

NATIONAL ASSEMBLY

FIRST SESSION

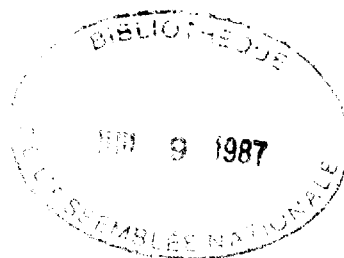
THIRTY-THIRD LEGISLATURE

Bill 56

An Act respecting the Institut de tourisme et d'hôtellerie du Québec

Introduction

**Introduced by
Mr Yvon Picotte
Minister of Tourism**



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EXPLANATORY NOTES

The object of this bill is to incorporate the Institut de tourisme et d'hôtellerie du Québec.

The bill provides that the institute will be a mandatar of the Government and that it will be administered by a government-appointed board of directors.

The objects of the institute will be to provide vocational training activities in the fields of hotel management, restauration and tourism and to conduct research, supply technical assistance, produce information and provide services in those fields.

It confers upon the Minister of Tourism the power to give directives to the institute concerning its aims and policies. The directives will require the approval of the Government and, if approved, will be binding on the institute. Every directive will be tabled in the National Assembly.

Lastly, the bill contains provisions designed to protect the rights of permanent public servants at the Ministère du Tourisme who may become employees of the institute. It will be possible for institute employees to apply for a transfer to a position in the public service and to enter a competition for promotion in accordance with the Public Service Act. They will also continue to be covered by their respective pension plans.

Bill 56

An Act respecting the Institut de tourisme et d'hôtellerie du Québec

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

ESTABLISHMENT AND ORGANIZATION

1. An institute called the “Institut de tourisme et d'hôtellerie du Québec” is hereby established.

2. The institute is a corporation.

3. The institute is a mandatary of the Government.

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

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

4. The institute shall have its head office in the territory of the Communauté urbaine de Montréal at the place determined by the Government. Notice of the location or of any change of location of the head office shall be published in the *Gazette officielle du Québec*.

5. The institute shall be administered by a board of directors composed of not fewer than seven nor more than eleven members, including the chairman and a director general, appointed by the Government. Two of the members of the board, other than the chairman

and the director general, shall be appointed upon the recommendation of the Minister of Education and upon the recommendation of the Minister of Higher Education and Science, respectively.

6. The members of the board of directors shall designate one of their number, other than the director general, to act as vice-chairman.

If the chairman is unable to act, the vice-chairman shall perform his duties.

7. The chairman and the director general are appointed for a term of not over five years, and the other members for a term of not over two years.

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

8. Any vacancy occurring during a term shall be filled by appointment as in section 5.

A vacancy is constituted by, among other things, absence from a number of meetings of the board of directors determined by the by-laws of internal management of the institute, in the cases and circumstances indicated therein.

9. The chairman shall preside at meetings of the board of directors, see to its proper management and assume all other duties assigned to him under the by-laws of the institute.

10. The director general shall be responsible for the management of the institute within the scope of its by-laws. He shall devote his full time to his duties of office.

11. The Government shall fix the remuneration, social benefits and other conditions of employment of the director general.

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

12. The quorum for meetings of the board of directors shall be a majority of its members, including the chairman or the vice-chairman.

In the event of a tie-vote, the chairman or the vice-chairman, as the case may be, shall have a casting vote.

13. A decision of the board of directors signed by all its members has the same force as if made at a regular meeting.

14. The secretary and the other staff members of the institute shall be appointed and remunerated in accordance with the norms, scales and staffing plans established by by-law of the institute.

Their social benefits and other conditions of employment also may be fixed by by-law of the institute.

The by-laws must be submitted to the Government for approval.

15. Any member of the board of directors, other than the chairman or the director general, having a direct or indirect interest in an enterprise which places his personal interest in conflict with that of the institute shall, on pain of forfeiture of his office, disclose it in writing to the chairman and abstain from taking part in any debate or voting on any decision bearing upon the enterprise in which he has that interest or taking part in any sitting during which his interest is debated.

On pain of forfeiture of office, the chairman, the director general and the staff members of the institute shall not have any direct or indirect interest in an enterprise placing their personal interest in conflict with that of the institute. However, forfeiture is not incurred if such an interest devolves to them by succession or gift, provided they renounce or dispose of it with diligence.

DIVISION II

OBJECTS AND POWERS OF THE INSTITUTE

16. The objects of the institute shall be to provide vocational training in the fields of hotel management, restauration and tourism, and to conduct research, supply technical assistance, produce information and provide services in those fields.

The vocational training activities shall include advanced training and retraining activities.

17. To achieve its objects, the institute may more particularly

(1) manage and operate hotel and restaurant establishments;

(2) offer consulting, management and research services in the fields of hotel management, restauration and tourism;

(3) with the authorization of the Minister of Higher Education and Science, make an affiliation agreement with any educational institution of university level;

(4) make agreements with any person or body and, according to law, with any government other than that of Québec, with a department of such a government, with an international organization or with an agency of such a government or such an organization in view of the performance of its functions.

Every agreement entered into between the institute and a school board, a general and vocational college or an educational institution governed by the Act respecting private education (R.S.Q., chapter E-9), in view of providing vocational instruction at the secondary or college level in the fields of hotel management, restauration or tourism, requires the authorization of the Minister of Education or the Minister of Higher Education and Science, as the case may be.

18. The institute may provide the secondary-level vocational training programs for which it has received authorization from the Minister of Education and the college-level vocational training programs for which it has received authorization from the Minister of Higher Education and Science.

Moreover, the institute may provide the courses for which it issues a certificate.

19. The Minister of Higher Education and Science, after consultation with the Conseil des universités established under section 1 of the Act respecting the Conseil des universités (R.S.Q., chapter C-58), may authorize the institute to provide university-level programs on the conditions he determines.

20. The Minister of Education, in accordance with the rules he determines, shall award a school leaving certificate to students enrolled in a secondary-level vocational training program.

The Minister of Higher Education and Science, in accordance with the rules he determines and on the recommendation of the institute, shall award a school leaving certificate to students having achieved the objectives of the college-level vocational training program in which they are enrolled.

21. The institute, unless so authorized by the Government, shall not

(1) build, acquire, alienate, lease out or otherwise assign an immovable or offer an immovable as security;

(2) make a financial commitment beyond the limits or terms and conditions determined by the Government;

(3) contract a loan which increases the total amount borrowed and not yet repaid by the institute beyond the amount determined by the Government.

22. The institute shall comply with any directives which the Minister of Tourism may give to it concerning the aims and policies of the institute, upon their approval by the Government.

Every directive of the Minister shall be tabled in the National Assembly within fifteen days after its approval by the Government if the Assembly is in session or, if it is not sitting, within fifteen days after the opening of the next session or resumption.

23. The institute may adopt by-laws concerning the exercise of its powers and its internal management.

Any by-law shall come into force on the date of its approval by the Government or on any later date it determines.

DIVISION III

DOCUMENTS, ACCOUNTS AND REPORTS

24. No deed, document or writing binds the institute unless it is signed by the chairman or the director general or, to such extent as may be determined by by-law of the institute, by a member of the staff of the institute.

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

25. The minutes of the sittings of the board of directors, if approved by the board and signed by the chairman or by any other person authorized to do so by by-law of the institute, are authentic. The same applies to documents and copies emanating from the institute or forming

part of its records when they are signed or certified by an authorized person.

26. The fiscal year of the institute ends on 30 June each year.

27. Within four months of the end of its fiscal year, the institute shall submit its financial statements and a report of its activities for the previous fiscal year to the Minister of Tourism.

The financial statements and the report of activities must include all the information required by the Minister.

28. The Minister shall table the financial statements and the report before the National Assembly within thirty days of receiving them if the Assembly is sitting or, if it is not sitting, within thirty days after the opening of the next session or of resumption.

29. The institute shall also provide to the Minister any information he may require on its activities.

30. Each year, the institute shall submit its budget estimates for the next fiscal year to the Minister for approval on the date and in the form and tenor determined by the Minister.

31. The books and accounts of the institute shall be audited by the Auditor General every year and also whenever so ordered by the Government; the Auditor General, with the approval of the Government, may designate another auditor.

The report of the Auditor General or of the auditor designated by him must accompany the report of activities and the financial statements of the institute.

DIVISION IV

FINANCIAL PROVISIONS

[[32. The Government may, on such terms and conditions as it may fix,

(1) guarantee the payment in principal and interest of any amount borrowed by the institute;

(2) guarantee the performance of any obligation of the institute;

(3) authorize the Minister of Tourism to pay to the institute any amount deemed necessary for the exercise of its functions;

(4) authorize the Minister of Finance to advance to the institute any amount deemed necessary for the pursuit of the objects of the institute.

The sums which the Government may be called to pay under the guarantees or to advance to the institute shall be taken out of the consolidated revenue fund.]]

33. The sums received by the institute shall be allocated to the payment of its obligations and, at the request of the Government, the balance shall be paid into the consolidated revenue fund.

DIVISION V

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

34. A person employed by the institute may request a transfer to a position in the public service or enter a competition for promotion in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1) if, on the date of the total or partial transfer of the administrative unit of the Ministère du Tourisme called the “Institut de tourisme et d’hôtellerie du Québec” to the institute, he was a permanent public servant in that administrative unit of the Ministère du Tourisme, and if his appointment to the institute occurred within six months from the date of transfer of that administrative unit to the institute.

35. Section 35 of the Public Service Act applies to an employee contemplated in section 34 who participates in a competition for promotion to a position in the public service.

36. Where an employee contemplated in section 34 offers himself as a candidate for a transfer or enters a competition for promotion, he may require the Office des ressources humaines to give him an opinion on the classification he would have in the public service. The opinion must take into account the classification the employee had in the public service on the date of his departure and the experience and schooling acquired since he has been in the employ of the institute.

Where an employee is transferred pursuant to section 34, the deputy minister or chief executive officer shall determine his classification in conformity with the opinion contemplated in the first paragraph.

Where an employee is promoted pursuant to section 34, his classification must take the criteria set forth in the first paragraph into account.

37. In case of the partial or complete cessation of the activities of the institute or if there is not sufficient work, the employee contemplated in section 34 is entitled to be placed on reserve in the public service at the classification he had before the date of his departure.

In such a case, the Office des ressources humaines shall determine his classification, where such is required, taking into account the criteria set forth in the first paragraph of section 36.

38. A person placed on reserve pursuant to section 37 shall remain at the institute until the Office des ressources humaines is able to place him.

39. Subject to any remedies under a collective agreement, an employee contemplated in section 34 who is dismissed by the institute may bring an appeal in accordance with section 33 of the Public Service Act.

40. Associations of employees certified in accordance with Chapter IV of the Public Service Act which, on the date of the transfer contemplated in section 34, represent the groups of employees of the administrative unit also contemplated in that section, continue to represent those employees at the institute until the date of expiry of the collective agreements in force on the date of the transfer.

Those associations of employees, according to the groups contemplated, also represent the future employees of the institute until 31 December 1988.

The collective agreements in force on the date of the transfer apply to the employees of the institute, so far as they are applicable until the date of expiry of the collective agreements in force.

Notwithstanding the foregoing, the provisions of those collective agreements concerning employment security are under no circumstances applicable to employees contemplated in the second paragraph.

The directives mentioned in Schedule I apply to the employees of the institute covered by those directives before their appointment by the institute so far as the provisions of the collective agreements

to which those directives refer and which are in force on the date of the transfer are applicable until 31 December 1988.

41. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended

(1) by inserting in paragraph 1, at the place determined by the Minister of Justice, the following: “the Institut de tourisme et d’hôtellerie du Québec”;

(2) by inserting in paragraph 6, at the place determined by the Minister of Justice, the following: “the Institut de tourisme et d’hôtellerie du Québec”.

42. Schedule III to the said Act is amended by inserting in paragraph 1, at the place determined by the Minister of Justice, the following: “the Institut de tourisme et d’hôtellerie du Québec”.

43. Schedule II to the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12) is amended by inserting in paragraph 1, at the place determined by the Minister of Justice, the following: “the Institut de tourisme et d’hôtellerie du Québec”.

44. Schedule IV to the said Act is amended by inserting, at the place determined by the Minister of Justice, the following: “the Institut de tourisme et d’hôtellerie du Québec”.

45. The movable property belonging to the Government and used, on the date of the transfer contemplated in section 34, for the operation of the administrative unit also contemplated in that section becomes, on the date of the transfer, the movable property of the institute, except where the Government decides otherwise.

In cases pending on the date of the transfer and relating to such movable property, the institute is substituted for the Government, except where the Government decides otherwise.

46. The records and any other documents of the Government relating to the administrative unit contemplated in section 34 become, on the date of the transfer also contemplated in that section, the records and documents of the institute, except where the Government decides otherwise.

47. The institute or the chairman of the institute is substituted for the Government or the Minister of Tourism, as the case may be,

in any proceedings relating to the administrative unit described in section 34 to which the Government or the Minister of Tourism is a party on the date of the transfer also contemplated in that section, without continuance of suit.

48. The institute, on the date of the transfer contemplated in section 34, acquires the rights and shall assume the obligations of the Government in respect of the administrative unit also contemplated in that section.

[[**49.** The appropriations granted in 1987-88 to the Ministère du Tourisme for the Institut de tourisme et d'hôtellerie du Québec shall be transferred to the institute to the extent determined by the Government.

Any additional sums required for the carrying out of this Act during the fiscal years 1987-88 and 1988-89 shall, to the extent determined by the Government, be taken out of the consolidated revenue fund.]]

50. The Minister of Tourism is responsible for the administration of this Act.

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

SCHEDULE I
(Section 40)

1. The “Directive concernant les conditions de travail du personnel de bureau, techniciens et assimilés, des employés du lieutenant-gouverneur, des chauffeurs de ministres, du personnel ouvrier et des agents de la paix”, made by CT 156291 of 30 April 1985 and amended by CT 159034 of 30 October 1985, 159388 of 20 November 1985, 163378 of 3 February 1987 and 163533 of 3 March 1987.

2. The “Directive concernant les conditions de travail du personnel professionnel”, made by CT 156290 of 30 April 1985 and amended by CT 164217 of 28 April 1987.