



NATIONAL ASSEMBLY

FIRST SESSION

FORTIETH LEGISLATURE

Bill 79

**An Act to provide for the restructuring
of and make other amendments to
municipal defined benefit plans**

Introduction

**Introduced by
Madam Agnès Maltais
Minister of Employment and Social Solidarity and
Minister of Labour**

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EXPLANATORY NOTES

The purpose of this bill is to impose the restructuring of certain municipal defined benefit plans according to a special process, and to allow such a process to be undertaken, when the municipal body and the active participants of the plan consent to it, for municipal defined benefit plans that are not subject to the restructuring obligation.

Any such plan not subject to restructuring must be amended in order to provide for equal cost sharing for current service, abolish the additional pension benefit provided for by the Supplemental Pension Plans Act and establish a provision to protect the plan from adverse variations likely to harm its financial position in the future.

The restructuring of such a plan is mandatory if the plan's funding level is below 85% or if the plan provides for a subsidy for early retirement before the age of 55.

A limited period of time, beginning not later than 1 July 2014, is given to the municipal body and the active members of a plan to negotiate measures to put the plan on a sounder financial footing and ensure its stability. They must see to it that the plan attains a minimum funding level of 85% and that it provides for equal cost sharing for current service. They must also abolish any subsidies for early retirement before the age of 55 and the additional pension benefit provided for by the Supplemental Pension Plans Act.

During the restructuring process, the parties may negotiate cost sharing for any past deficits and may amend or abolish any benefits provided for in the plan except the normal pension payable. Benefits granted to retirees or beneficiaries cannot be reduced, but indexation of those benefits may be suspended for a period of time and the indexation formula may be amended. Moreover, any reduction of costs resulting from the implementation of these measures must be used solely to put the plan on a sounder financial footing and ensure its stability, and ratepayers' ability to pay and the efforts made by each of the groups that are beneficiaries under the pension plan must be taken into account. Finally, no additional obligation can be provided for unless it is paid in full, and surplus assets of a pension plan cannot be allocated to the payment of employer contributions unless a fiscal rule requires a municipal body to do so.

The bill establishes a restructuring process that is to be carried out in three steps: negotiation, conciliation and if no agreement is reached during the previous steps the settlement of disputes by the Commission des relations du travail. To assist the Commission in settling dispute, the Commission must ask the Régie des rentes du Québec for an opinion in its areas of expertise. The Commission may also ask the Minister of Municipal Affairs, Regions and Land Occupancy to designate, for the mandate it specifies, a person who is competent in municipal finance matters to submit a report enabling the Commission to, among other things, evaluate ratepayers' ability to pay.

Under the bill, negotiations concerning mandatory amendments to the plan must be undertaken either on the expiry of the collective agreement in force on the date of assent to this Act or on that date if the agreement has expired. Negotiations to introduce a provision may also be undertaken during the restructuring process if the parties so agree, but the Commission des relations du travail does not have jurisdiction over any lingering dispute on that matter. Lastly, the collective agreement may provide for the progressive coming into force of measures.

LEGISLATION AMENDED BY THIS BILL:

- Labour Code (chapter C-27).

Bill 79

AN ACT TO PROVIDE FOR THE RESTRUCTURING OF AND MAKE OTHER AMENDMENTS TO MUNICIPAL DEFINED BENEFIT PLANS

AS there is reason to put defined benefit plans in the municipal sector on a sounder financial footing and ensure their stability;

AS it is appropriate to set in place a process to allow, as an exception and for a limited period of time, certain rules of these plans to be reviewed;

AS this process must be based on inter-generational equity, the protection of retirees' pension benefits, the cost accuracy of the pension plans and a reduction in the impact of the cost of those plans on ratepayers;

AS it is appropriate to make certain amendments to these plans;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

OBJECT AND SCOPE

1. The purpose of this Act is to impose the restructuring, according to a special process, of certain defined benefit plans constituted under the Supplemental Pension Plans Act (chapter R-15.1) and established by a municipal body, and to allow such a process to be undertaken with respect to any such plan not subject to that obligation if the municipal body and the active members of the plan consent to participate in the process.

A further purpose of this Act is to impose the introduction of new provisions in all such pension plans regarding equal cost sharing for current service, the abolition of additional pension benefits provided for in section 60.1 of the Supplemental Pension Plans Act and the establishment of a provision to protect the plan from adverse deviations likely to harm the plan's financial position in the future.

This Act applies despite any provision to the contrary.

2. For the purposes of this Act, "municipal body" means

(1) a municipality;

(2) any body declared by law to be a mandatary or agent of the municipality and any body whose board of directors is composed in the majority of members of the council of a municipality and whose budget is adopted by that council;

(3) a metropolitan community, an intermunicipal board, a public transit authority, an intermunicipal board of transport and any other public body whose board of directors is composed in the majority of elected municipal officers.

For the purposes of this Act, a defined benefit-defined contribution pension plan is considered a defined benefit plan.

CHAPTER II

RESTRUCTURING

DIVISION I

GENERAL PROVISIONS

3. The restructuring process provided for in Division II must be undertaken if an actuarial valuation for the period ending on 31 December 2013 reveals that a pension plan has not reached an 85% funding level. The actuarial valuation must be sent to the Régie des rentes du Québec (the Board) not later than 30 June 2014.

The restructuring process must also be undertaken if a plan offers a subsidy for early retirement before the age of 55.

Such a process may also be undertaken if the municipal body and the active members of a plan submit to it voluntarily.

The Board forwards to the Minister of Labour a list of the pension plans referred to in the first and second paragraphs.

4. The objectives of the municipal body and the active members during a restructuring process must be to put the pension plan on a sounder financial footing and ensure its stability.

To that end, the municipal body and the active members must negotiate with a view to determining measures aimed at

- (1) attaining a minimum funding level of 85%;
- (2) abolishing the subsidy for early retirement before the age of 55;
- (3) providing for equal cost sharing for current service;
- (4) abolishing the additional pension benefit provided for in section 60.1 of the Supplemental Pension Plans Act.

5. Measures to abolish the subsidy for early retirement before the age of 55 must come into force not later than five years after the date an agreement is signed between the parties during the restructuring process.

Measures to provide for equal cost sharing for current service may be spread out over a period of up to five years after the date an agreement is signed. The implementation mechanisms for the measures agreed on must be set out in the agreement.

6. Cost sharing of any past deficits of the pension plan may be the subject of negotiations undertaken during the restructuring process.

The same applies to any amendment to or abolition of a benefit provided for in the plan except the normal pension payable within the meaning of the Supplemental Pension Plans Act.

7. Pensions granted to retirees or beneficiaries cannot be reduced.

However, provision may be made to suspend indexation of those pensions for a period of time or to amend the indexation formula. However, if a subsequent actuarial valuation establishes the existence of surplus assets in the plan, the surplus must be allocated to restoring indexation of those pensions.

No change provided for in the second paragraph can be made if, after consultation, 30% or more of the retirees or beneficiaries of the plan are opposed to it.

8. Any reduction in costs resulting from the implementation of measures provided for in this division must be used solely for the purpose of putting the plan on a sounder financial footing and ensuring its stability.

9. Ratepayers' ability to pay and the efforts made by each of the groups that are beneficiaries under the pension plan must be taken into account.

10. Despite section 132 of the Supplemental Pension Plans Act, any additional obligation arising from an amendment to the pension plan must be paid in full on the day following the date of the actuarial valuation determining the value of these additional obligations.

11. The surplus assets of a pension plan cannot be allocated to the payment of employer contributions, unless a fiscal rule requires the municipal body to do so.

12. Sections 20 and 21 of the Supplemental Pension Plans Act do not apply to an amendment made to a pension plan under this chapter.

DIVISION II

RESTRUCTURING PROCESS

§1.—Implementation of the restructuring process

13. A pension plan restructuring process is initiated when a municipal body sends the Minister a statement indicating that the municipal body is subject to section 3. The statement must be sent not later than 1 July 2014.

A copy of the statement is forwarded at the same time to every association representing active members concerned by the pension plan. A copy of the statement along with a copy of this Act must also be posted in conspicuous places for not less than 30 days.

§2.—Negotiations

14. The municipal body attaches to the copy of the statement sent to an association referred to in the second paragraph of section 13 a written notice of not less than 8 days nor more than 15 days stating the date, time and place its representatives will be ready to meet the association representatives.

A copy of the notice is sent to the Minister. Failing such a notice, negotiations are deemed to have begun on 1 July 2014.

15. If the active members of a pension plan are represented by more than one association, negotiations are conducted separately or jointly by these associations in accordance with the usual rules.

16. Negotiations must begin and continue diligently and in good faith in order to reach an agreement within six months after they begin.

17. If the parties reach an agreement, they send the Minister a notice of agreement.

§3.—Conciliation

18. If no notice of agreement is received on or before the expiry of the negotiation period provided for in section 16, the Minister appoints a conciliation officer.

19. Conciliation takes place over a six-month period beginning on the designation of the conciliation officer.

In addition, the Minister may, once and at the joint request of the parties, extend the conciliation period for up to 30 days.

20. The conciliation officer proceeds with the conciliation process with assessors unless the parties reach an agreement to the contrary within 15 days of the officer's appointment.

Each party designates, within 15 days of the appointment of the conciliation officer, an assessor to assist the officer. If one of the parties does not designate an assessor within the prescribed time, the officer may proceed in the absence of that party's assessor.

The conciliation officer may proceed in the absence of an assessor who does not attend after having been convened.

Each party pays its assessor's costs and fees.

21. The parties are required to attend all meetings to which they are convened by the conciliation officer.

22. The conciliation officer may make any recommendations the officer considers appropriate to the parties in order to help them reach an agreement. The officer and the assessors may also make unanimous recommendations.

23. If an agreement is reached on all the matters submitted to the conciliation officer, the officer reports to the Minister.

24. Within 30 days after the expiry of the conciliation period or as soon as it appears to the conciliation officer that the conciliation will not enable the parties to reach an agreement, the conciliation officer submits to the parties a report stating the matters on which they agree, those still in dispute and any recommendation the parties failed to implement.

At the same time, the conciliation officer forwards a copy of the report to the Minister and the Commission des relations du travail so that the latter can decide, in accordance with subdivision 4, the matters still in dispute.

In the report the conciliation officer sends to the Minister, the officer states whether the parties carried out their obligation to negotiate with diligence and in good faith.

§4. — *Settlement of disputes*

25. On receiving the conciliation report, the Commission convenes the parties. The Commission may, in its notice of convocation, state which proposals and documents must be sent by the parties to the Commission within the time it prescribes.

26. Sections 117 to 120, 122, 124 to 132 and 134 to 137.10 of the Labour Code (chapter C-27) apply to a dispute referred to in this subdivision, with the necessary modifications.

27. To assist it in settling the dispute, the Commission must ask the Board for an opinion in its areas of expertise, in the form of a written report, in particular with respect to the compliance of the proposals submitted with this Act and the Supplemental Pension Plans Act.

The Commission specifies the mandate entrusted to the Board, gives the instructions necessary to carry it out and sets the time within which the Board must produce its report.

28. The Commission may also, if it considers it necessary to settle the dispute, ask the Minister of Municipal Affairs, Regions and Land Occupancy to designate, for the mandate it specifies, a person who is competent in municipal finance matters to submit a written report enabling the Commission to evaluate ratepayers' ability to pay.

The second paragraph of section 27 applies, with the necessary modifications.

29. The reports are submitted to the Commission and the parties and stand in lieu of the author's testimony.

However, each of the parties may, in the manner determined by the Commission, ask the authors questions to obtain details on points set out in their report.

30. The reports are not binding on the Commission.

31. The Commission must render its decision within six months after the dispute is referred to the Commission. It must ensure that the objectives imposed on the parties by section 4 have been met, in keeping with Division I.

32. The parties may come to an agreement at any time on any of the matters in dispute.

§5.—*Miscellaneous provisions*

33. The existence of a collective agreement or any other valid agreement does not preclude the application of this chapter.

34. The signing of an agreement under this chapter may take place only after being authorized by secret ballot by the majority vote of the members of the association representing the active members who exercise their right to vote.

If the negotiations are carried out jointly by two or more associations, the ballot is held in accordance with the usual rules. In the absence of such rules, the signing must be authorized by secret ballot, by a vote in which the majority is calculated taking into account all the active members, regardless of which group they belong to.

35. A municipal body must take measures allowing active members who are covered by a plan established by a collective agreement but not represented by an association, as well as active members who are covered by a plan established otherwise than by a collective agreement, to submit observations on the proposed amendments to the plan.

If 30% or more of those active members oppose the amendments, they cannot be applied, unless a decision of the Commission so authorizes, at the request of the municipal body. The provisions of subdivision 4 apply, with the necessary modifications.

36. If a collective agreement is in force, any agreement reached or a decision made by the Commission under this chapter that amends the terms of the collective agreement has the effect of amending the collective agreement. If negotiations are in progress to renew the collective agreement, the agreement or the decision is, from the date it becomes effective, deemed to be part of that collective agreement.

37. The Commission may, on a motion, resolve any difficulty arising from the application of this chapter.

The provisions of the Labour Code relating to the Commission, its commissioners, their decisions and the exercise of their jurisdictions apply, with the necessary modifications.

CHAPTER III

REQUIRED AMENDMENTS

DIVISION I

COST SHARING

38. Every pension plan not subject to the restructuring process must be amended to include measures providing for equal cost sharing for current service.

Negotiations for the introduction of such measures must be undertaken on the expiry of the collective agreement in force on (*insert the date of assent to this Act*), or on that date if the agreement has expired.

The pension plan may provide for the progressive coming into force of those measures, which may be spread out over a period of up to five years beginning on the date the collective agreement is signed.

DIVISION II

ABOLITION OF ADDITIONAL PENSION BENEFITS

39. Every pension plan that is not subject to the restructuring process must be amended to abolish the additional pension benefit provided for in section 60.1 of the Supplemental Pension Plans Act.

The additional pension benefit must be abolished on the expiry of the collective agreement in force on (*insert the date of assent to this Act*), or on that date if the agreement has expired.

DIVISION III

PROVISION

40. Every pension plan must be amended to provide for a provision to protect the pension plan against adverse variations likely to affect the pension plan in the future.

The provision may be made up of a reserve or stabilization fund and be funded by means of a current service contribution.

Negotiations for the introduction of a provision must be undertaken on the expiry of the collective agreement in force on (*insert the date of assent to this Act*), or on that date if the agreement has expired.

Such negotiations may also be undertaken during the restructuring process. However, a lingering dispute on that matter cannot be submitted to the Commission.

The pension plan may provide for a progressive coming into force, which may be spread out over a period of up to five years beginning on the date the agreement is signed. The current service contribution must be increased annually up to a total of 20%.

The measures allowing such a provision to be established must be set out in the agreement.

41. Such a provision can be used to fund any future indexation of retirees' or beneficiaries' pensions, to the extent that the accumulated sums are sufficient to ensure the protection of the pension plan against the risk of adverse deviations.

DIVISION IV

MISCELLANEOUS PROVISIONS

42. If none of the active members of a pension plan are represented by an association, the introduction of measures providing for equal cost sharing and the introduction of a provision must come into force not later than five years after (*insert the date of assent to this Act*).

43. For the purposes of this chapter, the Government may, on the conditions it determines, authorize the parties to amend certain provisions of the pension plan with regard to past service.

CHAPTER IV

AMENDING PROVISION

44. Schedule I to the Labour Code (chapter C-27) is amended by adding the following paragraph at the end:

“(32) the second paragraph of section 24, the second paragraph of section 35 and the first paragraph of section 37 of the Act to provide for the restructuring of and make other amendments to municipal defined benefit plans (*insert the year and chapter number of this Act*).”

CHAPTER V

FINAL PROVISIONS

45. The Minister of Employment and Social Solidarity is responsible for the administration of this Act, except Division II of Chapter II, the administration of which falls under the responsibility of the Minister of Labour.

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

