



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 792

**An Act to enhance the transparency
of municipal councils**

Introduction

**Introduced by
Madam Catherine Fournier
Member for Marie-Victorin**

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EXPLANATORY NOTES

This bill amends the Cities and Towns Act and the Municipal Code of Québec to enhance the transparency of municipal councils by making public the deliberative meetings that precede the holding of regular and special meetings. The bill stipulates that the provisions relating to deliberative meetings are of public order.

The bill determines the situations in which a council or borough council may hold deliberative meetings that are closed to the public. It also provides that the council or borough council must, by resolution, state that a deliberative meeting will be closed to the public and specify the exception that applies.

The bill provides that a person may request that an investigation be conducted into whether a council or borough council has violated the requirements for holding deliberative meetings closed to the public. The investigation is conducted either by an investigator appointed by the municipality or by the Municipal Ombudsman. The bill stipulates that the investigator or Ombudsman reports his or her findings and recommendations to the council or borough council and that the report is published on the website of the municipality.

Lastly, the bill states that, following the investigation, the council or borough council must state, by resolution, the means taken to comply with the recommendations of the investigator or Municipal Ombudsman.

LEGISLATION AMENDED BY THIS BILL:

- Cities and Towns Act (chapter C-19);
- Municipal Code of Québec (chapter C-27.1).

Bill 792

AN ACT TO ENHANCE THE TRANSPARENCY OF MUNICIPAL COUNCILS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CITIES AND TOWNS ACT

1. The Cities and Towns Act (chapter C-19) is amended by inserting the following section after section 5:

“5.1. The provisions related to deliberative meetings are of public order.”

2. Section 6 of the Act is amended by inserting the following paragraph after paragraph 5:

“(5.1) The words “deliberative meetings” mean the preparatory meetings of the council or borough council;”.

3. The Act is amended by inserting the following division after section 318.1:

“DIVISION VIII.1

“DELIBERATIVE MEETINGS

“318.2. The council or borough council may hold deliberative meetings prior to regular sittings or special sittings in order, in particular, to allow all members to agree on the agenda, discuss certain matters in greater depth or debate subjects that require more in-depth consideration.

“318.3. No vote may be held during a deliberative meeting.

“318.4. Unless otherwise provided, a deliberative meeting is public and recorded in the schedule provided for in section 319 of this Act.

A deliberative meeting or part of a deliberative meeting is closed to the public if the matter to be considered concerns, as the case may be:

(1) a request made under the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) to which the council or borough council must reply;

(2) an investigation being carried out by the Municipal Ombudsman appointed or the agency created, as the case may be, under the first paragraph of section 573.15 of this Act; or

(3) an audit being conducted by the chief auditor appointed under section 107.2 of this Act or by an external auditor appointed under section 108 of this Act.

“318.5. A deliberative meeting or part of a deliberative meeting may be closed to the public if the matter being considered is

(1) the security of property of the municipality, of the council or of a borough council;

(2) personal information concerning a person, including a municipal employee;

(3) a proposed or pending acquisition or use of an immovable by the municipality;

(4) labour relations or collective bargaining with municipal public servants or employees;

(5) disputes or potential disputes, including matters before administrative tribunals, affecting the municipality;

(6) advice that is protected by lawyers’ professional secrecy, including communications necessary for that purpose;

(7) a matter in respect of which a municipal council, borough council, committee or other body may hold a closed meeting under another Act;

(8) information communicated explicitly in confidence to the municipality by the Government of Canada, the government of a province, a territory or a federal agency;

(9) industrial, financial, commercial, scientific, technical or union information provided by a third party if disclosure could reasonably be expected to interfere with contract negotiations, cause a loss to the third party, substantially benefit another person or significantly harm the competitive position of the third party;

(10) an industrial secret or financial, commercial, scientific or technical information that belongs to the municipality and has monetary value or potential monetary value; or

(11) a position, plan, procedure, criterion or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality.

A deliberative meeting or part of a deliberative meeting may also be closed to the public if the following conditions are met:

(1) the deliberative meeting is held for the purpose of educating and training the members of the council or a borough council; and

(2) at the deliberative meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council or borough council.

“318.6. Before holding a deliberative meeting that is closed to the public, a municipality, council or borough council shall state by resolution:

(1) the fact that the deliberative meeting must be closed to the public and the general nature of the matter to be considered during the meeting; or

(2) in the case of a meeting contemplated in the second paragraph of section 318.5, the fact that the deliberative meeting must be closed to the public, the general nature of the matter to be considered and the fact that the meeting will be closed to the public under that section.

“318.7. All deliberations of the council or borough council during deliberative meetings shall be recorded in the form of minutes without remarks, whether the deliberative meeting is closed to the public or not.

The minutes are drawn up by:

(1) the secretary or clerk, in the case of a deliberative meeting of the council; or

(2) the competent officer or public servant, in the case of a deliberative meeting of a borough council.

If a deliberative meeting is closed to the public, the minutes are not accessible, despite the provisions of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

“318.8. A person may request that an investigation be conducted into whether the council or a borough council has violated any of sections 318.3 to 318.6:

(1) by an investigator appointed by the municipality to independently investigate this matter; or

(2) by the Municipal Ombudsman.

“318.9. The investigator appointed by the municipality under paragraph 1 of section 318.8 exercises the powers and duties assigned to him or her by the municipality.

With a view to appointing an investigator, the matters that the municipality shall consider include the following elements:

- (1) the investigator's independence and impartiality;
- (2) confidentiality with respect to the investigator's activities; and
- (3) the credibility of the investigator's investigative process.

“318.10. Sections 573.14 to 573.20 of this Act apply to the investigator with the necessary modifications.

“318.11. If, at the end of the investigation, the investigator is of the opinion that the provisions of sections 318.3 to 318.6 were not complied with, the investigator or the Ombudsman shall report the investigation findings and recommendations to the council or borough council.

“318.12. The report of the investigator or Municipal Ombudsman shall be published on the website of the municipality.

“318.13. The council or borough council must state, by resolution, the means taken in order to comply with the recommendations of the investigator or the Municipal Ombudsman.”

MUNICIPAL CODE OF QUÉBEC

4. The Municipal Code of Québec (chapter C-27.1) is amended by inserting the following article after article 1:

“1.1. The provisions related to deliberative meetings are of public order.”

5. The Code is amended by inserting the following title after article 142.1:

“TITLE III.1

“DELIBERATIVE MEETINGS

“142.2. The council or the borough council may hold deliberative meetings sessions prior to regular sittings or special sittings in order, in particular, to allow all members to agree on the agenda, discuss certain matters in greater depth or debate subjects which require more in-depth consideration.

“142.3. No vote may be held during a deliberative meeting.

“142.4. Unless otherwise provided, a deliberative meeting is public and recorded in the schedule provided in article 148 of this Code.

A deliberative meeting or part of a deliberative meeting is closed to the public if the matter to be considered concerns, as the case may be:

(1) a request made under the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) to which the council or the borough council must reply;

(2) an investigation being carried out by the Municipal Ombudsman appointed or the agency created, as the case may be, under the first paragraph of article 1104.3 of this Code; or

(3) an ongoing audit by the external auditor appointed under article 966 of this Code.

“142.5. A deliberative meeting or part of a deliberative meeting may be closed to the public if the matter being considered is:

(1) the security of property of the municipality, of the council or of a borough council;

(2) personal information concerning a person, including a municipal employee;

(3) a proposed or pending acquisition or use of an immovable by the municipality;

(4) labour relations or collective bargaining with public servants or municipal employees;

(5) disputes or potential disputes, including matters before administrative tribunals, affecting the municipality;

(6) advice that is protected by lawyers' professional secrecy, including communications necessary for that purpose;

(7) a matter in respect of which a municipal council, borough council, committee or other body may hold a closed meeting under another Act;

(8) information communicated explicitly in confidence to the municipality by the Government of Canada, the government of a province, a territory or a federal agency;

(9) industrial, financial, commercial, scientific, technical or union information provided by a third party if disclosure could reasonably be expected to interfere with contract negotiations, cause a loss to the third party, substantially benefit another person or significantly harm the competitive position of the third party;

(10) an industrial secret or financial, commercial, scientific or technical information that belongs to the municipality and has monetary value or potential monetary value; or

(11) a position, plan, procedure, criterion or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality.

A deliberative meeting or part of a deliberative meeting may also be closed to the public if the following conditions are met:

(1) the deliberative meeting is held for the purpose of educating and training the members of the council or a borough council; and

(2) at the deliberative meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council or the borough council.

“142.6. Before holding a deliberative meeting that is closed to the public, a municipality, a council or a borough council shall state by resolution:

(1) the fact that the deliberative meeting must be closed to the public and the general nature of the matter to be considered during the meeting; or

(2) in the case of a meeting contemplated in the second paragraph of article 142.5, the fact that the deliberative meeting must be closed to the public, the general nature of the matter to be considered and the fact that the meeting will be closed under that article.

“142.7. All deliberations of the council or borough council during deliberative meetings shall be recorded in the form of minutes without remarks, whether the deliberative meeting is closed to the public or not.

The minutes are drawn up by:

(1) the secretary or clerk, in the case of a deliberative meeting of the council; or

(2) the competent officer or public servant, in the case of a deliberative meeting of a borough council.

If a deliberative meeting is closed to the public, the minutes are not accessible, despite the provisions of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

“142.8. A person may request that an investigation be conducted into whether the council or borough council violated any of articles 142.3 to 142.6:

(1) by an investigator appointed by the municipality to independently investigate this matter; or

(2) by the Municipal Ombudsman.

“142.9. The investigator appointed by the municipality under paragraph 1 of article 142.8 exercises the powers and duties assigned to him or her by the municipality.

With a view to appointing an investigator, the matters that the municipality shall consider include the following elements:

- (1) the investigator’s independence and impartiality;
- (2) confidentiality with respect to the investigator’s activities; and
- (3) the credibility of the investigator’s investigative process.

“142.10. Articles 1104.2 to 1104.8 of this Code apply to the investigator with the necessary modifications.

“142.11. If, at the end of the investigation, the investigator is of the opinion that the provisions of articles 142.3 to 142.6 were not complied with, the investigator or the Ombudsman shall report the investigation findings and recommendations to the council or borough council.

“142.12. The report of the investigator or the Municipal Ombudsman shall be published on the website of the municipality.

“142.13. The council or borough council must state, by resolution, the means taken in order to comply with the recommendations of the investigator or Municipal Ombudsman.”

FINAL PROVISION

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

