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# NATIONAL ASSEMBLY

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FIRST SESSION

FORTY-FIRST LEGISLATURE

## Bill 3

(2014, chapter 15)

### **An Act to foster the financial health and sustainability of municipal defined benefit pension plans**

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**Introduced 12 June 2014**  
**Passed in principle 1 October 2014**  
**Passed 4 December 2014**  
**Assented to 5 December 2014**

## EXPLANATORY NOTES

*This Act provides that municipal defined benefit pension plans must be restructured with a view to improving their financial health and ensuring their sustainability.*

*To that end, pension plans must be amended from 1 January 2014 to provide for the equal sharing of costs and the sharing of future deficiencies for service subsequent to 31 December 2013 between the active members and the municipal body, as well as for the establishment of a stabilization fund. In addition, the current service contribution must not exceed 18% of the overall payroll of the active members or 20% of that of police officers and firefighters. It may be increased to take into account the average age of a pension plan's active members, the rate of representation of women and the plan's funding rate.*

*The plans must also be amended to provide that deficiencies attributable to members who are active on 1 January 2014, for service accumulated prior to that date, are to be assumed in equal parts by those active members and the municipal body, except if they agree to share the deficiencies in a maximum proportion of 55% for the municipal body and a minimum proportion of 45% for the active members.*

*The municipal body is also authorized to suspend, from 1 January 2017, the automatic indexation of the pension of members who are retired on 31 December 2013 if the pension plan is not fully funded as at 31 December 2015. The value of the indexation suspension represents half of the deficiencies attributable to those members, unless the value of the indexation is insufficient. However, the municipal body may decide to assume a greater portion, up to 55% of the deficiencies. In addition, priority is to be given to resuming indexation of the pension of those members if the financial situation of the pension plan so allows.*

*An actuarial valuation must be prepared for each plan as at 31 December 2013.*

*Various conditions are established regarding the amendments to be made to the plans. In particular, the normal pension accumulated by active members as at 1 January 2014 cannot be amended, except*

*for certain particulars. Automatic indexation of the pensions of active members is prohibited but an ad hoc indexation may be paid under certain conditions, if a plan's financial situation so allows. Certain rules are set out regarding the funding of any additional obligations of plans.*

*The Act establishes a restructuring process with a one-year negotiation period, which can be extended for a three-month period, renewable only once. The parties may also resort to conciliation, and if negotiations fail, the dispute is submitted to an arbitrator. The Act provides that the arbitrator's decision must be rendered within six months and sets out the various factors the arbitrator must take into consideration in rendering the decision. In addition, if the plan is fully funded or if its funding rate reaches at least 80% and it shows certain characteristics, the negotiation process may begin at a later date and the agreement between the parties becomes effective on the expiry of the collective agreement or the expiry of any other agreement providing for the pension plan.*

*Lastly, miscellaneous and transitional provisions are included in order to require municipal bodies to publicly present the financial situation of any pension plans they have established.*



## **Bill 3**

### **AN ACT TO FOSTER THE FINANCIAL HEALTH AND SUSTAINABILITY OF MUNICIPAL DEFINED BENEFIT PENSION PLANS**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### **CHAPTER I**

##### **PURPOSE AND APPLICATION**

**1.** The purpose of this Act is to require the amendment of any defined benefit pension plan governed by the Supplemental Pension Plans Act (chapter R-15.1) and established by a municipal body, as well as of the Régime de retraite des employés municipaux du Québec, with a view to improving the plans' financial health and ensuring their sustainability.

A process and special rules are provided for restructuring the pension plans.

For the purposes of this Act, a defined benefit-defined contribution pension plan is considered a defined benefit plan. However, only the defined benefit component of such a pension plan is subject to restructuring.

**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 a 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.

**3.** Despite the first paragraph of section 1, the Régime complémentaire de retraite pour les employés de la Municipalité de la Baie James is not subject to this Act.

## CHAPTER II

### RESTRUCTURING OF PENSION PLANS ESTABLISHED BY A MUNICIPAL BODY

#### DIVISION I

##### GENERAL PROVISIONS

**4.** All pension plans subject to this Act must be the subject of a complete actuarial valuation established on the basis of the data as at 31 December 2013.

The report on the actuarial valuation must be sent to the Régie des rentes du Québec (Board) not later than 31 December 2014.

The valuation must be established using the Canadian Institute of Actuaries' 2014 Public Sector Mortality Table (CPM2014Publ), a maximum interest rate of 6%, and the other demographic assumptions from the previous actuarial valuation. The table may be adjusted to take a pension plan's special characteristics into account. The actuarial report must set out the grounds for any such adjustment.

The portion of any deficiency attributable to members who are retired on 31 December 2013 and the portion attributable to members who are active on 1 January 2014 must be presented separately. To determine the portion of the deficiency attributable to each of these groups, plan assets are apportioned in proportion to the liabilities determined on a funding basis. If a plan includes a defined contribution component, the assets and liabilities of that component are not taken into account for the purposes of the apportionment.

Any member who is not receiving a retirement pension is an active member for the purposes of this Act.

**5.** For the purpose of calculating the portions of the deficiencies attributable to active members, retired members and municipal bodies under this Act, the gains accumulated in the reserve for service prior to 1 January 2014, the amounts accumulated in the stabilization fund for service subsequent to 31 December 2013 and any amounts accumulated in a stabilization fund referred to in section 61 must be subtracted from the deficiencies identified in the actuarial valuation established on the basis of the data as at 31 December 2013, in the actuarial valuation established on the basis of the data as at 31 December 2014 or in the actuarial valuation established on the basis of the data as at 31 December 2015. However, the stabilization fund established in accordance with subparagraph 3 of the first paragraph of section 7 must not be taken into account in the actuarial valuation established on the basis of the data as at 31 December 2015.

**6.** The amendments the parties agree to make at the end of the restructuring process undertaken in accordance with this chapter must contain separate provisions for service subsequent to 31 December 2013 and for service ending on that date.

**DIVISION II****SERVICE SUBSEQUENT TO 31 DECEMBER 2013**

**7.** All pension plans must be amended to provide that, from 1 January 2014,

(1) the current service contribution is to be shared equally between the municipal body and the active members;

(2) any related deficiency is to be assumed in equal parts by the municipal body and the active members, except in the case of pension plans that were not accepting new members after 31 December 2013; and

(3) a stabilization fund, funded by a stabilization contribution shared in equal parts between the municipal body and the active members, and aimed at protecting the plan from adverse deviation likely to affect the plan in the future, is to be established.

Despite subparagraph 1 of the first paragraph, if the active members contribute to the current service contribution in a proportion of 35% or less on 31 December 2013, the plan may be amended to provide for an incremental increase of that proportion, which must reach half of the difference between that proportion and 50% of the current service contribution by not later than 1 January 2017, and 50% of the current service contribution by not later than 1 January 2020.

**8.** On 1 January 2014, the current service contribution must not exceed 18% of the overall payroll of the active members, as it is defined in the pension plan for the purpose of determining the pension. In the case of police officers and firefighters, the contribution cannot exceed 20%.

However, if the average age of a pension plan's active members is over 45 on 31 December 2013, the maximum proportion of the payroll that the current service contribution may reach under the first paragraph can be increased by 0.6% for each full year of deviation. In addition, a maximum increase of 0.5% is allowed if women make up more than 50% of the active members. In the latter case, the report required under the second paragraph of section 4 must show that the increase is necessary to allow the payment of benefits equivalent to those that would have been paid had it not been for that characteristic. For pension plans whose funding level exceeds 100%, an increase of 0.25% is also allowed for each 1% of the assets that exceeds the value of the obligations with respect to the benefits established at the end of the fiscal year covered by the actuarial valuation established as at 31 December 2013.

If the current service contribution established in the actuarial valuation referred to in the second paragraph of section 4 exceeds the maximum proportion of the payroll that the current service contribution may reach under the first paragraph by more than 4%, the percentage by which that current service contribution exceeds that maximum proportion may be reduced by one half on 1 January 2014 and by the remaining half following the subsequent

complete actuarial valuation. The average age of the active members and the proportion of women shown in that actuarial valuation must be taken into account and the maximum proportion of the payroll readjusted accordingly, if applicable.

The amount representing the difference between the current service contribution paid by the municipal body on 31 December 2013 and the current service contribution payable by the municipal body under this section must be paid as an amortization payment in order to accelerate the reimbursement of the deficiencies described in the third paragraph of section 12.

**9.** The stabilization contribution provided for in subparagraph 3 of the first paragraph of section 7 represents at least 10% of the current service contribution, established without taking into account any margin for adverse deviation provided for by the Canadian Institute of Actuaries. It is paid in equal parts by the municipal body and the active members into the fund described in that subparagraph from the date of any agreement reached or any decision made by the arbitrator under Chapter IV. Actuarial gains generated from 1 January 2014 must also be paid into the fund.

The required value of the stabilization fund must be calculated in the same manner as the provision for adverse deviation established with respect to the plan's obligations prior to 1 January 2014.

**10.** The municipal body and the active members may cease to pay the stabilization contribution once the stabilization fund reaches the value calculated under the second paragraph of section 9.

**11.** No pension plan may provide for automatic indexation of pensions at retirement. However, an ad hoc indexation of pension may be provided for in the event that a surplus defined in the second paragraph of section 19 is identified in an actuarial valuation subsequent to that of 31 December 2013.

Any indexation used to calculate the deferred pension or the normal pension is not subject to the first paragraph.

### **DIVISION III**

#### **SERVICE PRIOR TO 1 JANUARY 2014**

§1. — *Members who are active on 1 January 2014*

**12.** All pension plans must be amended on 1 January 2014 to provide that the active members and the municipal body are to assume, in equal parts, the deficiencies attributable to those members for service accumulated prior to 1 January 2014 and identified as at 31 December 2013. The municipal body and the active members may also agree on an amendment that provides for sharing the deficiencies in a maximum proportion of 55% for the municipal body and a minimum proportion of 45% for the active members.



If a pension plan's membership comprises two or more classes of employees, the deficiencies may be distributed among the classes defined in the pension plan in the manner already agreed on by the active members and the municipal body as soon as a majority of the classes requests it. The pension committee informs the Board of the decision, sends it the data concerning the overall deficiencies and indicates which portion is attributable to each class of employees.

The portion of the deficiencies attributable to the municipal body must be reimbursed over a maximum period of 15 years and the deficiencies cannot be consolidated.

**13.** No pension plan may provide for automatic indexation of pensions. However, an ad hoc indexation may be provided for in the event that surplus assets defined in the second paragraph of section 19 are identified in an actuarial valuation subsequent to that of 31 December 2013.

Any indexation used to calculate the deferred pension or the normal pension is not subject to the first paragraph.

**14.** The abolition of the automatic indexation provided for in a pension plan reduces the portion of the deficiencies attributable to the active members. If the abolition of the automatic indexation represents more than the portion of the deficiencies attributable to the active members under the first paragraph of section 12, the surplus amount must be recorded as an actuarial gain in the reserve. Such a gain can only be used for the purpose of an ad hoc pension indexation or, in the absence of such an indexation, for the purposes agreed on by the municipal body and the active members.

If the abolition of the automatic indexation represents less than the portion of the deficiencies attributable to the active members under the first paragraph of section 12 or in the absence of such an indexation, the active members assume the remaining portion through a reduction of their benefits from 1 January 2014, through payment of a contribution representing annually not more than 3% of their payroll, for a maximum period of five years, or through a reduction of their benefits and payment of such a contribution, as provided for in the agreement or by the arbitrator under Chapter IV.

**15.** Any new deficiency in relation to service prior to 1 January 2014, identified in an actuarial valuation subsequent to 31 December 2013, is borne by the municipal body.

§2. — *Members who are retired on 31 December 2013*

**16.** The automatic indexation of the pension of members who are retired on 31 December 2013 may be suspended in whole or in part by the municipal body from 1 January 2017 if it is shown in an actuarial valuation established on the basis of the data as at 31 December 2015 that the pension plan is not fully funded. In such a case, the retired members and the municipal body assume

the deficiencies attributable to the retired members in equal parts, except if the municipal body decides to assume a greater portion, up to 55%. If the value of the suspension is greater than the portion of the deficiencies that must be assumed by the retired members, the balance continues to be paid to the retired members in the form of a partial automatic indexation.

If the deficiencies identified in the actuarial valuation established on the basis of the data as at 31 December 2015 are greater than those identified in the actuarial valuation established on the basis of the data as at 31 December 2013, the value of the indexation suspension is based on the latter valuation.

If the automatic indexation of retired members' pensions has been suspended and the surplus assets with respect to service prior to 1 January 2014, defined in the second paragraph of section 19, are identified in an actuarial valuation subsequent to that established on the basis of the data as at 31 December 2015, the pension of the retired members is increased in the year following that actuarial valuation, on the indexation date specified in the pension plan. The increased pension is equal to the pension that would have been paid under the plan had there not been an indexation suspension since the preceding actuarial valuation. If the surplus assets are insufficient to cover the whole increase, the adjustment is to be made on the basis of the surplus available to finance the increase.

If any surplus assets remain after the application of the preceding paragraph, the pension is to be indexed annually, in whole or in part, using the formula in the pension plan on 31 December 2013, until the next complete actuarial valuation, taking into account any partial automatic indexation. At no time may the pension be greater than the pension that would have been paid under the plan if the indexation had not been suspended under this Act.

The indexations under the third and fourth paragraphs must be established at each actuarial valuation subsequent to that established on the basis of the data as at 31 December 2015 if surplus assets defined in the second paragraph of section 19 are identified.

The portion of the deficiencies attributable to the municipal body must be reimbursed over a 15-year period and the deficiencies cannot be consolidated.

Any new deficiency attributable to members who are retired on 31 December 2013, identified in an actuarial valuation subsequent to 31 December 2015, is borne by the municipal body.

**17.** A municipal body that wishes to avail itself of the first paragraph of section 16 must first inform the retired members of its intention and give them the opportunity to be heard.

To that end, the retired members must be convened to an information meeting organized by the pension committee during which the representatives of the

municipal body must report on the pension plan's situation set out in the actuarial valuation as at 31 December 2015 and on the effort the retired members are being asked to make.

The municipal body sends the Board its decision, with reasons, and a summary of the meeting, for information purposes.

## **DIVISION IV**

### **IMPLEMENTATION CONDITIONS**

**18.** With respect to active members, a pension plan may provide for the amendment, suspension, abolition or restoration of any benefits, other than the normal pension, from 1 January 2014.

Concerning the normal pension, amendments to the definition of the salary or wages on which that pension is based may be made regarding service prior to 1 January 2014 and service subsequent to 31 December 2013. However, the accrual rate for the normal pension can only be amended for service subsequent to 31 December 2013.

Pensions paid to members who are retired on 31 December 2013 or to their surviving spouse or any other beneficiary under the pension plan cannot be reduced. The same applies to pensions to which spouses and other beneficiaries of members who are retired on 31 December 2013 will be entitled.

The additional pension benefit provided for in section 60.1 of the Supplemental Pension Plans Act must be abolished on 1 January 2014 with respect to active members.

**19.** The plan must provide that any additional obligation resulting from an amendment to the plan must be paid in full on the day following the date of the actuarial valuation establishing the value of the additional obligation. This value is the higher of the value calculated on a solvency basis and that calculated on a funding basis. Any surplus assets of the pension plan may be allocated to the payment of such an obligation.

The surplus assets represent, with respect to service subsequent to 31 December 2013, the difference between the plan's assets and the sum of its liabilities and the amount corresponding to the prescribed value of the stabilization fund or, with respect to service prior to 1 January 2014, the difference between the plan's assets and the sum of its liabilities and the provision for adverse deviation. The present value of amortization payments relating to the deficiencies referred to in the third paragraph of section 12 or the sixth paragraph of section 16 must be included in the value of the assets.

The amount recorded in the reserve under the first paragraph of section 14 is not taken into account in calculating the surplus assets under the second paragraph.

**20.** The surplus assets cannot be allocated to the payment of contributions, unless a fiscal rule so requires. The surplus assets must be used separately with respect to service subsequent to 31 December 2013 and to service ending on that date.

For service ending on 31 December 2013, the surplus assets must first be allocated to resuming indexation of the pensions of the members who are retired on 31 December 2013 in accordance with the third and fourth paragraphs of section 16. Once such indexation has resumed, the surplus assets must first be used to constitute a provision equal to the value of the suspended indexation in order to pay an indexation of the pension of the same retired members following subsequent actuarial valuations.

Then, unless the municipal body and the active members have agreed on a different participation and a different order, the surplus assets must be used for the following purposes and in the following order:

- (1) constituting a provision in order to pay an ad hoc indexation to active members, if such an indexation was agreed on under section 13;
- (2) reimbursing the debts contracted by the pension plan toward the municipal body and the members as at 31 December 2013; and
- (3) funding improvements to the pension plan other than an indexation of the pension.

Unless the municipal body and the active members have agreed on a different distribution and a different order, the surplus assets must, with respect to service subsequent to 31 December 2013, be used for the following purposes and in the following order:

- (1) paying into the stabilization fund the amounts required, if an ad hoc indexation of pensions with respect to the members has been agreed on; and
- (2) funding improvements to the pension plan.

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

### CHAPTER III

#### RESTRUCTURING OF THE RÉGIME DE RETRAITE DES EMPLOYÉS MUNICIPAUX DU QUÉBEC

**22.** The Régime de retraite des employés municipaux du Québec must be the subject of the actuarial valuation required under section 4.

**23.** The Régime de retraite des employés municipaux du Québec must be amended to provide that, from 1 January 2015,

(1) the current service contribution is to be shared equally between the municipal body and the active members;

(2) a stabilization fund, funded by a stabilization contribution shared equally between the municipal body and the active members and aimed at protecting the plan from adverse deviation likely to affect the plan in the future, is to be established.

The stabilization contribution provided for in subparagraph 2 of the first paragraph represents 10% of the current service contribution, established without taking into account any margin for adverse deviation provided for by the Canadian Institute of Actuaries. However, it may represent a higher percentage of the current service contribution if the bodies that must approve the amendments to the plan so agree. The contribution is paid into the fund from 1 January 2015. Actuarial gains generated from 1 January 2014 must also be paid into the fund.

The required value of the stabilization fund must be calculated in the same manner as the provision for adverse deviation established with respect to the plan's obligations accumulated as at 31 December 2013.

**24.** Sections 21, 53 and 68 to 74 of this Act apply to the Régime de retraite des employés municipaux du Québec.

## CHAPTER IV

### RESTRUCTURING PROCESS FOR PENSION PLANS ESTABLISHED BY A MUNICIPAL BODY

#### DIVISION I

##### NEGOTIATIONS

**25.** Negotiations between municipal bodies and active members must be undertaken not later than 1 February 2015 with a view to reaching an agreement for the amendment of the pension plan in accordance with this Act.

Not later than 15 January 2015, the municipal body sends every association representing active members concerned by the plan a written notice of not less than 8 nor more than 15 days stating the date, time and place its representatives will be ready to meet the association's representatives.

A copy of the notice is sent to the Minister. Failing such a notice, negotiations are deemed to have begun on 1 February 2015.

**26.** Despite section 25, negotiations between municipal bodies and active members must be undertaken not later than 1 January 2016 with respect to any pension plan provided for by an agreement that was in force on 31 December 2013, is still in force on 5 December 2014 and was entered into between the municipal body and all or some of the plan members, if

(1) the pension plan is fully funded, as shown in the actuarial valuation required under section 4; or

(2) the pension plan's funding rate reaches 80%, as shown in the actuarial valuation required under section 4. Furthermore, the actuarial valuation shows that the current service contribution does not exceed 18% of the active members' payroll or 20% of the payroll of firefighters and police officers as increased under the second paragraph of section 8, or the agreement provides either that past deficiencies are to be shared equally, that current service contributions or future current service deficiencies are to be shared equally or that a stabilization fund funded by a contribution is to be established.

The agreement reached between the parties under Chapter IV becomes effective on the expiry of the collective agreement or of any other agreement providing for the pension plan, unless the parties agree that it will become effective on an earlier date.

However, any provision requiring the automatic indexation of pensions with respect to active members is repealed from 1 January 2014 with respect to service subsequent to 31 December 2013 and service prior to 1 January 2014, in accordance with sections 11 and 13. Indexation of the pensions of members who are retired on 31 December 2013 may be suspended in accordance with Division III of Chapter II.

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

**28.** Negotiations must begin and continue diligently and in good faith in order to reach an agreement within 12 months after they began.

**29.** At the joint request of the parties, the Minister may extend negotiations by three months. This extension may be renewed only once.

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

Likewise, the parties inform the Minister if they are unable to reach an agreement, unless a conciliator has been appointed, in which case the notice is sent to the conciliator.

## **DIVISION II**

### **CONCILIATION**

**31.** The parties may, at any time during the negotiation period, retain the services of a conciliator, to be chosen jointly from a list drawn up by the Minister of Labour.

If the parties disagree, the Minister appoints the conciliator.

**32.** The conciliation process does not alter the negotiation period.

**33.** The parties are required to attend all meetings to which they are convened by the conciliator.

**34.** The conciliator's costs and fees are borne in equal parts by the parties.

The Minister determines the costs and fees of conciliators.

**35.** If an agreement is reached on all the matters submitted to the conciliator, the conciliator reports on the agreement to the minister responsible for the administration of this Act and sends a copy of the agreement to the Minister of Labour and to the parties.

**36.** At the expiry of the negotiation period or as soon as it is clear to the conciliator that conciliation will not enable the parties to reach an agreement, the conciliator 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 conciliator forwards a copy of the report to the minister responsible for the administration of this Act and to the Minister of Labour.

### **DIVISION III**

#### **ARBITRATION**

**37.** At the expiry of the negotiation period, an arbitrator is appointed to settle the dispute if no agreement has been sent to the Minister.

An arbitrator may also be appointed before the end of such a period at the joint request of the parties or as soon as they receive the conciliator's report provided for in section 36.

**38.** The Minister draws up a list of arbitrators on the basis of the criteria and the expertise and experience profiles determined by the Minister. This list is published in the *Gazette officielle du Québec*.

The Minister determines the arbitrators' costs and fees, which are borne by the parties.

An arbitrator cannot have any pecuniary interest in the dispute submitted to him or her or have acted as an attorney, adviser or representative of any of the parties.

**39.** The arbitrator is chosen jointly by the parties from the same list as that provided for in section 38. If the parties cannot agree, the Minister appoints the arbitrator.

**40.** The arbitrator is assisted by assessors unless the parties reach an agreement to the contrary within 15 days of the arbitrator's appointment.

Within 15 days of the arbitrator's appointment, each party designates an assessor to assist it. If a party does not designate an assessor within the prescribed time, the arbitrator may proceed in the absence of that party's assessor.

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

**41.** Each party pays its assessor's costs and fees.

**42.** Each party pays the costs and fees of its expert witnesses.

The costs and fees of expert witnesses summoned on the initiative of the arbitrator are borne by the parties.

**43.** The arbitrator must render a decision within six months after the dispute is referred to him or her.

**44.** No legal proceedings may be brought against an arbitrator for an act performed in good faith while carrying out the functions of office.

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

**46.** The arbitrator renders a decision in accordance with the rules of law.

The arbitrator must take into account, among other considerations, taxpayers' ability to pay, intergenerational equity, the sustainability of the pension plan, compliance with cost-sharing principles and the objectives set out in this Act, contribution holidays and any improvements made to the plan.

In addition, the arbitrator must take into account the past concessions granted by the members with respect to other elements of the overall remuneration.

The arbitrator's decision is binding on the parties from the time it is rendered. No appeal lies from the arbitrator's decision.

**47.** The arbitrator sends a copy of the decision to the Minister.

**48.** Chapters V and VI of Title I of Book VII, except articles 945.6 to 945.8, of the Code of Civil Procedure (chapter C-25) apply, with the necessary modifications, to arbitration provided for in this Act.



**49.** Except on a question of jurisdiction, no recourse under articles 33 and 834 to 846 of the Code of Civil Procedure may be exercised, nor any injunction granted, against an arbitrator acting in his or her official capacity.

#### **DIVISION IV**

##### **REGISTRATION OF AMENDMENTS**

**50.** As soon as an agreement has been sent to the Minister under section 30 or 35 or after an arbitration decision has been sent to the Minister under section 47, the resulting amendments to the pension plan are communicated to the Board for registration.

**51.** A new actuarial valuation established on the basis of the data as at 31 December 2013 must be made taking into account the amendments made to the plan. This actuarial valuation must be sent to the Board at the same time as the amendments to the pension plan under section 50.

**52.** If the Board is unable to register an amendment to the plan resulting from an agreement or from an arbitrator's decision because of its non-compliance with this Act or the Supplemental Pension Plans Act, the Board must inform the pension committee.

The pension committee notifies the parties to the agreement of the Board's decision and asks them to amend the agreement within 30 days. If the parties fail to come to an agreement, the Minister appoints an arbitrator from the list drawn up under the first paragraph of section 38. The arbitrator must render a decision within three months after being seized of the matter. The second and third paragraphs of section 38 and sections 42, 44 to 47 and 49 apply.

If the amendments result from an arbitrator's decision, the pension committee notifies the arbitrator that rendered the decision of the Board's decision and asks the arbitrator to amend his or her decision within 30 days.

#### **DIVISION V**

##### **MISCELLANEOUS PROVISIONS**

**53.** The existence of a collective agreement or any other valid agreement does not preclude the application of this Act.

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

If the negotiations are conducted 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.

**55.** A municipal body must take measures to allow active members who are covered by a pension plan established by a collective agreement, but who are 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 object to the amendments, the amendments cannot be applied, unless a decision of the arbitrator so authorizes.

**56.** If a collective agreement is in force, any agreement reached or any decision made by the arbitrator 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 the most recent collective agreement.

## CHAPTER V

### TRANSITIONAL AND FINAL PROVISIONS

**57.** Not later than 19 January 2015, the council of the municipal body must hold a sitting during which it presents a report, based on the conclusions of the actuarial valuation described in section 4, on the financial situation of each of the pension plans it has established. The report must contain

- (1) a summary of the main provisions of the plan;
- (2) the value of the plan's assets;
- (3) the value of the plan's liabilities;
- (4) the deficiency or surplus attributable to the members who are retired;
- (5) the deficiency or surplus attributable to the active members;
- (6) the current service contribution payable by the municipal body and that payable by the active members, both expressed as a percentage of the overall payroll;
- (7) the amortization payment;
- (8) the overall payroll of the active members; and
- (9) the value of the indexation of the pension of retired members and active members, if applicable.

The municipal body gives public notice of the sitting 14 days before the date on which it is to be held.

**58.** Any new pension plan established by a municipal body after 31 December 2013 must comply with Division II of Chapter II.

Any pension plan that is the object of a division or merger under Chapter XII of the Supplemental Pension Plans Act (chapter R-15.1) is subject to this Act.

**59.** Despite section 7 and until an agreement is reached between the municipal body and the active members or until the decision of the arbitrator under Chapter IV, the municipal body assumes any increase in the portion of the current service contribution attributable to active members from 1 January 2014.

The amount by which the value of the current service contribution paid by the municipal body from 1 January 2014 until the date of the agreement or of the arbitrator's decision under Chapter IV exceeds the contribution that should have been paid under section 7, from which the value of the increase in the contribution referred to in the first paragraph must be subtracted, is allocated to the payment of the current service contribution of the municipal body for the following year and, if applicable, for subsequent years.

The amount by which the value of the contributions paid by active members from 1 January 2014 until the date of the agreement or of the arbitrator's decision exceeds the contribution that should have been paid under section 7 is allocated to the payment of the active members' current service contribution for the following year and, if applicable, for subsequent years.

This section applies, with the necessary modifications, to the situations described in section 26, if applicable.

**60.** For the purposes of the negotiations required under section 26, the reference actuarial valuation is the valuation prepared on the basis of the data as at 31 December 2014, and the deadlines prescribed in Chapter IV apply, with the necessary modifications.

The maximum interest rate applicable to the actuarial valuations referred to in sections 16 and 26 is set by the Minister.

For the purposes of the second paragraph of section 7, the increase of the current service contribution to be made by not later than 1 January 2017 is deferred until the expiry of the collective agreement or of any other agreement providing for the pension plan if its expiry is subsequent to 1 January 2017, in the cases described in section 26.

In addition, the maximum proportion of the payroll that the current service contribution may reach under the first, second and third paragraphs of

section 8 must be increased in the same manner as the rate in the fiscal rule that sets the maximum percentage of the salary or wages that can be contributed to a defined contribution pension plan.

**61.** If a stabilization fund is established within a pension plan, the fund described in subparagraph 3 of the first paragraph of section 7 is deemed to have been established. The rules set out in this Act apply to such a fund from the effective date of the agreement between the parties or of the arbitrator's decision under Chapter IV.

Service prior to the establishment of the fund is deemed to be the prior service under that plan for the purposes of this Act.

**62.** For the purposes of this Act, members who have begun receiving a retirement pension or those who filed an application with the plan administrator for that purpose between 1 January 2014 and 12 June 2014 are considered members who are retired on 31 December 2013.

**63.** Any indexation paid between 31 December 2013 and the date of a suspension under section 16 is deemed to have been validly paid.

**64.** Any pension plan subject to this Act must be amended to provide that the group composed of active members and the group composed of retired members and of beneficiaries can each designate a member in addition to the one provided for in the first paragraph of section 147.1 of the Supplemental Pension Plans Act. These members may be replaced at an annual meeting held under section 166 of that Act.

**65.** Any redemption of service entirely paid by the member and made on or after 1 January 2014 must be revised by the pension committee following the coming into force of the agreement between the municipal body and the active members or of the arbitrator's decision in order to ensure that the member benefits from the conditions set at the time of the transaction. The same applies to any agreement for a transfer of service entered into during the same period.

**66.** The initial deficiencies of the pension plans of Ville de Montréal and Ville de Québec, for which averaging measures over a period of more than 20 years were granted, are not taken into account in calculating the plan's deficiencies for the purposes of this Act.

However, the present value of amortization payments relating to the deficiencies must, from the actuarial valuation subsequent to 1 January 2017, be included in calculating the value of the assets under the second paragraph of section 19 for the sole purpose of determining whether an ad hoc indexation of retired members' pensions can be paid.

**67.** The amounts paid by a municipal body in excess of the amortization payments required by law, without taking into account funding relief measures, during the three fiscal years preceding the tabling of this bill, must be subtracted

from the pension plan's assets for the purpose of determining its deficiency as at 31 December 2013. These amounts are deemed to have been paid to cover the portion of the deficit borne by the municipal body. They do not constitute a debt contracted by the pension plan towards the municipal body within the meaning of subparagraph 2 of the third paragraph of section 20.

**68.** The Board may issue technical directives relating to the administration of this Act.

**69.** For the exercise of the functions assigned to it under this Act, the Board may, in addition to the other powers conferred on it by this Act, the Act respecting the Québec Pension Plan (chapter R-9) and the Supplemental Pension Plans Act, require any document or information it considers necessary for the purposes of this Act from any pension committee or municipal body.

In addition, sections 183 to 193, 246, 247 and 248 of the Supplemental Pension Plans Act apply to this Act, with the necessary modifications.

**70.** The report on the actuarial valuation required under section 4 is deemed to be the report mentioned in section 119 that is applicable under section 8 of the Regulation respecting the funding of pension plans of the municipal and university sectors (chapter R-15.1, r. 2), when such a report on a complete actuarial valuation established on the basis of the data as at 31 December 2013 is required. If the latter report was sent to the Board, a version of that report amended under the third, fourth and fifth paragraphs of section 4 is deemed to be the report required under section 4.

If a report must be produced under section 16 or 26, the report mentioned in section 119 that is applicable under section 8 of the Regulation respecting the funding of pension plans of the municipal and university sectors is not required.

In a case of failure to produce the report required under the second paragraph of section 4 or section 16 or 26, fees equal to 20% of the fees calculated in the manner prescribed by section 13.0.1 of the Regulation respecting supplemental pension plans (chapter R-15.1, r. 6), taking into account the number of members and beneficiaries indicated in the annual information statement for the last fiscal year of the plan ended on the date of the actuarial valuation, must be paid to the Board for each full month of delay, up to the amount of those fees.

**71.** This Act applies despite any provision to the contrary.

**72.** The Minister of Employment and Social Solidarity is responsible for the administration of this Act.

**73.** The Minister must, not later than 1 December 2019, report to the Government on the implementation of this Act.

The report is tabled in the National Assembly within 30 days or, if the Assembly is not sitting, within 30 days of resumption.

**74.** This Act comes into force on 5 December 2014.