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Follow-up to the recommendations in the report of the Charbonneau Commission

May 26, 2016

Last May 10, the Minister of Municipal Affairs and Land Occupancy, Martin Coiteux, announced the tabling of several amendments to Bill 83 dealing with various legislative provisions on municipal matters. These amendments pertain to the recommendations contained in the report of the Charbonneau Commission.

Changes to the call for tender rules for municipalities

In order to strengthen the integrity of the process for awarding contracts in municipal calls for tenders, certain changes are being proposed to the functioning of the process.

For example, the names of the members appointed to the selection committee would be kept confidential. Contractors would also be able to participate anonymously in the process.

In addition, the amendments as presented would increase the threshold for the awarding of contracts without calls for tenders in cities from $25,000 to $100,000.

Increased oversight of political contributions

With a view to a sounder public administration, Minister Coiteux is suggesting that the time limit for instituting proceedings relating to illegal financing in municipal politics be extended to seven years. The current time limit is five years.

The amendments also provide that cash loans or guarantees in favour of a municipal party would be limited to a maximum of $5,000. Additionnaly, any persons who agree to make such a loan or provide such a guarantee would have to sign a statement guaranteeing that they would not act as front men for financing.

On May 11, 2016, following in the footsteps of Minister Coiteux, the Minister of Justice, Stéphanie Vallée unveiled Bill 98 with a view to amending various statutes primarily regarding admission to the professions and the governance of the professional system.

Responding primarily to four recommendations of the Charbonneau Commission, the main objective of this Bill is the public protection.

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Governance, ethics and public protection

To this end, Bill 98 would allow the Office des professions to take the lead by investigating a professional solely on the basis of information received by it. Thus, the Office would no longer have to wait for permission from the Minister of Justice and could act on its own initiative, considerably reducing the timeframe for the investigation.

The professionals of all professional orders would also have to follow mandatory ethics and professional conduct training. In the same vein, the Bill provides for improvements to the training of the directors of professional orders, particularly in such matters.

Suspension or limitation of a professional's right to practice

Furthermore, the Minister of Justice is proposing that a professional's right to practice or use of his or her title should be suspended or limited when he or she is being prosecuted for an offence punishable by imprisonment of five years or more.

Immunity granted to informant also guilty of offence

The syndic would have the power to grant immunity to a professional who previously reported an offence which he or she participated in.

The objective here is to increase the protection of informants in order to encourage transparency and prevent the infiltration of organized crime into the legal economy.

The report of the Charbonneau Commission recommended that professional orders should be able to sanction firms that adopt illegal practices, and not just professionals. However, this recommendation is not included in Bill 98.

The amendments to Bill 83 were tabled on May 10, 2016. Bill 98 was introduced on May 11, 2016.

Lavery's Corporate and Business Integrity Group is closely following the adoption of the amendments to Bill 83 and the adoption of Bill 98 in order to assist you in applying these new provisions and advising you on the potential consequences to your firm.

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