



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 53

An Act respecting the Conseil des arts et des lettres du Québec

Introduction

**Introduced by
Madam Liza Frulla-Hébert
Minister of Cultural Affairs**

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EXPLANATORY NOTES

This bill establishes a council to be known as the Conseil des arts et des lettres du Québec.

The council will exercise its powers and duties in the fields of visual arts, arts and crafts, literature, performing arts, multidisciplinary arts, media arts and architectural research. Its object will be to provide support in all regions of Québec for creation, experimentation and production and foster their diffusion in Québec, elsewhere in Canada and abroad. A further object will be to support artists in the development of their crafts.

The bill gives the council the power to provide financial support in the form of grants and bursaries. The support is provided within the scope of the council's annual plan of activities, approved by the Minister of Cultural Affairs, and the financial support programs established by the council. The council may also, with the authorization of the Government and on the conditions it determines, administer any financial support program entrusted to it by a department or public body. The bill also gives the council the power to grant awards for artistic excellence.

The bill establishes rules for the council's operation and the composition of its board of directors, and contains a number of more technical provisions and provisions of a transitional nature.

ACTS AMENDED BY THIS BILL:

- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12).

Bill 53

An Act respecting the Conseil des arts et des lettres du Québec

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

ESTABLISHMENT AND ORGANIZATION

1. A council is hereby established under the name of “Conseil des arts et des lettres du Québec”.

2. The council is a corporation.

3. The council is a mandatary of the Government.

The property of the council forms part of the public domain, but the performance of its obligations may be levied against its property.

The council binds only itself when it acts in its own name.

4. The head office of the council is located in the territory of the Communauté urbaine de Québec at the place determined by the Government. Notice of the location or of any change of location of the head office is published in the *Gazette officielle du Québec*.

The council may hold its meetings anywhere in Québec.

5. The affairs of the council shall be administered by a board of directors composed of not more than thirteen members, including a chairman, appointed by the Government.

The members shall be selected on the basis of their interest in the arts or literature.

6. The chairman of the board of directors shall be appointed for a maximum term of four years, and the other members of the board for a maximum term of three years.

The appointment of the chairman or a member may be renewed only once.

7. At the end of their terms the members of the board of directors shall remain in office until they are replaced or reappointed.

8. The remuneration, social benefits and other conditions of employment of the chairman shall be determined by the Government.

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

9. The chairman shall preside over the meetings of the board of directors and, as managing director, shall be responsible for the management of the council within the scope of its by-laws and policies.

The chairman shall devote his full time to his official duties.

10. A vice-chairman shall be appointed by the members of the board of directors from among themselves.

If the chairman is absent or unable to act, the vice-chairman shall act as chairman.

11. A majority of the members constitutes a quorum at meetings of the board of directors.

In the case of a tie-vote, the chairman has a casting vote.

12. A member of the board shall not, under pain of forfeiture of office, take part in any deliberation or decision of the board concerning an application for financial support or a competition in which he has a direct or indirect interest, or intervene at any other stage of the process leading to a decision in respect of such an application or competition.

In addition, the chairman shall not, under pain of forfeiture of office, have any direct or indirect interest in an undertaking that puts

his personal interest in conflict with that of the council. However, forfeiture is not incurred if the interest devolves to him by succession or gift, provided he renounces or disposes of it with dispatch.

13. The secretary and other members of the personnel of the council shall be appointed and remunerated in accordance with the standards, scales and staffing plan established by the by-laws of the council.

Their social benefits and other conditions of employment are also determined by the by-laws.

The by-laws are subject to approval by the Government.

CHAPTER II

OBJECTS AND POWERS

14. The council shall be competent to act in the fields of visual arts, arts and crafts, literature, performing arts, multidisciplinary arts, media arts and in matters of architectural research.

15. The object of the council is to support creation, experimentation and production in all regions of Québec and to foster the diffusion thereof in Québec and, in compliance with Québec's policies in matters of Canadian intergovernmental affairs and international affairs, elsewhere in Canada and abroad.

A further object of the council is to support artists in the development of their crafts.

16. Within the scope of its plan of activities and its financial support programs, the council may provide financial support by way of grants and bursaries on the conditions it determines.

It may also, within the scope of its plan of activities, establish competitions with a view to granting awards for artistic excellence.

17. Every year, on the date fixed by the Minister of Cultural Affairs, the council shall transmit to him a plan of its activities. In the plan, the orientations and objectives given to the council by the Minister must be taken into account.

The plan must take the form determined by the Minister and contain the information he indicates.

It is subject to approval by the Minister.

The plan shall be accompanied with the council's estimates in respect of its activities and budget for the two fiscal years following the year for which the plan of activities is established.

18. Each of the council's financial support programs must contain eligibility criteria for financial support, the scales and limits of the support and the procedure for granting it.

The scales and limits of the financial support are subject to approval by the Minister.

19. Only natural persons exercising alone an activity covered by a financial support program, and legal persons or groups not pursuing the making of profit for apportionment among their respective members, are eligible for financial support.

20. The council shall advise the Minister on any question he submits to it concerning fields or matters within its jurisdiction. Its advice may be accompanied with recommendations.

21. In addition to its programs, the council, with the authorization of and on the conditions determined by the Government, shall administer any financial support program entrusted by a department or public body.

22. The council may, in particular, in exercising its powers and performing its duties,

(1) enter into an agreement, according to law, with a government other than that of Québec, a department of such a government, an international organization, or an agency of such a government or organization;

(2) receive gifts, legacies, subsidies or other contributions, provided the conditions attached thereto are compatible with the exercise of its powers and performance of its duties;

(3) form committees responsible for the assessment of applications for financial support that are addressed to it or candidacies in competitions that are submitted to it, and determine the operating rules of such committees;

(4) form consultative committees with a view to facilitating the carrying out of this Act, and determine the powers, duties and operating rules of such committees.

The Government shall determine the remuneration of the members of committees formed under subparagraphs 3 and 4 of the first paragraph. The members are also entitled to be reimbursed for expenses incurred in the performance of their duties, on the conditions and to the extent determined by the Government.

The committees formed under subparagraphs 3 and 4 of the first paragraph may hold their meetings at any place in Québec.

23. The council shall carry on its activities principally in the territory in which its head office is located.

24. The council may adopt by-laws to regulate its internal management.

The by-laws may, in particular, provide that absence from a number of meetings fixed therein, in the cases and circumstances determined therein, constitutes a vacancy.

CHAPTER III

FINANCIAL PROVISIONS

25. The council may use the funds put at its disposal under this Act to make short-term investments

(1) in securities issued or guaranteed by the government of Canada, of Québec or of another Canadian province;

(2) in securities issued by the municipalities of Québec;

(3) in deposits with a bank or financial institution registered with the Régie de l'assurance-dépôts du Québec, or in certificates, notes or other short-term securities or instruments issued or guaranteed by a bank or financial institution.

26. The council shall not use sums derived from gifts, legacies, subsidies or other contributions, except those voted annually by Parliament, for purposes other than the granting of financial support or awards, but it may invest such sums in accordance with section 25.

The same applies to any sums derived from such investments.

27. In no case may the council, unless authorized by the Government, contract a loan that increases its total outstanding borrowings to more than the amount determined by the Government.

[[28. The Government may, on the conditions it determines, guarantee the payment in principal and interest of any loan or other obligation of the council.

The sums required for the purposes of this section are taken out of the consolidated revenue fund.]]

29. The council shall not make payments or assume obligations the cost of which exceeds, in the same fiscal year, the amounts at its disposal for the year in which such payments or obligations are made or assumed.

Nothing in this section shall prevent the council from making a commitment for a term of more than one fiscal year.

30. The fiscal year of the council ends on 31 March each year.

CHAPTER IV

DOCUMENTS, ACCOUNTS AND REPORTS

31. No deed, document or writing binds the council unless it is signed by the chairman or a member of its personnel and, in the latter case, only to the extent determined by the by-laws of the council.

The council may, on the conditions it determines, allow a signature to be affixed by means of an automatic device to the documents it determines, or a facsimile of a signature to be engraved, lithographed or printed on such documents. However, the facsimile has the same force as the signature itself only if the document is countersigned by a person authorized by the chairman of the council.

32. The minutes of the meetings of the board of directors, approved by it and certified true by the chairman or any other person authorized to do so by the council, are authentic. The same applies to documents or copies of documents emanating from the council and forming part of its records, provided they are signed or certified true by such a person.

33. Not later than 30 June each year, the council shall submit its financial statements and a report of its activities for the preceding fiscal year to the Minister.

The financial statements must contain separate entries of the council's income and expenditure related to financial support and the granting of awards and that related to the exercise of its other powers and its administration. The report must contain the names of the

beneficiaries of financial support, together with the amounts granted to each. The financial statements and the report must also contain all the information the Minister may prescribe.

34. The Minister shall table the report and statements before the National Assembly within 30 days of receiving them if the Assembly is in session or, if it is not sitting, within 30 days of resumption.

35. The books and accounts of the council shall be audited every year by the Auditor General and whenever the Government so orders.

The report of activities and the financial statements of the council must be accompanied with the auditor's report.

CHAPTER V

TRANSITIONAL AND FINAL PROVISIONS

36. The financial assistance programs of the Ministère des Affaires culturelles and the related budgets, identified by the Government in a transfer plan, shall, with the necessary adaptations, be managed by the council for the fiscal year 1993-94 from the date or dates fixed in the transfer plan. The transfer plan shall stand in lieu of the council's plan of activities for that fiscal year.

The management of the programs referred to in the first paragraph, together with any records or documents of the department related thereto, shall be transferred in accordance with the procedures established by the Minister in cooperation with the council.

37. For the purposes of section 36, in any order, contract or other document, any reference to the Minister or the Deputy Minister of Cultural Affairs or the Ministère des Affaires culturelles is a reference to the council where it pertains to a program the management of which is transferred to the council.

38. The employees, including the managerial personnel, of the Ministère des Affaires culturelles whose principal or secondary tasks are likely to come under the responsibility of the council become the employees of the council, subject to the provisions of any collective agreement applicable to them, and to the extent that an order for their transfer is made before (*insert here the date occurring one year after the date of coming into force of this section*).

Such employees shall occupy the positions and perform the duties assigned to them by the council, subject to the provisions of any collective agreement applicable to them.

39. Every employee transferred to the council under section 38 may apply for a transfer to a position in the public service or enter a competition for promotion to such a position in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1) if, on the date on which he was transferred to the council, he was a public servant with permanent tenure in the department.

Section 35 of the Public Service Act applies to any employee who enters a competition for promotion to a position in the public service.

40. When an employee to whom section 39 applies wishes to obtain a transfer or enters a competition for promotion, he may require the Office des ressources humaines to give him an assessment of the classification that would be assigned to him in the public service. The assessment must take account of the classification of the employee in the public service on the date of his transfer, and the experience and formal training acquired in the course of his employment with the council.

When an employee is transferred pursuant to section 39, the Deputy Minister or chief executive officer shall assign to him a classification compatible with the assessment provided for in the first paragraph.

When an employee is promoted pursuant to section 39, his new classification must take account of the criteria set out in the first paragraph.

41. If all or some of the activities of the council are discontinued or if there is a shortage of work, any employee to whom section 39 applies is entitled to be placed on reserve in the public service with the classification he had before the date of his transfer.

The Office des ressources humaines shall, where applicable, establish his classification taking into account the criteria set out in the first paragraph of section 40.

42. An employee placed on reserve pursuant to section 41 remains with the council until the Office des ressources humaines is able to assign him to a position.

43. Subject to any remedy available under a collective agreement, any employee to whom section 39 applies who is dismissed may bring an appeal under section 33 of the Public Service Act.

44. The associations of employees certified in accordance with Chapter IV of the Public Service Act representing groups of employees of the Ministère des Affaires culturelles on the date on which the employees are transferred in accordance with section 38 continue to represent those employees within the council until the date on which the collective agreements in force at the time of the transfer expire.

The associations of employees also represent future employees of the council, according to the groups to which they belong, until the date on which the collective agreements referred to in the first paragraph expire.

The provisions of such collective agreements continue to apply to the employees of the council, to the extent that they are applicable to them, until the date on which they expire.

However, the provisions of such collective agreements concerning job security do not apply to the employees referred to in the second paragraph.

45. Schedule III to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), amended by orders in council 353-91 of 20 March 1991, 398-92 and 399-92 of 25 March 1992, 669-92 of 6 May 1992 and 1263-92 of 1 September 1992 and by section 31 of chapter 14 of the statutes of 1991 and section 73 of chapter 44 of the statutes of 1992, is again amended by inserting, in paragraph 1 and in alphabetical order, the words "the Conseil des arts et des lettres du Québec".

46. Schedule II to the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12), amended by a decision of the Conseil du trésor C.T. 179668 dated 17 March 1992, is again amended

(1) by inserting, in paragraph 1 and in alphabetical order, the words "the Conseil des arts et des lettres du Québec";

(2) by inserting, in paragraph 3 and in alphabetical order, the words "the Conseil des arts et des lettres du Québec".

47. Schedule IV to the said Act, amended by section 74 of chapter 44 of the statutes of 1992, is again amended by inserting, in

alphabetical order, the words “the Conseil des arts et des lettres du Québec”.

[[48. The appropriations granted for the fiscal year (*insert here the fiscal year in which this section comes into force*) to the Minister of Cultural Affairs shall, to the extent and according to the procedures determined by the Government, be transferred to the council.

The other sums required for the purposes of this Act are, for the same fiscal year, taken out of the consolidated revenue fund, to the extent determined by the Government.]]

49. The Minister of Cultural Affairs is responsible for the administration of this Act.

50. The provisions of this Act will come into force on the date or dates fixed by the Government.
