



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 137

**An Act to amend various legislative provisions
concerning municipal affairs**

Introduction

**Introduced by
Mr Rémy Trudel
Minister of Municipal Affairs**

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EXPLANATORY NOTES

This bill amends the rules for awarding certain construction, supply and services contracts to give effect to the provisions of the Agreement on the Opening of Public Procurement for Québec and Ontario.

It also amends the Act respecting municipal debts and loans to enable municipalities and municipal bodies to issue bonds using a procedure that differs from the procedure prescribed in an Act or regulation in respect of municipal bonds.

The bill empowers intermunicipal boards to enter into agreements with another board, a municipality, school board, educational institution, non-profit organization and certain public institutions for the joint purchase of equipment or materials. It also enables intermunicipal boards to make joint calls for public tenders for the awarding of insurance or services contracts and to enter into an agreement with a municipal association for the purchase of equipment or materials, the performance of work or the awarding of insurance or services contracts by the association on behalf of the board.

Under the bill, regional county municipalities are required to provide financial assistance to a non-profit organization having economic promotion and development as its object, by means of an amount to be paid by each local municipality whose territory is within the territory of the regional county municipality.

Lastly, the bill grants the power to regulate public or private swimming-pools for safety purposes to municipalities governed by the Municipal Code of Québec.

LEGISLATION AMENDED BY THIS BILL :

- Cities and Towns Act (R.S.Q., chapter C-19);
- Municipal Code of Québec (R.S.Q., chapter C-27.1);
- Act respecting the Communauté urbaine de l'Outaouais (R.S.Q., chapter C-37.1);

- Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2);
- Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3);
- Act respecting municipal and intermunicipal transit corporations (R.S.Q., chapter C-70);
- Act respecting municipal debts and loans (R.S.Q., chapter D-7);
- Act respecting municipal territorial organization (R.S.Q., chapter O-9);
- Charter of the city of Montréal (1959-60, chapter 102);
- Act respecting the Société de transport de la Ville de Laval (1984, chapter 42);
- Act respecting the Société de transport de la rive sud de Montréal (1985, chapter 32);
- Act to amend the Cities and Towns Act, the Municipal Code of Québec and other legislative provisions (1996, chapter 27);
- Act to amend the constituent Acts of the urban communities and other legislative provisions (1996, chapter 52).

Bill 137

AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS CONCERNING MUNICIPAL AFFAIRS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

CITIES AND TOWNS ACT

1. Section 414 of the Cities and Towns Act (R.S.Q., chapter C-19), amended by section 154 of chapter 2 of the statutes of 1996 and by section 13 of chapter 27 of the statutes of 1996, is again amended

(1) by replacing the word “and” in the second line of the second paragraph of subparagraph 8 of the first paragraph by a comma ;

(2) by replacing the words “the cost of which shall not exceed \$5” in the third line of the second paragraph of subparagraph 8 of the first paragraph by the words “and to fix the cost of the license”.

2. Section 468.51 of the said Act, amended by section 26 of chapter 27 of the statutes of 1996 and by section 16 of chapter 77 of the statutes of 1996, is again amended

(1) by inserting the words “29.5 to 29.9.2,” after the figure “29.3,” in the first line of the first paragraph ;

(2) by inserting the figures “29.7, 29.9, 29.9.1,” after the word “sections” in the first line of the second paragraph.

3. Section 573 of the said Act, amended by section 35 of chapter 27 of the statutes of 1996, is again amended

(1) by inserting the words “, subject to the third paragraph,” after the word “than” in the fifth line of the first paragraph of subsection 1 ;

(2) by inserting the words “, supply or services” after the word “construction” in the first line of the third paragraph of subsection 1 ;

(3) by replacing the words “either in a daily newspaper circulated mainly in Québec or by means of an electronic tendering system” in the second, third and fourth lines of the third paragraph of subsection 1 by the words “by means of an electronic tendering system accessible both to contractors and suppliers having an establishment in Québec and to contractors and suppliers having an

establishment in a province or territory covered by an intergovernmental trade liberalisation agreement applicable to the municipality”;

(4) by replacing the fourth paragraph of subsection 1 by the following paragraph:

“For the purposes of the third paragraph,

(1) “**construction contract**” means a contract regarding the construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering work, including site preparation, excavation, drilling, seismic investigation, the supply of products and materials, equipment and machinery if these are included in and incidental to a construction contract, as well as the installation and repair of fixtures of a building, structure or other civil engineering work;

(2) “**supply contract**” means a contract for the purchase, lease or rental of movable property that may include the cost of installing, operating and maintaining property, except a contract in respect of property related to cultural or artistic fields as well as computer software for educational purposes, and subscriptions;

(3) “**services contract**” means a contract for supplying services that may include the supply of parts or materials required to supply the services, except a contract in respect of services related to cultural or artistic fields that can, under an Act or a regulation, be provided only by a physician, dentist, nurse, pharmacist, veterinary surgeon, engineer, land surveyor, architect, chartered accountant, advocate or notary.”;

(5) by replacing the words “contractors, in addition to contractors” in the third line of subsection 2.1 by the words “contractors or suppliers, in addition to contractors or suppliers”;

(6) by adding, at the end of subsection 2.1, the following paragraph:

“The call for tenders referred to in the first paragraph may also stipulate that the goods concerned must be produced in a territory comprising Québec and any other province or territory referred to in that paragraph.”;

(7) by replacing the word “The” in the first line of subsection 7 by the words “Subject to section 573.1.0.1, the”;

(8) by replacing the words “, within the prescribed time, the lowest tender or a tender that does not exceed the lowest tender by more than 1% or \$50,000” in subsection 7 by the words “the lowest tender within the prescribed time”;

(9) by striking out the last sentence of subsection 8.

4. Section 573.1 of the said Act, amended by section 36 of chapter 27 of the statutes of 1996, is again amended

(1) by replacing the word “The” in the first line of the second paragraph by the words “Subject to section 573.1.0.1, the”;

(2) by striking out the words “or a tender that does not exceed the lowest tender by more than 1% or \$50,000” in the second paragraph.

5. The said Act is amended by inserting, after section 573.1, the following sections :

“573.1.0.1. The council may choose to use a system of bid weighting and evaluating whereby each bid obtains a number of points based on the price as well as on the quality or quantity of goods, services or work, the delivery procedure, servicing, the experience and financial capacity required of the insurer, supplier or contractor or on any other criteria directly related to the procurement.

Where the council chooses to use such a system, the call for tenders or any document to which it refers shall mention all the requirements and all criteria that will be used for evaluating the bids, as well as the weighting and evaluation methods based on those criteria.

In such a case, the council shall not award the contract to a person other than the person whose bid was received within the time fixed and obtained the highest score.

For the purposes of subsection 8 of section 573, the bid having received the highest score shall be considered to be the lowest tender.

“573.1.0.2. The council may establish a qualification process which shall not discriminate on the basis of the province or country of origin of the goods, services, insurers, suppliers or contractors.

The municipality shall invite the interested parties to obtain their qualification or the qualification of their goods or services, by causing the clerk to publish a notice to that effect in accordance with the rules set out in the third paragraph of subsection 1 of section 573.

“573.1.0.3. A call for tenders may stipulate that the goods, services, insurers, suppliers or contractors concerned by or able to satisfy the call for tenders must first be certified, qualified or registered by an organization accredited by the Standards Council of Canada or first be certified or qualified under the process provided for in section 573.1.0.2.

The first paragraph does not apply where, under the process provided for in section 573.1.0.2, only one insurer, supplier or contractor has become qualified.

“573.1.0.4. Subject to subsections 2.1 and 8 of section 573, no call for public tenders or document to which it refers shall discriminate on the basis of the province or country of origin of the goods, services, insurers, suppliers or contractors.”

6. Section 573.3.1 of the said Act, enacted by section 38 of chapter 27 of the statutes of 1996, is amended by adding, at the end, the following paragraph :

“The first paragraph does not apply where calls for tenders are required to be public under an intergovernmental trade liberalisation agreement applicable to the municipality.”

MUNICIPAL CODE OF QUÉBEC

7. Article 437.1 of the Municipal Code of Québec (R.S.Q., chapter C-27.1), amended by section 26 of chapter 77 of the statutes of 1996, is again amended by striking out the words “a notice referred to in article 631.2,” in the first paragraph.

8. Article 544 of the said Code, amended by section 293 of chapter 2 of the statutes of 1996, is again amended by inserting, after paragraph 4, the following paragraph :

“(4.1) to regulate public beaches and public or private swimming-pools for safety purposes, to compel every person operating a public beach or swimming-pool to obtain an annual license and to fix the cost of the license;”.

9. Article 620 of the said Code, amended by section 72 of chapter 27 of the statutes of 1996 and by section 29 of chapter 77 of the statutes of 1996, is again amended

(1) by inserting the words “29.5 to 29.9.2,” after the figure “29.3,” in the first line of the first paragraph ;

(2) by inserting the figures “29.7, 29.9, 29.9.1,” after the word “sections” in the first line of the second paragraph.

10. The said Code is amended by inserting, after article 688.9, the following articles :

“688.10. Notwithstanding the Municipal Aid Prohibition Act (chapter I-15), every regional county municipality shall provide financial support to a non-profit organization having economic promotion and development as its object that acts in its territory and is accredited by the Government.

“688.11. Every local municipality whose territory is included in that of the regional county municipality shall make an annual contribution in support of the organization referred to in article 688.10 by the payment of a sum the amount of which shall be determined by by-law of the regional county municipality.

If there is no such by-law in force at the time of adoption of the budget of the regional county municipality for a fiscal year, the amount of the sum required to be paid by each local municipality for the fiscal year is the amount determined in accordance with the regulation under the third paragraph.

The Government may, by regulation, prescribe the rules for the determination of the amount of the sum that each local municipality is required to pay in the circumstance described in the second paragraph. The regulation may prescribe separate rules for local municipalities whose territory is included in the territory of each regional county municipality.

The sum shall be integrated into the aliquot share that the local municipality is required to pay to the regional county municipality under section 205.1 of the Act respecting land use planning and development (chapter A-19.1).

“688.12. The third paragraph of section 188 of the Act respecting land use planning and development (chapter A-19.1) does not apply in respect of a function of the regional county municipality provided for in article 688.10 or 688.11.”

11. Article 935 of the said Code, amended by section 455 of chapter 2 of the statutes of 1996 and by section 85 of chapter 27 of the statutes of 1996, is again amended

(1) by inserting the words “, subject to the third paragraph,” after the word “than” in the fifth line of the first paragraph of subarticle 1 ;

(2) by inserting the words “, supply or services” after the word “construction” in the first line of the third paragraph of subarticle 1 ;

(3) by replacing the words “either in a daily newspaper circulated mainly in Québec or by means of an electronic tendering system” in the second, third and fourth lines of the third paragraph of subarticle 1 by the words “by means of an electronic tendering system accessible both to contractors and suppliers having an establishment in Québec and to contractors and suppliers having an establishment in a province or territory covered by an intergovernmental trade liberalisation agreement applicable to the municipality” ;

(4) by replacing the fourth paragraph of subarticle 1 by the following paragraph :

“For the purposes of the third paragraph,

(1) “**construction contract**” means a contract regarding the construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering work, including site preparation, excavation, drilling, seismic investigation, the supply of products and materials, equipment and machinery if these are included in and incidental to a construction contract, as well as the installation and repair of fixtures of a building, structure or other civil engineering work ;

(2) “**supply contract**” means a contract for the purchase, lease or rental of movable property that may include the cost of installing, operating and maintaining property, except a contract in respect of property related to cultural or artistic fields as well as computer software for educational purposes, and subscriptions;

(3) “**services contract**” means a contract for supplying services that may include the supply of parts or materials required to supply the services, except a contract in respect of services related to cultural or artistic fields that can, under an Act or a regulation, be provided only by a physician, dentist, nurse, pharmacist, veterinary surgeon, engineer, land surveyor, architect, chartered accountant, advocate or notary.”;

(5) by replacing the words “contractors, in addition to contractors” in the third line of subarticle 2.1 by the words “contractors or suppliers, in addition to contractors or suppliers”;

(6) by adding, at the end of subarticle 2.1, the following paragraph:

“The call for tenders referred to in the first paragraph may also stipulate that the goods concerned must be produced in a territory comprising Québec and any other province or territory referred to in that paragraph.”;

(7) by replacing the word “The” in the first line of subarticle 7 by the words “Subject to article 936.0.1, the”;

(8) by replacing the words “, within the prescribed time, the lowest tender or a tender that does not exceed the lowest tender by more than 1% or \$50,000” in subarticle 7 by the words “the lowest tender within the prescribed time”;

(9) by striking out the last sentence of subarticle 8.

12. Article 936 of the said Code, amended by section 86 of chapter 27 of the statutes of 1996, is again amended

(1) by replacing the word “The” in the first line of the second paragraph by the words “Subject to article 936.0.1, the”;

(2) by striking out the words “or a tender that does not exceed the lowest tender by more than 1% or \$50,000” in the second paragraph.

13. The said Code is amended by inserting, after article 936, the following articles:

“936.0.1. The council may choose to use a system of bid weighting and evaluating whereby each bid obtains a number of points based on the price as well as on the quality or quantity of goods, services or work, the delivery procedure, servicing, the experience and financial capacity required of the insurer, supplier or contractor or on any other criteria directly related to the procurement.

Where the council chooses to use such a system, the call for tenders or any document to which it refers shall mention all the requirements and all criteria that will be used for evaluating the bids, as well as the weighting and evaluation methods based on those criteria.

In such a case, the council shall not award the contract to a person other than the person whose bid has received the highest score.

For the purposes of subarticle 8 of article 935, the bid having received the highest score shall be considered to be the lowest tender.

“936.0.2. The council may establish a qualification process which shall not discriminate on the basis of the province or country of origin of the goods, services, insurers, suppliers or contractors.

The municipality shall invite the interested parties to obtain their qualification or the qualification of their goods or services, by causing the secretary-treasurer to publish a notice to that effect in accordance with the rules set out in the third paragraph of subarticle 1 of article 935.

“936.0.3. A call for tenders may stipulate that the goods, services, insurers, suppliers or contractors concerned by or able to satisfy the call for tenders must first be certified, qualified or registered by an organization accredited by the Standards Council of Canada or first be certified or qualified under the process provided for in article 936.0.2.

The first paragraph does not apply where, under the process provided for in article 936.0.2, only one insurer, supplier or contractor has become qualified.

“936.0.4. Subject to subarticles 2.1 and 8 of article 935, no call for public tenders or document to which it refers shall discriminate on the basis of the province or country of origin of the goods, services, insurers, suppliers or contractors.”

14. Article 938.1 of the said Code, enacted by section 88 of chapter 27 of the statutes of 1996, is amended by adding, at the end, the following paragraph :

“The first paragraph does not apply where calls for tenders are required to be public under an intergovernmental trade liberalisation agreement applicable to the municipality.”

15. Article 1131 of the said Code, amended by section 452 of chapter 2 of the statutes of 1996 and by section 106 of chapter 27 of the statutes of 1996, is again amended by replacing the words “a tender that does not exceed the lowest tender by more than 1% or \$50,000” in subparagraph 3 of the first paragraph by the words “, where the council chooses to use a system of bid weighting and evaluating in accordance with article 936.0.1, the tender having obtained the highest score”.

ACT RESPECTING THE COMMUNAUTÉ URBAINE
DE L'OUTAOUAIS

16. Section 82.1 of the Act respecting the Communauté urbaine de l'Outaouais (R.S.Q., chapter C-37.1) is amended by inserting the words “, subject to the second paragraph of section 83,” after the word “than” in subparagraph 4 of the first paragraph.

17. Section 83 of the said Act, amended by section 111 of chapter 27 of the statutes of 1996, is again amended

(1) by inserting the words “, supply or services” after the word “construction” in the first line of the second paragraph;

(2) by replacing the words “either in a daily newspaper circulated mainly in Québec or by means of an electronic tendering system” in the second and third lines of the second paragraph by the words “by means of an electronic tendering system accessible both to contractors and suppliers having an establishment in Québec and to contractors and suppliers having an establishment in a province or territory covered by an intergovernmental trade liberalisation agreement applicable to the Community”;

(3) by replacing the third paragraph by the following paragraph:

“For the purposes of the second paragraph,

(1) “**construction contract**” means a contract regarding the construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering work, including site preparation, excavation, drilling, seismic investigation, the supply of products and materials, equipment and machinery if these are included in and incidental to a construction contract, as well as the installation and repair of fixtures of a building, structure or other civil engineering work;

(2) “**supply contract**” means a contract for the purchase, lease or rental of movable property that may include the cost of installing, operating and maintaining property, except a contract in respect of property related to cultural or artistic fields as well as computer software for educational purposes, and subscriptions;

(3) “**services contract**” means a contract for supplying services that may include the supply of parts or materials required to supply the services, except a contract in respect of services related to cultural or artistic fields that can, under an Act or a regulation, be provided only by a physician, dentist, nurse, pharmacist, veterinary surgeon, engineer, land surveyor, architect, chartered accountant, advocate or notary.”;

(4) by replacing the words “contractors, in addition to contractors” in the second and third lines of the fifth paragraph by the words “contractors or suppliers, in addition to contractors or suppliers”;

(5) by adding, at the end of the fifth paragraph, the following: “Such a call for tenders may also stipulate that the goods concerned must be produced in a territory comprising Québec and any such province or territory.”;

(6) by replacing the word “The” in the first line of the eighth paragraph by the words “Subject to section 83.0.0.1, the”;

(7) by striking out the last sentence of the eighth paragraph.

18. The said Act is amended by inserting, after section 83, the following sections :

“83.0.0.1. The Community may choose to use a system of bid weighting and evaluating whereby each bid obtains a number of points based on the price as well as on the quality or quantity of goods, services or work, the delivery procedure, servicing, the experience and financial capacity required of the insurer, supplier or contractor or on any other criteria directly related to the procurement.

Where the Community chooses to use such a system, the call for tenders or any document to which it refers shall mention all the requirements and all criteria that will be used for evaluating the bids, as well as the weighting and evaluation methods based on those criteria.

In such a case, the Community shall not award the contract to a person other than the person whose bid was received within the time fixed and obtained the highest score.

For the purposes of the last sentence of the eighth paragraph of section 83, the bid having obtained the highest score shall be considered to be the lowest tender.

“83.0.0.2. The Community may establish a qualification process which shall not discriminate on the basis of the province or country of origin of the goods, services, insurers, suppliers or contractors.

The Community shall invite the interested parties to obtain their qualification or the qualification of their goods or services, by causing the secretary to publish a notice to that effect in accordance with the rules set out in the second paragraph of section 83.

“83.0.0.3. A call for tenders may stipulate that the goods, services, insurers, suppliers or contractors concerned by or able to satisfy the call for tenders must first be certified, qualified or registered by an organization accredited by the Standards Council of Canada or first be certified or qualified under the process provided for in section 83.0.0.2.

The first paragraph does not apply where, under the process provided for in section 83.0.0.2, only one insurer, supplier or contractor has become qualified.

“83.0.0.4. Subject to the fifth and eighth paragraphs of section 83, no call for public tenders or document to which it refers shall discriminate on the basis of the province or country of origin of the goods, services, insurers, suppliers or contractors.”

ACT RESPECTING THE COMMUNAUTÉ URBAINE DE MONTRÉAL

19. Section 120.0.1 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2) is amended by inserting the words “, subject to the second paragraph of section 120.0.3,” after the word “than” in subparagraph 4 of the first paragraph.

20. Section 120.0.3 of the said Act, amended by section 123 of chapter 27 of the statutes of 1996, is again amended

(1) by inserting the words “, supply or services” after the word “construction” in the first line of the second paragraph;

(2) by replacing the words “either in a daily newspaper circulated mainly in Québec or by means of an electronic tendering system” in the second and third lines of the second paragraph by the words “by means of an electronic tendering system accessible both to contractors and suppliers having an establishment in Québec and to contractors and suppliers having an establishment in a province or territory covered by an intergovernmental trade liberalisation agreement applicable to the Community”;

(3) by replacing the third paragraph by the following paragraph:

“For the purposes of the second paragraph,

(1) “**construction contract**” means a contract regarding the construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering work, including site preparation, excavation, drilling, seismic investigation, the supply of products and materials, equipment and machinery if these are included in and incidental to a construction contract, as well as the installation and repair of fixtures of a building, structure or other civil engineering work;

(2) “**supply contract**” means a contract for the purchase, lease or rental of movable property that may include the cost of installing, operating and maintaining property, except a contract in respect of property related to cultural or artistic fields as well as computer software for educational purposes, and subscriptions;

(3) “**services contract**” means a contract for supplying services that may include the supply of parts or materials required to supply the services, except a contract in respect of services related to cultural or artistic fields that can, under an Act or a regulation, be provided only by a physician, dentist, nurse, pharmacist, veterinary surgeon, engineer, land surveyor, architect, chartered accountant, advocate or notary.”;

(4) by replacing the words “contractors, in addition to contractors” in the second and third lines of the fifth paragraph by the words “contractors or suppliers, in addition to contractors or suppliers”;

(5) by adding, at the end of the fifth paragraph, the following: “Such a call for tenders may also stipulate that the goods concerned must be produced in a territory comprising Québec and any such province or territory.”;

(6) by replacing the word “The” in the first line of the eighth paragraph by the words “Subject to section 120.0.3.0.1, the”;

(7) by striking out the last sentence of the eighth paragraph.

21. The said Act is amended by inserting, after section 120.0.3, the following sections :

“120.0.3.0.1. The executive committee may choose to use a system of bid weighting and evaluating whereby each bid obtains a number of points based on the price as well as on the quality or quantity of goods, services or work, the delivery procedure, servicing, the experience and financial capacity required of the insurer, supplier or contractor or on any other criteria directly related to the procurement.

Where the executive committee chooses to use such a system, the call for tenders or any document to which it refers shall mention all the requirements and all criteria that will be used for evaluating the bids, as well as the weighting and evaluation methods based on those criteria.

In such a case, the executive committee shall not award the contract to a person other than the person whose bid was received within the time fixed and obtained the highest score.

For the purposes of the last sentence of the eighth paragraph of section 120.0.3, the bid having obtained the highest score shall be considered to be the lowest tender.

“120.0.3.0.2. The executive committee may establish a qualification process which shall not discriminate on the basis of the province or country of origin of the goods, services, insurers, suppliers or contractors.

The Community shall invite the interested parties to obtain their qualification or the qualification of their goods or services, by causing the secretary to publish a notice to that effect in accordance with the rules set out in the second paragraph of section 120.0.3.

“120.0.3.0.3. A call for tenders may stipulate that the goods, services, insurers, suppliers or contractors concerned by or able to satisfy the call for tenders must first be certified, qualified or registered by an organization accredited by the Standards Council of Canada or first be certified or qualified under the process provided for in section 120.0.3.0.2.

The first paragraph does not apply where, under the process provided for in section 120.0.3.0.2, only one insurer, supplier or contractor has become qualified.

“120.0.3.0.4. Subject to the fifth and eighth paragraphs of section 120.0.3, no call for public tenders or document to which it refers shall discriminate on the basis of the province or country of origin of the goods, services, insurers, suppliers or contractors.”

ACT RESPECTING THE COMMUNAUTÉ URBAINE DE QUÉBEC

22. Section 92 of the Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3) is amended by inserting the words “, subject to the second paragraph of section 92.0.2,” after the word “than” in subparagraph 4 of the first paragraph.

23. Section 92.0.2 of the said Act, amended by section 134 of chapter 27 of the statutes of 1996, is again amended

(1) by inserting the words “, supply or services” after the word “construction” in the first line of the second paragraph;

(2) by replacing the words “either in a daily newspaper circulated mainly in Québec or by means of an electronic tendering system” in the second and third lines of the second paragraph by the words “by means of an electronic tendering system accessible both to contractors and suppliers having an establishment in Québec and to contractors and suppliers having an establishment in a province or territory covered by an intergovernmental trade liberalisation agreement applicable to the Community”;

(3) by replacing the third paragraph by the following paragraph:

“For the purposes of the second paragraph,

(1) “**construction contract**” means a contract regarding the construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering work, including site preparation, excavation, drilling, seismic investigation, the supply of products and materials, equipment and machinery if these are included in and incidental to a construction contract, as well as the installation and repair of fixtures of a building, structure or other civil engineering work;

(2) “**supply contract**” means a contract for the purchase, lease or rental of movable property that may include the cost of installing, operating and maintaining property, except a contract in respect of property related to cultural or artistic fields as well as computer software for educational purposes, and subscriptions;

(3) “**services contract**” means a contract for supplying services that may include the supply of parts or materials required to supply the services, except a contract in respect of services related to cultural or artistic fields that can, under an Act or a regulation, be provided only by a physician, dentist, nurse, pharmacist, veterinary surgeon, engineer, land surveyor, architect, chartered accountant, advocate or notary.”;

(4) by replacing the words “contractors, in addition to contractors” in the second and third lines of the fifth paragraph by the words “contractors or suppliers, in addition to contractors or suppliers”;

(5) by adding, at the end of the fifth paragraph, the following: “Such a call for tenders may also stipulate that the goods concerned must be produced in a territory comprising Québec and any such province or territory.”;

(6) by replacing the word “The” in the first line of the eighth paragraph by the words “Subject to section 92.0.2.0.1, the”;

(7) by striking out the last sentence of the eighth paragraph.

24. The said Act is amended by inserting, after section 92.0.2, the following sections :

“92.0.2.0.1. The Community may choose to use a system of bid weighting and evaluating whereby each bid obtains a number of points based on the price as well as on the quality or quantity of goods, services or work, the delivery procedure, servicing, the experience and financial capacity required of the insurer, supplier or contractor or on any other criteria directly related to the procurement.

Where the Community chooses to use such a system, the call for tenders or any document to which it refers shall mention all the requirements and all criteria that will be used for evaluating the bids, as well as the weighting and evaluation methods based on those criteria.

In such a case, the Community shall not award the contract to a person other than the person whose bid was received within the time fixed and obtained the highest score.

For the purposes of the last sentence of section 92.0.2, the bid having obtained the highest score shall be considered to be the lowest tender.

“92.0.2.0.2. The Community may establish a qualification process which shall not discriminate on the basis of the province or country of origin of the goods, services, insurers, suppliers or contractors.

The Community shall invite the interested parties to obtain their qualification or the qualification of their goods or services, by causing the secretary to publish a notice to that effect in accordance with the rules set out in the second paragraph of section 92.0.2.

“92.0.2.0.3. A call for tenders may stipulate that the goods, services, insurers, suppliers or contractors concerned by or able to satisfy the call for tenders must first be certified, qualified or registered by an organization accredited by the Standards Council of Canada or first be certified or qualified under the process provided for in section 92.0.2.0.2.

The first paragraph does not apply where, under the process provided for in section 92.0.2.0.2, only one insurer, supplier or contractor has become qualified.

“92.0.2.0.4. Subject to the fifth and eighth paragraphs of section 92.0.2, no call for public tenders or document to which it refers shall discriminate on the basis of the province or country of origin of the goods, services, insurers, suppliers or contractors.”

ACT RESPECTING MUNICIPAL AND INTERMUNICIPAL TRANSIT CORPORATIONS

25. Section 40 of the Act respecting municipal and intermunicipal transit corporations (R.S.Q., chapter C-70) is amended

(1) by inserting the words “, subject to the second paragraph,” after the word “than” in the third line of the first paragraph;

(2) by inserting the words “, supply or services” after the word “construction” in the first line of the second paragraph;

(3) by replacing the words “either in a daily newspaper circulated mainly in Québec or by means of an electronic tendering system” in the second, third and fourth lines of the second paragraph by the words “by means of an electronic tendering system accessible both to contractors and suppliers having an establishment in Québec and to contractors and suppliers having an establishment in a province or territory covered by an intergovernmental trade liberalisation agreement applicable to the corporation”;

(4) by replacing the third paragraph by the following paragraph:

“For the purposes of the second paragraph,

(1) “**construction contract**” means a contract regarding the construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering work, including site preparation, excavation, drilling, seismic investigation, the supply of products and materials, equipment and machinery if these are included in and incidental to a construction contract, as well as the installation and repair of fixtures of a building, structure or other civil engineering work;

(2) “**supply contract**” means a contract for the purchase, lease or rental of movable property that may include the cost of installing, operating and maintaining property, except a contract in respect of property related to

cultural or artistic fields as well as computer software for educational purposes, and subscriptions ;

(3) “**services contract**” means a contract for supplying services that may include the supply of parts or materials required to supply the services, except a contract in respect of services related to cultural or artistic fields that can, under an Act or a regulation, be provided only by a physician, dentist, nurse, pharmacist, veterinary surgeon, engineer, land surveyor, architect, chartered accountant, advocate or notary.”;

(5) by replacing the words “contractors, in addition to contractors” in the third line of the fifth paragraph by the words “contractors or suppliers, in addition to contractors or suppliers”;

(6) by adding, at the end of the fifth paragraph, the following: “Such a call for tenders may also stipulate that the goods concerned must be produced in a territory comprising Québec and any such province or territory.”;

(7) by inserting the words “and subject to section 41.0.1” after the word “tender” in the first line of the seventh paragraph.

26. The said Act is amended by inserting, after section 41, the following sections :

“41.0.1. The corporation may choose to use a system of bid weighting and evaluating whereby each bid obtains a number of points based on the price as well as on the quality or quantity of goods, services or work, the delivery procedure, servicing, the experience and financial capacity required of the supplier or contractor or on any other criteria directly related to the procurement.

Where the corporation chooses to use such a system, the call for tenders or any document to which it refers shall mention all the requirements and all criteria that will be used for evaluating the bids, as well as the weighting and evaluation methods based on those criteria.

In such a case, the corporation shall not award the contract to a person other than the person whose bid was received within the time fixed and obtained the highest score.

For the purposes of the last sentence of the seventh paragraph of section 40, the bid having obtained the highest score shall be considered to be the lowest tender.

“41.0.2. The corporation may establish a qualification process which shall not discriminate on the basis of the province or country of origin of the goods, services, suppliers or contractors.

The corporation shall invite the interested parties to obtain their qualification or the qualification of their goods or services, by causing the secretary to

publish a notice to that effect in accordance with the rules set out in the second paragraph of section 40.

“41.0.3. A call for tenders may stipulate that the goods, services, suppliers or contractors concerned by or able to satisfy the call for tenders must first be certified, qualified or registered by an organization accredited by the Standards Council of Canada or first be certified or qualified under the process provided for in section 41.0.2.

The first paragraph does not apply where, under the process provided for in section 41.0.2, only one supplier or contractor has become qualified.

“41.0.4. Subject to the fifth and seventh paragraphs of section 40, no call for public tenders or document to which it refers shall discriminate on the basis of the province or country of origin of the goods, services, suppliers or contractors.”

ACT RESPECTING MUNICIPAL DEBTS AND LOANS

27. Section 13 of the Act respecting municipal debts and loans (R.S.Q., chapter D-7), replaced by section 147 of chapter 27 of the statutes of 1996, is repealed.

28. The said Act is amended by inserting, after Division VIII, the following division :

“DIVISION VIII.1

“BONDS ISSUED UNDER SPECIAL CONDITIONS

“22.1. A municipality may, on the conditions determined by the Minister of Municipal Affairs and within a framework approved by the Government, issue bonds using a procedure different from the procedure prescribed in a provision of an Act or regulation applicable to municipal bonds, or substitute such bonds for all or any portion of bonds issued otherwise.”

ACT RESPECTING MUNICIPAL TERRITORIAL ORGANIZATION

29. Section 133 of the Act respecting municipal territorial organization (R.S.Q., chapter O-9) is amended

(1) by replacing the word “all” in the fourth line of the third paragraph by the words “a majority of”;

(2) in the French text, by replacing the word “ont” in the fifth line of the third paragraph by the word “a”.

ACT RESPECTING THE SOCIÉTÉ DE TRANSPORT DE LA VILLE
DE LAVAL

30. Section 69 of the Act respecting the Société de transport de la Ville de Laval (1984, chapter 42) is amended by inserting the words “, subject to the second paragraph of section 70,” after the word “amount” in the second line of the first paragraph.

31. Section 70 of the said Act, amended by section 80 of chapter 34 of the statutes of 1995 and by section 84 of chapter 71 of the statutes of 1995, is again amended

(1) by inserting the words “, supply or services” after the word “construction” in the first line of the second paragraph ;

(2) by replacing the words “either in a daily newspaper circulated mainly in Québec or by means of an electronic tendering system” in the third and fourth lines of the second paragraph by the words “by means of an electronic tendering system accessible both to contractors and suppliers having an establishment in Québec and to contractors and suppliers having an establishment in a province or territory covered by an intergovernmental trade liberalisation agreement applicable to the corporation” ;

(3) by replacing the third paragraph by the following paragraph :

“For the purposes of the second paragraph,

(1) “**construction contract**” means a contract regarding the construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering work, including site preparation, excavation, drilling, seismic investigation, the supply of products and materials, equipment and machinery if these are included in and incidental to a construction contract, as well as the installation and repair of fixtures of a building, structure or other civil engineering work ;

(2) “**supply contract**” means a contract for the purchase, lease or rental of movable property that may include the cost of installing, operating and maintaining property, except a contract in respect of property related to cultural or artistic fields as well as computer software for educational purposes, and subscriptions ;

(3) “**services contract**” means a contract for supplying services that may include the supply of parts or materials required to supply the services, except a contract in respect of services related to cultural or artistic fields that can, under an Act or a regulation, be provided only by a physician, dentist, nurse, pharmacist, veterinary surgeon, engineer, land surveyor, architect, chartered accountant, advocate or notary.” ;

(4) by replacing the words “contractors, in addition to contractors” in the third line of the fifth paragraph by the words “contractors or suppliers, in addition to contractors or suppliers”;

(5) by adding, at the end of the fifth paragraph, the following: “Such a call for tenders may also stipulate that the goods concerned must be produced in a territory comprising Québec and any such province or territory.”

32. Section 72 of the said Act is amended by replacing the word “The” in the first line of the first paragraph by the words “Subject to section 72.0.1, the”.

33. The said Act is amended by inserting, after section 72, the following sections:

“72.0.1. The corporation may choose to use a system of bid weighting and evaluating whereby each bid obtains a number of points based on the price as well as on the quality or quantity of goods, services or work, the delivery procedure, servicing, the experience and financial capacity required of the insurer, supplier or contractor or on any other criteria directly related to the procurement.

Where the corporation chooses to use such a system, the call for tenders or any document to which it refers shall mention all the requirements and all criteria that will be used for evaluating the bids, as well as the weighting and evaluation methods based on those criteria.

In such a case, the corporation shall not award the contract to a person other than the person whose bid was received within the time fixed and obtained the highest score.

For the purposes of the second paragraph of section 72, the bid having obtained the highest score shall be considered to be the lowest tender.

“72.0.2. The corporation may establish a qualification process which shall not discriminate on the basis of the province or country of origin of the goods, services, insurers, suppliers or contractors.

The corporation shall invite the interested parties to obtain their qualification or the qualification of their goods or services, by causing the secretary to publish a notice to that effect in accordance with the rules set out in the second paragraph of section 70.

“72.0.3. A call for tenders may stipulate that the goods, services, insurers, suppliers or contractors concerned by or able to satisfy the call for tenders must first be certified, qualified or registered by an organization accredited by the Standards Council of Canada or first be certified or qualified under the process provided for in section 72.0.2.

The first paragraph does not apply where, under the process provided for in section 72.0.2, only one insurer, supplier or contractor has become qualified.

“72.0.4. Subject to the fifth paragraph of section 70 and the second paragraph of section 72, no call for public tenders or document to which it refers shall discriminate on the basis of the province or country of origin of the goods, services, insurers, suppliers or contractors.”

34. Section 106.1 of the said Act, enacted by section 131 of chapter 27 of the statutes of 1985, is amended by replacing the second sentence by the following sentence: “Sections 103 and 104, adapted as required, apply to such an amendment.”

ACT RESPECTING THE SOCIÉTÉ DE TRANSPORT DE LA RIVE SUD DE MONTRÉAL

35. Section 90 of the Act respecting the Société de transport de la rive sud de Montréal (1985, chapter 32) is amended by inserting the words “, subject to the second paragraph of section 91,” after the word “amount” in the second line of the first paragraph.

36. Section 91 of the said Act, amended by section 81 of chapter 34 of the statutes of 1995 and by section 85 of chapter 71 of the statutes of 1995, is again amended

(1) by inserting the words “, supply or services” after the word “construction” in the first line of the second paragraph;

(2) by replacing the words “either in a daily newspaper circulated mainly in Québec or by means of an electronic tendering system” in the third and fourth lines of the second paragraph by the words “by means of an electronic tendering system accessible both to contractors and suppliers having an establishment in Québec and to contractors and suppliers having an establishment in a province or territory covered by an intergovernmental trade liberalisation agreement applicable to the corporation”;

(3) by replacing the third paragraph by the following paragraph:

“For the purposes of the second paragraph,

(1) “**construction contract**” means a contract regarding the construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering work, including site preparation, excavation, drilling, seismic investigation, the supply of products and materials, equipment and machinery if these are included in and incidental to a construction contract, as well as the installation and repair of fixtures of a building, structure or other civil engineering work;

(2) “**supply contract**” means a contract for the purchase, lease or rental of movable property that may include the cost of installing, operating and maintaining property, except a contract in respect of property related to cultural or artistic fields as well as computer software for educational purposes, and subscriptions;

(3) “**services contract**” means a contract for supplying services that may include the supply of parts or materials required to supply the services, except a contract in respect of services related to cultural or artistic fields that can, under an Act or a regulation, be provided only by a physician, dentist, nurse, pharmacist, veterinary surgeon, engineer, land surveyor, architect, chartered accountant, advocate or notary.”;

(4) by replacing the words “contractors, in addition to contractors” in the third line of the fifth paragraph by the words “contractors or suppliers, in addition to contractors or suppliers”;

(5) by adding, at the end of the fifth paragraph, the following: “Such a call for tenders may also stipulate that the goods concerned must be produced in a territory comprising Québec and any such province or territory.”

37. Section 93 of the said Act is amended by replacing the word “The” in the first line of the first paragraph by the words “Subject to section 93.0.1, the”.

38. The said Act is amended by inserting, after section 93, the following sections:

“93.0.1. The corporation may choose to use a system of bid weighting and evaluating whereby each bid obtains a number of points based on the price as well as on the quality or quantity of goods, services or work, the delivery procedure, servicing, the experience and financial capacity required of the insurer, supplier or contractor or on any other criteria directly related to the procurement.

Where the corporation chooses to use such a system, the call for tenders or any document to which it refers shall mention all the requirements and all criteria that will be used for evaluating the bids, as well as the weighting and evaluation methods based on those criteria.

In such a case, the corporation shall not award the contract to a person other than the person whose bid was received within the time fixed and obtained the highest score.

For the purposes of the second paragraph of section 93, the bid having obtained the highest score shall be considered to be the lowest tender.

“93.0.2. The corporation may establish a qualification process which shall not discriminate on the basis of the province or country of origin of the goods, services, insurers, suppliers or contractors.

The corporation shall invite the interested parties to obtain their qualification or the qualification of their goods or services, by causing the secretary to publish a notice to that effect in accordance with the rules set out in the second paragraph of section 91.

“93.0.3. A call for tenders may stipulate that the goods, services, insurers, suppliers or contractors concerned by or able to satisfy the call for tenders must first be certified, qualified or registered by an organization accredited by the Standards Council of Canada or first be certified or qualified under the process provided for in section 93.0.2.

The first paragraph does not apply where, under the process provided for in section 93.0.2, only one insurer, supplier or contractor has become qualified.

“93.0.4. Subject to the fifth paragraph of section 91 and the second paragraph of section 93, no call for public tenders or document to which it refers shall discriminate on the basis of the province or country of origin of the goods, services, insurers, suppliers or contractors.”

ACT TO AMEND THE CITIES AND TOWNS ACT, THE MUNICIPAL CODE OF QUÉBEC AND OTHER LEGISLATIVE PROVISIONS

39. Sections 32 to 34, 101 to 103 and 146 of the Act to amend the Cities and Towns Act, the Municipal Code of Québec and other legislative provisions (1996, chapter 27) are repealed.

ACT TO AMEND THE CONSTITUENT ACTS OF THE URBAN COMMUNITIES AND OTHER LEGISLATIVE PROVISIONS

40. Sections 13 and 20, paragraph 2 of section 32, sections 33 and 34, paragraph 2 of section 39 and sections 40 to 42, 84, 85, 94 to 101, 103 and 104 of the Act to amend the constituent Acts of the urban communities and other legislative provisions (1996, chapter 52) are repealed.

CHARTER OF THE CITY OF MONTRÉAL

41. Article 107 of the charter of the city of Montréal (1959-60, chapter 102), replaced by section 15 of chapter 77 of the statutes of 1977 and amended by section 7 of chapter 40 of the statutes of 1980, by section 849 of chapter 57 of the statutes of 1987, by section 9 of chapter 87 of the statutes of 1988, by section 68 of chapter 27 of the statutes of 1992, by section 5 of chapter 82 of the statutes of 1993, by section 3 of chapter 53 of the statutes of 1994, by section 82 of chapter 34 of the statutes of 1995 and by section 174 of chapter 27 of the statutes of 1996, is again amended

(1) by inserting the words “, subject to subarticle 3.1,” after the word “than” in the third line of subarticle 1;

(2) by inserting the words “, supply or services” after the word “construction” in the first line of the first paragraph of subarticle 3.1;

(3) by replacing the words “either in a daily newspaper circulated mainly in Québec or by means of an electronic tendering system” in the third and fourth lines of the first paragraph of subarticle 3.1 by the words “by means of an electronic tendering system accessible both to contractors and suppliers having an establishment in Québec and to contractors and suppliers having an establishment in a province or territory covered by an intergovernmental trade liberalisation agreement applicable to the city”;

(4) by replacing the second paragraph of subarticle 3.1 by the following paragraph:

“For the purposes of the first paragraph,

(1) “**construction contract**” means a contract regarding the construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering work, including site preparation, excavation, drilling, seismic investigation, the supply of products and materials, equipment and machinery if these are included in and incidental to a construction contract, as well as the installation and repair of fixtures of a building, structure or other civil engineering work;

(2) “**supply contract**” means a contract for the purchase, lease or rental of movable property that may include the cost of installing, operating and maintaining property, except a contract in respect of property related to cultural or artistic fields as well as computer software for educational purposes, and subscriptions;

(3) “**services contract**” means a contract for supplying services that may include the supply of parts or materials required to supply the services, except a contract in respect of services related to cultural or artistic fields that can, under an Act or a regulation, be provided only by a physician, dentist, nurse, pharmacist, veterinary surgeon, engineer, land surveyor, architect, chartered accountant, advocate or notary.”;

(5) by replacing the words “contractors, in addition to contractors” in the third line of subarticle 3.2 by the words “contractors or suppliers, in addition to contractors or suppliers”;

(6) by adding, at the end of subarticle 3.2, the following paragraph:

“The call for tenders referred to in the first paragraph may also stipulate that the goods concerned must be produced in a territory comprising Québec and a province or territory referred to in that paragraph.”;

(7) by replacing the word “The” in the first line of subarticle 6 by the words “Subject to article 107.0.1, the”;

(8) by replacing the words “, within the prescribed time, the lowest tender or a tender that does not exceed the lowest tender by more than 1% or \$50,000” in subarticle 6 by the words “the lowest tender within the prescribed time”;

(9) by striking out the last sentence of subarticle 7.

42. The said charter is amended by inserting, after article 107, the following articles:

“107.0.1. The executive committee may choose to use a system of bid weighting and evaluating whereby each bid obtains a number of points based on the price as well as on the quality or quantity of goods, services or work, the delivery procedure, servicing, the experience and financial capacity required of the supplier or contractor or on any other criteria directly related to the procurement.

Where the executive committee chooses to use such a system, the call for tenders or any document to which it refers shall mention all the requirements and all criteria that will be used for evaluating the bids, as well as the weighting and evaluation methods based on those criteria.

In such a case, the executive committee shall not award the contract to a person other than the person whose bid was received within the time fixed and obtained the highest score.

For the purposes of subarticle 7 of article 107, the bid having obtained the highest score shall be considered to be the lowest tender.

“107.0.2. The executive committee may establish a qualification process which shall not discriminate on the basis of the province or country of origin of the goods, services, suppliers or contractors.

The city shall invite the interested parties to obtain their qualification or the qualification of their goods or services, by causing the clerk to publish a notice to that effect in accordance with the rules set out in the first paragraph of subarticle 3.1 of article 107.

“107.0.3. A call for tenders may stipulate that the goods, services, suppliers or contractors concerned by or able to satisfy the call for tenders must first be certified, qualified or registered by an organization accredited by the Standards Council of Canada or first be certified or qualified under the process provided for in article 107.0.2.

The first paragraph does not apply where, under the process provided for in article 107.0.2, only one supplier or contractor has become qualified.

“107.0.4. Subject to subarticles 3.2 and 7 of article 107, no call for public tenders or document to which it refers shall discriminate on the basis of the province or country of origin of the goods, services, suppliers or contractors.”

43. Article 749 of the said charter, amended by section 14 of chapter 90 and section 6 of chapter 92 of the statutes of 1968, by section 15 of chapter 52 of the statutes of 1976, by section 224 of chapter 38 of the statutes of 1984, by

section 39 of chapter 87 of the statutes of 1988 and by section 21 of chapter 54 of the statutes of 1994, is again amended by replacing the words “and VIII” in the fourth and fifth lines of the fifth paragraph by the words “, VIII and VIII.1”.

TRANSITIONAL AND FINAL PROVISIONS

44. Section 10 has effect for the purposes of every municipal fiscal year from the fiscal year 1998.

For the 1998 fiscal year, the regional county municipality shall pay 75% of the total of the sums it is entitled to collect under article 688.11 of the Municipal Code of Québec to the organization referred to in article 688.10 of the Code, and shall pay the balance to one or more non-profit organizations having economic promotion and development as their object and that acts in its territory.

The first regulation made under the third paragraph of article 688.11 of the Municipal Code of Québec is not subject to the publication requirements of section 11 of the Regulations Act (R.S.Q., chapter R-18.1).

45. Every process for the awarding of a contract commenced before (*insert here the date occurring on the thirtieth day after the date of assent to this Act*), in accordance with a provision amended or replaced on that date by this Act, shall be continued according to that provision and according to every provision of the same Act that refers or is related thereto, notwithstanding the amendment or replacement of those provisions by this Act.

46. A call for public tenders by a municipal body that was published only in a daily newspaper, before the date fixed by the Government for the coming into force of a provision of this Act which makes mandatory the publication of such a call for tenders by means of an electronic tendering system, is considered to be a call for tenders published by means of such a system for the purposes of an awarding process in progress on that date.

The first paragraph, adapted as required, applies to any call for tenders that, before that date, was published by means of an electronic tendering system that does not satisfy the requirements of the provision referred to in the first paragraph and in a newspaper distributed or circulated in the territory of the municipal body.

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

However, sections 3 to 6, 11 to 26, 30 to 33, 35 to 38, 41 and 42 will come into force on (*insert here the date occurring on the thirtieth day after the date of assent to this Act*), except paragraph 3 of section 3, paragraph 3 of section 11, paragraph 2 of section 17, paragraph 2 of section 20, paragraph 2 of section 23, paragraph 3 of section 25, paragraph 2 of section 31, paragraph 2 of section 36 and paragraph 3 of section 41, which come into force on the date or dates to be fixed by the Government.