

LEGISLATIVE UPDATE

FMQ ANNUAL CONVENTION

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DEVEAU
A V O C A T S

PRESENTATION

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- 1. Main objective of Bill 108**
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BILL 155
(2018, chapter 8)

1. Main objective of Bill 155

- ▶ This Act introduces various amendments mainly to make Quebec's laws consistent with trade agreements, and provides that, on certain conditions, a municipality may enter into a contract by mutual agreement with a solidarity cooperative for the supply of services.
- ▶ The Act amends provisions concerning municipal by-law adoption procedures and provides that non-compliance with those procedures entails the nullity of the by-laws concerned.

- ▶ The Act makes several amendments regarding disclosure of wrongdoings, compliance with municipal codes of ethics, and auditing of municipalities and other municipal bodies, and entrusts new responsibilities in that regard to the Commission municipale du Québec, the Public Protector and the Minister of Municipal Affairs and Land Occupancy.

- ▶ Under this Act, the codes of ethics and conduct applicable to municipal employees must include, for the employees identified by the Act and for those the municipal council may determine, post-term rules that are currently applicable to municipal officers.
- ▶ The Act makes the payment of elected municipal officers' severance allowances subject to the transition allowance rules enacted in 2016 that apply, in particular, to elected officers whose term ends because they resign or are absent for a prolonged period, because they are disqualified or ousted from office, or because of the nullity of their election.

- ▶ The Act also provides that payment of severance and transition allowances must be suspended until the outcome of judicial proceedings is known and all rights of appeal have expired, in cases where the person whose term ends is the subject of an application for his or her disqualification or of proceedings which could bring about his or her disqualification.

- ▶ The Act amends the Civil Protection Act to allow the minister responsible for the administration of a financial assistance program to authorize, in a delegation instrument, the subdelegation of the functions he or she specifies. It further amends that Act to allow personal information to be released in certain circumstances without the consent of the person concerned.
- ▶ Lastly, the Act makes certain technical amendments.

2. Legislation amended by this act

- Act respecting land use planning and development (chapter A-19.1);
- Act respecting the Autorité régionale de transport métropolitain (chapter A-33.3);
- Charter of Ville de Longueuil (chapter C-11.3);
- Charter of Ville de Montréal, metropolis of Quebec (chapter C-11.4);
- Charter of Ville de Quebec, national capital of Quebec (chapter C-11.5);
- Cities and Towns Act (chapter C-19);
- Municipal Code of Quebec (chapter C-27.1);

- Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01);
- Act respecting the Communauté métropolitaine de Québec (chapter C-37.02);
- Municipal Powers Act (chapter C-47.1);
- Act respecting elections and referendums in municipalities (chapter E-2.2);
- Municipal Ethics and Good Conduct Act (chapter E-15.1.0.1);
- Act respecting municipal taxation (chapter F-2.1);
- Act respecting the Ministère du Conseil exécutif (chapter M-30);

- Act respecting the Réseau de transport métropolitain (chapter R-25.01);
- Act respecting the Société d'habitation du Québec (chapter S-8);
- Act respecting the remuneration of elected municipal officers (chapter T-11.001).

3. Summary of the modifications brought to the Municipal Code of Quebec

1. Inclusion of options in the estimation of a contract

- ▶ (article 961.2 of the Municipal Code of Quebec (Chapter C-27.1) and 477.4 of the Cities and Towns Act (Chapter C-19)
- ▶ Municipal organizations are now required to include in the estimated price of their contract the total value of the renewal options or any additional purchases of the same goods or services provided for in the contract.
- ▶ Quebec has been involved in various public procurement liberalization agreements, notably the trade and cooperation agreement between Quebec and Ontario (ACCQO).

961.2. If a contract involves an expenditure of \$100,000 or more, the municipality must establish an estimate of the price before any tenders are opened or the contract is made.

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If a call for tenders contains a contract renewal option, the estimate of the price of the contract must include the renewal and any possible subsequent renewals.

Likewise, if a call for tenders contains an option to make an additional supply of the same goods or services, the estimate of the price of the contract must include the additional supply and any subsequent additional supply.

Article before Bill 155

Article after Bill 155

2. Fixing, by regulation, the public tender threshold

- ▶ (article 935, 936, 938.1.2 and 938.3.1 of the Municipal Code of Quebec (Chapter C-27.1) and 573, 573.1, 573.3.1.2 and 573.3.3.1.1 of the Cities and Towns Act (Chapter C-19))
- ▶ The public call threshold is now \$ 101,100.00 instead of \$ 100,000.00
- ▶ The public bidding threshold is now \$ 101,100.00.

- ▶ The former threshold of \$ 100,000.00 below which municipal organizations could provide for contracting rules in their contract management regulations is now replaced by the public tender threshold of \$ 101,100.00
- ▶ The public tender threshold will, in the future, be set by ministerial regulation
- ▶ Considering this change, it is recommended that municipal organizations refer to the threshold adjusted by ministerial regulation rather than a threshold set in their contract management regulations.
- ▶ For example, they could use the terms "procurement rules for contracts below the threshold for public bidding" as opposed to "procurement rules for contracts under \$100,000.00".

935. (1) The following contracts, if they involve an expenditure of \$100,000 or more, may only be awarded after a call for public tenders by way of an advertisement in a newspaper:

- (1) insurance contracts;
- (2) contracts for the performance of work;
- (3) contracts for the supply of equipment or materials;
- (4) contracts for the supply of services other than professional services(a) referred to in article 938.0.2;

935. (1) The following contracts, if they involve an expenditure equal to or above the threshold ordered by the Minister, may only be awarded after a public call for tenders by way of an advertisement in a newspaper:

- (1) insurance contracts;
 - (2) contracts for the performance of work;
 - (3) supply contracts;
 - (4) contracts for the supply of services other than professional services
- (...)

Article before Bill 155

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 573

936. A contract referred to in any of the subparagraphs of the first paragraph of subarticle 1 of article 935 or in article 938.0.2 may only be awarded after a call for tenders, by way of written invitation, to at least two contractors or two suppliers, as the case may be, if it involves an expenditure of at least \$25,000 and of less than \$100,000

The first paragraph of subarticle 2 and subarticles 3 to 8 of article 935 apply to the awarding of a contract referred to in the first paragraph.

936. A contract referred to in any of the subparagraphs of the first paragraph of subarticle 1 of article 935 may be awarded only after a call for tenders by written invitation to at least two contractors or, as applicable, two suppliers if it involves an expenditure of at least \$25,000 but below the expenditure threshold for a contract that may be awarded only after a public call for tenders under article 935.

The time for the receipt of tenders must not be less than eight days.

Subarticles 3 to 8 of article 935 apply to the awarding of a contract referred to in the first paragraph.

Article before Bill 155

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 573.1

- ▶ 936.0.0.1 was inserted after Bill 155

936.0.0.1. Tenders submitted electronically may only be submitted through the electronic tendering system approved by the Government.

Any municipality that agrees to receive tenders electronically must mention that fact in its calls for tenders or in the documents to which they refer.

However, a municipality may not require that tenders be submitted only electronically.

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 573.1.0.0.1

(...)

(d) as regards the envelopes containing the proposed price, open only those envelopes from persons whose tender has obtained an interim score of at least 70, and return the other envelopes unopened to the senders, notwithstanding subarticles 4 and 6 of article 935;

(2.1 non existent before Bill 155)

Article before Bill 155

936.0.1.1. The council may use a system of bid weighting and evaluating whose establishment and operation are consistent with the following rules:

(...)

(d) as regards envelopes or electronic sendings containing the proposed price, open only those from persons whose tender has obtained an interim score of at least 70 and return the others unopened to the senders, despite subarticles 4 and 6 of article 935;

(...)

(2.1) despite subparagraph 2, if the council accepts electronic submission of tenders, specify that the tender must be submitted in two separate sendings, the first containing all the documents and the second containing the proposed price; and

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 573.1.0.1.1

936.0.4. Subject to subarticles 2.1 and 8 of article 935 and articles 938.0.1 and 938.1.1, 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.

936.0.4. Unless otherwise permitted under article 935 or under the regulations made under any of articles 938.0.1, 938.0.2 and 938.1.1, no public call for tenders or document to which it refers may discriminate on the basis of the province, territory or country of origin of the goods, services, insurers, suppliers or contractors.

Article before Bill 155

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 573.1.0.4

Article is non existent before Bill 155

936.0.14. If, in any of the situations mentioned in the second paragraph, a municipality requires certain technical specifications, it must describe those specifications in terms of performance or functional requirements rather than in terms of descriptive characteristics. If unable to do so, the municipality must provide that any description containing what is equivalent to descriptive characteristics will be considered compliant, and may define how equivalency to such characteristics will be evaluated.

The situations concerned are those(1) where, in a call for tenders under article 935 or under a regulation made under article 938.0.1 or 938.0.2, or in any document referred to in such a call for tenders, a municipality requires technical specifications with regard to goods, services or work;

(Article continues on next page)

(2) where, under article 936.0.1 or 936.0.1.1, a municipality evaluates tenders submitted after a call for tenders under article 935 or under a regulation made under article 938.0.1 or 938.0.2 on the basis of the technical specifications of the goods, services or work; and

(3) where, under articles 936.0.2 and 936.0.3, a municipality establishes a qualification, certification or registration process that takes into account the technical specifications of the goods, services or work.

Technical specifications of goods, services or work include, in particular, their physical or, as applicable, professional characteristics and attributes.

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 573.1.0.14

938. Articles 935, 936 and 938.0.2 do not apply to a contract(1) whose object is the supply of equipment or materials or the providing of services for which a tariff is fixed or approved by the Government of Canada or of Quebec or by a minister or body thereof;

(2) whose object is the supply of insurance, equipment, materials or services and that is entered into with a public body within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information ([chapter A-2.1](#)), or a supplier found, after thorough and documented verification, to be the only one in all the territories covered by an intergovernmental agreement on the opening of public procurement applicable to the municipality that is in a position to provide the equipment, materials or services, or, if the object of the contract is the providing of professional services referred to in article 938.0.2, the only one within Quebec that is in a position to provide the services;

938. Articles 935 and 936 and any regulation made under article 938.0.1 or 938.0.2 do not apply to a contract (1) that is a supply contract, or to a contract for the supply of services, for which a tariff is fixed or approved by the Government of Canada or the Gouvernement du Quebec or any of its ministers or bodies;

(2) that is an insurance or supply contract, or to a contract for the supply of services, that is entered into either with a public body within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) or with a supplier who, after thorough and documented verification, is found to be the only supplier in all the territories covered by an intergovernmental agreement on the opening of public procurement that is applicable to municipalities;

(2.1) that is entered into with a non-profit body and that is an insurance contract or a contract for the supply of services other than services listed in subparagraph 2.3 and other than services involving the collection, transport, transfer, recycling or recovery of residual materials;

(Article continues on next page)

(2.1) whose object is the supply of insurance, equipment, materials or services other than the collection, transport, transfer, recycling or recovery of residual materials and that is entered into with a non-profit agency;

(3) whose object is the supply of bulk trucking services and that is entered into through the holder of a brokerage permit issued under the Transport Act ([chapter T-12](#));

(4) whose object is the supply of movable property or services related to cultural or artistic fields, subscriptions or computer software for educational purposes;

(...)

▶ **(2.2) whose object is the supply of services and that is entered into with a solidarity cooperative whose articles include a clause prohibiting the allotment of rebates or the payment of interest on any category of preferred shares unless the rebate is allotted or the interest is paid to a municipality, the Union des municipalités du Quebec or the Fédération québécoise des municipalités locales et régionales (FQM), and that is designated by the Minister under subparagraph 5 of the first paragraph of section 573.3.5 of the Cities and Towns Act (chapter C-19);**

▶ **(2.3) that is a contract entered into with a non-profit body and involving an expenditure below the expenditure ceiling allowing the territory from which the tenders originate to be limited in the case of contracts for the supply of services under subarticle 2.1 of article 935, and whose object is any of the following:**

▶ **(...)**

Article before Bill 155

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 573.3

938.0.1. The Government shall, by regulation, establish the rules relating to the awarding of a contract referred to in article 938.0.2.

The regulation must determine the procedure for awarding such a contract, requiring it to be awarded after a call for public tenders published in an electronic tendering system approved by the Government, after the use of a register of suppliers or according to any other procedure it specifies, including the choice of the contracting party by agreement. The regulation must also provide for the cases where subarticle 7 of article 935 or subsection 7 of section 573 of the Cities and Towns Act ([chapter C-19](#)) applies to a contract covered by the regulation.

938.0.1. The Government may, by regulation, determine the procedure for making a contract for the supply of services that, under an Act or regulation, may be provided only by a physician, dentist, nurse, pharmacist, veterinary surgeon, engineer, land surveyor, architect, chartered professional accountant, lawyer or notary. Such a regulation must establish the rules applicable to the making of such a contract.

(...)

The regulation may prescribe categories of contracts, professional services, awarding procedures, amounts of expenditures or territories for calls for tenders, combine categories and make different rules according to the categories or combinations. It may also provide in which cases, when a system of bid weighting and evaluating is used, it is not necessary for price to be one of the evaluation criteria, and provide for the cases where a municipality must, to award a contract, obtain the authorization or approval of the Government or one of its ministers or bodies or comply with any rules they have established governing the awarding of contracts.

(Article continues on next page)

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Where the regulation determines that a contract is to be awarded after the use of a register of suppliers, it must designate the body responsible for the establishment of the register and for its management and financing and must set out, in particular, the rules that apply to the registration of suppliers and to their selection as suppliers who may tender.

The regulation may establish, in respect of the contracts it specifies, a rate schedule fixing the maximum hourly rate that may be paid by a municipality.

Where the regulation determines that a contract is to be awarded after the use of a register of suppliers, it must designate the body responsible for the establishment of the register and for its management and financing and must set out, in particular, the rules that apply to the registration of suppliers and to their selection as suppliers who may tender.

The regulation may establish, in respect of the contracts it specifies, a rate schedule fixing the maximum hourly rate that may be paid by a municipality.

Article before Bill 155

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 573.3.0.1

938.0.2. A contract for the supply of services that can, under an Act or a regulation, be provided only by a physician, dentist, nurse, pharmacist, veterinary surgeon, engineer, land surveyor, architect, chartered professional accountant, advocate or notary, except if the service is necessary for the purposes of a proceeding before a tribunal, a body or a person exercising judicial or adjudicative functions, if it involves an expenditure of \$100,000 or more or an expenditure of less than that amount where the regulation so provides, must be awarded in accordance with the regulation under article 938.0.1.

Article before Bill 155

938.0.2. The Government may, by regulation, allow a contract to be made for the supply of engineering, architectural or design services with the winner of a competition.

The regulation may prescribe all the rules for holding the competition and making and managing the contract. The regulation may also include rules for publishing the competition results.

The regulation may prescribe classes of contracts and services, and different rules according to those classes.

For the purposes of this article, “design” includes any professional discipline that aims to ensure the functional or aesthetic design of goods so as to improve the human environment.

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 573.3.0.2

938.0.3. A municipality may not divide into several contracts having similar subject-matter an insurance contract or a contract for the performance of work, the supply of equipment or materials or the providing of services other than professional services necessary for the purposes of a proceeding before a tribunal, or a body or person exercising judicial or adjudicative functions, unless the division is warranted on grounds of sound administration.

Article before Bill 155

938.0.3. A municipality may not divide into several contracts having similar subject-matter an insurance contract, a contract for the performance of work, a supply contract or a contract for the supply of services other than professional services necessary for the purposes of a proceeding before a tribunal, or a body or person exercising judicial or adjudicative functions, unless the division is warranted on grounds of sound administration.

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 573.3.0.3

938.1.2. Every municipality must adopt a by-law on contract management.

The by-law is applicable to all contracts, including contracts that are not described in any of the subparagraphs of the first paragraph of subarticle 1 of article 935 or in article 938.0.2.

The by-law must include

(...)

(7) for contracts that involve an expenditure of less than \$100,000 and that may be entered into by mutual agreement, measures to ensure rotation among potential contracting parties.

The by-law may prescribe the rules governing the making of contracts that involve an expenditure of at least \$25,000 but less than \$100,000. The rules may vary according to determined categories of contracts. Where such rules are in force, article 936 does not apply to those contracts.

(...)

Article before Bill 155

938.1.2. Every municipality must adopt a by-law on contract management.

The by-law is applicable to all contracts, including contracts that are not described in any of the subparagraphs of the first paragraph of subarticle 1 of article 935 or in article 938.0.2.

The by-law must include

(...)

(7) measures to promote rotation among prospective contracting parties for contracts that may be made by agreement under the rules adopted under the fourth paragraph and that involve an expenditure of at least \$25,000 but below the expenditure threshold for a contract that may be awarded only after a public call for tenders under article 935.

The by-law may prescribe the rules governing the making of contracts that involve an expenditure of at least \$25,000 **but below the expenditure threshold for a contract that may be awarded only after a public call for tenders under article 935.** The rules may vary according to determined categories of contracts. Where such rules are in force, article 936 does not apply to those contracts.

(...)

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 573.3.1.2

- ▶ Article was non existent before Bill 155

In force : 2019-10-19

938.3.1.1. The Minister of Municipal Affairs, Regions and Land Occupancy shall order, by regulation,

(1) the expenditure threshold for a contract that may be awarded only after a public call for tenders under subarticle 1 of article 935;

(2) the minimum time for the receipt of tenders after a public call for tenders under that subarticle; and

(3) the expenditure ceiling allowing the territory from which tenders originate to be limited under subarticle 2.1 of article 935.

The threshold, ceiling and time ordered under this article may vary according to the class of contract, in particular according to the type of contract concerned or the amount of the expenditure involved. They may also vary according to other criteria determined by the Minister.

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 573.3.3.1.1

938.3.2. Division I of Chapter V.1 of the Act respecting contracting by public bodies ([chapter C-65.1](#)) applies with the necessary modifications to any municipal contract for the performance of work or the supply of insurance, equipment, materials or services.

(....)

Article before Bill 155

938.3.2. Division I of Chapter V.1 of the Act respecting contracting by public bodies ([chapter C-65.1](#)) applies with the necessary modifications to any municipal contract for the performance of work, **and any insurance contract, supply contract or contract for the supply of services.**

(...)

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 573.3.3.2

938.3.3. Sections 21.3.1, 21.17 to 21.17.2, 21.18, 21.25, 21.34, 21.35, 21.38, 21.39, 21.41, 21.41.1, 25.0.2 to 25.0.5, 27.6 to 27.9, 27.11, 27.13, 27.14 and 27.14.1 of the Act respecting contracting by public bodies ([chapter C-65.1](#)) apply, with the necessary modifications, in respect of any municipal contract that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act or is designated by the Government under section 21.17.1 of that Act and pertains to the performance of work or the supply of insurance, equipment, materials or services.

(...)

938.3.3. Sections 21.3.1, 21.17 to 21.17.2, 21.18, 21.25, 21.34, 21.35, 21.38, 21.39, 21.41, 21.41.1, 25.0.2 to 25.0.5, 27.6 to 27.9, 27.11, 27.13, 27.14 and 27.14.1 of the Act respecting contracting by public bodies ([chapter C-65.1](#)) apply, with the necessary modifications, in respect of any municipal contract that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act or is designated by the Government under section 21.17.1 of that Act and **that is a contract for the performance of work, insurance contract, supply contract or contract for the supply of services.**

(...)

Article before Bill 155

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 573.3.3.3

3. Determination by Ministerial Regulation of the expenditure's limit allowing to limit the origin of the tenders and the minimum delays of reception of the tenders

- ▶ The Act authorizes a municipal body to limit, in certain circumstances, the origin of tenders.
- ▶ **This section will come into force on October 19, 2018**



However, the limits to do this have been changed. (article 938.3.1.1 of the Municipal Code of Quebec and article 573.3.3.1.1 of the cities and towns Act.)

- ▶ In the case of **supply contracts and service contracts**, municipal organizations may only consider bids from:
- ▶ from Canadian suppliers or contractors where the expenditure is equal to or greater than \$ 101,100.00 and less than \$ 365,700.00.
- ▶ from Canadian or European suppliers or contractors where the expenditure is equal to or greater than \$ 365,700.00, EXCEPT if it is a contract for the supply of services not included in the following list, in which case the organizations Municipalities may consider only Canadian suppliers or contractors.

- ▶ List of services

- ▶ courier and courier services, including electronic mail;
- ▶ fax services;
- ▶ real estate services;
- ▶ computer services, including consultancy services for the purchase or installation of computer software or hardware and those for data processing;
- ▶ maintenance or repair services for equipment or office equipment;
- ▶ management consulting services except arbitration or conciliation services in the field of human resources management;
- ▶ architectural or engineering services except those related to transportation infrastructure construction work;
- ▶ landscape architectural services;
- ▶ planning and urban planning services;
- ▶ testing, analysis or inspection services for quality control;
- ▶ building cleaning services, including the interior;
- ▶ repair services of machinery or equipment;

(You can consult the Comprehensive Economic and Trade Agreement between Canada and the European Union)

- ▶ Just like the public tender threshold, and for the same reasons, the limits of the expenditure allowing the origin of the bids to be limited will henceforth be fixed by ministerial regulation.
- ▶ In the case of **construction contracts**, municipal bodies may only consider tenders from
 - ▶ from Quebec or Ontario suppliers or contractors where the expenditure is equal to or greater than \$ 101,100.00 and less than \$ 252,700.00.
 - ▶ from Canadian suppliers or contractors where the expenditure is equal to or greater than \$ 252,700.00 and less than \$ 9,100,000.00
 - ▶ Canadian or European suppliers or contractors where the expense is equal to or greater than \$ 9,100,000.00

- ▶ Because of the commitments made by Quebec under the trade agreements, and for the sake of simplification, the Act provides that the minimum periods for the receipt of bids will now be determined by the public tender threshold and the indefinite ceilings. two years, and that they will also be fixed by regulation in the future.
- ▶ In matters of insurance contracts and for the execution of works other than those of construction, the municipalities must respect the minimum delays of reception of 8 days.

- ▶ With respect to supply and service contracts, the following minimum bid acceptance times apply:
 - ▶ 15 days when the expense is less than \$ 365,700.00;
 - ▶ 30 days when the expense is equal to or greater than \$ 365,700.00, if it is a service contract not included in the list, in which case, the minimum time for receipt of tenders is 15 days.
- ▶ In the case of construction contracts, municipal organizations must respect the following minimum deadlines for the receipt of tenders:
 - ▶ 15 days when the expense is less than \$ 9,100,000.00
 - ▶ 30 days when the expense is equal to or greater than \$ 9,100,000.00

4. Rotation of contractors

- ▶ (article 938.1.2 of the Municipal Code of Quebec (Chapter C-27.1) and 573.3.1.2 of the Cities and Towns Act (Chapter C-19)
- ▶ The primary purpose of the Act, which is to recognize that municipalities are local governments and to increase their autonomy and powers, added the obligation for municipalities to provide, in their contract management regulations, for rotation of potential counterparties for contracts of less than \$ 100,000.00 made by agreement.
- ▶ Adjustments are made to this obligation.

- ▶ First of all, the municipalities now have the obligation to provide measures to favor and not to ensure the rotation of the contracting parties.
- ▶ According to the liberalization agreements of the public markets, the threshold at the bottom of which a municipality can award a contract by mutual agreement has increased from \$ 100,000.00 to \$ 101,100.00.

5. Procedures for adopting regulations

- ▶ (article 445, of the Municipal Code of Quebec (Chapter C-27.1) and 356 of the Cities and Towns Act (Chapter C-19)
- ▶ Bill 122 replaced sections 356 of the Cities and Towns Act and section 445 of the Municipal Code to provide that the adoption of any by-law by a municipality is now preceded by the submission of a draft by-law.
- ▶ The Act provides that the proposed by-law must be tabled at a council meeting.

- ▶ It also states that this document must be available for public consultation for a minimum of two days before its adoption at a separate meeting of the board.
- ▶ In addition, the Act provides that where the draft by-law submitted by the council differs from the one filed, the clerk or a member of the council must mention the modifications made to it. Failure to comply with the bylaw process will void any bylaw.
- ▶ Finally, when special provisions govern the adoption or the filing of a draft by-law, (for example: planning by-law), these rules take precedence over the general rules provided by the Cities and Towns Act and the Municipal Code of Quebec.

445. The passing of every by-law must be preceded by the tabling of a draft by-law at a sitting of the council and a notice of motion must be given at the same sitting or at a separate sitting.

Every draft by-law may be amended after it has been tabled before the council, without it being necessary to table it again.

However, in the case of a by-law passed by the council of a regional county municipality, the notice of motion and draft by-law may be replaced by a notice given by registered mail to the members of that council. The secretary-treasurer of the regional county municipality shall transmit the notice to the council members at least 10 days before the date of the sitting at which the by-law mentioned in the notice will be considered. He shall post the notice within the same time at the office of the regional county municipality.

445. The passing of every by-law must be preceded by a notice of motion given at a sitting by a council member.

The passing of a by-law must also, subject to the provisions of a special Act governing the filing, passing or tabling of a draft by-law, be preceded by the filing of a draft by-law by a council member at the same sitting as the one at which the notice of motion was given or at a different sitting.

As soon as possible after the draft by-law is filed, copies of it must be made available to the public.

The council must pass the by-law, with or without changes, at a different sitting than the one at which the notice of motion was given and the one at which the draft by-law was filed, and not earlier than the second day following the date on which the latter of those sittings was held.

At the beginning of the sitting at which the passing of the by-law will be considered, copies of the draft by-law must be made available to the public.

The secretary-treasurer or a council member must, before the by-law is passed, mention its object and any differences between the draft by-law that was filed and the by-law being submitted for passing.

(Article continues on next page)

The preceding paragraph applies, with the necessary modifications, to by-laws passed by a board of delegates.

The by-law must be passed at a separate sitting from those mentioned in the first paragraph. Not later than two days before that separate sitting, any person may obtain a copy from the person in charge of access to documents for the municipality. That person must make copies available to the public at the beginning of the sitting.

Before the by-law is passed, the secretary-treasurer or the person presiding at the sitting must mention the object, scope and cost of the by-law and, where applicable, the mode of financing and the mode of payment and repayment.

In addition, if the by-law involves an expenditure, the secretary-treasurer or a council member must mention that fact as well as any mode of financing, payment or repayment of the expenditure.

Changes made to the by-law submitted for passing must not be such as to change the object of the by-law as specified in the draft by-law that was filed.

Subject to the tenth and eleventh paragraphs, any contravention of the first, second, fourth or eighth paragraph entails the nullity of the by-law.

In the case of a by-law passed by the council of a regional county municipality, the notice of motion and draft by-law may be replaced by a notice given by registered mail to the members of that council. The secretary-treasurer of the regional county municipality must send the notice to the council members at least 10 days before the date of the sitting at which the passing of the by-law mentioned in the notice will be considered, and must post the notice, within the same time, at the office of the regional county municipality. In such a case, the third paragraph does not apply.

The preceding paragraph applies, with the necessary modifications, to by-laws passed by a board of delegates.

Article before Bill 155

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 356

3. Summary of other modifications

Act respecting the remuneration of elected municipal officers (Chapter T-11.001) as amended by Bill 155

Departure and transition allowance

- ▶ Limitation on the right to payment of the severance grant.
- ▶ (article 30.1 of the Act respecting the remuneration of elected municipal officers (Chapter T-11.001))
- ▶ The Act respecting the treatment of elected municipal officers is amended to introduce limitations to the payment of the severance allowance similar to those prevailing for the payment of the transitional allowance.

- ▶ A local municipality or regional county municipality is no longer required to pay a severance allowance when the elected member's term ends in the following circumstances:
 1. the person resigns during the term of office without the resignation being justified by serious family reasons or by a significant health problem affecting a member of his immediate family or herself.
 2. the person resigns during the mandate, her reasons were considered justified by the Quebec Municipal Board and she receives, during the reference period established by law, employment income, service income, business or retirement income, and disability insurance benefits in excess of the amount of severance benefits to which she would have been entitled. If the total amount of severance payments exceeds what the resigning person would have been entitled to on the basis of the income received during the qualifying period, he or she reimburses the municipality for the amount of allowance received in excess.

3. the person's term of office expires because of his failure to attend council meetings, as provided in section 317 of the Elections and Referendums in Municipalities Act.
4. the person's term of office expires because of his disqualification, the nullity of his election or the deprivation of his office, as provided for in sections 318 and 319 of the Act respecting elections and referendums in municipalities.

Reimbursement of severance (article 31.1.2 REMO)

- ▶ A person is now required to reimburse a severance allowance, if she is the subject of certain judicial decisions, which have become final in the following situations:
- ▶ the person is declared disqualified by the court from acting as a member of the council because of an act done in the exercise of his duties as an elected member;
- ▶ the person is found guilty of corrupt electoral practice within the meaning of the electoral laws governing the municipal, school and provincial elections;
- ▶ the person is found guilty of an act during his / her term of office punishable by two years imprisonment or more, provided that the prosecution was commenced within five years of the end of his / her term of office.

4. Other technical modifications brought to the Municipal code of Quebec

9. Every municipality may become surety for an institution, a partnership or a legal person devoted to the pursuit of purposes mentioned in the second paragraph of section 8, subparagraph 2 of the first paragraph of section 91 or the first paragraph of section 93 of the Municipal Powers Act ([chapter C-47.1](#)). A municipality may also become surety for a solidarity cooperative whose articles include a clause prohibiting the allotment of rebates or the payment of interest on any category of preferred shares unless the rebate is allotted or the interest is paid to a municipality, the Union des municipalités du Quebec or the Fédération québécoise des municipalités locales et régionales (FQM).

(...)

Article before Bill 155

9. Every municipality may become surety for an institution, a partnership or a legal person devoted to the pursuit of purposes mentioned in the second paragraph of section 8, subparagraph 2 of the first paragraph of section 91 or the first paragraph of section 93 of the Municipal Powers Act ([chapter C-47.1](#)). A municipality may also, **despite the Municipal Aid Prohibition Act (chapter I-15)**, become surety for a solidarity cooperative whose articles include a clause prohibiting the allotment of rebates or the payment of interest on any category of preferred shares unless the rebate is allotted or the interest is paid to a municipality, the Union des municipalités du Quebec or the Fédération québécoise des municipalités locales et régionales (FQM).

(...)

Article after Bill 155

Article corresponding in the Cities and Towns Act (Chapter C-19) is article 28

14.3. A municipality may enter into an agreement with another municipality, a public institution referred to in article 7, a school board, an educational institution or a non-profit agency in order to jointly perform any of the following acts:

- (1) procure equipment, materials or services;
- (2) take out insurance;
- (3) carry out work;
- (4) call for tenders for the purpose of awarding contracts.

(...)

14.3. A municipality may enter into an agreement with another municipality, a public institution referred to in article 7, a school board, an educational institution or a non-profit agency in order to jointly perform any of the following acts:

- (1) procure **movable property** or services;
- (2) take out insurance;
- (3) carry out work;
- (4) call for tenders for the purpose of awarding contracts.

(...)

Article before Bill 155

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 29.5

14.7.1. A municipality may enter into an agreement with the Union des municipalités du Québec or the Fédération québécoise des municipalités locales et régionales (FQM), or with both bodies, for the purchase of equipment or materials, the execution of work or the awarding of an insurance contract or a contract for the supply of services by the body or bodies in the name of the municipality.

Any contract entered into in accordance with an agreement described in the first paragraph is subject to the rules governing the awarding of contracts applicable to a municipality; however, it is only subject to the by-law on contract management of the party responsible for carrying out the agreement. To be designated responsible for carrying out the agreement, the Union and the Federation must have adopted a by-law on contract management in accordance with article 938.1.2.

Article before Bill 155

14.7.1. A municipality may enter into an agreement with the Union des municipalités du Québec or the Fédération québécoise des municipalités locales et régionales (FQM), or with both bodies, for the purchase of movable property, the execution of work or the awarding of an insurance contract or a contract for the supply of services by the body or bodies in the name of the municipality.

Any contract entered into in accordance with an agreement described in the first paragraph is subject to the rules governing the awarding of contracts applicable to a municipality; however, it is only subject to the by-law on contract management of the party responsible for carrying out the agreement. To be designated responsible for carrying out the agreement, the Union and the Federation must have adopted a by-law on contract management in accordance with article 938.1.2.

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 29.9.1

- ▶ **169.** Any municipal officer appointed by the Minister of Municipal Affairs, Regions and Land Occupancy may be dismissed by the municipality whose officer he is, provided it be with the approval of the Minister of Municipal Affairs, Regions and Land Occupancy.

- ▶ **169.** *(Repealed)*.

Article before Bill 155

Article after Bill 155

176.2.2. At a regular sitting of the council held in June, the mayor shall make a report to the citizens on the highlights of the financial report and the external auditor's report.

(...)

Article before Bill 155

176.2.2. At a regular sitting of the council held **not later than** June, the mayor shall make a report to the citizens on the highlights of the financial report and the external auditor's report.

(...)

Article after Bill 155

Article corresponding in the Cities and Towns Act is article 105.2.2

410. Where an appointment under this Code has not been made within the prescribed time or within a time that the Minister considers reasonable, the Minister may make the appointment. However, the appointment may be made by the council, even after the expiry of that time, with the permission of the Minister.

410. If an appointment or personal designation provided for in this Code has not been made within the prescribed time or within a period of time the Minister considers reasonable, the Minister may make it. However, the appointment or designation may be made by the competent person or council, even after the expiry of that time, with the Minister's permission.

If the Minister makes an appointment or designation, the Minister may, if no remuneration has been fixed for the position concerned or if the Minister considers the remuneration fixed to be inappropriate, fix any remuneration the Minister considers appropriate.

An appointment or designation made, or remuneration fixed, by the Minister under this article is deemed to have been made or fixed by the person or council otherwise competent to make or fix it under this Code.

Article before Bill 155

Article after Bill 155

433.1. Subject to the second paragraph of article 433.3, a municipality may, by by-law, determine the terms governing publication of its public notices. These terms may differ according to the type of notice, but the by-law must prescribe their publication on the Internet.
(...)

Article before Bill 155

433.1. Subject to the third paragraph of article 433.3, a municipality may, by by-law, determine the terms governing publication of its public notices. These terms may differ according to the type of notice, but the by-law must prescribe their publication on the Internet.
(...)

Article after Bill 155

966. The council shall appoint an external auditor for not more than three fiscal years. At the end of the term, the external auditor shall remain in office until replaced or reappointed.

966. The council shall appoint an external auditor for not more than five fiscal years. At the end of the term, the external auditor shall remain in office until replaced or reappointed.

In the case of a municipality having a population of at least 10,000 inhabitants, the council may appoint two external auditors. In such a case, the council entrusts one auditor with the audit mandates under article 966.2 and the other with the audit mandate under article 966.2.1.

Every external auditor must be a member of the Ordre des comptables professionnels agréés du Québec.

When carrying out their value-for-money audit mandate and despite any general law or special Act, neither an external auditor nor the employees under the external auditor's direction or the professionals under contract may be compelled to give testimony relating to any information obtained in the performance of their duties or to produce any document containing such information. A judge of the Court of Appeal may, on an application, summarily annul any proceeding instituted or decision rendered contrary to this paragraph.

Article before Bill 155

(Article continues on next page)

Neither an external auditor nor the employees under the external auditor's direction may be prosecuted for any act they have done or failed to do in good faith in the performance of the duties related to their value-for-money audit mandate.

No civil action may be instituted for the publication of a report of an external auditor prepared under this Act in connection with a value-for-money audit mandate or the publication in good faith of an extract or summary of such a report.

Except on a question of jurisdiction, no application for judicial review under the Code of Civil Procedure ([chapter C-25.01](#)) may be exercised nor any injunction granted against an external auditor, the employees under the external auditor's direction or the professionals under contract when the external auditor, employees or professionals are acting in their official capacity in connection with their value-for-money audit mandate.

Article after Bill 155

966.2. The external auditor shall audit, for the fiscal year for which he was appointed, the financial statements, the statement fixing the aggregate taxation rate and any other document determined by the Minister of Municipal Affairs, Regions and Land Occupancy by regulation published in the *Gazette officielle du Quebec*.

The external auditor shall make a report of his audit to the council. He shall state in his report, in particular, whether(1) the financial statements faithfully represent the municipality's financial position on 31 December and the results of its operations for the fiscal year ending on that date;

(2) the effective aggregate taxation rate was fixed in accordance with Division III of Chapter XVIII.1 of the Act respecting municipal taxation ([chapter F-2.1](#)).

966.2. The external auditor shall audit, for the fiscal year for which he was appointed, the municipality's financial statements and report to the council on the audit.

In the report, which shall be transmitted to the secretary-treasurer, the external auditor shall state, in particular, whether the financial statements faithfully represent the municipality's financial position as at 31 December and the results of its operations for the fiscal year ending on that date.

The external auditor shall report to the secretary-treasurer on the audit of any document determined by the Minister of Municipal Affairs, Regions and Land Occupancy and on the audit of the statement fixing the aggregate taxation rate, in respect of which the chief auditor shall declare whether the effective rate was fixed in accordance with Division III of Chapter XVIII.1 of the Act respecting municipal taxation ([chapter F-2.1](#)).

Article before Bill 155

Article after Bill 155

- ▶ This article was non-existent before Bill 155

In force: 2020-01-01

966.2.1. In addition to his mandate under article 966.2, the external auditor of a municipality having at least 10,000 inhabitants shall conduct, to the extent he considers appropriate, a value-for-money audit(1) of the municipality;

(2) of any legal person

(a) that is part of the reporting entity defined in the municipality's financial statements;

(b) of which the municipality or a mandatary of the municipality appoints more than 50% of the members of the board of directors; or

(c) of which the municipality or a mandatary of the municipality holds more than 50% of the outstanding voting shares or units;

(3) of any body referred to in the first paragraph of section 573.3.5 of the Cities and Towns Act ([chapter C-19](#)), provided

(a) in the case of a body referred to in subparagraph 1 of the first paragraph of that section, it is the mandatary or agent of the municipality;

(b) under subparagraph 2 of the first paragraph of that section, the majority of the members of its board of directors are members of the council of, or are appointed by, the municipality;

(Article continues on next page)

(c) its budget is adopted or approved by the municipality;

(d) in the case of a body referred to in subparagraph 4 of the first paragraph of that section, it receives part or all of its financing from the municipality; or

(e) in the case of a body designated under subparagraph 5 of the first paragraph of that section, it has its principal place of business in the territory of the municipality.

If, under this section, section 107.7 or 108.2.0.1 of the Cities and Towns Act or section 86 of the Act respecting the Commission municipale ([chapter C-35](#)), a mandate to audit certain aspects of the accounts and affairs of a body referred to in the first paragraph of section 573.3.5 of the Cities and Towns Act is entrusted to more than one auditor, the audit of those aspects must be conducted exclusively by the following designated auditor:

- (1) the chief auditor of the municipality with the largest population;
- (2) if no chief auditor of a municipality is concerned, the Commission municipale du Quebec; or
- (3) if neither a chief auditor of a municipality nor the Commission is concerned, the external auditor of the municipality with the largest population.

An audit under the first paragraph must be completed once every two years.

The auditor shall report to the council on his audit.

Article after Bill 155

- ▶ This article was non-existent before Bill 155

In force: 2019-01-01

966.2.2. A municipality referred to in article 966.2.1 may, by by-law, entrust to the Commission municipale du Québec the audit mandate provided for in that article. An authenticated copy of the by-law must be transmitted to the Commission without delay.

A by-law made under the first paragraph applies from the fiscal year following that of its coming into force, provided it comes into force before 1 September; if it does not, the by-law applies from the second fiscal year following that of its coming into force. Article 966.2.1 ceases to apply to the municipality's external auditor as of that fiscal year.

Despite the third paragraph of section 86 of the Act respecting the Commission municipale ([chapter C-35](#)), the audit mandate entrusted to the Commission by a by-law adopted under this article must be carried out once every two years.

The by-law may not be repealed.

Article after Bill 155

This article was non existent before Bill 155

966.2.3. An audit conducted by an external auditor must not call into question the merits of the policies and objectives of the municipality or of a person or body whose accounts and affairs are being audited.

Article after Bill 155

966.3. The external auditor shall transmit his report to the secretary-treasurer.

966.3. *(Repealed).*

966.5. At any time of the year, if it deems it expedient, the council must likewise, by one or more auditors ad hoc specially appointed for the purposes of this paragraph, have an audit made of the accounts of the municipality for all or any of the preceding five years, provided no similar audit has been made for the year or years in question.

At any time of the year, if called upon in writing so to do by at least 10 ratepayers, the council must likewise have an audit made of the accounts of the municipality for all or any of the preceding five years, provided no such audit has already been made for all or any of the years in question.

966.5. At any time of the year, if it deems it expedient, the council must likewise, by one or more auditors ad hoc specially appointed for the purposes of this paragraph, have an audit made of the accounts of the municipality for all or any of the preceding five years, provided no similar audit has been made for the year or years in question.

At any time of the year, if called upon in writing so to do by at least 10 ratepayers, the council must likewise have an audit made of the accounts of the municipality for all or any of the preceding five years, provided no such audit has already been made for all or any of the years in question.

In the case of the preceding paragraph, the auditor ad hoc shall be appointed by the council, but, before appointing him, the choice which the council proposes to make must be accepted in writing by the majority of the ratepayers who have asked for the audit, and, if such ratepayers and the council fail to agree, the auditor ad hoc shall be appointed by a Court of Quebec judge for the judicial district, on application by one of the parties after a notice of eight clear days to the other party.

(Article continues on next page)

In the case of the preceding paragraph, the auditor ad hoc shall be appointed by the council, but, before appointing him, the choice which the council proposes to make must be accepted in writing by the majority of the ratepayers who have asked for the audit, and, if such ratepayers and the council fail to agree, the auditor ad hoc shall be appointed by a Court of Quebec judge for the judicial district, on the petition of one of the parties after a notice of eight clear days to the other party.

The costs of such audit are payable by the secretary-treasurer if he is guilty of embezzlement or if, found to be short in his accounts, he fails to make reimbursement within the time fixed by article 969; if not, and if it be of no benefit to the municipality, they are chargeable to the persons who have applied for it.

The request in writing made to the council by at least 10 ratepayers, in accordance with this article, must be accompanied by a deposit of \$500. Such deposit must be returned to the applicants if the costs of the audit are not charged to the persons who requested same.

The costs of such audit are payable by the secretary-treasurer if he is guilty of embezzlement or if, found to be short in his accounts, he fails to make reimbursement within the time fixed by article 969; if not, and if it be of no benefit to the municipality, they are chargeable to the persons who have applied for it.

The request in writing made to the council by at least 10 ratepayers, in accordance with this article, must be accompanied by a deposit of \$500. Such deposit must be returned to the applicants if the costs of the audit are not charged to the persons who requested same.

Article before Bill 155

Article after Bill 155

BILL 108
(2017, chapter 27)

- ▶ **Bill 108 inserts to the Municipal code of Quebec (chapter C-27.1) articles 938.0.0.1, 938.0.0.2, 938.1.2.1 to 938.1.2.5, which articles will come into force ten (10) months after the first president and chief executive officer of the Autorité des marchés publics will be appointed;**
- ▶ **Mr. Denis Gallant was appointed on June 14, 2018 and has taken office on July 25, 2018;**
- ▶ **The above mentioned articles will then be in force on May 25, 2019.**

1. Main objective of Bill 108

- ▶ This Act establishes the Autorité des marchés publics (the Authority) to oversee all public procurement for public bodies, including municipal bodies, and apply the Act respecting contracting by public bodies as regards ineligibility for public contracts, prior authorization to obtain public contracts or subcontracts and contractor performance evaluations in relation to the performance of contracts

- ▶ This Act determines the Authority's organizational and operational rules, in particular with respect to its administrative structure.
- ▶ This Act amends the Act respecting contracting by public bodies and the Acts governing municipal bodies are amended in order to require bodies to publish a notice of intention before entering into certain contracts by mutual agreement and to establish a procedure for receiving and examining the complaints filed with them about the tendering or awarding process for a public contract.

- ▶ The Act respecting contracting by public bodies is also amended
- ▶ (1) to ensure the permanent nature of the system of ineligibility for public contracts and harmonize it with the system of authorizations to contract
- ▶ (2) to allow the Government to require an enterprise to obtain an authorization to contract while it is in the process of performing a public contract or in order to enter into a public contract or subcontract involving an expenditure below the applicable authorization threshold;

- ▶ (3) to allow the Authority to cancel an application for authorization to contract or suspend such an authorization if the enterprise concerned fails to communicate information;
- ▶ (4) to prevent an enterprise that has withdrawn its application for authorization to contract, or that has had its application cancelled, from filing a new application within the year after the withdrawal or cancellation;
- ▶ (5) to allow the Chair of the Conseil du trésor to authorize the implementation of pilot projects aimed at testing various measures to facilitate the payment of enterprises party to public contracts and subcontracts;

- ▶ (6) to confer on the Conseil du trésor the power to give permission, in exceptional circumstances, to continue a contracting process despite a decision of the Authority;
- ▶ (7) to introduce a penal offence for anyone who communicates or attempts to communicate with a member of a selection committee for the purpose of influencing the member and provide for a three year prescriptive period for penal proceedings that begins to run from the time the prosecutor becomes aware of the commission of the offence without exceeding seven years since the offence was committed; and

- ▶ (8) to limit the disclosure of information that allows the number of enterprises that asked for a copy of the tender documents or that tendered a bid to be known or that allows those enterprises to be identified.
- ▶ This Act amends the Tax Administration Act to allow the Agence du revenu du Quebec to communicate to the Authority information obtained under fiscal laws that the Authority needs in order to apply the provisions concerning the system of authorizations to contract.
- ▶ Lastly, the Act makes certain technical amendments.

2. Legislation amended by this act

- Financial Administration Act (chapter A-6.001);
- Tax Administration Act (chapter A-6.002);
- Act respecting the Autorité des marchés financiers (chapter A-33.2);
- Building Act (chapter B-1.1);
- Cities and Towns Act (chapter C-19);
- Municipal Code of Quebec (chapter C-27.1);
- Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01);
- Act respecting the Communauté métropolitaine de Quebec (chapter C-37.02);

- Act respecting contracting by public bodies (chapter C-65.1);
- Act to facilitate the disclosure of wrongdoings relating to public bodies (chapter D-11.1);
- Act respecting elections and referendums in municipalities (chapter E-2.2);
- Act respecting school elections (chapter E-2.3);
- Election Act (chapter E-3.3);
- Act respecting workforce management and control within government departments, public sector bodies and networks and state-owned enterprises (chapter G-1.011);
- Anti-Corruption Act (chapter L-6.1);
- Act respecting the Ministère des Transports (chapter M-28);

- Act respecting labour standards (chapter N-1.1);
- Public Protector Act (chapter P-32);
- Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2);
- Act respecting the Government and Public Employees Retirement Plan (chapter R-10);
- Act respecting the Pension Plan of Management Personnel (chapter R-12.1);
- Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20);

- Educational Childcare Act (chapter S-4.1.1);
- Act respecting mixed enterprise companies in the municipal sector (chapter S-25.01);
- Act respecting public transit authorities (chapter S-30.01);
- Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1);
- Integrity in Public Contracts Act (2012, chapter 25).

▶ REGULATIONS AMENDED BY THIS ACT:

- Regulation of the Autorité des marchés financiers under an Act respecting contracting by public bodies (chapter C-65.1, r. 0.1);
- Regulation respecting supply contracts, service contracts and construction contracts of bodies referred to in section 7 of the Act respecting contracting by public bodies (chapter C-65.1, r. 1.1);
- Regulation respecting certain supply contracts of public bodies (chapter C-65.1, r. 2);

- Regulation respecting certain service contracts of public bodies (chapter C-65.1, r. 4);
- Regulation respecting construction contracts of public bodies (chapter C-65.1, r. 5);
- Regulation respecting contracting by public bodies in the field of information technologies (chapter C-65.1, r. 5.1);
- Regulation respecting the register of enterprises ineligible for public contracts and oversight and monitoring measures (chapter C-65.1, r. 8.1).

3. Modifications brought to the Municipal Code of Quebec

938.3.2. Division I of Chapter V.1 of the Act respecting contracting by public bodies ([chapter C-65.1](#)) applies with the necessary modifications to any municipal contract for the performance of work or the supply of insurance, equipment, materials or services.

For the purposes of the provisions of Chapter V.1 of that Act, except section 21.8, the contracts referred to in the first paragraph are deemed to be public contracts and every municipality is deemed to be a public body, and the Minister of Municipal Affairs, Regions and Land Occupancy exercises, in respect of those contracts, the responsibility conferred on the Conseil du trésor by sections 25.0.2 and 25.0.3 of that Act and the responsibilities conferred on the Chair of the Conseil du trésor by sections 25.0.3 and 25.0.5 of that Act.

938.3.2. Division I of Chapter V.1 of the Act respecting contracting by public bodies ([chapter C-65.1](#)) applies with the necessary modifications to any municipal contract for the performance of work, and any insurance contract, supply contract or contract for the supply of services.

For the purposes of the provisions of Chapter V.1 of that Act, except section 21.8, the contracts referred to in the first paragraph are deemed to be public contracts and every municipality is deemed to be a public body, and the Minister of Municipal Affairs, Regions and Land Occupancy exercises, in respect of those contracts, the responsibility conferred on the Conseil du trésor **by sections 25.0.2 and 25.0.3 of that Act and the responsibilities conferred on the Chair of the Conseil du trésor by sections 25.0.3 and 25.0.5 of that Act.**

Article before Bill 108

Article after Bill 108

Article corresponding in the Cities and Towns Act is article 573.3.3.2

938.3.3. Sections 21.17 to 21.20, 21.25, 21.34, 21.38, 21.39, 21.41, 27.6 to 27.9, 27.11, 27.13 and 27.14 of the Act respecting contracting by public bodies ([chapter C-65.1](#)) apply, with the necessary modifications, in respect of any municipal contract that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act and pertains to the performance of work or the supply of insurance, equipment, materials or services.

938.3.3. Sections 21.3.1, 21.17 to 21.17.2, 21.18, 21.25, 21.34, 21.35, 21.38, 21.39, 21.41, 21.41.1, 25.0.2 to 25.0.5, 27.6 to 27.9, 27.11, 27.13, 27.14 and 27.14.1 of the Act respecting contracting by public bodies ([chapter C-65.1](#)) apply, with the necessary modifications, in respect of any municipal contract that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act or is designated by the Government under section 21.17.1 of that Act and that is a contract for the performance of work, insurance contract, supply contract or contract for the supply of services.

(Article continues on next page)

For the purposes of those sections, any contract referred to in the first paragraph is deemed to be a public contract, any subcontract that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act and is directly or indirectly related to such a contract is deemed to be a public subcontract, every municipality is deemed to be a public body, and the Minister of Municipal Affairs, Regions and Land Occupancy exercises, in respect of those public contracts and subcontracts, the responsibilities conferred on the Conseil du trésor or its Chair.

For the purposes of those sections, any contract referred to in the first paragraph is deemed to be a public contract, any subcontract that involves an expenditure equal to or greater than the amount determined by the Government under section 21.17 of that Act or is designated by the Government under section **21.17.1 of that Act** and is directly or indirectly related to such a contract is deemed to be a public subcontract, every municipality is deemed to be a public body, and the Minister of Municipal Affairs, Regions and Land Occupancy exercises, in respect of those public contracts and subcontracts, the responsibilities conferred on the Conseil du trésor or its Chair.

For the purposes of the application of Chapter V.2 of that Act to municipalities, a natural person is considered to be an enterprise even if the person does not operate a sole proprietorship.

Article before Bill 108

Article after Bill 108

Article corresponding in the Cities and Towns Act is article 573.3.3.3

938.3.4. Every person who communicates or attempts to communicate, directly or indirectly, with a member of a selection committee in order to influence the member concerning a call for tenders before a contract is awarded is guilty of an offence and liable to a fine of \$5,000 to \$30,000 in the case of a natural person and \$15,000 to \$100,000 in all other cases.

For a second or subsequent offence, the minimum and maximum fines are doubled.

Article before Bill 108

938.3.4. Every person who communicates or attempts to communicate, directly or indirectly, with a member of a selection committee in order to influence the member concerning a call for tenders before a contract is awarded is guilty of an offence and liable to a fine of \$5,000 to \$30,000 in the case of a natural person and \$15,000 to \$100,000 in all other cases.

For a second or subsequent offence, the minimum and maximum fines are doubled.

This article does not apply in the case of a person presenting a proposal to a selection committee formed to determine the winner of a competition.

Article after Bill 108

Article corresponding in the Cities and Towns Act is article 573.3.3.4

- ▶ 938.3.5 was inserted by Bill 108

938.3.5. A member of a selection committee who discloses or makes known, without being duly authorized to do so, any confidential information that is sent to the member or that came to the member's knowledge in the exercise of the member's functions within the committee is guilty of an offence and is liable to a fine of \$5,000 to \$30,000.

In the case of a subsequent offence, the minimum and maximum fines are doubled.

Article after Bill 108

Article corresponding in the Cities and Towns Act is article 573.3.3.5

- ▶ 938.3.6 was inserted by Bill 108

938.3.6. Penal proceedings under article 938.1.1.1, 938.3.4 or 938.3.5 must be instituted within three years after the time the prosecutor becomes aware of the commission of the offence. However, no proceedings may be instituted if more than seven years have elapsed since the date of the offence.

Article after Bill 108

Article corresponding in the Cities and Towns Act is article 573.3.3.6

Thank you

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