



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 63
(1997, chapter 41)

An Act respecting mixed enterprise companies in the municipal sector

Introduced 13 November 1996
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EXPLANATORY NOTES

The purpose of this bill is to allow local municipalities, regional county municipalities, urban communities and the Kativik Regional Government to create mixed enterprise companies. The activities of a mixed enterprise company will consist in exercising the jurisdiction determined by the founding municipal entity. Such activities do not include exercising jurisdiction over water supply, water treatment, police matters or fire prevention and safety. Powers exercised by a municipal entity under temporary delegation, otherwise than pursuant to a pilot project, cannot be exercised by a mixed enterprise company.

Every municipal entity that adopts a resolution concerning the exercise of a jurisdiction as regards the provision of goods or services by municipal employees will be required to hold a public meeting on the resolution before transmitting it to the Minister of Municipal Affairs.

In addition, the Minister of Municipal Affairs may order that the qualified voters of a municipality be consulted on any resolution whereby the municipality has made the decision to become one of the founders of a mixed enterprise company.

The bill provides that mixed enterprise companies are governed by Part IA of the Companies Act, that the founders must include, in addition to the municipal founder, an enterprise from the private sector or a joint-stock company that is a mandatary of the Government, that the co-founder from the private sector may be selected only after a call for tenders and that the municipal founder is required to hold the majority of the voting shares of the mixed enterprise company. The bill also provides that the board of directors of a mixed enterprise company must be composed in the majority of persons elected by the municipal founder.

The bill proposes special rules concerning the decision of a municipality or of an urban community to establish a mixed enterprise company, and determines the rules of operation of a mixed enterprise company.

Lastly, the bill provides that mixed enterprise companies will be subject to the Act respecting Access to documents held by public bodies and the Protection of personal information.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1);
- Cities and Towns Act (R.S.Q., chapter C-19);
- Municipal Code of Québec (R.S.Q., chapter C-27.1);
- Charter of the City of Québec (1929, chapter 95);
- Charter of the city of Montréal (1959-60, chapter 102).

Bill 63

AN ACT RESPECTING MIXED ENTERPRISE COMPANIES IN THE MUNICIPAL SECTOR

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

CHAPTER I

INTERPRETATION

1. In this Act,

“municipal entity” means a municipality, an urban community or the Kativik Regional Government;

“municipal founder” means any municipal entity or group that is one of the founders of a mixed enterprise company.

CHAPTER II

DECISION TO FOUND A MIXED ENTERPRISE COMPANY

2. Any municipal entity or any group formed exclusively of municipal entities may, in accordance with this Act, be one of the founders of a mixed enterprise company.

A mixed enterprise company may exercise any of the powers that are within the jurisdiction of a municipal entity, except the powers that relate to the supply of drinking water, water treatment, police matters and fire prevention and safety or any power the exercise of which was delegated temporarily to the municipal entity otherwise than under an agreement entered into with the Government pursuant to a pilot project.

3. The resolution by which a municipal entity elects to become one of the founders of a mixed enterprise company shall, in particular, specify the jurisdiction of the mixed enterprise company.

The resolution by which a municipal entity elects to become a member of a group that intends to become one of the founders of a mixed enterprise company shall, in particular, define the powers that are to be within the jurisdiction exercised by the mixed enterprise company, and list the municipal entities that are members of the group.

Any resolution providing that all or part of a power acquired by a municipal entity pursuant to a pilot project is to be exercised by a mixed enterprise company must be approved by the Government to become effective unless the agreement entered into by the Government and the municipal entity authorizes the exercise thereof by a mixed enterprise company.

4. The clerk, secretary or secretary-treasurer of any municipal entity that passes a resolution under section 3 shall, as soon as possible, send a certified copy of the resolution to the Minister of Municipal Affairs.

In addition, where the municipal entity is a local municipality, the clerk or secretary-treasurer shall, as soon as possible, send a certified copy of the resolution to the municipal entity whose territory includes the territory of the local municipality.

Where the municipal entity is a regional county municipality, the secretary-treasurer shall, as soon as possible, send by registered mail a certified copy of the resolution to every local municipality whose territory is included in the territory of the regional county municipality and in which the regional county municipality exercises the jurisdiction defined in the resolution.

5. A municipal entity that passes a resolution under section 3 proposing that a mixed enterprise company exercise jurisdiction over goods or services provided by employees of the entity shall, before sending a copy of the resolution to the Minister of Municipal Affairs in accordance with section 4, hold, in respect of the resolution, a public meeting called by the mayor or by another member of the council designated by the mayor.

The council shall fix the date, time and place of the meeting; it may delegate all or part of such power to the clerk, the secretary-treasurer or the secretary of the municipal entity.

For the purposes of the first paragraph, the word “mayor” designates, in addition to its usual meaning, the warden in the case of a regional county municipality, the chairman of the council in the case of the Communauté urbaine de l’Outaouais, the chairman of the executive committee in the case of the Communauté urbaine de Montréal, the chairman of the Community in the case of the Communauté urbaine de Québec and the chairman of the executive committee in the case of the Kativik Regional Government.

6. On or before the fifteenth day preceding the date of the public meeting, the clerk, the secretary-treasurer or the secretary of the municipal entity shall publish in a newspaper circulated in the territory of the municipal entity a notice of the date, time, place and purpose of the meeting.

He shall, within the same time limit, send a certified copy of the notice to the certified association, if any, that represents the employees referred to in section 5.

The notice shall define the jurisdiction mentioned in the resolution under section 3, and indicate that a copy of the resolution is available for consultation at the office of the municipal entity.

7. During the public meeting, the person having called the meeting shall explain the resolution and hear all persons and bodies wishing to make representations.

8. Certification of the publication of the notice under section 6 shall be sent by the person responsible for publication of the notice to the Minister of Municipal Affairs, together with a copy of the resolution under section 3.

9. The Minister of Municipal Affairs may order, in respect of any resolution under section 3, that the qualified voters of the local municipality that passed the resolution or of every local municipality whose territory is included in the territory of the municipal entity that passed the resolution and in which the municipal entity exercises the jurisdiction mentioned in the resolution be consulted.

The qualified voters shall be consulted in accordance with the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) or with the Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1), as the case may be.

The clerk or the secretary-treasurer shall, as soon as possible, send to the Minister, depending on the circumstances, a notice attesting that the majority of the qualified voters entitled to have their names entered on the referendum list of the municipality have waived the holding of a referendum poll, a certified copy of the certificate stating the results of the registration procedure to determine whether a referendum poll is necessary, and a certified copy of the statement of the final results of the poll.

The expenses arising from the consultation shall be borne by the municipality in which the referendum was held.

10. If the jurisdiction mentioned in the resolution under section 3 and passed by a regional county municipality is a jurisdiction acquired by the regional county municipality pursuant to article 678.0.1 of the Municipal Code of Québec (R.S.Q., chapter C-27.1), the right to not be subject to such jurisdiction granted by the Municipal Code, hereinafter referred to as the “right of withdrawal”, may be exercised, with the modifications set out in the second and third paragraphs.

Where the jurisdiction mentioned in the resolution under section 3 constitutes only part of the jurisdiction acquired by the regional county municipality as regards the provision of the municipal service concerned, the right of withdrawal may be exercised in respect of the whole of the jurisdiction acquired or in respect of only the part mentioned in the resolution.

The resolution by which the right of withdrawal is exercised is without effect unless a certified copy of it is received by the regional county municipality within 90 days after receipt by the local municipality of the copy sent under the third paragraph of section 4 or after the mixed enterprise company is established.

Any disagreement between a municipality exercising its right of withdrawal and a regional county municipality that pertains to expenses incurred prior to the withdrawal in connection with the establishment of a mixed enterprise company may be resolved in accordance with the procedure provided in sections 468.53 and 469 of the Cities and Towns Act (R.S.Q., chapter C-19), adapted as required.

11. Any local municipality that exercised its right to withdraw from a jurisdiction may elect to become subject to such jurisdiction in accordance with the applicable provisions of the Municipal Code of Québec (R.S.Q., chapter C-27.1).

However, the resolution by which the municipality elects to become subject to the jurisdiction is without effect if the certified copy of the resolution is received by the regional county municipality after the mixed enterprise company is established. In such a case, the municipality may not elect to become subject to the jurisdiction, except under the provisions of Chapter V.

CHAPTER III

ESTABLISHMENT AND ORGANIZATION OF A MIXED ENTERPRISE COMPANY

12. Subject to this Act, mixed enterprise companies shall be established in accordance with Part IA of the Companies Act (R.S.Q., chapter C-38).

The activities of a mixed enterprise company shall be restricted to exercising the jurisdiction mentioned in a resolution under section 3, and include the power to provide any goods or services. Such goods or services may be provided in the territory included in the territory of any municipal entity that is the municipal founder or that is a member of the group that is the municipal founder and in which the jurisdiction concerned was exercised by the municipal entity before being entrusted to a mixed enterprise company.

13. Every other founder of a mixed enterprise company shall be selected by the municipal founder.

Where the municipal founder is a group, the selection under the first paragraph shall be made by the passage by all municipal entities that are members of the group of resolutions that are identical as to the designation of any other founder of the mixed enterprise company.

14. At least one of the founders with which the municipal founder must join to found a mixed enterprise company shall be either a person operating an enterprise in the private sector or a joint-stock company that is a mandatary of the Government.

The person referred to in the first paragraph that operates an enterprise in the private sector must hold at least 20% of the paid up share capital of the mixed enterprise company. However, that rule does not apply where a joint-stock company that is a mandatary of the Government is also a founder of the mixed enterprise company.

15. The municipal founder shall issue a call for tenders for the purpose of selecting, as co-founder, a person operating an enterprise in the private sector that is required to hold at least 20% of the paid-up share capital of the mixed enterprise company.

The call for tenders shall be published in a newspaper circulated in the territory of the municipal founder and shall invite persons operating an enterprise in the private sector to submit their expertise and main achievements in the provision of goods or services described in the call for tenders and related to the activities of the future mixed enterprise company.

Where the municipal founder is a group, the municipal entity having the largest population shall cause the call for tenders to be published in a newspaper circulated in its territory. The expenditure related to the call for tenders and the choice of a candidate shall be apportioned among the members of the group in proportion to their population or according to any other criterion agreed upon.

The selection of a co-founder may not take place before the expiry of a period of 60 days after publication of the call for tenders.

For the purposes of this Act, the population of the Kativik Regional Government is the total population of the local municipalities whose territory is included in the territory of the Kativik Regional Government.

16. The name of a mixed enterprise company must include the words “Société d’économie mixte” or the abbreviation “SÉM”.

17. Before the articles of a mixed enterprise company are filed with the Inspector General of Financial Institutions under the Companies Act (R.S.Q., chapter C-38), the municipal founder must, in addition to designating a person who will be authorized to sign for the founder, obtain approval of the articles from the Minister of Municipal Affairs. The articles shall be filed together with a copy of the document evidencing such approval.

Where the municipal founder is a group, the designation of the person who will sign the articles and the designation of the municipal entity that is a member of the group charged with obtaining the approval of the Minister shall

be made by the passage by all municipal entities that are members of the group of resolutions identical as to such designations.

18. A mixed enterprise company shall obtain approval from the Minister of Municipal Affairs for any articles of amendment or of amalgamation. The articles shall be filed together with a copy of the document evidencing such approval.

19. Every by-law of the mixed enterprise company under section 93 of the Companies Act (R.S.Q., chapter C-38) and every unanimous shareholders' agreement under section 123.91 of that Act must be approved by the Minister of Municipal Affairs to become effective.

20. The voluntary winding-up or the dissolution of a mixed enterprise company must be authorized by the Minister of Municipal Affairs to become effective.

21. The municipal entity that is the municipal founder of a mixed enterprise company or that is a member of the group that is the founder must, at all times, be a shareholder of the mixed enterprise company.

Such shareholder or group of shareholders, as the case may be, must, at all times, hold a majority of the voting rights attached to the shares of the mixed enterprise company.

22. The board of directors of a mixed enterprise company and its executive committee, if any, must include a majority of persons elected exclusively by the shareholder or by the group of shareholders referred to in section 21.

A majority of the directors thus elected must be members of the council of the shareholder or of the council of one of the shareholders forming the group.

23. The chairman of the board of directors of a mixed enterprise company shall also chair the executive committee of the board, if there is one.

The chairman of the board of directors does not have a second vote or a casting vote in the case of a tie-vote among the members of the board of directors or of the executive committee.

24. Every director elected from among the members of the council of a municipality, of an urban community or of the Kativik Regional Government remains in office even upon his ceasing to be a council member.

25. The quorum at meetings of the board of directors of a mixed enterprise company or at meetings of the executive committee of the board, if any, must include a majority of the directors elected exclusively by the shareholder or by the group of shareholders referred to in section 21.

The first paragraph also applies, notwithstanding section 123.20 of the Companies Act (R.S.Q., chapter C-38), to the organization meeting of the directors.

26. The second paragraph of section 21 and sections 22 and 25 do not apply where the municipal founder has joined with a joint-stock company that is a mandatory of the Government and is the holder of at least 50% of the paid-up share capital of the mixed enterprise company.

27. Every general meeting of a mixed enterprise company and every meeting of the board of directors and of the executive committee, if any, of a mixed enterprise company must be held in Québec.

28. Every decision of the board of directors of a mixed enterprise company fixing or changing the remuneration of the directors must be approved by the municipal founder to become effective.

Where the municipal founder is a group of municipal entities, such a decision is deemed to be approved by the municipal founder if the majority of the municipal entities approve it and if the total population of the municipal entities which approve the decision constitutes 50% or more of the total population of the group of municipal entities.

Any municipal entity which fails to express an opinion on the decision within 60 days after receiving a copy of it is deemed to have approved the decision.

CHAPTER IV

AGREEMENT

29. Any municipal entity that is the municipal founder of a mixed enterprise company or that is a member of the group that is the municipal founder may enter into an agreement with the mixed enterprise company in respect of the exercise of their shared jurisdiction.

30. The agreement must be approved by the Minister of Municipal Affairs to become effective.

The agreement does not require the authorization or approval of the Minister under section 29.3 of the Cities and Towns Act (R.S.Q., chapter C-19), article 14.1 of the Municipal Code of Québec (R.S.Q., chapter C-27.1), sections 18.1 and 361.1 of the Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1), article 721 of the Charter of the city of Montréal (1959-60, chapter 102) or article 191*a* of the Charter of the city of Québec (1929, chapter 95).

Sections 573 and 573.1 of the Cities and Towns Act, articles 935 and 936 of the Municipal Code of Québec, sections 82.1 to 83 of the Act respecting the

Communauté urbaine de l'Outaouais (R.S.Q., chapter C-37.1), sections 120.0.1 to 120.0.3 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2), sections 92 to 92.0.2 of the Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3), sections 204, 204.1, 358 and 358.1 of the Act respecting Northern villages and the Kativik Regional Government and article 107 of the Charter of the city of Montréal do not apply to the agreement.

31. The agreement shall include

- (1) a detailed description of its object;
- (2) the obligations of the parties including their obligations as to financial participation;
- (3) the procedure for determining the cost of its implementation;
- (4) the obligations of the parties in case of total or partial non-performance;
- (5) the term of the agreement and, where applicable, the renewal procedure.

32. The agreement shall include any provision concerning the employees referred to in section 5.

CHAPTER V

INCLUSION OF MUNICIPALITY HAVING EXERCISED ITS RIGHT OF WITHDRAWAL

33. Sections 34 to 36 apply where a local municipality having exercised the right of withdrawal referred to in section 10 in respect of a jurisdiction has not become subject thereto before the establishment of the mixed enterprise company which, pursuant to the agreement to which it is a party, exercises the jurisdiction concerned.

For the purposes of sections 34 to 36, jurisdiction over a local municipality shall extend to its territory.

34. The local municipality may make an application to the regional county municipality requesting that it be made subject to the jurisdiction concerned.

The clerk or secretary-treasurer of the local municipality shall, as soon as possible, send to the regional county municipality and to the mixed enterprise company, by registered mail, a certified copy of the resolution containing its application.

The local municipality's becoming subject to a jurisdiction cannot become effective for a municipal fiscal year unless a copy of the resolution is received by the regional county municipality on or before 1 July preceding the beginning of the fiscal year.

35. An application under section 34 is deemed to have been refused if the regional county municipality has not, within 90 days of receiving a copy of the resolution containing the application, passed a resolution granting the application.

The councillors representing the local municipality on the council of the regional county municipality shall not participate in any deliberations concerning, or vote on, the application. The resolution granting the application requires a two-thirds majority of the votes cast.

The secretary-treasurer of the regional county municipality shall, as soon as possible, send to the local municipality and to the mixed enterprise company, by registered mail, a certified copy of the resolution setting out the decision of the regional county municipality granting the application.

36. If the application is granted, the local municipality and the regional county municipality shall agree on the procedure according to which the local municipality is to become subject to the jurisdiction and the terms and conditions of payment of the expenditures arising therefrom.

Any disagreement concerning such procedure or such terms and conditions may be resolved in accordance with the procedure provided in sections 468.53 and 469 of the Cities and Towns Act (R.S.Q., chapter C-19), adapted as required.

A local municipality's becoming subject to a jurisdiction shall take effect in accordance with the procedure, terms and conditions agreed upon or determined pursuant to the first or the second paragraph. Subject to such procedure, terms and conditions, a local municipality's becoming subject to a jurisdiction under the provisions of this chapter shall be considered to have been effected under articles 678.0.2 and 10.1 of the Municipal Code of Québec (R.S.Q., chapter C-27.1).

CHAPTER VI

SPECIAL PROVISIONS

37. No mixed enterprise company may be a shareholder in any legal person or acquire a share in a partnership.

38. No mixed enterprise company may grant any loan or financial assistance to a shareholder or stand surety for a shareholder.

No mixed enterprise company may, in any manner described in the first paragraph, assist any person in acquiring any of its shares.

39. The Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45) applies to a mixed enterprise company.

40. Any contract awarded by a mixed enterprise company to a person so that the person may exercise any part of the jurisdiction covered by an agreement must be authorized by the municipal founder to become effective.

The second and third paragraphs of section 28, adapted as required, apply in respect of such a contract.

41. Section 40 does not, however, apply to a contract that, if it were awarded by the municipal founder, would not be subject to the public tenders or tenders by invitation procedure that applies to the municipal founder, or to a contract awarded by a mixed enterprise company according to the procedure for tenders that governs the awarding of such a contract by the municipal founder, adapted as required.

For the purposes of the first paragraph, the municipal founder is deemed, in the case of a group, to be the municipal entity having the largest population.

42. For the purposes of the provisions of Division III.1 of Chapter XVIII of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), of section 143.3 of the Act respecting the Communauté urbaine de l'Outaouais (R.S.Q., chapter C-37.1), of section 222.1 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2) and of section 157.3 of the Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3), any good or service or any activity of a mixed enterprise company is deemed to be that of the municipal entity that exercised, in the territory concerned, the jurisdiction to which the good, service or activity relates before such exercise was entrusted to the mixed enterprise company.

43. The agreement may provide that the mixed enterprise company collects any sum the payment of which is imposed under a provision mentioned in section 42 for the financing of any good or service or of any activity, and provide that the total sum collected is retained by the company or remitted to the municipal entity that imposed the payment, or that part of the sum collected is retained by the mixed enterprise company and part is remitted to the municipal entity.

44. Unless otherwise provided in the agreement, a mixed enterprise company may, pursuant to a contract, provide any goods or services that are related to the jurisdiction it exercises, outside the territory of a municipal entity that is a party to the agreement.

45. Any municipal entity that is the municipal founder of a mixed enterprise company or that is a member of the group that is the municipal founder may acquire any property, by agreement or by expropriation, for the purpose of transferring or leasing it, by onerous title, to the mixed enterprise company or for the purpose of providing it to the mixed enterprise company as payment for shares.

46. Any borrowing by a mixed enterprise company by way of an issue of bonds must be authorized by the municipal founder to become effective.

The second and third paragraphs of section 28, adapted as required, apply in respect of the borrowing.

47. Any municipal entity that is the municipal founder of a mixed enterprise company or that is a member of the group that is the municipal founder may guarantee the bonds issued by the mixed enterprise company.

The guarantee offered to the bondholders may cover not only the repayment of the principal and interest of the bonds but also the payment of related fees and commitments.

48. Any municipal entity that is the municipal founder of a mixed enterprise company or that is a member of the group that is the municipal founder may stand surety for the mixed enterprise company in respect of commitments other than those mentioned in section 47.

However, a municipality having a population of less than 50 000, and the Kativik Regional Government, must obtain the authorization of the Minister of Municipal Affairs to stand surety for an obligation of \$50,000 or more. A municipality having a population of 50 000 or over or an urban community must obtain such authorization if the obligation for which it is to stand surety is of \$100,000 or more.

The amount up to which a municipal entity may make a commitment under this section may not exceed the value of the share capital of the mixed enterprise company it has paid.

CHAPTER VII

PROTECTION AND DISQUALIFICATION

49. Every mixed enterprise company must provide and maintain liability insurance for its directors, officers and other representatives.

50. For the purposes of Division XIII.1 of the Cities and Towns Act and of Title XVIII.2 of the Municipal Code of Québec, a mixed enterprise company is deemed to be a mandatory body of the municipal entity that is the municipal founder of the mixed enterprise company or that is a member of the group that is the municipal founder in respect of any director of the mixed enterprise company who is a council member or an officer or employee of the municipal entity or of any local municipality whose territory is included in the territory of the municipal entity.

The first paragraph applies notwithstanding sections 123.87 to 123.89 of the Companies Act.

51. Any person who, during his term of office as a member of the council of a local municipality, directly or indirectly acquires or holds shares issued by a mixed enterprise company that is related to the municipality or who has a direct or indirect interest in a contract to which the mixed enterprise company is a party is disqualified from holding office as a member of the council of any local municipality.

For the purposes of the first paragraph, a mixed enterprise company is related to a local municipality if the municipal founder of the mixed enterprise company is

- (1) the local municipality ;
- (2) the regional county municipality or the urban community whose territory includes the territory of the local municipality or, where applicable, the Kativik Regional Government ;
- (3) a group of municipal entities that includes an entity referred to in paragraph 1 or 2.

52. Section 51 does not apply in the cases described in section 305 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2).

53. Disqualification under section 51 may be obtained by means of an action for declaration of disqualification under sections 308 to 312 of the Act respecting elections and referendums in municipalities.

Such disqualification subsists until the expiry of a period of five years after the day on which the judgment declaring the person disqualified becomes *res judicata*.

54. The directors of a mixed enterprise company shall abstain from participating in any deliberation or any decision of the board of directors or of the executive committee, if any, that would place them in a situation where their personal interest would be in conflict with their obligations as directors.

55. The shareholders of a mixed enterprise company may dismiss any director who has contravened section 54. Notwithstanding the second paragraph of section 123.77 of the Companies Act, a dismissal requires a majority vote of all shareholders present at a special general meeting of the shareholders called for that purpose before the expiry of one year from the date on which the act is alleged to have been committed.

56. Any person who directly or indirectly acquires or holds shares issued by a mixed enterprise company or who has a direct or indirect interest in a contract to which the mixed enterprise company is a party is disqualified from holding any position as an officer or employee, other than as an employee within the meaning of the Labour Code, of any municipal entity related to the company.

For the purposes of the first paragraph, a municipal entity is related to a mixed enterprise company if the entity is

- (1) the municipal founder of the mixed enterprise company ;
- (2) a member of the group of municipal entities that is the municipal founder of the mixed enterprise company ;
- (3) a local municipality whose territory is included in the territory of a municipal entity referred to in paragraph 1 or 2.

57. Section 56 does not apply to a person who holds less than 10% of the voting shares issued by a mixed enterprise company, even following an acquisition under the said section.

CHAPTER VIII

FINANCIAL PROVISIONS, DOCUMENTS AND REPORTS

58. The fiscal year of a mixed enterprise company shall coincide with the calendar year.

59. The mixed enterprise company shall, before 1 October each year, send to the municipal entity that is the municipal founder or to every municipal entity that is a member of the group that is the municipal founder an estimate of the costs related to the implementation of the agreement for the next fiscal year of the mixed enterprise company and the financial participation required for that purpose from each municipal entity that is a party to the agreement.

60. Notwithstanding sections 123.98 to 123.100 of the Companies Act, the shareholders of the mixed enterprise company shall appoint an auditor, in accordance with section 123.97 of that Act.

61. The mixed enterprise company shall send to the municipal entity that is the municipal founder or to every municipal entity that is a member of the group that is the municipal founder a copy of the documents and information mentioned in section 98 of the Companies Act at the time or date determined under that section.

For each of its first five fiscal years, the mixed enterprise company must also forward to the Minister of Municipal Affairs a copy of the documents and information referred to in the first paragraph.

62. The mixed enterprise company must, in addition, provide to the Minister of Municipal Affairs any information the Minister requires on its activities.

CHAPTER IX

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

63. This Act applies notwithstanding the Act respecting municipal industrial immovables (R.S.Q., chapter I-0.1), the Municipal Aid Prohibition Act (R.S.Q., chapter I-15) and the Act respecting sales of municipal public utilities (R.S.Q., chapter V-4).

64. Section 5 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), amended by section 13 of chapter 2 of the statutes of 1996, is again amended by adding, after paragraph 2, the following paragraph:

“(3) a mixed enterprise company established under the Act respecting mixed enterprise companies in the municipal sector (1997, chapter 41).”

65. Section 99 of the Cities and Towns Act (R.S.Q., chapter C-19), amended by section 12 of chapter 77 of the statutes of 1996, is again amended by inserting the words “or guaranteed” after the word “issued” in the fifth line of the second paragraph.

66. Article 203 of the Municipal Code of Québec (R.S.Q., chapter C-27.1), amended by section 455 of chapter 2 of the statutes of 1996 and by section 203 of chapter 77 of the statutes of 1996, is again amended by inserting the words “or guaranteed” after the word “issued” in the eleventh line of the first paragraph.

67. Section 301 of the Charter of the City of Québec (1929, chapter 95), replaced by section 19 of chapter 42 of the statutes of 1980 and amended by section 12 of chapter 88 of the statutes of 1988 and by section 13 of chapter 55 of the statutes of 1994, is again amended by inserting the words “or guaranteed” after the words “province or securities issued”.

68. Article 707a of the Charter of the city of Montréal (1959-60, chapter 102), enacted by section 64 of chapter 59 of the statutes of 1962 and amended by section 34 of chapter 96 of the statutes of 1971, by section 14 of chapter 76 of the statutes of 1972, by section 68 of chapter 77 of the statutes of 1973, by section 1 of chapter 85 of the statutes of 1975, by section 14 of chapter 52 of the statutes of 1976, by section 213 of chapter 38 of the statutes of 1984, by section 27 of chapter 87 of the statutes of 1988, and by section 20 of chapter 90 of the statutes of 1990, is again amended by replacing paragraph 5 by the following paragraph:

“(5) The available moneys of the working capital fund may be invested for a short term in a chartered bank or other financial institution authorized to receive such deposits, by way of the purchase of securities issued or guaranteed by the Government of Canada, the Government of Québec or the government of another Canadian province or by a municipality, a mandatory body of a

municipality or a supramunicipal body within the meaning of sections 18 and 19 of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3), or by way of the purchase of securities issued by the Conseil scolaire de l'Île de Montréal.”

69. The Minister of Municipal Affairs is responsible for the administration of this Act.

70. This Act comes into force on 19 June 1997.