

NATIONAL ASSEMBLY

FIRST SESSION

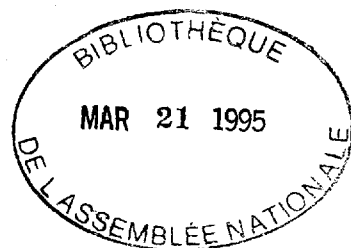
THIRTY-FIFTH LEGISLATURE

Bill 68

**An Act to amend the Cities and
Towns Act, the Municipal Code
of Québec and other legislative
provisions**

Introduction

**Introduced by
Mr Guy Chevrette
Minister of Municipal Affairs**



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EXPLANATORY NOTES

The main object of this bill is to eliminate or restrict various ministerial controls over decisions by municipal councillors and to simplify or eliminate certain administrative formalities or requirements.

In the area of municipal financing, the bill enables municipalities to make a financial commitment for five years without being required to obtain the approval of the Minister of Municipal Affairs. It also provides that the authorization of the Minister is no longer automatically required in matters of surety.

As concerns loans, the bill provides for the relaxation of various requirements, in particular, in respect of loans contracted by issuing notes, and loans made on foreign money markets or in foreign currency.

The bill empowers municipalities to defer the date of adoption of their budget without being required to obtain the consent of the Minister of Municipal Affairs.

It also reduces other requirements in various areas of municipal administration. For example, municipalities will be authorized to retain immovables acquired following a sale for non-payment of taxes, and to alienate for valuable consideration, but without formality, any property whose value does not exceed \$10 000.

Lastly, certain formalities which apply during the process leading to the passing of a by-law amending a municipality's development plan are eliminated.

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 municipal debts and loans (R.S.Q., chapter D-7);
- Act respecting municipal fire fighting cooperation (R.S.Q., chapter E-11);
- Act respecting municipal taxation (R.S.Q., chapter F-2.1).

Bill 68

An Act to amend the Cities and Towns Act, the Municipal Code of Québec and other legislative provisions

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CITIES AND TOWNS ACT

1. Section 28 of the Cities and Towns Act (R.S.Q., chapter C-19), amended by section 1 of chapter 33 of the statutes of 1994, is again amended

(1) by replacing paragraph 2.1 of subsection 1 by the following paragraph:

“(2.1) Alienate for valuable consideration any movable or immovable property; each month the clerk shall publish a notice concerning any property having a value greater than \$10 000 that has been alienated by the municipality otherwise than by auction or by public tender; the notice shall describe each property and indicate, opposite each property, the price of alienation and the identity of the purchaser;”;

(2) by replacing the first paragraph of subsection 3 by the following paragraphs:

“(3) Every municipality may also become surety for any institution, partnership or legal person devoted to the pursuit of purposes mentioned in subsection 2.

However, a municipality having a population of less than 50 000 shall obtain the authorization of the Minister of Municipal Affairs to become surety for an obligation of \$50 000 or more, and a municipality having a population of 50 000 or over shall obtain such an authorization

if the obligation that is the object of the surety is in the amount of \$100 000 or more.”;

(3) by inserting the words “, where his authorization is required,” after the word “may” in the first line of the second paragraph of subsection 3.

2. Sections 28.3 and 28.4 of the said Act are repealed.

3. Section 29 of the said Act, amended by section 23 of chapter 23 of the statutes of 1994, is again amended by replacing the third paragraph by the following paragraph:

“The clerk shall, within thirty days of the making of the deed of assignment or the lease, publish a notice indicating, as the case may be, the identity of the purchaser or of the lessee and the price of alienation or the rent.”

4. Section 29.3 of the said Act, amended by section 2 of chapter 33 of the statutes of 1994, is again amended by replacing the word “three” in the second line of the first paragraph by the word “five”.

5. Section 76 of the said Act is repealed.

6. Section 108 of the said Act is amended by replacing the third paragraph by the following paragraph:

“If the auditor appointed for a fiscal year is not the auditor in office for the preceding fiscal year, the clerk shall inform the Minister of Municipal Affairs of the name of the new auditor as soon as possible after his appointment.”

7. Section 468.32 of the said Act, amended by section 12 of chapter 33 of the statutes of 1994, is again amended

(1) by replacing paragraph 2.1 by the following paragraph:

“(2.1) alienate for valuable consideration any movable or immovable property; each month the secretary shall publish a notice concerning any property having a value greater than \$10 000 that has been alienated by the management board otherwise than by auction or by public tender; the notice shall describe each property and indicate, opposite each property, the price of alienation and the identity of the purchaser;”;

(2) by replacing the words "subparagraph 2 of the first paragraph" in the sixth line of paragraph 3 by the words "paragraph 2.1".

8. Section 473 of the said Act, amended by section 109 of chapter 67 of the statutes of 1993, is again amended

(1) by striking out subsection 3;

(2) by striking out the words "and send it to the Minister of Municipal Affairs during the month of January following its adoption, subject to the other provisions of this section, *mutatis mutandis*" in the second, third, fourth and fifth lines of the third paragraph of subsection 5.

9. Section 474 of the said Act is amended by replacing the fourth paragraph of subsection 3 by the following paragraph:

"If it is unable to adopt the budget within the prescribed time, the council shall fix the date of the sitting at which the budget is to be adopted so that the obligation set out in the first paragraph of section 474.2 is respected. As soon as possible after the passing of the resolution by which the council fixes that date, the clerk shall transmit a certified copy thereof to the Minister."

10. Section 514 of the said Act is amended by striking out the last paragraph.

11. Section 539 of the said Act is repealed.

12. The said Act is amended by inserting, after section 544, the following section:

"544.1 Part of the loan, not exceeding 5 %, may be reserved for the repayment to the general fund of the municipality of all or part of the sums used, before the passage of the loan by-law, in connection with the object of the by-law.

That part of the loan must be specified in the by-law."

13. The said Act is amended by inserting, after section 555, the following sections:

"555.1 The council may, by by-law, on the conditions it determines, delegate to the treasurer the power to award the

contract, in the name of the municipality, to the person entitled thereto in accordance with section 554.

“555.2 A municipality which contracts a loan by means of an issue of notes may choose the lender by following the procedure for a call for tenders, adapted as required, prescribed in section 554.”

14. Section 563.1 of the said Act is replaced by the following section:

“563.1 In addition to obtaining any approval required under section 556, the council shall, before contracting a loan, have the conditions of the loan approved by the Minister of Municipal Affairs.

However, approval of the conditions of a loan is not required in respect of a loan contracted by means of an issue of bonds, a loan contracted by means of an issue of notes following the application of the procedure for a call for tenders provided in section 554, or a loan contracted by means of an issue of notes for an amount less than \$100 000.”

MUNICIPAL CODE OF QUÉBEC

15. Article 6 of the Municipal Code of Québec (R.S.Q., chapter C-27.1), amended by section 21 of chapter 33 of the statutes of 1994, is again amended by replacing paragraph 1.1 by the following paragraph:

“(1.1) alienate for valuable consideration any movable or immovable property; each month the secretary-treasurer shall publish a notice concerning any property having a value greater than \$10 000 that has been alienated otherwise than by auction or by public tender; the notice shall describe each property and indicate, opposite each property, the price of alienation and the identity of the purchaser;”.

16. Article 7 of the said Code, amended by section 23 of chapter 23 of the statutes of 1994, is again amended by replacing the third paragraph by the following paragraph:

“The secretary-treasurer shall, within thirty days of the making of the lease or deed of assignment, publish a notice indicating, as the case may be, the identity of the purchaser or of the lessee and the price of alienation or the rent.”

17. Article 9 of the said Code, amended by section 22 of chapter 33 of the statutes of 1994, is again amended

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

“9. Every municipality may become surety for an institution, a partnership or a legal person devoted to the pursuit of purposes mentioned in article 8.

However, a municipality having a population of less than 50 000 shall obtain the authorization of the Minister of Municipal Affairs to become surety for an obligation of \$50 000 or more, and a municipality having a population of 50 000 or over shall obtain such an authorization if the obligation that is the object of the surety is in the amount of \$100 000 or more.”;

(2) by inserting the words “, where his authorization is required,” after the word “may” in the first line of the second paragraph.

18. Articles 13 and 14 of the said Code are repealed.

19. Article 14.I of the said Code, amended by section 23 of chapter 33 of the statutes of 1994, is again amended by replacing the word “three” in the second line of the first paragraph by the word “five”.

20. Section II of Chapter II of Title V of the said Code, including articles 185 to 198, is repealed.

21. Article 601 of the said Code, amended by section 33 of chapter 33 of the statutes of 1994, is again amended

(1) by replacing paragraph 2.1 by the following paragraph:

“(2.1) alienate for valuable consideration any movable or immovable property; each month the secretary shall publish a notice concerning any property having a value greater than \$10 000 that has been alienated by the management board otherwise than by auction or by public tender; the notice shall describe each property and indicate, opposite each property, the price of alienation and the identity of the purchaser;”;

(2) by replacing the words “subparagraph 2 of the first paragraph” in the sixth line of paragraph 3 by the words “paragraph 2.1”.

22. Article 625 of the said Code is amended by striking out the words “approved by the Minister of Municipal Affairs” in the first and second lines.

23. Article 710 of the said Code is amended

(1) by striking out the words “approved by the Minister of Municipal Affairs” in the second and third lines of the first paragraph;

(2) by striking out the last sentence of the first paragraph;

(3) by replacing the fifth and sixth paragraphs by the following paragraph:

“A municipality which joins an agreement must transmit to each party to the agreement a copy of the resolution and, where applicable, a statement of the conditions of eligibility not determined in the agreement.”;

(4) by striking out the first sentence of the last paragraph.

24. Article 944.3 of the said Code, enacted by section 42 of chapter 33 of the statutes of 1994, is amended by replacing the figure “944.1” in the last line by the figure “944.2”.

25. Article 954 of the said Code is amended by replacing the fourth paragraph of subsection 3 by the following paragraph:

“If it is unable to adopt the budget within the prescribed time, the council shall fix the date of the sitting at which the budget is to be adopted so that the obligation set out in the first paragraph of article 956 is respected. As soon as possible after the passing of the resolution by which the council fixes that date, the secretary-treasurer shall transmit a certified copy thereof to the Minister.”

26. Article 966 of the said Code is amended by replacing the third paragraph by the following paragraph:

“If the auditor appointed for a fiscal year is not the auditor in office for the preceding fiscal year, the secretary-treasurer shall inform the Minister of Municipal Affairs of the name of the new auditor as soon as possible after his appointment.”

27. Article 1026 of the said Code is amended by replacing the last paragraph by the following paragraph:

"However, the council of the regional county municipality may, by by-law, fix any other date for the sale of the immovables. If that date falls on a non-juridical day, the sale is deferred to the next following working day."

28. Article 1027 of the said Code is amended by striking out the last paragraph.

29. Article 1033 of the said Code is amended by replacing the words "and further to the repayment of any sum advanced by him to defray the cost of publication in the *Gazette officielle du Québec*, and" in the fourth, fifth and sixth lines by the words "and to".

30. Article 1040 of the said Code is repealed.

31. The said Code is amended by inserting, after article 1063, the following article:

"1063.1 Part of the loan, not exceeding 5 %, may be reserved for the repayment to the general fund of the municipality of all or part of the sums used, before the passage of the loan by-law, in connection with the object of the by-law.

That part of the loan must be specified in the by-law."

32. The said Code is amended by inserting, after article 1066, the following articles:

"1066.1 The council may, by by-law, on the conditions it determines, delegate to the secretary-treasurer the power to award the contract, in the name of the municipality, to the person entitled thereto in accordance with article 1065.

"1066.2 A municipality which contracts a loan by means of an issue of notes may choose the lender by following the procedure for a call for tenders, adapted as required, prescribed in article 1065."

33. Article 1067 of the said Code is repealed.

34. Article 1071 of the said Code is amended by replacing the words "section 12" in the second line by the words "sections 12 and 12.1".

35. Article 1071.1 of the said Code is replaced by the following article:

"1071.1 In addition to obtaining any approval required under article 1061, the municipality shall, before contracting a loan, have the conditions of the loan approved by the Minister of Municipal Affairs.

However, approval of the conditions of a loan is not required in respect of a loan contracted by means of an issue of bonds, a loan contracted by means of an issue of notes following the application of the procedure for a call for tenders provided in article 1065, or a loan contracted by means of an issue of notes for an amount less than \$100 000."

ACT RESPECTING LAND USE PLANNING AND DEVELOPMENT

36. Section 46 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1) is amended

(1) by replacing the words "loan by-law" in the fourth line of the first paragraph by the words "by-law or resolution";

(2) by replacing the words "council of the regional county municipality to obtain its opinion on the by-law. Upon receiving the by-law, the secretary-treasurer must inform in writing the municipality of the date of the reception" in the sixth, seventh, eighth and ninth lines of the first paragraph by the words "regional county municipality, which may consider the advisability of the works in view of the objectives of the development plan and of the complementary document";

(3) by striking out the second and third paragraphs.

37. Section 49 of the said Act is amended

(1) by replacing the words ", to every contiguous regional county municipality, and to the Commission for registration" in the sixth and seventh lines of the first paragraph by the words "and to every contiguous regional county municipality";

(2) by replacing the words ", to every contiguous regional county municipality and, for registration purposes, to the Commission" in the fifth and sixth lines of the second paragraph by the words "and to every contiguous regional county municipality".

38. Section 51 of the said Act is amended by striking out the last sentence of the third paragraph.

39. Section 53.6 of the said Act is amended by replacing the words “, to every contiguous regional county municipality, and to the Commission for registration” in the fifth and sixth lines of the first paragraph by the words “and to every contiguous regional county municipality”.

40. Section 53.7 of the said Act is amended by striking out the words “, and to the Commission for registration” in the fourth line of the last paragraph.

41. Section 53.11 of the said Act is amended by adding the following paragraph:

“Where the council has adopted the document required under the first paragraph of section 53.10 by way of a reference, the secretary-treasurer shall transmit to the Commission a certified copy of the document adopted under the second paragraph of section 48.”

42. Section 74 of the said Act is amended

(1) by replacing the words “loan by-law” in the fourth and fifth lines of the first paragraph by the words “by-law or resolution”;

(2) by replacing the words “council of the regional county municipality to obtain its opinion on the by-law. Upon receiving the by-law, the secretary-treasurer must inform in writing the municipality of the date of the reception” in the seventh, eighth, ninth and tenth lines of the first paragraph by the words “regional county municipality, which may consider the advisability of the works in view of the interim control measures in force in its territory”;

(3) by striking out the second and third paragraphs.

43. Section 75 of the said Act is amended by replacing subparagraph 7 of the first paragraph by the following subparagraph:

“(7) documents sent under section 46 shall stand in lieu of documents required under section 74.”

44. Section 264.1 of the said Act is amended by striking out subparagraph 11 of the second paragraph.

45. Section 264.2 of the said Act is amended

(1) by replacing the words “and environmental quality” in the first and second lines of subparagraph 3.1 of the second paragraph by the words “, traffic and transport”;

(2) by striking out subparagraph 4 of the second paragraph.

46. Section 264.3 of the said Act is amended by striking out subparagraph 6 of the second paragraph.

ACT RESPECTING MUNICIPAL DEBTS AND LOANS

47. The heading of Division V of the Act respecting municipal debts and loans (R.S.Q., chapter D-7) is amended by replacing the word “BONDS” by the words “NEGOTIABLE INSTRUMENTS”.

48. Section 12 of the said Act is amended

(1) by striking out the words “the seal of the Ministère des Affaires municipales and” in the first and second lines of the first paragraph;

(2) by striking out the words “the seal and” in the first line of the second paragraph.

49. The said Act is amended by inserting, after section 12.1 enacted by section 46 of chapter 33 of the statutes of 1994, the following sections:

“12.2 A note of \$100 000 or more or a note issued following a call for tenders may bear the certificate mentioned in section 12.

“12.3 The incontestability set out in section 12 applies to every note even where it does not bear the certificate mentioned in that section.”

50. Section 15 of the said Act is amended

(1) by striking out the words “, as the case may be, by” in the fifth line of the first paragraph;

(2) by striking out the words “, as the case may be,” in the ninth line of the first paragraph;

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

“Every municipality may empower any person it designates to apply for an authorization provided for in the first paragraph.”;

(4) by adding, at the end, the following paragraph:

“Notwithstanding any provision of a general law or special Act, a loan referred to in the first paragraph requires no authorization by the Minister of Municipal Affairs other than the authorizations provided for in that paragraph, and no subsequent approval by that Minister.”

51. The said Act is amended by inserting, after section 25, the following section:

“25.1 Every municipality may enter into an agreement by which it entrusts to a person the responsibility of keeping the register provided for in section 23.

The agreement must designate the person responsible for performing the duties which are imposed by sections 24 and 25 on the clerk, the secretary or the secretary-treasurer of the municipality, as the case may be.”

ACT RESPECTING MUNICIPAL FIRE FIGHTING COOPERATION

52. Section 5 of the Act respecting municipal fire fighting cooperation (R.S.Q., chapter E-11) is amended by striking out the second paragraph.

ACT RESPECTING MUNICIPAL TAXATION

53. Section 83 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) is replaced by the following section:

“83. Where the budget of the local municipality is adopted after the beginning of the fiscal year, the date of 1 March provided for in section 81 is replaced for that fiscal year, with respect to the sending of the notice and of the account, by the date corresponding to the sixtieth day following the adoption of the budget.

If the notice and the account cannot be sent within the prescribed time, the local municipality or, as the case may be, the community or

the other municipality having jurisdiction referred to in section 82 shall fix the date before which the notice and the account must be sent. As soon as possible after the passing of the resolution by which the municipality or the community fixes that date, the clerk of the municipality or of the community shall transmit a certified copy thereof to the Minister."

54. Section 131 of the said Act is amended

(1) by striking out the words "the Minister permits that" in the first line;

(2) by replacing the word "be" in the second line by the word "is".

55. Section 134 of the said Act is amended

(1) by striking out the words "without the authorization of the Minister or later than the date authorized by him under section 83" in the second and third lines;

(2) by inserting the words "or 131, as the case may be," after the figure "130" in the fifth line.

TRANSITIONAL AND FINAL PROVISIONS

56. Section 24 has effect from 17 June 1994.

57. This Act comes into force on (*insert here the date of assent to this Act*).