
NATIONAL ASSEMBLY

THIRTY-SECOND LEGISLATURE

FOURTH SESSION

Bill 38

An Act respecting government funding of municipalities

First reading



Introduced by
Mr Jacques Léonard
Minister of Municipal Affairs

EXPLANATORY NOTES

This bill is based on principles of sound management of public funds and the exclusive constitutional jurisdiction of Québec over municipal institutions and local affairs, and it applies these fundamental principles to the question of subsidies offered by the federal Government to the municipalities of Québec.

Consequently, this bill reaffirms that an agreement between the federal Government and the Gouvernement du Québec is the only framework through which a municipality may receive a subsidy from the federal Government.

Therefore, every municipality that has received, directly or indirectly and in any form whatever, any subsidy from the federal Government otherwise than within the framework of an agreement between the two Governments forfeits its right to exact any sums of money that the Gouvernement du Québec would be required to pay to that municipality under its programs of municipal funding.

However, in no case may the amount withheld from the municipality exceed the amount of the federal subsidy, and the Government will be required to reallocate the withheld amounts to other municipalities.

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THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. By agreement between the Government and the Government of Canada or their ministers or agencies entered into according to law, municipalities, for the purposes of their financing and according to the conditions set forth in the agreement, may receive funds allocated by the Government of Canada or of any of its ministers or agencies.

The first paragraph does not affect the right of municipalities to receive from the Government of Canada or from any of its ministers or agencies the payment of

(1) a tax or a compensation in lieu thereof, or

(2) a sum of money paid in accordance with an agreement contemplated in section 22 of the Act respecting the Ministère des Affaires intergouvernementales (R.S.Q., chapter M-21).

2. Every municipality which, in the judgment of the Government, has, otherwise than under section 1, received funds allocated by the Government of Canada or any of its ministers or agencies, directly or indirectly or in any form whatever, thereby forfeits, in accordance with section 4, the right to exact payment from the Gouvernement du Québec or any of its ministers or agencies of

(1) any municipal tax or any compensation in lieu thereof,

(2) any subsidy,

(3) any other sum of money as an item of governmental contribution to its financing, and

(4) the portion of its share of the revenues derived from the application of section 221 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) that is attributable to taxes paid pursuant to that section by a corporation that is a mandatary of the Crown in right of Québec.

3. The Government may, at its discretion, declare by order that a municipality is in the position contemplated in section 2.

4. From the effective date of the order of the Government, no sum of money contemplated in section 2 owing to the municipality or that would otherwise become due subsequently is exigible.

5. The Minister of Municipal Affairs shall transmit to the municipality a copy of the order of the Government.

6. Sections 2 to 4 do not affect the right of a municipality to receive payment of a subsidy intended for the funding of its debt service.

7. Notwithstanding that a sum of money contemplated in section 2 is not exigible, the Government may, at its discretion, decide to pay all or part of the sum and, where that is the case, fix the amount and the terms and conditions of payment.

The Government may delegate the power referred to in the first paragraph to the Minister of Municipal Affairs.

8. In no case may the total amount withheld from a municipality by the application of sections 2 to 4 exceed that of the federal government funding contemplated in section 2, as estimated by the Minister.

The total amount which may be withheld from a municipality on any particular date is the difference obtained by subtracting the amount determined under subparagraph 1 from that determined under subparagraph 2:

(1) the aggregate of the amounts paid to that date in accordance with section 7;

(2) the aggregate of the amounts the municipality would have been entitled to receive on that date under the provisions governing the payment of the sums contemplated in section 2, taking into account the due dates of payment already passed but not of any interest that might have applied to those amounts.

9. The Government may repeal an order made by virtue of section 3.

The Government shall repeal the order once the total amount withheld from the municipality by the application of sections 2 to 4 equals the amount of the federal government allocation of funds contemplated in section 2, as estimated by the Minister.

The Minister shall transmit a copy of the repeal order to the municipality.

10. From the date of repeal of an order, the non-exigibility resulting from the order ceases to have effect.

However, the municipality has no claim after that date for payment of an amount withheld from it under sections 2 to 4, or any interest on that amount.

11. Amounts withheld from municipalities by the application of sections 2 to 4 must be apportioned to municipalities.

The Government shall establish the rules on the safekeeping, management and apportionment of the amounts.

12. Section 20 of the Act respecting the Ministère des Affaires intergouvernementales (R.S.Q., chapter M-21) is amended by replacing the third paragraph by the following paragraph:

“A board, corporation, community or agency referred to in the first or second paragraph is deemed to have negotiated or entered into an agreement with a government, department or agency contemplated in the first paragraph when it enters into an agreement with a person or an agency as a result of which it receives benefits arising under an agreement between that person or agency and the government, department or agency contemplated in the first paragraph.”

13. This Act applies notwithstanding any inconsistent provision of any general law or special Act, regulation, undertaking or any other instrument.

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

15. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

16. The Government may avail itself of this Act if a municipality has received from the federal government an allocation of funds contemplated in section 2 after (*insert here the date of tabling of this bill*).

Section 4 applies to a sum owing after that date.

17. This Act comes into force on the day of its sanction.