

1991, chapter 78

**AN ACT TO AMEND THE ACT RESPECTING THE PENSION
PLAN OF ELECTED MUNICIPAL OFFICERS AND THE
ACT RESPECTING THE REMUNERATION OF ELECTED
MUNICIPAL OFFICERS**

Bill 402

Introduced by Mr Daniel Johnson, Minister for Administration and the Public Service
and Chairman of the Conseil du trésor

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Passage in principle 21 November 1991

Passage 18 December 1991

Assented to 18 December 1991

Coming into force: 1 January 1992

Acts amended:

Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3)

Act respecting the remuneration of elected municipal officers (R.S.Q., chapter T-11.001)





CHAPTER 78

An Act to amend the Act respecting the Pension Plan of Elected Municipal Officers and the Act respecting the remuneration of elected municipal officers

[Assented to 18 December 1991]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE PENSION PLAN OF ELECTED MUNICIPAL OFFICERS

c. R-9.3,
s. 9,
replaced

1. Section 9 of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3) is replaced by the following section:

Participa-
tion

“9. Subject to sections 6, 12, 13, 39 and 80, a person is participating in this plan if he is a member of the council of a municipality which adheres to the plan. His participation shall not continue after 30 December of the year in which he attains 71 years of age.

Conditions

However, if a person becomes a member of the council of a municipality after 31 December of the year in which he attains 69 years of age or if the municipality adheres to the plan after that date, the person does not participate in the plan, except if one of the following conditions applies:

(1) he is receiving a pension under the plan and elects, in accordance with section 39, to participate therein;

(2) he may be credited with two years of service before 31 December of the year in which he attains 71 years of age if he exercises a right provided for in sections 55 to 62.”

c. R-9.3,
s. 17, am.

2. Section 17 of the said Act is amended by inserting, after the first paragraph, the following paragraphs:

Defined
benefit
limit

“However, the pensionable salary of a participant in a calendar year shall not exceed the salary required to arrive at the defined benefit limit applicable for each year under the Income Tax Act (Statutes of Canada).

Less than
one year of
service

Where less than one year of service is credited to a participant in a calendar year, his pensionable salary shall not exceed the amount obtained by multiplying the amount referred to in the second paragraph in respect of that year by the service credited for that year.”

c. R-9.3,
s. 23,
replaced
Computa-
tion
of deduction

3. Section 23 of the said Act is replaced by the following section :

“**23.** The municipality shall withhold from each payment of the pensionable salary it pays to a participant an amount computed on an annual basis and equal to 4.75 % of such salary.”

c. R-9.3,
s. 27, am.

4. Section 27 of the said Act is amended

(1) by replacing the figure “55” in the first line of the second paragraph by the figure “50”;

(2) by replacing the figure “0.5 %” in the second line of the second paragraph by the figure “0.25 %”.

c. R-9.3,
s. 28,
replaced
Pension

5. Section 28 of the said Act is replaced by the following section :

“**28.** A pension shall be granted on 31 December of the year in which he attains 71 years of age to a person credited with two years of service, even if he has not ceased to be a member of the council of a municipality.”

c. R-9.3,
s. 29,
replaced

Date of
pension
credit

6. Section 29 of the said Act is replaced by the following section :

“**29.** A pension credit is granted to a participant on 31 December each year or, if he ceases to participate in the plan, on the date of cessation, for each year of credited service.

Computa-
tion

The pension credit is equal to:

(1) 3.5 % of the pensionable salary paid to him in respect of years of service prior to 1 January 1992;

(2) 2 % of the pensionable salary paid to him in respect of years of service subsequent to 31 December 1991.

Reduction
of pension
credit

Every pension credit provided for in subparagraph 1 of the second paragraph is reduced, in respect of the year for which it is granted,

by 0.7 % of that part of the pensionable salary paid by the municipality up to the Maximum Pensionable Earnings within the meaning of the Act respecting the Québec Pension Plan for that year.”

c. R-9.3,
ss. 32-34,
repealed

7. Sections 32 to 34 of the said Act are repealed.

c. R-9.3,
s. 36, am.

8. Section 36 of the said Act is amended by replacing the words “the date on” in the fifth line by the words “31 December of the year in”.

c. R-9.3,
s. 39, am.

9. Section 39 of the said Act is amended

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

Pension
maintained

“39. A pensioner who again holds office as a member of the council of a municipality which has adhered to this plan in his respect continues to receive his pension and shall not participate in this plan, unless he elects to do so before 31 December of the year in which he attains 71 years of age.”;

(2) by replacing the first sentence of the second paragraph by the following sentence: “If he elects to participate in this plan, payment of his pension ceases and he shall again contribute to this plan.”;

(3) by inserting the words “from 31 December of the year in which he” after the word “or” in the second line of the second paragraph.

c. R-9.3,
s. 40, am.

10. Section 40 of the said Act is amended

(1) by replacing the words “attains 71 years of age, a participant” in the second line of the first paragraph by the words “from 31 December of the year in which he attains 71 years of age, a participant referred to in the second paragraph of section 39”;

(2) by replacing the word and figure “section 39” in the fifth line of the first paragraph by the words “the said paragraph”;

(3) by replacing the figure “34” in the fourth line of the third paragraph by the figure “54.1”.

c. R-9.3,
s. 47, am.

11. Section 47 of the said Act is amended by replacing the figure “34” in the fifth line of the first paragraph by the figure “54.1”.

c. R-9.3,
ss. 48, 52,
53, am.

12. Sections 48, 52 and 53 of the said Act are amended by replacing the figure “34” in the last line by the figure “54.1”.

c. R-9.3,
s. 54.1,
added

13. The said Act is amended by inserting, after section 54, the following section:

Interest
on refunds

“54.1 Contributions refunded under this Act bear interest compounded annually for each year of service, except those referred to in sections 4, 15 and 59.

Rate

The interest payable under the first paragraph is established according to the rate of return on the sums deposited with the Caisse de dépôt et placement du Québec under this Act by the Commission. The rate shall be fixed annually according to the rules, terms and conditions determined by government regulation.”

c. R-9.3,
s. 57, am.

14. Section 57 of the said Act is amended by replacing the word “July” in the sixth line of the first paragraph by the word “January”.

c. R-9.3,
s. 58, am.

15. Section 58 of the said Act is amended by striking out the third paragraph.

c. R-9.3,
s. 80, am.

16. Section 80 of the said Act is amended

(1) by replacing the words “shall continue to receive his pension” in the fourth and fifth lines by the words “in his respect shall continue to receive his pension and does not participate in this plan, unless he elects to do so before 31 December of the year in which he attains 71 years of age”;

(2) by replacing the second sentence by the following sentence: “If he elects to participate in this plan, payment of his pension ceases and he shall contribute to this plan.”;

(3) by inserting, at the end, the following paragraph:

Entitlement

“Upon ceasing to be a member of the council of the municipality or from 31 December of the year in which he attains 71 years of age, the participant is entitled to receive, in addition to the pension accrued under this plan, the pension to which he would have been entitled at such time under the pension plan of mayors and councillors of municipalities if payment thereof had not ceased in accordance with the first paragraph.”

ACT RESPECTING THE REMUNERATION OF ELECTED MUNICIPAL OFFICERS

c. T-11.001,
Chap. IV,
heading,
replaced

17. The heading of Chapter IV of the Act respecting the remuneration of elected municipal officers (R.S.Q., chapter T-11.001) is replaced by the following heading:

“SEVERANCE ALLOWANCE AND TRANSITION ALLOWANCE”.

c. T-11.001,
s. 30.1,
added

18. The said Act is amended by inserting, after the heading of Chapter IV, the following section:

Severance
allowance

“30.1 A municipality shall pay a severance allowance to a person who ceases to be a member of the council after having accumulated two or more years of credited service under the pension plan established by the Act respecting the Pension Plan of Elected Municipal Officers.

Computa-
tion

The amount of the allowance is equal to the product obtained by multiplying the amount of the average bi-weekly remuneration computed on the basis of a period of 12 consecutive months preceding the date on which he ceased to be a member of the council by the number of years of service credited from 1 January 1992; the amount of the allowance is increased by that part of the bi-weekly remuneration which is proportional to any part of a year of credited service.

Computa-
tion

If a person who has already received a severance allowance again holds office as a member of the council of a municipality which has adhered to the pension plan in his respect, the municipality shall, when he again ceases to be a member, pay to him an allowance computed in accordance with the second paragraph, excluding, however, for the purposes of the computation, the years or parts of years of service for which the person has already received such an allowance.

Computa-
tion

If a person who again holds office as a member of the council of a municipality which has adhered to the pension plan in his respect is subject to section 39 or 80 of the Act respecting the Pension Plan of Elected Municipal Officers, the municipality shall pay to him, when he again ceases to be a member, an allowance computed in accordance with the third paragraph, on the basis, however, of the years or parts of years for which the person was a member of the council from the time he resumed such office, whether or not he was participating in the pension plan at that time.

Maximum

The total amount of the allowance shall not exceed the remuneration received by the person in the period of 12 consecutive months preceding the date on which he ceased to be a member of the council.

Mandatory
body

For the purposes of this section, the remuneration includes any remuneration paid by a mandatory body of the municipality or a supramunicipal body to a person in respect of a function that he exercised by virtue of his office.”

c. T-11.001,
s. 31, am.

19. Section 31 of the said Act is amended

(1) by inserting, after the first paragraph, the following paragraph:

Transition
allowance

“The council of a municipality having 20 000 or more inhabitants may, by by-law, provide for the payment of a transition allowance to any person who ceases to be a member of the council after having been a member thereof for not less than the 24 months preceding the end of his term.”;

(2) by inserting the words “or member of the council, as the case may be” after the word “mayor” in the fourth line of the second paragraph;

(3) by inserting the words “or member of the council, as the case may be,” after the word “mayor” in the sixth line of the second paragraph;

(4) by inserting, after the second paragraph, the following paragraph:

Mandatory
body

“The council of a municipality may, by by-law, provide that the remuneration includes, for the purpose of fixing the amount of the transition allowance, any remuneration paid to its members by a mandatory body of the municipality or a supramunicipal body.”;

(5) by replacing the words “the first paragraph” in the second line of the last paragraph by the words “this section”.

c. T-11.001,
s. 31.1,
added

20. The said Act is amended by inserting, after section 31, the following section:

Term

“31.1 For the purposes of sections 30.1 and 31, a person does not cease to be a member of the council of the municipality upon the expiration of his term if he was elected to the council at the election immediately preceding the expiration, provided he takes the oath required of every elected officer within the prescribed time.”

TRANSITIONAL AND FINAL PROVISIONS

Date of
effect

21. A municipality which amends a by-law that came into force before 18 December 1991 under the second or fourth paragraph of section 31 of the Act respecting the remuneration of elected municipal officers, amended by section 19, may give effect to the amendment from the date of coming into force of the by-law.

Restriction No municipality may avail itself of the first paragraph after 31 December 1992.

Restriction **22.** No transition allowance provided for in section 31 of the Act respecting the remuneration of elected municipal officers which was paid by a municipality before 13 November 1991 may be contested on the grounds that the remuneration on the basis of which it was established included remuneration paid by a mandatory body of the municipality or a supramunicipal body within the meaning of the Act respecting the Pension Plan of Elected Municipal Officers.

Applicability of regulation **23.** Any regulation made under subparagraph 2 of the first paragraph of section 75 of the Act respecting the Pension Plan of Elected Municipal Officers may, until 1 July 1992 and if provided for therein, apply from a date subsequent to 31 December 1991.

Coming into force **24.** This Act comes into force on 1 January 1992.