



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 24
(2006, chapter 32)

**An Act to amend the Act respecting the
Ministère de l'Agriculture, des Pêcheries
et de l'Alimentation and the Act
respecting the Ministère du Revenu**

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Passage in principle 24 May 2006
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Assented to 15 June 2006**

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EXPLANATORY NOTES

This bill amends the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation by replacing the reimbursements made to agricultural operations with regard to property taxes and to compensations for municipal services by a credit applied by local municipalities directly to the tax account. The amount thus credited is paid by the Minister of Agriculture, Fisheries and Food.

The bill also contains provisions regarding the exchange of information that must take place between the Minister and the municipalities for this new system to be implemented. In addition, the bill amends the Act respecting the Ministère du Revenu to allow tax information to be sent to the Minister of Agriculture, Fisheries and Food.

Lastly, the bill contains transitional provisions and consequential amendments.

Bill 24

AN ACT TO AMEND THE ACT RESPECTING THE MINISTÈRE DE L'AGRICULTURE, DES PÊCHERIES ET DE L'ALIMENTATION AND THE ACT RESPECTING THE MINISTÈRE DU REVENU

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (R.S.Q., chapter M-14), amended by chapter 8 of the statutes of 2005 and chapter 2 of the statutes of 2006, is again amended by replacing "REIMBURSEMENT" in the heading of Division VII.1 by "PAYMENT".

2. Section 36.1 of the Act, amended by section 3 of chapter 8 of the statutes of 2005, is again amended by replacing paragraph 1 by the following paragraphs:

"(1) the words "building" and "immovable" mean a building or immovable within the meaning of section 1 of the Act respecting municipal taxation (chapter F-2.1);

"(1.1) "property tax" means a tax or surtax that a local municipality imposes on an immovable or in respect of the immovable if the tax or surtax is imposed regardless of use;"

3. Section 36.2 of the Act, amended by section 4 of chapter 8 of the statutes of 2005 and section 1 of chapter 2 of the statutes of 2006, is again amended

(1) by replacing the part of the first paragraph that precedes subparagraph 1 by the following:

"36.2. The Minister shall pay a part of the amount of the municipal property taxes and compensations for municipal services applicable to an immovable forming part of an agricultural operation";

(2) by replacing "reimbursement" wherever it appears in subparagraphs 1, 2 and 4 of the first paragraph by "payment";

(3) by replacing subparagraph 3 of the first paragraph by the following subparagraph:

"(3) that produced a minimum average gross revenue per \$100 of property assessment, the amount of which is determined by regulation, with regard to

immovables situated in the agricultural zone and forming part of the agricultural operation during the calendar year that ended before the beginning of the fiscal year for which an application for payment is made, unless the agricultural operation benefits from an exemption determined by regulation;”;

(4) by replacing the second and third paragraphs by the following paragraphs:

“The application for payment must be made in writing at the time the operator registers the agricultural operation or updates or renews its registration, for each unit of assessment that includes an immovable forming part of the agricultural operation. If the operator is not the person in whose name the unit of assessment is entered on the roll, the application must be made jointly with that person. The application must be accompanied by the information and documents required by regulation.

The right to apply for a payment of property taxes and compensations for a given fiscal year expires unless it is exercised in accordance with the preceding paragraph not later than 31 December of that fiscal year or, where applicable and if advantageous for the applicant, within 30 days following the sending of a notice from the Minister to that effect.”;

(5) by replacing “reimbursement” by “payment” in the fourth paragraph.

4. Section 36.3 of the Act, amended by section 5 of chapter 8 of the statutes of 2005, is again amended

(1) by replacing the first paragraph by the following paragraph:

“36.3. The property taxes and compensations qualified for payment are those which are payable or have been paid for a given fiscal year regardless, in the latter case, of who paid them. However, for the purpose of establishing the amount payable under section 36.4, they include the school property taxes for that fiscal year not exceeding the maximum set by the Education Act (chapter I-13.3).”;

(2) by replacing “notice of assessment sent for the municipal fiscal year for which an application for reimbursement is made. The notice” in the second paragraph by “account of property taxes or compensations sent by the local municipality. The first account sent in a given fiscal year”;

(3) by replacing “reimbursement” in the third paragraph by “payment”.

5. Section 36.4 of the Act, amended by section 6 of chapter 8 of the statutes of 2005, is again amended by replacing “reimbursed”, “reimburse” and “reimbursement” wherever they appear by “paid”, “pay” and “payment”, respectively.

6. The Act is amended by inserting the following section after section 36.4:

“36.4.1. The total of the amounts paid by the Minister as determined under section 36.4 may not exceed,

(1) for the fiscal year 2007, 107% of the total of the amounts paid for the 2006 fiscal year;

(2) for the fiscal year 2008, 106% of the total of the amounts paid for the 2007 fiscal year; and

(3) for any subsequent fiscal year, 105% of the total of the amounts paid for the preceding fiscal year.

If the total of the amounts paid by the Minister for a given fiscal year exceeds the limit determined under the first paragraph for that fiscal year, the excess is used to reduce proportionately the amount determined under section 36.4 for each unit of assessment and is adjusted under section 36.7.2.”

7. Section 36.7 of the Act is replaced by the following sections:

“36.7. Before the beginning of a given fiscal year, and provided the conditions prescribed by regulation are met, the Minister shall send to a local municipality whose property assessment roll includes an immovable forming part of an agricultural operation, the reduction rate and any adjustment applicable with regard to the unit of assessment that includes such an immovable. This rate is equal to the percentage of the qualified municipal property taxes and compensations paid under section 36.4 for the preceding fiscal year with regard to that unit.

The local municipality shall deduct from any account of property taxes and compensations imposed with regard to a unit of assessment referred to in the first paragraph a credit equal to the result obtained when the reduction rate referred to in the first paragraph is applied to the amount of the qualified property taxes and compensations. The credit also includes any adjustments that may be made under section 36.7.2.

The credit thus granted takes the place of the payment provided for in section 36.4 for the given fiscal year.

“36.7.1. Within 30 days after sending an account of property taxes or compensations imposed with regard to a unit of assessment referred to in the second paragraph of section 36.7, a local municipality or any other person or body determined by regulation must send to the Minister, in the form prescribed by regulation, a document containing the information required by regulation.

After receiving this document, the Minister shall pay to the local municipality the total amount of the credits it deducted under section 36.7.

“36.7.2. The Minister shall ensure that any credit deducted corresponds to the amount payable under section 36.4 and that the conditions set out in section 36.2 are met.

If, after verification, adjustments must be made, the Minister informs the local municipality before the next fiscal year so that they may be applied to the credit deductible for that fiscal year.

The Minister may, however, pay the amount of the adjustment directly to the person in whose name the unit of assessment is entered on the roll or claim the amount of the adjustment from that person.

If the Minister demands reimbursement of an overpayment, the reimbursement must be made within 30 days after receipt of the Minister's notice. If the amount is not reimbursed by the expiry of that period, it bears interest at the rate determined under the first paragraph of section 28 of the Act respecting the Ministère du Revenu (chapter M-31).

“36.7.3. Despite section 36.7 the Minister may, for a given fiscal year, pay directly to the person in whose name a unit of assessment is entered on the roll, an amount to which the person is entitled under section 36.4, provided the local municipality was not able to deduct that amount from the account of property taxes and compensations and provided the qualification conditions set out in section 36.2 are met.”

8. Section 36.12 of the Act is replaced by the following section:

“36.12. The Government may, by regulation,

(1) for the purposes of subparagraph 3 of the first paragraph of section 36.2, determine the minimum average gross revenue per \$100 of property assessment that a registered agricultural operation must produce to qualify for the payment of property taxes and compensations;

(2) for the purposes of subparagraphs 3 and 4 of the first paragraph of section 36.2, and on the conditions and for the period it determines, exempt an agricultural operation from having to produce the minimum gross revenue or the minimum average gross revenue per \$100 of property assessment in order to qualify for the payment of property taxes and compensations;

(3) determine the content of an application for payment of property taxes and compensations and of the documents and information that must accompany it;

(4) prescribe the form to be used for the application for payment referred to in paragraph 3;

(5) determine the conditions to be met for the purposes of the first paragraph of section 36.7;

(6) determine the form of the document that a local municipality, or any other person or body it determines, must send to the Minister under section 36.7.1 and determine the information it must contain; and

(7) prescribe any other measure necessary for the purposes of this Act.”

9. Section 36.13 of the Act, amended in the French text by section 8 of chapter 8 of the statutes of 2005, is replaced by the following section:

“36.13. A decision of the Minister to refuse an application for payment or to demand a reimbursement must be in writing and include the Minister’s reasons. A copy of the decision must be sent to the applicant.”

10. Section 36.14 of the Act is amended by inserting “if the reason for the decision is that the condition set out in subparagraph 3 or subparagraph 4 of the first paragraph of section 36.2 is not met” at the end.

11. Section 69.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), amended by section 6 of chapter 2, sections 80 and 95 of chapter 13, section 54 of chapter 14, section 163 of chapter 15, section 266 of chapter 23, section 195 of chapter 28 and section 49 of chapter 39 of the statutes of 2005, is again amended by adding the following subparagraph after subparagraph *u* of the second paragraph:

“(v) the Minister of Agriculture, Fisheries and Food, to the extent that the information is needed to register an agricultural operation in accordance with a regulation made under section 36.15 of the Act respecting the Ministère de l’Agriculture, des Pêcheries et de l’Alimentation (chapter M-14) or to verify a person’s eligibility for a payment under Division VII.1 of that Act.”

12. For the purposes of subparagraph 3 of the first paragraph of section 36.2 of the Act respecting the Ministère de l’Agriculture, des Pêcheries et de l’Alimentation (R.S.Q., chapter M-14), amended by section 3 of this Act, and until the date of coming into force of the amendment to be made to the Regulation respecting the registration of agricultural operations and the reimbursement of real estate taxes and compensations, enacted by Order in Council 340-97 (1997, G.O. 2, 1275), an agricultural operation must produce an average gross revenue of not less than \$8 per \$100 of property assessment with regard to immovables situated in the agricultural zone and forming part of the agricultural operation during the calendar year that ended before the beginning of the fiscal year for which an application for payment is made, unless one of the following conditions is met: the immovable became an agricultural operation during that calendar year; it is demonstrated to the Minister that reforestation or development work intended to help produce such revenue in the future was carried out during that year; new animal production at the developmental phase is being carried out with a view to producing such revenue; or production is temporarily limited by reason of exceptional natural causes.

13. For the purposes of subparagraph 5 of the first paragraph of section 36.2 of the Act respecting the Ministère de l’Agriculture, des Pêcheries et de l’Alimentation (R.S.Q., chapter M-14) and until the date of coming into force of the amendment to be made to the Regulation respecting the registration of

agricultural operations and the reimbursement of real estate taxes and compensations, enacted by Order in Council 340-97 (1997, G.O. 2, 1275), a person is deemed to satisfy the requirements of that subparagraph if, with regard to that person's agricultural operation, the person satisfies the requirements of paragraphs 1 and 2 of section 11 of the Act to amend the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation and the Food Products Act (2005, chapter 8) at any time during the fiscal year for which an application for payment is made.

14. For the purposes of the second paragraph of section 36.2 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (R.S.Q., chapter M-14), replaced by section 3 of this Act, and until the date of coming into force of the amendment to be made, under paragraphs 3 and 4 of section 36.12 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation, replaced by section 8 of this Act, to the Regulation respecting the registration of agricultural operations and the reimbursement of real estate taxes and compensations, enacted by Order in Council 340-97 (1997, G.O. 2, 1275), the application for payment must be made on the registration form supplied by the Minister and be accompanied by the information and documents provided for in sections 12 and 13 of that regulation. The application must also contain the information provided for in subparagraph 1 of the first paragraph of section 4 of that regulation, with any reference to an operator or an agricultural operation in that paragraph being read as a reference to the applicant.

However, an application for payment for the fiscal year 2007 may be made, until 30 November 2006, in accordance with the second paragraph of section 36.2 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (R.S.Q., chapter M-14) as it read on 14 June 2006, with "reimbursement" being replaced wherever it appears in that paragraph by "payment".

The second paragraph does not apply to a unit of assessment entered on the roll in the name of a person other than the operator.

15. For the purposes of the first paragraph of section 36.7 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (R.S.Q., chapter M-14), replaced by section 7 of this Act, and until the date of coming into force of the amendment to be made to the Regulation respecting the registration of agricultural operations and the reimbursement of real estate taxes and compensations, enacted by Order in Council 340-97 (1997, G.O. 2, 1275), the following conditions apply:

(1) the agricultural operation referred to in the first paragraph of section 36.7 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation must be registered in accordance with a regulation adopted under section 36.15 of that Act;

(2) an application for payment must have been made for the fiscal year concerned and for the preceding fiscal year with regard to that agricultural operation, in accordance with section 36.2 of that Act;

(3) a payment must have been made in accordance with section 36.4 of that Act, following the application for payment for the preceding fiscal year, and the qualification conditions set out in section 36.2 of that Act must have been met.

If the fiscal year preceding the fiscal year concerned is the fiscal year 2006, any reference to a payment in the previous paragraph or in the first paragraph of section 36.7 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation must be read as a reference to a reimbursement.

16. For the purposes of the first paragraph of section 36.7.1 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (R.S.Q., chapter M-14), enacted by section 7 of this Act, and until the date of coming into force of the amendment to be made to the Regulation respecting the registration of agricultural operations and the reimbursement of real estate taxes and compensations, enacted by Order in Council 340-97 (1997, G.O. 2, 1275), a local municipality referred to in section 36.7 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation must send to the Minister a document containing the information determined by the Minister and necessary for the purposes of Division VII.1 of that Act for each unit of assessment referred to in the second paragraph of section 36.7.

17. For the purposes of Division VII.1 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (R.S.Q., chapter M-14), amended by this Act, and until the date of coming into force of the amendment to be made to the Regulation respecting the registration of agricultural operations and the reimbursement of real estate taxes and compensations, enacted by Order in Council 340-97 (1997, G.O. 2, 1275), any reference in that regulation to a reimbursement must be read as a reference to a payment.

18. This Act applies to every school fiscal year as of the school fiscal year 2006-2007 and to every municipal fiscal year as of the 2007 municipal fiscal year.

19. This Act comes into force on 15 June 2006.

