



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 40
(2001, chapter 61)

An Act to amend the James Bay Region Development Act and other legislative provisions

**Introduced 19 June 2001
Passage in principle 27 November 2001
Passage 19 December 2001
Assented to 20 December 2001**

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EXPLANATORY NOTES

This bill amends the provisions of the James Bay Region Development Act governing Municipalité de Baie-James.

Under the bill, Municipalité de Baie-James is accorded its own municipal council with specific rules of operation. Thus, various conditions governing the constitution of the municipal council are introduced, including the composition of the council and the mode of designation and term of office of the chair. It is provided as well that the municipal council may exercise its powers by by-law or by resolution, rather than under the present system of issuing orders subject to government approval.

The bill enables the Government to allow Municipalité de Baie-James to affirm its jurisdiction with respect to one or more matters within the jurisdiction of a regional county municipality, in all or part of its territory or in the territory of one or more of the cities of Chapais, Chibougamau, Lebel-sur-Quévillon and Matagami.

As well, the bill authorizes the creation of a fund for the purpose of achieving a fiscal and financial balance between Municipalité de Baie-James and the cities of Chapais, Chibougamau, Lebel-sur-Quévillon and Matagami and the localities situated within the municipality.

Moreover, as concerns the rules governing the formation of localities within the municipality, the bill removes the requirement of a minimum number of inhabitants. It provides further that the members of the councils of the localities will henceforth be elected.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting land use planning and development (R.S.Q., chapter A-19.1);
- Act respecting the James Bay Regional Zone Council (R.S.Q., chapter C-59.1);
- James Bay Region Development Act (R.S.Q., chapter D-8).

Bill 40

AN ACT TO AMEND THE JAMES BAY REGION DEVELOPMENT ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

JAMES BAY REGION DEVELOPMENT ACT

1. The James Bay Region Development Act (R.S.Q., chapter D-8) is amended by inserting “and Municipal Organization” after “Development” in the title.

2. Section 4 of the said Act, replaced by section 2 of chapter 69 of the statutes of 1999, is amended by replacing “administer and develop the Territory” in the second paragraph by “develop the Territory subject to municipal jurisdiction with respect to land use planning and development”.

3. Section 6 of the said Act, amended by section 3 of chapter 69 of the statutes of 1999, is again amended by striking out subparagraph *d* of the first paragraph.

4. Section 34 of the said Act is amended by replacing “such name as the Government determines, notice of which shall be given by him in the *Gazette officielle du Québec*” in the second, third and fourth lines by “the name of Municipalité de Baie-James”.

5. Section 35 of the said Act is amended by adding the following paragraph at the end :

“Chapter III of the Act respecting the remuneration of elected municipal officers (chapter T-11.001) applies to the municipality, which is deemed to be a regional county municipality for the purposes of section 30.0.3 of that Act.”

6. Sections 36 to 38 of the said Act are replaced by the following sections :

“36. The following shall be members of the council of the municipality :

(1) the mayors of Ville de Chapais, Ville de Chibougamau, Ville de Lebel-sur-Quévillon and Ville de Matagami ;

(2) the chair of the local council of each of the localities of Radisson, Valcanton and Villebois ;

(3) one person designated by the members referred to in subparagraphs 1 and 2 from among the residents of the Territory, except the residents of the cities of Chapais, Chibougamau, Lebel-sur-Quévillon and Matagami and the localities.

The chair, elected in accordance with section 37, and the other members of the council are deemed to be the mayor and the councillors of the municipality, respectively.

“37. The chair of the council shall be elected by and from among the members of the council by secret ballot at a meeting of the council.

The clerk shall preside at the meeting until the chair is elected. The clerk shall establish the nomination and voting procedure and shall declare elected the person who obtains the majority of the votes of the council members.

“38. The chair of the council is elected for a two-year term. However, the term shall end if the chair resigns as chair, is dismissed pursuant to the third paragraph or ceases to be a member of the council of the municipality.

To resign, the chair shall sign and transmit to the municipality a writing to that effect. The resignation takes effect on the date of transmission of the writing or on any later date specified therein.

The council of the municipality may dismiss the chair by a two-thirds majority of its members. In such a case, the council of the municipality may elect a new chair at the same meeting, in accordance with section 37.

“38.1. The member of the council of the municipality referred to in subparagraph 3 of the first paragraph of section 36 is designated for a two-year term. However, the term shall end if the member resigns, is dismissed pursuant to the third paragraph or ceases to be a resident of the Territory.

To resign, the member shall sign and transmit to the municipality a writing to that effect. The resignation takes effect on the date of transmission of the writing or on any later date specified therein.

The council of the municipality may dismiss the member by a two-thirds majority of its members. In such a case, the council of the municipality may designate a new member at the same meeting, in accordance with section 36.

“38.2. The municipality may adopt or pass by-laws, resolutions or other acts in respect of such parts of its territory as it may determine.

The municipality may also adopt or pass by-laws, resolutions or other acts in respect of only one part of its territory.

“38.3. For the purposes of the application of sections 303 to 306 and 357 to 362 of the Act respecting elections and referendums in municipalities (chapter E-2.2) and the other provisions of that Act related to those sections to the members of the council of the municipality referred to in subparagraph 1 of the first paragraph of section 36, the municipality is considered to be a municipal body within the meaning of section 307 of that Act.

Any other member of the council who has a direct or indirect interest in an enterprise causing the member’s personal interest to conflict with that of the municipality must, on pain of forfeiture of office, disclose the interest in writing to the council and abstain from participating in any discussion or decision involving the enterprise in which the member has the interest or in any part of a meeting of the council during which the interest is discussed.

“38.4. If the circumstances warrant it, a member of the council of the municipality may deliberate and vote at a meeting of the council by means of telephone or other communications equipment, provided that the council chair or person replacing the council chair and the clerk of the municipality are present at the same place and that the communications equipment enables all persons participating in or attending the meeting to hear one another.

The minutes of the meeting must mention the names of members who participate in such a manner and the means of communication used.

A member who participates in a council meeting in accordance with this section is deemed to be present at the meeting, and shall be included for the purpose of determining whether there is a quorum.

“38.5. Every part of the territory of the municipality determined by the council shall constitute a locality and bear the name designated by the council.

Where a locality is so constituted, the council may establish a local council consisting of not more than five members elected for four years, at the time prescribed by the council and in accordance with the Act respecting elections and referendums in municipalities (chapter E-2.2), and to which the council may, by by-law, on such conditions as it determines, delegate all or any part of its powers respecting the locality.

Every natural person who would be qualified to vote at a referendum if the date of reference, within the meaning of the Act respecting elections and referendums in municipalities, were that of the poll, is eligible for the office of member of the local council and is entitled to vote at the election of its members.

“38.6. In a case of irresistible force that might endanger the life or health of the population or seriously damage the equipment of the locality, the chair of the local council may order such expenditure as the chair considers necessary and award any contract necessary to remedy the situation. In such a case, the chair must make a report with reasons to the council having jurisdiction with respect to the matter at the following meeting.”

7. Section 39 of the said Act is amended by replacing “board of directors” wherever the expression appears by “council of the municipality”.

8. Section 39.1 of the said Act is amended by replacing “board of directors” in the first line by “council of the municipality”.

9. The said Act is amended by inserting the following sections after section 39.1 :

“39.2. The council of the municipality may, by by-law, establish a fund for the purpose of achieving a fiscal and financial balance between the municipality and the cities of Chapais, Chibougamau, Lebel-sur-Quévillon and Matagami and the localities situated in the territory of the municipality.

The council shall determine the mode of financing of the fund, the terms and conditions under which the fund is to be managed and the sums paid into the fund.

The surpluses accumulated by the municipality at the time the fund is established form part of the fund.

“39.3. The Government may, at the request of the municipality made by a unanimous resolution of its council, allow the municipality to affirm its jurisdiction with respect to

(1) one or more matters within the jurisdiction of a local municipality, in the territory of one or more of the cities of Chapais, Chibougamau, Lebel-sur-Quévillon and Matagami ;

(2) one or more matters within the jurisdiction of a regional county municipality including a rural regional county municipality, in all or any part of its territory or in the territory of one or more of the cities mentioned in subparagraph 1.

The resolution containing the request under the first paragraph shall specify the matters to which the application pertains and, where the municipality wishes to affirm its jurisdiction with respect to only part of its territory or to the territory of all or some part of the cities, contain a description of the territory concerned or the names of the cities in whose territory the jurisdiction of the municipality with respect to the matter referred to in the request will be exercised.

The order may grant jurisdiction with respect to all or only some of the matters to which the request pertains, and may contain any term or condition respecting the exercise of the jurisdiction granted.

“39.4. The Government may, of its own initiative or at the request of the municipality made by a unanimous resolution of its council, amend an order made under section 39.3.

“39.5. Every request to the Government under sections 39.3 and 39.4 shall be addressed to the Minister.”

10. Section 40 of the said Act is replaced by the following section:

“40. The following shall be excluded from the territory of the municipality:

(1) the territory of every municipality constituted before 14 July 1971;

(2) every Category I land, pursuant to section 20 of the Act respecting the land regime in the James Bay and New Québec territories (chapter R-13.1).”

ACT RESPECTING LAND USE PLANNING AND DEVELOPMENT

11. Section 266 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1) is replaced by the following section:

“266. This Act does not apply in the territories situated north of the 55th parallel nor in the lands excluded from the territory of Municipalité de Baie-James by paragraph 2 of section 40 of the James Bay Region Development and Municipal Organization Act (chapter D-8).”

ACT RESPECTING THE JAMES BAY REGIONAL ZONE COUNCIL

12. Section 6 of the Act respecting the James Bay Regional Zone Council (R.S.Q., chapter C-59.1) is amended by striking out “for the board of directors of the James Bay Corporation, so far as that board is itself substituted, under section 36 of the James Bay Region Development Act (chapter D-8),” in the second, third and fourth lines.

TRANSITIONAL AND FINAL PROVISIONS

13. The part of the territory of Municipalité de Baie-James designated under the name “Villebois agglomeration” is a locality as if it had been established under section 38.5 of the James Bay Region Development and Municipal Organization Act (R.S.Q., chapter D-8), enacted by section 6.

The members of the council of that agglomeration in office on 19 December 2001 become members of the local council of the locality as if the council had been established in accordance with that section 38.5.

14. Every order of Municipalité de Baie-James in force on 19 December 2001 is deemed to be a by-law or resolution of the municipality, according to the provision under which the decision was made.

Notwithstanding section 365 of the Cities and Towns Act (R.S.Q., chapter C-19), where applicable, an order referred to in the first paragraph that has been approved by the Government may be amended, replaced or repealed by a

by-law or resolution, according to the provision under which the decision is made, that does not require any approval other than the approval required under that provision or any other provision related thereto.

The first two paragraphs do not apply to the orders of Municipalité de Baie-James referred to in any of sections 23, 29 and 31 of the Act respecting the James Bay Regional Zone Council (R.S.Q., chapter C-59.1).

15. The term of office of a member of a local council provided for in section 38.5 of the James Bay Region Development and Municipal Organization Act (R.S.Q., chapter D-8), enacted by section 6, does not affect any term currently in progress.

16. Municipalité de Baie-James becomes, without continuance of suit, a party to any suit to which the Société de développement de la Baie James is a party which concerns municipal jurisdiction in matters relating to the administration or development of the territory of the James Bay region.

17. Unless the context indicates otherwise, a reference in any text to the James Bay Region Development Act (R.S.Q., chapter D-8) is a reference to the James Bay Region Development and Municipal Organization Act.

In addition, any reference to the board of directors of the Société de développement de la Baie James in its capacity as the council of Municipalité de Baie-James is a reference to that council.

18. Municipalité de Baie-James must, not later than 30 April in 2003 and not later than 30 April in 2004, file with the Minister of Municipal Affairs and Greater Montréal a report on its activities for the preceding fiscal year. An annual plan of action on new responsibilities and jurisdictions assumed must be filed with the report for the first year.

19. This Act comes into force on 20 December 2001.