



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 95
(1999, chapter 90)

An Act to amend various legislative provisions respecting municipal affairs

Introduced 11 November 1999
Passage in principle 2 December 1999
Passage 17 December 1999
Assented to 20 December 1999

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EXPLANATORY NOTES

The purpose of this bill is to modify various powers currently conferred on municipalities and to amend certain rules relating to municipal administration.

The bill amends the Act respecting land use planning and development and the Charter of the city of Montréal to enable local municipalities and Ville de Montréal to regulate by zone, in their zoning by-law, non-conforming structures and uses protected by acquired rights.

The bill amends various legislative provisions concerning municipal affairs to enable municipalities, urban communities and their transport authorities to take into account in their loan by-law the interest on a long-term debt accrued during a fiscal year, even where the amount is not payable before the following year.

The bill amends the Act respecting duties on transfers of immovables to provide that transfer duties relating to an immovable situated in the territory of two or more municipalities are to be shared according to the basis of imposition attributable to the territory of each municipality.

The bill amends the Act respecting municipal taxation to prescribe that from a date fixed by the Government, only members of the Ordre professionnel des évaluateurs agréés du Québec may act as assessors of a municipal body responsible for assessment, and to provide that the obligation to send a notice of assessment to the taxpayer is maintained only for the first year of the three-year roll. That Act is also amended to enable an assessor, with the consent of the interested persons, to correct a roll before the expiry of the existing time allowed.

Amendments are made as regards municipal territorial organization to allow for a change in the duration of any roll of a territory over which a municipal body responsible for assessment has jurisdiction where part of that territory is affected by a territorial change. The bill also modifies the duration of certain assessment rolls of the regional county municipality of Matawinie.

The bill defines the framework within which certain powers of the Northern villages and the Kativik Regional Government may be exercised, and amends legislation containing a reference to the Union des municipalités régionales de comté et des municipalités locales du Québec inc. to reflect the change of name to Fédération québécoise des municipalités locales et régionales (FQM).

The bill amends the Civil Code of Québec to expressly give a right to follow to holders of prior claims of municipalities or school boards for property taxes.

Lastly, the bill deals with certain matters of a local nature. It ratifies a waste management agreement entered into between Municipalité régionale de comté du Bas-Richelieu, Ville de Tracy and Comporec inc. and provides for the payment of certain sums to Municipalité de Bowman, Ville de Buckingham and Ville de Masson-Angers for the municipal fiscal year 2000.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting land use planning and development (R.S.Q., chapter A-19.1);
- Cities and Towns Act (R.S.Q., chapter C-19);
- Municipal Code of Québec (R.S.Q., chapter C-27.1);
- Act respecting the Communauté urbaine de l’Outaouais (R.S.Q., chapter C-37.1);
- Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2);
- Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3);
- Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1);
- Act respecting municipal taxation (R.S.Q., chapter F-2.1);
- Act respecting municipal territorial organization (R.S.Q., chapter O-9);
- Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3);

- Courts of Justice Act (R.S.Q., chapter T-16);
- Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1);
- Charter of the city of Montréal (1959-60, chapter 102);
- Civil Code of Québec (1991, chapter 64).

Bill 95

AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS RESPECTING MUNICIPAL AFFAIRS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

ACT RESPECTING LAND USE PLANNING AND DEVELOPMENT

1. Section 113 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1), amended by section 4 of chapter 31 of the statutes of 1998 and section 18 of chapter 40 of the statutes of 1999, is again amended

(1) by inserting “, by zone or for the whole territory,” after “regulate” in the first line of subparagraph 18 of the second paragraph ;

(2) by adding the following paragraph after the last paragraph :

“For the purposes of subparagraph 18 of the second paragraph, the by-law may establish classes of non-conforming structures and uses protected by acquired rights and contain rules that vary according to the classes.”

2. Section 130 of the said Act is amended

(1) by striking out “or 18” in the first line of the second paragraph ;

(2) by adding the following sentence at the end of the second paragraph :
“The same applies in respect of a provision adopted under subparagraph 18 of the second paragraph of section 113 where it applies to the whole territory of the municipality.” ;

(3) by adding the following sentence at the end of the fifth paragraph :
“That rule applies in respect of a provision adopted under subparagraph 18 of the second paragraph of section 113 only where the provision does not apply to the whole territory of the municipality.”

3. Section 232 of the said Act is amended by replacing “building” at the end of the second paragraph by “immovable”.

CITIES AND TOWNS ACT

4. Section 29.9.1 of the Cities and Towns Act (R.S.Q., chapter C-19) is amended by replacing “the Union des municipalités régionales de comté et des municipalités locales du Québec inc.” in the second and third lines of the

first paragraph by “the Fédération québécoise des municipalités locales et régionales (FQM)”.

5. Section 547 of the said Act is amended

(1) by replacing “payment of the” in the second line of the first paragraph by “expense incurred for”;

(2) by replacing “for the payment of” in the first line of the third paragraph by “to provide for expense incurred for”;

(3) by replacing “to pay the” in the first line of the fourth paragraph by “to provide for expense incurred for”.

MUNICIPAL CODE OF QUÉBEC

6. Article 14.7.1 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended by replacing “the Union des municipalités régionales de comté et des municipalités locales du Québec inc.” in the second and third lines of the first paragraph by “the Fédération québécoise des municipalités locales et régionales (FQM)”.

7. Article 711.2 of the said Code, amended by section 60 of chapter 40 of the statutes of 1999, is again amended by inserting “and Greater Montréal” after “Municipal Affairs” in the first line of the first paragraph.

8. Article 1072 of the said Code is amended

(1) by replacing “payment of the” in the second line of the first paragraph by “expense incurred for”;

(2) by replacing “for the payment of” in the first line of the third paragraph by “to provide for expense incurred for”;

(3) by replacing “to pay the” in the first line of the fourth paragraph by “to provide for expense incurred for”.

ACT RESPECTING THE COMMUNAUTÉ URBAINE DE L’OUTAOUAIS

9. Section 134 of the Act respecting the Communauté urbaine de l’Outaouais (R.S.Q., chapter C-37.1) is amended

(1) by replacing “for payment” in the second and third lines of the second paragraph by “for the expenditures incurred in respect”;

(2) by replacing “to meet, during the next fiscal year, the obligations undertaken” in the tenth line of the second paragraph by “, during the next fiscal year, to assume the obligations contracted”;

(3) by replacing “to pay the obligations of the Community under the collective agreements then in force, or,” in the second and third lines of the third paragraph by “to assume the obligations of the Community arising from collective agreements or from its by-laws, or arising”.

10. Section 139 of the said Act is amended by replacing “the expenditure of moneys” in the second line by “an expenditure”.

11. Section 141 of the said Act is amended

(1) by adding “or any budget surplus for the preceding fiscal year” at the end of the first paragraph;

(2) by striking out the second paragraph;

(3) by replacing “Any other surplus” in the first line of the fourth paragraph by “Any surplus not appropriated to a specific purpose”.

12. Section 187 of the said Act, amended by section 67 of chapter 40 of the statutes of 1999, is again amended

(1) by replacing “to pay” in the third line by “for the expenditures incurred in respect of”;

(2) by replacing “to make any payment required by collective agreements or” in the sixth and seventh lines by “to assume the obligations of the transit authority arising from collective agreements or from its by-laws, or arising under”.

ACT RESPECTING THE COMMUNAUTÉ URBAINE DE MONTRÉAL

13. Section 209 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2) is amended

(1) by replacing “for payment” in the second and third lines of the second paragraph by “for the expenditures incurred in respect”;

(2) by replacing “to meet, during the next fiscal year, the obligations undertaken” in the tenth line of the second paragraph by “, during the next fiscal year, to assume the obligations contracted”;

(3) by replacing “to pay the obligations of the Community under the collective agreements then in force, or,” in the second and third lines of the third paragraph by “to assume the obligations of the Community arising from collective agreements or from its by-laws, or arising”.

14. Section 215 of the said Act is amended by replacing “the expenditure of moneys” in the second and third lines of the first paragraph by “an expenditure”.

15. Section 216 of the said Act is replaced by the following section :

“216. The balance of an appropriation voted in a budget and not entirely used at the end of a fiscal period shall lapse unless it is reserved by the executive committee by allocation on or before the following 1 April to the available surplus.”

16. Section 217 of the said Act is amended

(1) by adding “or any budget surplus for the preceding fiscal year” at the end of the first paragraph ;

(2) by striking out the second paragraph ;

(3) by replacing “Any other surplus” in the first line of the fourth paragraph by “Any surplus not appropriated to a specific purpose”.

17. Section 220 of the said Act is amended by replacing “payment of interest on and” in the second line of the first paragraph by “interest,”.

ACT RESPECTING THE COMMUNAUTÉ URBAINE DE QUÉBEC

18. Section 148 of the Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3) is amended

(1) by replacing “for payment” in the third line of the first paragraph by “for the expenditures incurred in respect” ;

(2) by replacing “to meet, during the next fiscal year, the obligations undertaken” in the tenth and eleventh lines of the first paragraph by “, during the next fiscal year, to assume the obligations contracted” ;

(3) by replacing “to pay the obligations of the Community under the collective agreements then in force, or” in the second and third lines of the second paragraph by “to assume the obligations of the Community arising from collective agreements or from its by-laws, or arising”.

19. Section 153 of the said Act is amended by replacing “the expenditure of moneys” in the first line of the first paragraph by “an expenditure”.

20. Section 155 of the said Act is amended

(1) by inserting “or any budget surplus for the preceding fiscal year” after “current fiscal year” in the second line of the first paragraph ;

(2) by striking out the second paragraph ;

(3) by replacing “Any other surplus” in the first line of the fourth paragraph by “Any surplus not appropriated to a specific purpose”.

ACT RESPECTING DUTIES ON TRANSFERS OF IMMOVABLES

21. Section 7 of the Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1) is amended by replacing “equally by all the interested municipalities” in the third line by “by all the interested municipalities according to the basis of imposition attributable to the territory of each municipality concerned”.

ACT RESPECTING MUNICIPAL TAXATION

22. Section 22 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) is replaced by the following section :

“22. No natural person may be the assessor of a body or an assessor’s deputy unless the person is a member of the Ordre professionnel des évaluateurs agréés du Québec.”

23. Sections 23 to 26 of the said Act are repealed.

24. Section 27 of the said Act is amended by striking out “the revocation of his permit or” in the second line of the first paragraph.

25. Section 28 of the said Act is amended by striking out “the revocation of his permit or” in the first and second lines of the first paragraph.

26. Section 29 of the said Act, amended by section 133 of chapter 40 of the statutes of 1999, is again amended by replacing “the permit of the partner, director or employee designated under section 21 is revoked or his right to act as an assessor, for the purposes of this Act, is withdrawn” in the first, second, third and fourth lines by “the right of the partner, director or employee designated under section 21 to act as an assessor for the purposes of this Act is withdrawn”.

27. Section 81 of the said Act, amended by section 133 of chapter 40 of the statutes of 1999, is again amended by replacing “each year” in the first line of the first paragraph by “of the first of the fiscal years for which the roll is made or, where the unit of assessment is a unit of assessment referred to in the second paragraph of section 80.2, before 1 March each year”.

28. Section 155 of the said Act is amended by adding the following paragraphs at the end :

“The assessor may, with the written consent of any person to whom the notice or a copy of the notice provided for in section 153 must be sent, correct the roll before the expiry of the time allowed, in conformity with the assessor’s proposal.

Notwithstanding section 154, no application for review in respect of a proposal may be filed from the day on which the assessor corrects the roll pursuant to the second paragraph.”

29. Section 244.8 of the said Act is amended by replacing “the Union des municipalités régionales de comté et des municipalités locales du Québec inc.” in the tenth and eleventh lines of the third paragraph by “the Fédération québécoise des municipalités locales et régionales (FQM)”.

30. Section 262.1 of the said Act is amended by replacing “the Union des municipalités régionales de comté et des municipalités locales du Québec inc.” in the fifth and sixth lines of the first paragraph by “the Fédération québécoise des municipalités locales et régionales (FQM)”.

31. Section 511 of the said Act is repealed.

ACT RESPECTING MUNICIPAL TERRITORIAL ORGANIZATION

32. The Act respecting municipal territorial organization (R.S.Q., chapter O-9) is amended by inserting the following section after section 214.2:

“214.2.1. The conditions contained in an order, an annexation by-law or an agreement made, passed or entered into under this Act may, where part of the territory over which a municipal body responsible for assessment has jurisdiction is affected by a constitution, amalgamation, annexation or any other territorial change, provide for rules to apply to the duration of any current or future property assessment roll or roll of rental values that the municipal body is responsible for preparing.”

ACT RESPECTING THE PENSION PLAN OF ELECTED MUNICIPAL OFFICERS

33. Section 72 of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3) is amended by replacing “the Union des municipalités régionales de comté et des municipalités locales du Québec inc.” in the fourth and fifth lines of the second paragraph by “the Fédération québécoise des municipalités locales et régionales (FQM)”.

COURTS OF JUSTICE ACT

34. Section 246.41 of the Courts of Justice Act (R.S.Q., chapter T-16), amended by section 39 of chapter 30 of the statutes of 1998, is again amended by replacing “the Union des municipalités régionales de comté et des municipalités locales du Québec inc.” in the seventh and eighth lines of the first paragraph by “the Fédération québécoise des municipalités locales et régionales (FQM)”.

ACT RESPECTING NORTHERN VILLAGES AND THE KATIVIK REGIONAL GOVERNMENT

35. Section 168 of the Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1) is amended by replacing the second paragraph by the following paragraph:

“Except where the power is delegated to another municipality or to the Regional Government, the agreement requires the authorization of the Minister.”

36. Section 353 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Except where the power is delegated to a municipality, the agreement requires the authorization of the Minister.”

37. The said Act is amended by inserting the following section after section 355:

“355.1. The Regional Government may lease its property. However, it may not acquire or build property principally for the purpose of leasing it to a person other than a public body within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).”

CHARTER OF THE CITY OF MONTRÉAL

38. Article 107.2 of the Charter of the city of Montréal (1959-60, chapter 102), enacted by section 51 of chapter 59 of the statutes of 1999, is renumbered “107.3”.

39. Article 524 of the said Charter, amended by section 55 of chapter 59 of the statutes of 1962, section 20 of chapter 70 of the statutes of 1963 (1st session), section 24 of chapter 86 of the statutes of 1966-67, section 7 of chapter 90 of the statutes of 1968, section 1 of chapter 91 of the statutes of 1968, section 21 of chapter 96 of the statutes of 1971, section 4 of chapter 76 of the statutes of 1972, section 58 of chapter 77 of the statutes of 1973, section 48 of chapter 77 of the statutes of 1977, section 82 of chapter 7 of the statutes of 1978, section 10 of chapter 40 of the statutes of 1980, section 21 of chapter 71 of the statutes of 1982, section 670 of chapter 91 of the statutes of 1986, section 2 of chapter 86 of the statutes of 1988, section 12 of chapter 87 of the statutes of 1988, section 12 of chapter 80 of the statutes of 1989, section 4 of chapter 89 of the statutes of 1990, section 14 of chapter 90 of the statutes of 1990, section 16 of chapter 82 of the statutes of 1993, section 117 of chapter 30 of the statutes of 1994, section 64 of chapter 51 of the statutes of 1997 and section 139 of chapter 58 of the statutes of 1997, is again amended

(1) by inserting “, for certain zones, parts or sections of certain zones, for certain streets, parts or sections of certain streets or for any particular place,” after “Regulate” in the first line of subparagraph *c* of paragraph 2;

(2) by adding the following paragraph after the last paragraph :

“For the purposes of subparagraph *c* of paragraph 2, the by-law may establish classes of non-conforming structures and uses protected by acquired rights, and prescribe rules that vary according to the classes.”

40. The French text of article 1102 of the said Charter, replaced by section 55 of chapter 86 of the statutes of 1966-67 and amended by section 55 of chapter 59 of the statutes of 1999, is again amended by striking out “de” after “composée”.

CIVIL CODE OF QUÉBEC

41. Article 2651 of the Civil Code of Québec (1991, chapter 64) is amended by adding the following at the end of paragraph 5: “as well as claims of municipalities, specially provided for by laws applicable to them, for taxes other than property taxes on immovables and movables in respect of which the taxes are due”.

42. The said Code is amended by inserting the following article after article 2654:

“2654.1. Prior claims of municipalities and school boards for property taxes constitute a real right.

They confer on the holder of the claims the right to follow the taxable property into whosever hands it may be.”

43. Article 2655 of the said Code is amended by inserting “, or against all third persons if they constitute a real right,” after “creditors”.

44. Article 2656 of the said Code is amended by inserting “or, as the case may be, real” after “personal” in the first line.

TRANSITIONAL AND FINAL PROVISIONS

45. Every provision of an Act or statutory instrument indicating that the costs, charges, taxes or other sums owed to a municipality are secured by a legal hypothec is deemed, where the sums also constitute a prior claim within the meaning of paragraph 5 of article 2651 of the Civil Code, to confer such security only in respect of claims that do not constitute a real right.

46. Section 547 of the Cities and Towns Act (R.S.Q., chapter C-19) and article 1072 of the Municipal Code of Québec (R.S.Q., chapter C-27.1), as

they read before being amended by sections 5 and 8, shall continue to apply to notes, bonds or other securities issued before 1 January 2001.

47. Every person who is the holder of a permit referred to in section 22 or 511 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), as they read before the coming into force of sections 22 and 31, and who is not a member of the Ordre professionnel des évaluateurs agréés du Québec, may act as an assessor of a municipal body responsible for assessment until the first 14 August following by at least nine months the date of coming into force of sections 22 and 31.

Sections 25 to 29 of the Act respecting municipal taxation, as they read before the coming into force of sections 23 to 26, apply in respect of that person.

48. The property assessment rolls of Municipalité de Sainte-Marcelline-de-Kildare and Municipalité de Sainte-Béatrix, in force since 1 January 1998, shall remain in force until the end of 2001.

The property assessment roll of Paroisse de Saint-Damien, in force since 1 January 1999, shall remain in force until the end of 2002.

The property assessment rolls of Municipalité de Notre-Dame-de-la-Merci and Municipalité d'Entrelacs, which will come into force on 1 January 2000, shall remain in force until the end of 2001. The fiscal year 2001 is held, in respect of those two-year rolls, to be the third year of application of a roll.

For the purpose of determining for which municipal fiscal years the rolls, subsequent to the rolls referred to in the first three paragraphs, of the municipalities mentioned therein must be drawn up, in accordance with section 14 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), the rolls referred to in the first paragraph are deemed to have been drawn up for the 1999, 2000 and 2001 fiscal years, the roll referred to in the second paragraph is deemed to have been drawn up for the 2000, 2001 and 2002 fiscal years, and the rolls referred to in the third paragraph are deemed to have been drawn up for the 1999, 2000 and 2001 fiscal years.

49. Sections 38 and 40 have effect from 11 November 1999.

50. The agreement entered into between Municipalité régionale de comté du Bas-Richelieu, Ville de Tracy and Comporec inc. on 29 September 1999 relating to regional waste management services within the territory of Municipalité régionale de comté du Bas-Richelieu and intended to facilitate the settlement out of court of disputes between the parties, cannot be invalidated for any of the following reasons :

(1) the agreement establishes decision-making rules applicable to the council of the regional county municipality that are not consistent with section 201 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1);

(2) under the terms of the agreement, it is possible for the city to appoint a representative to the board of directors of a private company even though the law does not authorize the city to do so;

(3) under the terms of the agreement, it is possible for the regional county municipality and the city to acquire share capital of a private company, despite the Municipal Aid Prohibition Act (R.S.Q., chapter I-15).

The agreement referred to in the first paragraph does not require the approval of the Minister of Municipal Affairs and Greater Montréal. Municipalité régionale de comté du Bas-Richelieu and Ville de Tracy may exercise the powers provided for in the agreement in accordance with the terms of the agreement.

51. For the municipal fiscal year 2000, the Minister of Municipal Affairs and Greater Montréal shall pay to Municipalité de Bowman, Ville de Buckingham and Ville de Masson-Angers the sums of \$128,355, \$281,326 and \$470,053, respectively.

The Minister shall take the sums from the gross amount to be apportioned that is received by the Minister from the Minister of Revenue pursuant to section 4 of the Regulation respecting the apportionment of revenues from the tax paid by operators of certain systems, made by Order in Council 1088-92 (1992, G.O. 2, 4071), as if the sums had been taken out for the implementation, during the fiscal year, of a program referred to in section 0.1 of that Regulation.

52. This Act comes into force on 20 December 1999, except sections 22 to 26 and 31, which come into force on the date to be fixed by the Government.

However, before fixing the date of coming into force of sections 22 to 26 and 31, the Government shall ascertain that every holder of a permit referred to in section 22 or 511 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), as those sections read before the coming into force of sections 22 and 31, is or was able to become, to the satisfaction of the Minister of Municipal Affairs and Greater Montréal, a member of the Ordre professionnel des évaluateurs agréés du Québec.