information resources and of the use of consultants assigned to the same;

(5) describe how amounts allocated to information resource investments and expenditures will be used; and

(6) produce any other planning tool determined by the Conseil du trésor.

“14. A public body must send or otherwise make available to the chief information officer and the information officer attached to the public body the planning tools produced under section 13.

“15. The information officer must give an advisory opinion to the chief information officer and to each of the public bodies concerned, particularly as regards compliance with the guidelines determined under the second paragraph of section 21 and as regards possible avenues for optimization.

The information officer must also send to the chief information officer a consolidation of the planning tools obtained from the public bodies to which the information officer is attached and provide a copy to the minister responsible for each body for information purposes.

“16. The Conseil du trésor must determine conditions and procedures relating to the planning tools to be produced under section 13 and the documents to be produced by the information officer under section 15, which may, in particular, pertain to the period they are to cover, their required content and form, the deadlines by which they must be sent and, if applicable, the intervals at which they must be reviewed.

When such conditions and procedures are to apply to the planning tools and documents of the public bodies referred to in any of subparagraphs 4, 4.1 and 5 of the first paragraph of section 2, they are determined after consultation with the minister responsible for those bodies.

“16.1. Each year, the chief information officer must send to the Chair of the Conseil du trésor an investment and expenditure plan for the information resources of public bodies that includes

(1) a description of the contribution of information resources to State activities and of how the master plans are aligned with the guidelines determined under the second paragraph of section 21;

(2) information on the information resource investments and expenditures that public bodies plan to make;

(3) information on information resource projects whose estimated total cost is greater than the threshold determined by the Conseil du trésor and on other projects that are of government-wide interest; and

(4) an inventory of the information assets of public bodies, including an evaluation of their condition.

The plan is then made public not later than 60 days after it is sent to the Chair of the Conseil du trésor.

“DIVISION II

“MANAGEMENT OF INFORMATION RESOURCE PROJECTS

“16.2. A public body must comply with the project management conditions and procedures determined by the Conseil du trésor and relating to such aspects as

(1) the stages a project must go through;

(2) the required opinions and authorizations;

(3) the criteria to be considered for granting authorizations; and

(4) project follow-up.

If the conditions and procedures relate to the management of projects carried out by the public bodies referred to in any of subparagraphs 4, 4.1 and 5 of the first paragraph of section 2, they must be determined on the joint recommendation of the Chair of the Conseil du trésor and the minister responsible for those bodies. If they relate to the management of projects carried out by a body having its own information officer in accordance with the second paragraph of section 8, they must be determined after consultation with the minister responsible for the body.

The management conditions and procedures may, in particular, pertain to the type of documents to be produced and their required content and form, as well as the deadlines by which they must be sent. They may also determine the types of projects that must be authorized and followed up on, and the authority responsible for authorizing an information resource project or a phase of such a project. Such determination may vary according to the costs of the project, its complexity and the risks it involves.

The Conseil du trésor may also allow the decision-making authority to delegate its power of authorization.

“16.3. For the purposes of this Act, an information resource project consists in all the actions taken to develop, acquire, update or replace an information asset or information resource service. It is considered to be of “government-wide interest” if it is designated as such by the Conseil du trésor.

However, a technology research and development project 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 4.1 of the first paragraph of section 2 is not an information resource project.

“16.4. The chief information officer may require a public body to report on such aspects of an information resource project as the chief information officer determines.

“16.5. The Conseil du trésor may impose support measures, such as the assistance of a monitoring committee, on a public body with respect to a project.

A public body on which support measures are imposed must send or otherwise make available to any person responsible for applying those measures any document or information that person considers necessary.

“16.6. The chief information officer must periodically publish a report on the information resource projects of public bodies that meet the criteria determined by the Conseil du trésor.

“DIVISION III

“REPORTING

“16.7. Each public body must report on the contribution of information resources to the achievement of its mission, in particular by describing the impact of such resources on the performance of its organization.

The Conseil du trésor determines reporting conditions and procedures. Such conditions and procedures may, in particular, pertain to the required content and form of the report, the deadline by which it must be filed and, if applicable, the intervals at which it must be reviewed.

Such a report must be made public every year.”

10. The heading of Chapter IV of the Act is amended by replacing “GOVERNANCE” by “PLANNING”.

11. Section 17 of the Act is amended by replacing “management tools and approval and authorization mechanisms” in the first paragraph by “planning and management tools”.

12. Section 18 of the Act is replaced by the following section:

“18. A government enterprise must provide the chief information officer with information on its information assets and its information resource projects that meet the criteria determined by the Conseil du trésor, and any other information determined by the Conseil du trésor. However, the Conseil du trésor may not require information if the enterprise shows that its release would likely reveal an investment strategy or substantially reduce the enterprise’s competitive margin.

That information must be provided in accordance with the conditions and in the manner determined by the Conseil du trésor.”

13. The heading of Chapter V of the Act is replaced by the following heading: “SPECIFIC RESPONSIBILITIES”.

14. Section 20 of the Act is amended

(1) by replacing “infrastructures or services” in subparagraph 2 of the second paragraph by “information resource services and information assets”;

(2) by striking out subparagraph 3 of the second paragraph.

15. Section 21 of the Act is amended by replacing the second and third paragraphs by the following paragraph:

“It may also determine guidelines pertaining to the principles or practices to be applied in information resource management, including practices to optimize work organization and the necessity of considering all the technologies offering potential savings or benefits and all the development or acquisition models available to meet the needs of public bodies, including open-source software.”

16. The Act is amended by inserting the following section after section 22:

“22.1. The Government may, on the conditions it determines and on the recommendation of the Conseil du trésor, require

(1) that a public body use an information resource service of the Centre de services partagés du Québec or of another public body it designates; and

(2) that the information assets of a public body and all the resulting obligations, including lease-related obligations, be transferred to a body designated under subparagraph 1.

The application of the first paragraph does not transfer ownership of personal information to the designated body or change the applicable confidentiality rules.

This section does not apply to administrative bodies established to exercise adjudicative functions.”

17. The Act is amended by inserting the following chapter after Chapter V:

“CHAPTER V.1

“AUDIT

“22.2. The Chair of the Conseil du trésor may conduct an audit to determine whether a public body’s information resource investment and expenditure planning and information resource project management are consistent with the measures established under this Act. The audit may verify, among other things, whether the public body’s actions comply with this Act and with the rules and directives issued under it to which the body is subject.

The Chair of the Conseil du trésor may designate in writing a person to conduct the audit.

“22.3. At the request of the Chair of the Conseil du trésor or the person designated to conduct the audit, the public body being audited must send or otherwise make available to the Chair or the designated person all documents and information considered necessary to conduct the audit.

“22.4. The Chair of the Conseil du trésor makes any recommendations the Chair may have to the Conseil du trésor. The latter may then require the public body to take corrective measures, conduct any appropriate follow-up or comply with any other measure determined by the Conseil du trésor, including oversight or support measures. The Conseil du trésor may also recommend the suspension or termination of an information resource project.”

18. The heading of Chapter VII of the Act is replaced by the following:

“MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

“40.1. The conditions, procedures and other elements determined by the Conseil du trésor for the purposes of this Act may vary depending on the public body and, if applicable, the government enterprise.”

ACT RESPECTING THE CENTRE DE SERVICES PARTAGÉS DU QUÉBEC

19. Section 10 of the Act respecting the Centre de services partagés du Québec (chapter C-8.1.1) is amended by adding “, other than a service whose use may be imposed under subparagraph 1 of the first paragraph of section 22.1 of the Act respecting the governance and management of the information resources of public bodies and government enterprises (chapter G-1.03)” at the end of the first paragraph.

PUBLIC INFRASTRUCTURE ACT

20. The Public Infrastructure Act (chapter I-8.3) is amended by inserting the following division after section 21:

“DIVISION IV

“OTHER PROVISIONS

“21.1. When public infrastructure investments concern information resources, the provisions of the Act respecting the governance and management of the information resources of public bodies and government enterprises (chapter G-1.03) regarding information resource planning and information resource project management apply in place of the provisions of this chapter, except as regards the Québec infrastructure plan.”

ACT RESPECTING THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

21. Section 5.2 of the Act respecting the Ministère de la Santé et des Services sociaux (chapter M-19.2) is amended by replacing “section 10” in the introductory clause of the first paragraph by “section 10.1”.

ACT TO MODIFY THE ORGANIZATION AND GOVERNANCE OF THE HEALTH AND SOCIAL SERVICES NETWORK, IN PARTICULAR BY ABOLISHING THE REGIONAL AGENCIES

22. Section 151 of the Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies (chapter O-7.2), amended by section 14 of chapter 21 of the statutes of 2017, is again amended

(1) by inserting “, and in the case of a project under consideration for authorization, if it is compliant with the conditions and procedures determined by the Conseil du trésor under section 16.2 of the Act respecting the governance and management of the information resources of public bodies and government enterprises” at the end of the third paragraph;

(2) by replacing the fourth and fifth paragraphs by the following paragraph:

“The first paragraph does not apply if the conditions and procedures referred to in the third paragraph confer on the Government or the Conseil du trésor the power to authorize the project on the recommendation of the Minister.”

ACT RESPECTING THE SHARING OF CERTAIN HEALTH INFORMATION

23. Section 4 of the Act respecting the sharing of certain health information (chapter P-9.0001) is amended by replacing “section 10” in the introductory clause by “section 10.1”.

24. Section 14 of the Act is amended by replacing “or a public body” by “or another public body”.

OTHER AMENDING PROVISIONS

25. Order in Council 1091-2012 dated 21 November 2012 (2012, G.O. 2, 5454, French only) concerning the partial exemption of the Autorité des marchés financiers from the application of the Act respecting the governance and management of the information resources of public bodies and government enterprises continues to apply but must be read as exempting that body from the application of sections 8 to 16.7 and 22.1 of the Act respecting the governance and management of the information resources of public bodies and government enterprises (chapter G-1.03).

26. Order in Council 245-2014 dated 5 March 2014 (2014, G.O. 2, 1273, French only) concerning the partial exemption of the Société de l'assurance automobile du Québec from the application of the Act respecting the governance and management of the information resources of public bodies and government enterprises is repealed.

TRANSITIONAL AND FINAL PROVISIONS

27. Despite the replacement of Chapter III of the Act respecting the governance and management of the information resources of public bodies and government enterprises (chapter G-1.03) by section 9, every public body must produce

(1) a review of achievements and benefits for each of the fiscal years beginning in 2017 and 2018;

(2) a spending program detailing how the amounts it plans to allocate to its projects and activities for the fiscal year beginning in 2018 will be used; and

(3) a three-year plan of projects and activities for the fiscal years beginning in 2019, 2020 and 2021.

Those documents must be produced, analyzed and approved in accordance with the provisions of the Act respecting the governance and management of the information resources of public bodies and government enterprises, including the rules made for their application, as they read on 6 March 2018. However, no information resource project may be authorized while the spending program is in the process of being approved.

The first paragraph does not apply to the Agence du revenu du Québec.

28. For the purposes of section 27, the chief information officer, the network information officers and the sectoral information officers continue, despite sections 5 to 7 and 9, to exercise the functions provided for in Chapter II and in Division I of Chapter III of the Act respecting the governance and management of the information resources of public bodies and government enterprises, as they read on 6 March 2018.

29. Sections 16.2 and 16.4 to 16.6 of the Act respecting the governance and management of the information resources of public bodies and government enterprises, enacted by section 9, apply to all information resource projects, within the meaning of section 15 of that Act, as it read on 6 March 2018, that are in progress on that date.

The first paragraph does not apply to the Agence du revenu du Québec.

30. Despite the first paragraph of section 16.1 of the Act respecting the governance and management of the information resources of public bodies and government enterprises, enacted by section 9, the investment and expenditure plan for the information resources of public bodies that must be sent to the Chair of the Conseil du trésor in the year 2018 must only include information on the information resource investments and expenditures of the public bodies referred to in subparagraphs 1 to 3 of the first paragraph of section 2 of that Act.

The information resource investment and expenditure plan that must be sent in the year 2019 must include, in addition to the information specified in the first paragraph, an inventory of the information assets of the public bodies referred to in subparagraphs 1 to 3 of the first paragraph of section 2 of that Act.

31. Despite the replacement of section 18 of the Act respecting the governance and management of the information resources of public bodies and government enterprises by section 12, the Agence du revenu du Québec must continue, until 31 March 2019, to give information on its information resource projects and activities on the conditions and in the manner set by the agreement entered into under the second paragraph of section 18 of that Act, as it read on 6 March 2018.

32. An order imposing an information resource service, made under section 10 of the Act respecting the Centre de services partagés du Québec (chapter C-8.1.1) and in force on 6 March 2018, is deemed to have been made under section 22.1 of the Act respecting the governance and management of the information resources of public bodies and government enterprises, enacted by section 16.

33. This Act comes into force on 7 March 2018, except

(1) the provisions of section 9, to the extent that it enacts paragraph 2 of section 13 and section 16.7 of the Act respecting the governance and management of the information resources of public bodies and government enterprises, which come into force on 1 April 2019;

(2) the provisions of section 9, to the extent that it enacts paragraph 3 of section 13 of that Act, with respect to public bodies referred to in subparagraphs 4 to 5 of the first paragraph of section 2 of that Act, which come into force on 1 April 2020;

(3) the provisions of section 9, to the extent that it enacts paragraph 4 of section 13 of that Act

(a) with respect to public bodies referred to in subparagraphs 2, 3 and 6 of the first paragraph of section 2 of that Act whose personnel is not appointed in accordance with the Public Service Act (chapter F-3.1.1), which come into force on 1 April 2019; and

(b) with respect to public bodies referred to in subparagraphs 4 to 5 of the first paragraph of section 2 of that Act whose personnel is not appointed in accordance with the Public Service Act, which come into force on 1 April 2020; and

(4) the provisions of section 9, to the extent that it enacts paragraph 5 of section 13 of that Act, which come into force on 1 April 2020.

