

Gouvernement du Québec

O.C. 593-2002, 22 May 2002

An Act respecting municipal territorial organization
(R.S.Q., c. O-9)

Corrections to Order in Council 1043-2001 dated 12 September 2001 concerning the Amalgamation of the municipalities of L'Île-du-Havre-Aubert, L'Étang-du-Nord, Grande-Entrée, Havre-aux-Maisons, Fatima and Grosse-Île and Village de Cap-aux-Meules

WHEREAS, under Order in Council 1043-2001 dated 12 September 2001, Municipalité des Îles-de-la-Madeleine was constituted on 1 January 2002;

WHEREAS the Order in Council was made under sections 125.11 and 125.27, enacted by section 143 of chapter 25 of the Statutes of 2001, of the Act respecting municipal territorial organization (R.S.Q., c. O-9);

WHEREAS the council of the new municipality requested that the Order in Council be amended in order to prescribe rules relating to averaging the increase in the tax burden that results from the constitution of the municipality and to modify the rules relating to the apportionment of the tax burden that results from certain debts or amounts that must be provided for;

WHEREAS it is also expedient to amend the Order in Council to correct an inaccurate reference and certain dates that apply to the process of employee integration following the constitution of the municipality;

WHEREAS, under section 125.30 of the Act respecting municipal territorial organization (R.S.Q., c. O-9), the Government may, within six months following the first general election in the new municipality, amend any order made under section 125.27 of the Act;

WHEREAS the polling for the first general election in the new municipality took place on 25 November 2001;

WHEREAS it is expedient to amend the Order in Council;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Municipal Affairs and Greater Montréal:

THAT Order in Council 1043-2001 dated 12 September 2001 be amended in accordance with the following provisions:

1. The following is inserted after section 44:

**“CHAPTER IV.1
SPECIAL FISCAL PROVISIONS**

**DIVISION I
INTERPRETATION AND GENERAL PROVISIONS**

44.1. For the purposes of this Chapter, the territory of each local municipality named in section 4 constitutes a sector.

44.2. The municipality is subject to the rules provided for by law with respect to local municipalities, particularly the rules that prohibit the setting of different general property tax rates in different parts of the municipal territory and the rules that provide for the use of specific sources of revenue to finance debt-related expenditures.

The city may derogate from these rules only to the extent required to carry out any provision of this Chapter.

**DIVISION II
CEILING ON ANY INCREASE IN THE
TAX BURDEN**

44.3. The municipality must set the general property tax rate so that, with respect to the previous fiscal year, the increase in the tax burden for all the units of assessment located in a sector to which part of the rate or the full rate applies is limited to 5%.

The following shall constitute the tax burden:

(1) revenues from the general property tax as a result of applying the full rate or a part thereof;

(2) revenues from other taxes or compensation deemed to be taxes under the law, particularly those used to finance services such as the drinking water supply, waste water purification, snow removal, garbage removal and the recycling of waste materials;

(3) revenues from sums payable in lieu of taxes for immovables, either by the Government, in accordance with the second paragraph of section 210 of the Act respecting municipal taxation (R.S.Q., c. F-2.1), or by the Government, in accordance with section 254 and the first paragraph of section 255 of the Act, or by the Crown in right of Canada or one of its mandataries; and

(4) revenues of which the municipality was deprived by granting a credit, with respect to any source of revenue referred to in paragraphs 1 to 3, for the purposes of applying section 67 concerning the use of a surplus.

However, the revenues referred to in the second paragraph used to finance debt-related expenditures are not included in the tax burden.

44.4. The municipality may replace the maximum increase provided for in section 44.3 by another percentage, which must be less than 5% and that applies only to the group of sectors concerned.

44.5. In the event that the increase referred to in section 44.3 does not result solely from the constitution of the municipality, the maximum shall apply only with respect to the portion of the increase that is a result thereof.

44.6. The municipality must, subject to any by-law made under the second paragraph, establish the rules that will determine whether the increase referred to in section 43.3 is solely a result of the constitution of the municipality and if it is not, determine the portion of the increase that is.

The Government, may, by regulation, provide for cases where the increase is deemed not to be a result of the constitution of the municipality.

If the municipality does not exercise its power under section 244.29 of the Act respecting municipal taxation and imposes a surtax or a tax on non-residential immovables or a surtax on vacant land, it must establish the necessary rules of concordance to obtain the same results, for the purposes of section 44.3, as if the municipality imposed a general property tax with rates specific to the categories that include the units of assessment subject to each tax or surtax imposed.

44.7. For the purposes of determining the percentage of increase referred to in section 44.3 for the 2002 fiscal year, where the local municipality whose territory constitutes the sector referred to has appropriated as revenue for the 2001 fiscal year all or a portion of the surplus from previous fiscal years, for an amount that exceeds the average appropriated amount for the 1996 to 2000 fiscal years, the difference obtained by subtracting from the excess amount the sum that the municipality was exempted from paying into the special fund for the financing of local activities for the purposes of sections 90 to 96 of chapter 54 of the Statutes of 2000 shall be included in the tax burden for all the units of assessment located in the sector for the 2001 fiscal year.

DIVISION III **CEILING ON ANY REDUCTION IN THE** **TAX BURDEN**

44.8. The municipality may, for a fiscal year, set any general property tax rate so that, with respect to the previous fiscal year, the reduction in the tax burden for all the units of assessment located in a sector and to which all or a portion of the rate applies shall not exceed the percentage set by the municipality that applies only to the group formed of the sectors concerned.

The second and third paragraphs of section 44.3, the third paragraph of section 44.6 and section 44.7 apply, adapted as required, for the purposes of the reduction ceiling provided for in the first paragraph.

DIVISION IV **MISCELLANEOUS**

44.9. The municipality may exercise its powers under Division III.1 of Chapter XVIII of the Act respecting municipal taxation with respect to one sector and not to another or vary the exercise of the powers in different sectors.

44.10. If, for a fiscal year prior to the year in which the first assessment roll drawn up specifically for the municipality comes into force, the municipality sets, under section 244.29 of the Act respecting municipal taxation, a rate for the general property tax that is specific to one of the categories provided for in sections 244.34 and 244.35 of the Act, the coefficient referred to in sections 244.44 and 244.47 of the Act shall be the coefficient that is established on the basis of the comparison of the last two property assessment rolls of the municipalities subject to this amalgamation whose population in 2001 was the highest.”.

2. Section 45 is amended

(1) by substituting “1 October 2003” for “1 September 2003” in paragraph *i*; and

(2) by substituting “31 March 2003” for “30 March 2003” in paragraph *j*.

3. Section 68 is amended

(1) by substituting the following for the first sentence:

“On 31 December 2001, the costs related to the waterworks and sewer systems of each former municipality shall continue to burden the users of the waterworks and sewer system of the former municipality that incurred them, except those related, on the same date, to the sewer systems of the former municipalities of L’Île-du-Havre-Aubert, L’Étang-du-Nord, Fatima and Havre-aux-Maisons, which shall continue to partially burden or burden in the future (at the rate of 75%) the users of the waterworks and sewer system of the sector in question on the basis of imposition provided for in the loan by-laws related thereto and partially burden (at the rate of 25%) the taxable immovables located in the territory that corresponds to the sector made up of the territory of the former municipality in question, except for the immovables of L’Île-d’Entrée (part of the former municipality of L’Île-du-Havre-Aubert) and those of Pointe-aux-Loups (part of the former municipality of Havre-aux-Maisons).”; and

(2) by striking out paragraph 1.

4. Section 75 is deleted.

5. Section 92 is amended by substituting “in the first paragraph of section 90” for “in the first paragraph of section 89” in the first and second paragraphs.

6. The following is substituted for section 94:

“94. The balance of the future amounts to be provided for, entered on a former municipality’s books of account shall continue to be charged to or used for the benefit of the entire sector made up of the territory of that former municipality after the coming into force of the new accounting standards set out in the Manuel de la présentation de l’information financière municipale. It shall be amortized or apportioned in accordance with those new standards.”.

7. The following is inserted after section 99:

“99.1. Sections 44.1 to 44.10 have effect until 31 December 2011.”.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif