



NATIONAL ASSEMBLY

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Bill 38
(2015, chapter 17)

**An Act to allow the Caisse de dépôt et
placement du Québec to carry out
infrastructure projects**

**Introduced 18 March 2015
Passed in principle 26 May 2015
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Assented to 12 June 2015**

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EXPLANATORY NOTES

This Act allows the Minister of Transport, with the authorization of the Government, to enter into an agreement with the Caisse de dépôt et placement du Québec (the Fund) to give the latter the mandate to manage and carry out projects to develop new shared transportation infrastructures.

Under the Act, the Government defines the needs and public interest objectives to be met with respect to the projects and authorizes the solution to be implemented from among the various options proposed by the Fund. The Fund has full authority over each project that is the subject of such an agreement and may set rates for using the shared transportation infrastructure concerned. The applicable rate schedule must be made public at the time the agreement is signed. The terms and conditions governing the operation of the shared transportation infrastructure stipulated in the agreement bind any subsequent purchaser.

The Act respecting the Caisse de dépôt et placement du Québec is amended to allow the Fund to hold shares of legal persons whose principal activity consists in making investments or carrying on other activities related to infrastructures. Limits are set on the percentage of common shares the Fund may hold in the share capital of such a legal person and on the maximum value of the Fund's investment in the legal person.

The Act respecting the Ministère des Transports is amended to allow the Minister of Transport to acquire by expropriation, on behalf of the Fund, any property required to carry out a shared transportation infrastructure project that is the subject of an agreement with the Fund.

The Act respecting the Agence métropolitaine de transport, the Act respecting intermunicipal boards of transport in the area of Montréal and the Act respecting public transit authorities do not apply to a shared transportation infrastructure that is the subject of an agreement with the Fund.

Lastly, the Public Infrastructure Act is amended to allow a particular public infrastructure project to be excluded from the application of the management rules set out in that Act. The Act

respecting municipal taxation is amended to exempt the shared transportation infrastructures and the land constituting the sites of those infrastructures from municipal and school taxes, to the extent provided for by regulation.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting the Caisse de dépôt et placement du Québec (chapter C-2);
- Act respecting municipal taxation (chapter F-2.1);
- Public Infrastructure Act (chapter I-8.3);
- Act respecting the Ministère des Transports (chapter M-28);
- Transport Act (chapter T-12).

Bill 38

AN ACT TO ALLOW THE CAISSE DE DÉPÔT ET PLACEMENT DU QUÉBEC TO CARRY OUT INFRASTRUCTURE PROJECTS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE CAISSE DE DÉPÔT ET PLACEMENT DU
QUÉBEC

1. Section 4 of the Act respecting the Caisse de dépôt et placement du Québec (chapter C-2) is amended by adding the following sentence at the end of the third paragraph: “It acts with full independence in accordance with this Act.”

2. Section 31 of the Act is amended

(1) by inserting the following subparagraphs after subparagraph *a* of the first paragraph:

“(a.1) a legal person whose principal activity consists in building, or carrying on one or more other activities or operating businesses related to, the infrastructures of a single operation;

“(a.2) a legal person whose principal object is to acquire and hold, directly or indirectly, the shares and other securities issued by legal persons described in subparagraph *a.1*.”;

(2) by adding the following paragraph at the end:

“Each project that is the subject of an agreement entered into under section 88.10 of the Transport Act (chapter T-12) constitutes a single operation within the meaning of subparagraph *a.1* of the first paragraph.”

3. Section 32 of the Act is replaced by the following section:

“32. The acquisition or, as the case may be, the holding by the Fund of shares and other securities shall be subject to the following restrictions:

(1) it may not invest more than 70% of its total assets in units of indexed funds and in common shares;

(2) if the shares or other securities are issued by a legal person described in subparagraph *a.1* of the first paragraph of section 31, the Fund may not, except to the extent provided for in the second paragraph,

(a) hold common shares or other securities conferring voting rights or a class of such shares or other securities issued by the legal person in excess of the following proportions:

i. until the end of the fourth year after the beginning of the operation: 51% of the shares or other securities that are issued and outstanding at any time;

ii. as of the end of that fourth year: 45% of the shares or other securities that are issued and outstanding at the time the operation begins; or

(b) acquire securities that bring its total investment in shares and evidences of indebtedness issued by the legal person or by all the legal persons whose respective principal activities relate to the infrastructures of a single operation to more than 3.5% of its total assets;

(3) if the shares or other securities are issued otherwise than by a legal person described in subparagraph *a* or *a.1* of the first paragraph of section 31, the Fund may not, except to the extent provided for in the third paragraph,

(a) hold more than 30% of the common shares or of a class of common shares of a single legal person; or

(b) acquire securities that bring its total investment in shares and evidences of indebtedness issued by a single legal person to more than 5% of its total assets, except in the case of a legal person described in the first paragraph of section 37.1 or a legal person described in subparagraph *a.2* of the first paragraph of section 31; in the latter case, the limit is set at 3.5%.

Subparagraph *a* of subparagraph 2 of the first paragraph does not apply to the holding or acquisition by the Fund of the shares or other securities referred to in that subparagraph *a*, where they are issued by a legal person described in subparagraph *a.1* of the first paragraph of section 31 whose principal activity relates exclusively to public transportation infrastructures in Québec.

Despite subparagraph *a* of subparagraph 3 of the first paragraph, the Fund may acquire and hold, directly or indirectly, only all the issued and outstanding shares of a legal person described in subparagraph *a.2* of the first paragraph of section 31. Once it holds all such shares, subparagraph *b* of subparagraph 3 of the first paragraph ceases to apply; in such a case, the Fund must ensure that the legal person complies with the provisions of subparagraphs 2 and 3 of the first paragraph and those of the second paragraph and this paragraph, as if the Fund held or acquired the shares or other securities described in those provisions and held or acquired by that legal person.

For the purposes of the 30% limit set in subparagraph *a* of subparagraph 3 of the first paragraph, the investments, operations or loans under section 34 are subject to that limit only from the time they are converted into common shares.”

ACT RESPECTING MUNICIPAL TAXATION

4. The Act respecting municipal taxation (chapter F-2.1) is amended by inserting the following section after section 68:

“68.0.1. Public infrastructures to which the regulation made under subparagraph 12.1 of the first paragraph of section 262 applies, in whose hands they may be, are not to be entered on the roll. The same rule applies to the land constituting the site of such infrastructures.

The first paragraph does not apply to a structure intended to lodge persons, shelter animals or store things or the site of such a structure.”

5. Section 262 of the Act is amended by inserting the following subparagraph after subparagraph 12 of the first paragraph:

“(12.1) determine the public infrastructures that, having been the subject of an agreement entered into under section 88.10 of the Transport Act (chapter T-12), are not to be entered on the roll under section 68.0.1;”.

PUBLIC INFRASTRUCTURE ACT

6. Section 4 of the Public Infrastructure Act (chapter I-8.3) is amended by adding the following sentence at the end: “Where it concerns the management of a body’s public infrastructure projects, such a decision may concern a single project and set specific conditions applicable to it.”

ACT RESPECTING THE MINISTÈRE DES TRANSPORTS

7. Section 11.1 of the Act respecting the Ministère des Transports (chapter M-28) is amended by adding the following paragraph at the end:

“The Minister may also, with the authorization of the Government and on the conditions it determines in each case, acquire by agreement or expropriation, on behalf of the Caisse de dépôt et placement du Québec or one of its wholly-owned subsidiaries described in the third paragraph of section 32 of the Act respecting the Caisse de dépôt et placement du Québec (chapter C-2), any property required to carry out a shared transportation infrastructure project that is the subject of an agreement entered into under section 88.10 of the Transport Act (chapter T-12).”

8. The Act is amended by inserting the following section after section 11.1:

“11.1.1. Despite any provision to the contrary in any Act, the expropriation indemnity for property to which section 11 or 11.1 applies is fixed on the basis of the value of the property and of the damage directly caused by the expropriation on the date of the expropriation, but without taking into account the increased value attributable to the public announcement, made by the Government or the authority responsible for carrying out a shared transportation

infrastructure project, of the planned route for the shared transportation system or the planned site of its stations.”

TRANSPORT ACT

9. The Transport Act (chapter T-12) is amended by adding the following after section 88.9:

“DIVISION IX.3

“INVESTMENT IN SHARED TRANSPORTATION INFRASTRUCTURE

“88.10. The Minister may, with the authorization of the Government and on the conditions it determines in each case, enter into an agreement with the Caisse de dépôt et placement du Québec regarding the management and carrying out of a project whose purpose is to develop a new shared transportation infrastructure. The agreement must include mechanisms for integrating such a project into the relevant public transit systems as well as a rate schedule for the shared transportation infrastructure, including indexation mechanisms.

The Government shall define the needs and public interest objectives to be met with respect to the project and shall authorize the solution to be implemented from among the various options proposed by the Caisse de dépôt et placement du Québec.

Such a project, which the Caisse de dépôt et placement du Québec examines with full independence in accordance with its constituting Act, must offer its depositors the potential for a commercial return on investment, having regard to the risks apprehended. The evaluation of such a potential and the comparison with market practices for similar situations must be validated by an independent expert selected by the parties from a list prepared beforehand.

The Caisse de dépôt et placement du Québec has full authority over any project that is the subject of an agreement entered into under the first paragraph.

The Caisse de dépôt et placement du Québec may set rates for the use of the shared transportation infrastructure referred to in the first paragraph. At the time the agreement is signed, the Caisse de dépôt et placement du Québec shall make public the rate schedule for the shared transportation infrastructure, including the indexation mechanisms.

“88.11. The shared transportation infrastructure referred to in section 88.10 is and remains appropriated to public utility in whosever hands it may be.

“88.12. The Caisse de dépôt et placement du Québec may not transfer, in whole or in part, its rights, titles and interests in the land constituting the site of a shared transportation infrastructure described in section 88.10 before construction has been completed.

“88.13. The terms and conditions governing the operation of the shared transportation infrastructure stipulated in an agreement entered into under section 88.10 bind any subsequent purchaser.

“88.14. The Act respecting the Agence métropolitaine de transport (chapter A-7.02), the Act respecting intermunicipal boards of transport in the area of Montréal (chapter C-60.1) and the Act respecting public transit authorities (chapter S-30.01) do not apply to a shared transportation infrastructure described in section 88.10.

“88.15. In this division, a reference to the Caisse de dépôt et placement du Québec is also a reference to a wholly-owned subsidiary, within the meaning of the fifth paragraph of section 4 of the Act respecting the Caisse de dépôt et placement du Québec (chapter C-2), described in the third paragraph of section 32 of that Act.”

FINAL PROVISION

10. This Act comes into force on 12 June 2015.

