



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-THIRD LEGISLATURE

Bill 147

**An Act to amend the Act respecting
elections and referendums in
municipalities and other legislation**

Introduction

**Introduced by
Mr Pierre Paradis
Minister of Municipal Affairs**

**Québec Official Publisher
1989**

EXPLANATORY NOTES

This bill amends the Act respecting elections and referendums in municipalities to specify that an elected municipal officer is not disqualified from office by the fact that he is a member, a director or an executive officer of any of the bodies or agencies mentioned in the Act with which the municipality is bound by contract.

The bill also provides that the term of office of a municipal councillor expires when the candidate elected to the same office at a regular election is sworn in or at the expiry of the time prescribed for taking the oath of office. It sets out special rules to be applied where the number of seats to be held by councillors after an election differs from the number of seats existing before the election.

In addition, the bill gives effect to the by-laws of certain municipalities prescribing that an election be held every two years for half of the councillors' seats and every four years for the mayor's seat, so as to allow every seat on the council to be open for nominations every four years.

The inoperativeness of the by-laws, corrected by this bill, is attributable to the fact that the by-laws were not put into force within the period prescribed therefor by the Act respecting elections and referendums in municipalities which ended on before 31 December 1987. The municipalities concerned are those which have adopted by-laws before 1 January 1988 and will appear on a list to be published in the Gazette officielle du Québec by the Minister of Municipal Affairs before 1 January 1991.

Finally, the bill rectifies an erroneous reference.

ACTS AMENDED BY THIS BILL:

- (1) Cities and Towns Act (R.S.Q., chapter C-19);
- (2) Municipal Code of Québec (R.S.Q., chapter C-27.1);

(3) Act respecting the Communauté régionale de l'Outaouais (R.S.Q., chapter C-37.1);

(4) Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2);

(5) Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3);

(6) Act respecting municipal and intermunicipal transit corporations (R.S.Q., chapter C-70);

(7) Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);

(8) Act respecting the remuneration of elected municipal officers (1988, chapter 30);

(9) Act respecting the Pension Plan of Elected Municipal Officers (1988, chapter 85).

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THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

1. Section 67 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended

(1) by replacing the words “an office on the council that is not open for nominations or if he holds office as a” in the second and third lines by the words “office as”;

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

“Any person who is already holding another office on the council of a municipality is also ineligible for office as a member of the council, except in the event of an election at which the office held by him is open for nominations or ceases to exist.”

2. Section 305 of the said Act is amended

(1) by adding the word “executive” before the word “officer” in the third line of paragraph 2;

(2) by inserting, after paragraph 2, the following paragraph:

“(2.1) where the interest of the person arises from the fact that he is a member, director or executive officer of another municipal body, a public body within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), a non-profit organization or an organization of which he is required by law, as a member of the council

of that municipality or that municipal body, to be a member, a director or an executive officer;”.

3. Section 314 of the said Act is amended by replacing the second paragraph by the following paragraphs:

“The term of a person holding office as councillor expires when the candidate elected to the office at the regular election makes the oath of office or, if he fails to do so, at the expiry of the time prescribed therefor.

However, where a person holding office is a candidate for another office at a general election, his term expires at the time the candidate elected to either office makes the oath of office or, if he fails to do so, at the expiry of the time prescribed therefor.”

4. The said Act is amended by inserting, after section 314, the following section:

“314.1 Notwithstanding sections 313 and 314, where a change affecting the composition of the council such as a change described in the third paragraph, takes effect following a regular election,

(1) the term of a candidate elected to the office of councillor for a seat open for nominations at that election shall begin on the later of the following event:

(a) when he makes the oath of office;

(b) when the majority of the candidates elected to the office of councillor have made the oath of office;

(2) the term of every councillor whose seat is open for nominations or ceases to exist following that election expires at the time specified in paragraph *b* of subparagraph 1 of the first paragraph.

However, if the majority of the candidates elected to the office of councillor for seats open for nominations at the election have not made the oath of office before the thirty-fifth day following polling day, the term of a candidate who has made the oath of office shall begin on that day and the term of the councillors referred to subparagraph 2 of the first paragraph shall expire at the same time.

Changes affecting the composition of the council and giving rise to the application of the first or second paragraph are as follows:

(1) a reduction in the number of numbered seats of councillor;

(2) the beginning or end of the division of the territory for election purposes;

(3) the replacement of a division of the territory into wards by a division into electoral districts;

(4) a change in the boundaries of any of the electoral districts.

The clerk or the secretary-treasurer shall give notice in writing to any person affected by this section of the date of the beginning or expiry of his term."

5. Section 334 of the said Act is replaced by the following section:

"334. This chapter does not apply to a vacancy existing, as a result of the application of the third paragraph of section 314 or of section 314.1, between the expiry of a term occurring after the regular election of a candidate to that office and the beginning of his term."

CITIES AND TOWNS ACT

6. Section 1 of the Cities and Towns Act (R.S.Q., chapter C-19), amended by section 230 of chapter 19 of the statutes of 1988, is again amended by replacing the figure "232" in the fourth line of subparagraph *d* of the first paragraph by the figure "235".

7. Section 468.23 of the said Act is amended by replacing the words "at or after the expiry of his term, according as the member is a councillor or the mayor," in the third and fourth lines of the second paragraph by the words "after the expiry of his term".

MUNICIPAL CODE OF QUÉBEC

8. Article 592 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended by replacing the words "at or after the expiry of his term, according as the member is a councillor or the mayor," in the third and fourth lines of the second paragraph by the words "after the expiry of his term".

ACT RESPECTING THE COMMUNAUTÉ RÉGIONALE DE L'OUTAOUAIS

9. Section 11 of the Act respecting the Communauté régionale de l'Outaouais (R.S.Q., chapter C-37.1) is amended by replacing the words "at or after the expiry of his term, according as the member is a councillor or mayor" in the fourth and fifth lines of the third paragraph by the words "after the expiry of his term".

10. Section 63.3 of the said Act is amended by replacing the words “at or after the expiry of his term, according as the member is a councillor or mayor,” in the third and fourth lines of the third paragraph by the words “after the expiry of his term”.

ACT RESPECTING THE COMMUNAUTÉ URBAINE DE MONTRÉAL

11. Section 82.4 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2) is amended by replacing the words “at or after the expiry of his term, according as the member is a councillor or mayor” in the fourth and fifth lines of the third paragraph by the words “after the expiry of his term”.

12. Section 101.1 of the said Act is amended by replacing the words “at or after the expiry of his term, according as the member is a councillor or mayor” in the fourth and fifth lines of the third paragraph by the words “after the expiry of his term”.

ACT RESPECTING THE COMMUNAUTÉ URBAINE DE QUÉBEC

13. Section 69.3 of the Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3) is amended by replacing the words “at or after the expiry of his term, according as the member is a councillor or mayor” in the fourth and fifth lines of the third paragraph by the words “after the expiry of his term”.

ACT RESPECTING MUNICIPAL AND INTERMUNICIPAL TRANSIT CORPORATIONS

14. Section 14 of the Act respecting municipal and intermunicipal transit corporations (R.S.Q., chapter C-70) is amended by replacing the words “at or after the expiry of his term, according as the member is a councillor or mayor,” in the third and fourth lines of the second paragraph by the words “held after the expiry of his term”.

ACT RESPECTING THE REMUNERATION OF ELECTED MUNICIPAL OFFICERS

15. Section 64 of the Act respecting the remuneration of elected municipal officers (1988, chapter 30) is amended by replacing the words “in progress when the expiry occurs or held thereafter, according as he is a councillor or the mayor,” in the third and fourth lines of the second paragraph by the words “held after the expiry of his term”.

ACT RESPECTING THE PENSION PLAN OF ELECTED MUNICIPAL OFFICERS

16. Section 22 of the Act respecting the Pension Plan of Elected Municipal Officers (1988, chapter 85) is amended by replacing the word “during” in the third line by the word “after”.

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

17. The Minister of Municipal Affairs may, at any time before 1 January 1991, publish in the *Gazette officielle du Québec* a list of municipalities in which the by-law provided for in section 867 of the Act respecting elections and referendums in municipalities was adopted before 1 January 1988 but not put into force before that date.

For the purposes of sections 2 and 868 of the said Act, the by-law of a municipality contemplated by the first paragraph is deemed to have been approved by the Minister and to have come into force on 31 December 1987.

A reference to this section shall be entered in the book of by-laws of the municipality, opposite the by-law referred to in the first paragraph.

18. Section 2 has effect from 1 January 1988 and section 6 has effect from 1 January 1989.

This retroactive effect does not apply to cases pending on (*insert here the date of introduction of this bill*).

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