



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-THIRD LEGISLATURE

Bill 62

**An Act mainly to diversify the
acquisition strategies of public bodies
and increase their agility in carrying
out infrastructure projects**

Introduction

**Introduced by
Mr. Jonatan Julien
Minister Responsible for Infrastructure**

**Québec Official Publisher
2024**

EXPLANATORY NOTES

This bill amends the Act respecting contracting by public bodies to introduce a new type of contract, namely a partnership contract, under which a public body, using a collaborative approach, brings in a contractor to take on various responsibilities in relation to a public infrastructure project. It specifies the rules applicable to that new type of contract as well as the monetary threshold from which the contracting enterprises must hold an authorization to contract issued by the Autorité des marchés publics.

Under the bill, mixed contracts for construction work and professional services entered into by a public body in connection with infrastructure projects by means of a collaborative approach as well as certain contracts the Conseil du trésor determines by regulation are considered to be partnership contracts.

The bill allows a public body, following an unsuccessful call for tenders and under certain conditions, to enter into a contract by mutual agreement without it being necessary to publish a notice of intention on the electronic tendering system.

The bill grants the Autorité des marchés publics new auditing powers relating to the integrity of an enterprise subject to its oversight while restricting the communication of information obtained during such audits.

The bill introduces a procedure to apply for the annulment of a decision rendered by a third-person decider following a dispute settlement process relating to construction work carried out on behalf of a public body and specifies the reasons for which such a decision may be annulled.

The bill amends the Public Infrastructure Act to make certain modifications to the system of administrative authorizations related to public infrastructure investment planning and public infrastructure management. It provides that the Chair of the Conseil du trésor will now have the power to audit the use of the sums allocated to public bodies in that regard.

The bill broadens, under certain conditions, the powers of the Société québécoise des infrastructures by allowing the Société to, among other things, offer its services to a broader clientele, change

the purpose of its surplus spaces to meet the needs of the entities or persons that will occupy them, acquire on behalf of other public bodies, by agreement or expropriation, any property necessary for the carrying out of a public infrastructure project and establish a land reserve for the future carrying out of such projects.

The bill amends the Public Infrastructure Act to introduce a union representation system applicable to the associations of employees of the Société québécoise des infrastructures. For that purpose, the bill determines which bargaining units may be constituted according to five classes of personnel. It specifies that only one association of employees may be certified to represent the employees of a bargaining unit and it provides that only one collective agreement may be applicable to all the employees in that bargaining unit.

The bill modifies the composition of the governance committee of the Centre d'acquisitions gouvernementales and confers the power to remunerate the members of that committee as well as those of the audit committee on the Government.

The bill simplifies, to a certain extent, the measures relating to service contracts set out in the Act respecting workforce management and control within government departments, public sector bodies and networks and state-owned enterprises.

Lastly, the bill makes consequential amendments and contains transitional provisions.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting the Autorité des marchés publics (chapter A-33.2.1);
- Act respecting the Centre d'acquisitions gouvernementales (chapter C-7.01);
- Act respecting contracting by public bodies (chapter C-65.1);
- Act respecting workforce management and control within government departments, public sector bodies and networks and state-owned enterprises (chapter G-1.011);
- Public Infrastructure Act (chapter I-8.3).

REGULATIONS AMENDED BY THIS BILL:

- Regulation respecting certain supply contracts of public bodies (chapter C-65.1, r. 2);
- Regulation respecting certain service contracts of public bodies (chapter C-65.1, r. 4);
- Regulation respecting construction contracts of public bodies (chapter C-65.1, r. 5);
- Regulation respecting contracting by public bodies in the field of information technologies (chapter C-65.1, r. 5.1).

ORDER IN COUNCIL REPEALED BY THIS BILL:

- Order in Council 793-2014 dated 10 September 2014 (2014, G.O. 2, 2045), concerning public-private partnership contracts involving an expenditure equal to or greater than \$5,000,000.

Bill 62

AN ACT MAINLY TO DIVERSIFY THE ACQUISITION STRATEGIES OF PUBLIC BODIES AND INCREASE THEIR AGILITY IN CARRYING OUT INFRASTRUCTURE PROJECTS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

ACT RESPECTING CONTRACTING BY PUBLIC BODIES

L. Section 3 of the Act respecting contracting by public bodies (chapter C-65.1) is amended

(1) by replacing subparagraph 1 of the second paragraph by the following subparagraph:

“(1) partnership contracts, that is, contracts entered into for the purposes of an infrastructure project for which a public body brings in a contractor to participate in designing and building the infrastructure and carry out other responsibilities related to the infrastructure such as its financing, maintenance or operation, and that involve a collaborative approach during or after the tendering process;”;

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

“Mixed construction work and professional services contracts under which a public body brings in a contractor to participate in designing and building an infrastructure by using a collaborative approach during or after the tendering process as well as contracts determined by a regulation of the Conseil du trésor under which a public body brings in a contractor to participate in designing or building an infrastructure if they involve a collaborative approach specified in the regulation are considered to be partnership contracts.

For the purposes of this Act, a collaborative approach may, in particular, include holding bilateral workshops, pooling resources and information related to the infrastructure project as well as consensually sharing risks and, as applicable, savings generated or gains made and losses sustained during the term of the contract.”

2. Section 13.1 of the Act is amended by inserting the following paragraph after the first paragraph:

“Despite the first paragraph, publication of a notice of intention is not required if the following conditions are met:

(1) the sole purpose of the contract is to meet the need expressed in a public call for tenders for which no compliant bids were submitted;

(2) the successful bidder meets the requirements that the documents of the call for tenders referred to in subparagraph 1 imposed on interested enterprises;

(3) the conditions imposed on the successful bidder by the contract are the same as those set out in the documents of the call for tenders referred to in subparagraph 1, except as regards the period of time allotted for carrying out the contract, which may not be postponed longer than the time elapsed between the tender closing date set for the call for tenders and the date the contract is entered into;

(4) the successful bidder has sent a proposal to the public body within 90 days of the tender closing date set for the call for tenders referred to in subparagraph 1; and

(5) the contract is entered into within 90 days of the date of receipt of the successful bidder’s proposal.”

3. Section 17 of the Act is amended by striking out the last sentence of the second paragraph.

4. Section 18 of the Act is amended

(1) by replacing “Public-private partnership” by “Partnership”;

(2) by inserting “by the Minister of Transport, the Société québécoise des infrastructures or any other public body provided that the minister responsible for the public body authorizes it to do so” at the end;

(3) by adding the following paragraphs at the end:

“For the purposes of the first paragraph, the minister responsible for a public body is,

(1) in the case of a public body referred to in subparagraphs 1 to 4 of the first paragraph of section 4 or a subsidiary of a body referred to in that subparagraph 4, the minister responsible for the body;

(2) in the case of a public body referred to in subparagraph 5 of the first paragraph of section 4 or a subsidiary of such a body, the Minister of Education, Recreation and Sports or the Minister of Higher Education, Research, Science and Technology, according to their respective responsibilities; or

(3) in the case of a public body referred to in subparagraph 6 of the first paragraph of section 4 or a subsidiary of such a body, the Minister of Health and Social Services.

The ministerial authorization required under the first paragraph does not relieve the public body from the obligation to obtain any other authorization relating to the partnership contract concerned that would otherwise be required under an Act, a regulation or a directive.”

5. Section 19 of the Act is amended

(1) by striking out “public-private”;

(2) by inserting “, the selected collaborative approach” after “project”.

6. Section 20 of the Act is amended by adding the following paragraph at the end:

“(4) if the selected collaborative approach includes sharing risks, savings generated or gains made and losses sustained, a statement that the terms and conditions of the sharing will be agreed upon by the parties and specified in the partnership contract.”

7. Section 21 of the Act is amended

(1) by replacing “each of the selected tenderers” in paragraph 1 by “the selected tenderer or each of the selected tenderers, as applicable,”;

(2) by replacing “at the end of the selection process, negotiate, with the selected contractor” in paragraph 2 by “during and at the end of the selection process, negotiate, with the selected tenderer or tenderers, as applicable”.

8. The Act is amended by inserting the following section after section 21:

“21.0.0.1. A partnership contract must provide for a procedure for the settlement of disputes arising from the contract.”

9. Section 21.18 of the Act is amended

(1) by replacing “must hold an authorization on the date it submits its bid” in the first paragraph by “or that is part of a consortium that responds to such a call for tenders must hold an authorization on the date the bid is submitted”;

(2) by inserting the following paragraph after the first paragraph:

“However, if the call for tenders concerns the carrying out of a partnership contract, the enterprise that responds to the call for tenders and, in the case of a consortium, every enterprise in the consortium must hold an authorization on the date the bid is submitted unless the tender documents specify a later date which, however, may not be later than the date the public contract or subcontract is entered into.”;

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

“Within the scope of application of the second paragraph, a bid submitted by a group of enterprises forming a consortium that is not required to be registered in the enterprise register established under the Act respecting the legal publicity of enterprises (chapter P-44.1) is deemed to be submitted by a consortium taking the juridical form of a legal person established for a private interest, a general partnership or a limited partnership, as the case may be, if the enterprises forming the group have together constituted, since the bid was submitted, such a legal person or such a partnership for the purposes of the call for tenders. The legal person or partnership must then hold an authorization on the date determined under the second paragraph.”

10. Section 21.48.9 of the Act is amended by inserting the following paragraphs after the second paragraph:

“This section applies despite any duty of confidentiality or loyalty that may be binding on a person, including toward the enterprise that is the subject of an audit.

Any person who communicates information or a document under this section incurs no civil liability for doing so.”

11. The Act is amended by inserting the following section after section 21.48.9:

“21.48.9.1. For the purposes of an audit relating to the integrity of an enterprise subject to the oversight of the Authority, the Authority may require any person who has previously been a director, partner, officer or shareholder of the enterprise or any other person or entity bound or previously bound, directly or indirectly, by contract to the enterprise to send the Authority, within the time specified, any relevant document or information for the purpose of verifying whether the enterprise meets the standards of integrity.

This section applies despite any communication restrictions provided for under a law and any duty of confidentiality or loyalty that may be binding on a person, including toward the enterprise that is the subject of an audit.

However, the lifting of professional secrecy authorized under this section does not apply to professional secrecy between a lawyer or a notary and a client.

Any person who communicates information or a document under this section incurs no civil liability for doing so.

In addition, every person or entity that is subject to a request made under this section must, if the Authority so requires, confirm, in an affidavit, the authenticity of the documents or the veracity of the information communicated.”

12. Section 21.48.28 of the Act, enacted by section 111 of chapter 18 of the statutes of 2022, is amended by adding the following sentences at the end of the first paragraph: “Such filing, however, may only be done on the expiry of the time limit provided for in the second paragraph of section 21.48.28.1 to apply for the annulment of the third-person decider’s decision or, if such an application has been filed, from the date on which a decision of the court confirming the validity of the third-person decider’s decision becomes final. In the latter case, a copy of the court’s decision must be attached to the third-person decider’s decision.”

13. The Act is amended by inserting the following section after section 21.48.28, enacted by section 111 of chapter 18 of the statutes of 2022:

“21.48.28.1. A party may apply to the court for the annulment of a decision rendered by a third-person decider for any of the following reasons:

(1) one of the parties did not have the capacity to participate in the dispute settlement process before the third-person decider;

(2) the dispute arises from a public contract or subcontract that is not valid;

(3) the decision pertains to a dispute that could not be submitted to a third-person decider or contains a conclusion entirely unrelated to the subject matter of the dispute that was pending before the third-person decider;

(4) the dispute settlement process was led by a person who was not certified to act as a third-person decider; or

(5) the rules applicable to the selection of the third-person decider or to the dispute settlement process before such a third person were not complied with.

An application for annulment must be presented before the Court of Québec or the Superior Court, according to their respective jurisdictions to rule on the subject matter of the dispute submitted to the third-person decider, within 30 days after receipt of the decision concerned. This is a strict time limit.

An application for annulment does not postpone the execution of the decision, unless the court orders otherwise.

If the court annuls a third-person decider’s decision, it may condemn a party to reimburse the other party all or part of the sums of money the other party paid in execution of the decision.”

14. Section 22 of the Act is amended by replacing “it has entered into which” in the first paragraph by “, other than those referred to in chapter V, that it has entered into and that”.

15. The Act is amended by inserting the following section after section 22:

“22.0.1. A public body must, for each contract referred to in Chapter V, publish the following information on the electronic tendering system within the time specified:

(1) within 72 days after the date the contract is entered into, the name of the contractor, a description of the object of the contract and the initial amount or estimated amount of the expenditure, as the case may be, or, if neither of those amounts are known at that time, within 72 days after the date such an amount is determined in the course of the contract;

(2) within 120 days after taking delivery of the infrastructure built under a contract that confers the operation or maintenance of the infrastructure on the contractor, the total amount paid for its construction; and

(3) within 120 days after the end of the contract, the total amount paid over the entire term of the contract.

However, a public body is not required to publish the information referred to in subparagraph 1 of the first paragraph within the time specified if the authorization to carry out the infrastructure project has not yet been granted by the competent authority. In such a case, the information must be published within 72 days after obtaining the authorization.”

16. The Act is amended by inserting the following section after section 24:

“24.1. The Conseil du trésor may, by regulation, define “amount” and “expenditure” or clarify their scope for the purposes of the sections of this Act specified in the regulation.”

17. Section 58.1 of the Act is amended

(1) by replacing “until the bids are opened” in subparagraph 1 of the first paragraph by “until the bids are opened publicly or, in the absence of such opening, until the contract is awarded”;

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

“Despite the preceding paragraphs, a public body or a member of its staff may, as part of a call for tenders for the carrying out of a partnership contract and before the contract is awarded, communicate information that allows an enterprise that participates in the call for tenders to be identified if the enterprise has expressly authorized the public body to disclose that information.”

18. The Act is amended by striking out “public-private” in the following provisions:

- (1) section 9;
- (2) subparagraph 2 of the first paragraph of section 10;
- (3) the heading of Chapter V.

CHAPTER II

PUBLIC INFRASTRUCTURE ACT

19. Section 15 of the Public Infrastructure Act (chapter I-8.3) is amended by inserting “by means of a decision concerning that particular project or a category of projects to which it belongs” at the end of the second paragraph.

20. Section 16 of the Act is amended by inserting “or the Conseil du trésor” after “Government” in the first paragraph.

21. Section 18 of the Act is amended by replacing “based on” in subparagraph 3 of the second paragraph by “in particular on the basis of”.

22. Section 19 of the Act is amended

- (1) by inserting the following paragraph after the first paragraph:

“The Chair of the Conseil du trésor may also, if the Chair considers it advisable, conduct an audit to verify a public body’s use of sums that have been allocated to it for the purposes of public infrastructure investments.”;

- (2) by replacing “the audit” in the second paragraph by “an audit under this section”.

23. Section 27 of the Act is amended by inserting “or by expropriation” after “agreement” in paragraph 1.

24. Section 29 of the Act is amended

- (1) by striking out subparagraph 2 of the first paragraph;
- (2) by striking out the second paragraph.

25. The Act is amended by inserting the following section after section 34:

“34.1. The Société and the Minister of Education, Recreation and Sports or the Minister of Higher Education, Research, Science and Technology, as the case may be, must enter into a management agreement applicable to the activities that the Société carries out under sections 31 and 32 in respect of the

bodies referred to in subparagraph 5 of the first paragraph of section 3. Such an agreement must, among other things, specify the responsibilities of those bodies.”

26. Section 37 of the Act is amended

(1) by replacing “immovable property operations” and “Act” by “activities” and “subdivision”, respectively;

(2) by adding the following sentence at the end: “Such an agreement must, among other things, specify the responsibilities of those providers.”

27. Section 42 of the Act is replaced by the following section:

“42. The Société may satisfy the requirements in terms of rental space of any public body that is not required to deal with the Société under section 30, the National Assembly and any person appointed or designated by the National Assembly to exercise a function under its authority. For those purposes, the Société has the powers provided for in section 27, except the power to expropriate.

The Société may put at the disposal of any entity or person not referred to in the first paragraph spaces it considers surplus. It may also, in the cases and on the conditions determined by the Conseil du trésor and in order to meet the needs of such an entity or person, change the purpose of those spaces by carrying out the required construction work, or equip and furnish those spaces and, for that purpose, acquire, lease, maintain and hold any movable property.

In addition, the Société may provide any entity or person referred to in the first paragraph and, in the cases and on the conditions determined by the Conseil du trésor, any other entity or person with any service related to its mission and activities, including immovable construction, maintenance, operation and management services.

Any offer of spaces or delivery of services made under this section must be the subject of an agreement between the Société and the entity or person concerned.

The application of this section may not reduce or otherwise restrict the offer of spaces or the delivery of services the Société must provide within the scope of its responsibilities under this Act, which offer and delivery must always be given priority.”

28. The Act is amended by inserting the following sections after section 43:

“43.1. The Société may, on behalf of a public body, acquire by agreement or expropriation any immovable necessary to carry out a public infrastructure project of such a body if the Société manages and exercises control over the project or if it provides the body with construction services for the carrying out of the project.

The public body requesting that the Société acquire a property for the carrying out of a project must identify the property in accordance with the terms determined by the Société.

This section does not relieve the public body on whose behalf the Société acts from the obligation to obtain, if applicable, the authorizations required under the provisions that empower the public body to acquire an immovable.

“43.2. The Société may, on the conditions determined by the Government, establish a land reserve for the carrying out of future public infrastructure projects.

When the Société transfers to a public body the ownership of an immovable acquired for the purpose of establishing such a reserve, the transfer is made in exchange for consideration equal to the costs assumed for the acquisition, maintenance and detention of the immovable. No transfer duties provided for by the Act respecting duties on transfers of immovables (chapter D-15.1) are payable in respect of the transfer.

“43.3. The Société may determine the conditions applicable to its offer of spaces and its delivery of services to public bodies. Those conditions may include the obligations of the bodies that use the spaces or services.”

29. Section 44 of the Act, amended by section 1067 of chapter 34 of the statutes of 2023, is again amended

(1) by replacing the first paragraph by the following paragraph:

“To ensure optimal management of public infrastructures, the Government may, on the recommendation of the Chair of the Conseil du trésor, transfer ownership of an immovable, including any liabilities affecting the immovable, from one public body to another, subject to the terms and conditions it determines. Such a transfer has effect from the date the order is published in the *Gazette officielle du Québec*.”;

(2) by striking out the second paragraph;

(3) by replacing “provider” in the third paragraph by “public body”;

(4) by replacing “health and social service provider concerned” in the fourth paragraph by “public body that has become the owner of the immovable”;

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

“If the ownership of an immovable is transferred under this section, the public bodies concerned need not obtain the authorizations required by law, if applicable, to acquire or alienate the immovable.”

30. Section 46 of the Act is amended by striking out “, but that is not carried out by a public body” in the first paragraph.

31. The Act is amended by inserting the following section after section 46:

“**46.1.** The Government may, on the recommendation of the Conseil du trésor, entrust the Société with any mandate related to the repurposing of surplus spaces included among its immovable assets, including the mandate to develop a real estate project and, if applicable, the mandate to carry it out.

The Société has the powers provided for in section 27 for the purpose of performing any mandate aimed at carrying out a real estate project, except the power to expropriate.”

32. Section 51 of the Act is amended by striking out “that is necessary to carry out its mandates and achieve its objects” in subparagraph 7 of the first paragraph.

33. The Act is amended by inserting the following division after section 80:

“DIVISION V.1

“UNION REPRESENTATION SYSTEM

“**80.1.** Within the Société, the only bargaining units that may be constituted for employees within the meaning of the Labour Code (chapter C-27) must be constituted according to the following classes of personnel:

(1) class of engineers and architects comprising the employees who are members of the Ordre des ingénieurs du Québec or of the Ordre des architectes du Québec and the persons admitted to the study of those professions;

(2) class of lawyers and notaries comprising the employees who are members of the Barreau du Québec or of the Ordre des notaires du Québec and the persons admitted to the study of those professions;

(3) class of professionals comprising the employees who are not included in the classes described in paragraphs 1 and 2, who carry out work of a professional nature and whose job requires a university-level diploma;

(4) class of workmen; and

(5) class of technicians and office personnel comprising the employees who are not included in the classes described in paragraphs 1 to 4.

“**80.2.** No bargaining unit may include more than one class of personnel provided for in section 80.1.

Only one association of employees may be certified to represent, within the Société, the employees of a bargaining unit and only one collective agreement may be applicable to all the employees in that bargaining unit.

Subject to the first and second paragraphs of this section, section 80.1 of this Act and sections 52 to 54 of the Act mainly to diversify the acquisition strategies of public bodies and increase their agility in carrying out infrastructure projects (*insert the year and chapter number of that Act*), the Labour Code (chapter C-27) applies to the Société and to the associations of employees representing its personnel.

“80.3. The Administrative Labour Tribunal decides all disputes respecting the exclusion or inclusion of an employee of the Société or a group of such employees from or in any of the classes of personnel provided for in section 80.1 and has the power to revoke the certification and grant another on the conditions provided for in the Labour Code (chapter C-27).

When seized of a petition, the Tribunal may, for the purposes of the decision it is to render, rule on any question relating to the application of this division and the Labour Code.”

CHAPTER III

OTHER AMENDING PROVISIONS

ACT RESPECTING THE AUTORITÉ DES MARCHÉS PUBLICS

34. The Act respecting the Autorité des marchés publics (chapter A-33.2.1) is amended by inserting the following subdivision after section 36:

“§4.—Non-communication of information and documents

“36.1. No person employed by the Authority or authorized by the Authority to exercise powers to conduct an audit or investigation may communicate or allow to be communicated to anyone information obtained under the provisions of this Act, of Chapter V.1 of the Act respecting contracting by public bodies (chapter C-65.1) or of a regulation made under them, or allow the examination of a document filed under those provisions, unless the person is authorized to do so by the Authority.”

ACT RESPECTING THE CENTRE D’ACQUISITIONS GOUVERNEMENTALES

35. Section 5 of the Act respecting the Centre d’acquisitions gouvernementales (chapter C-7.01) is amended by replacing “and the minister responsible for education and higher education” in the second paragraph by “, the minister responsible for education and the minister responsible for higher education”.

36. Section 9 of the Act is amended

(1) by replacing “or the minister responsible for education and higher education; in the case of the latter two ministers” in the first paragraph by “, the minister responsible for education or the minister responsible for higher education; in the case of the latter three ministers”;

(2) by replacing “or the minister responsible for education and higher education” in the third paragraph by “, the minister responsible for education or the minister responsible for higher education”.

37. Section 15 of the Act is amended

(1) by replacing “and the minister responsible for education and higher education” in the second paragraph by “, the minister responsible for education and the minister responsible for higher education”;

(2) by replacing “or the minister responsible for education and higher education” in the fourth paragraph by “, the minister responsible for education or the minister responsible for higher education”.

38. Section 19 of the Act is amended by replacing “and the Deputy Minister of the Ministère de l'Éducation et de l'Enseignement supérieur” in the first paragraph by “, the Deputy Minister of the Ministère de l'Éducation, du Loisir et du Sport and the Deputy Minister of the Ministère de l'Enseignement supérieur, de la Recherche, de la Science et de la Technologie”.

39. Section 27 of the Act is amended

(1) by replacing subparagraph 3 of the first paragraph by the following subparagraphs:

“(3) the Deputy Minister of the Ministère de l'Éducation, du Loisir et du Sport;

“(3.1) the Deputy Minister of the Ministère de l'Enseignement supérieur, de la Recherche, de la Science et de la Technologie;

“(3.2) the president and chief executive officer of Santé Québec or the person who exercises management responsibilities under that officer's immediate authority and is designated by that officer; and”;

(2) by inserting “, except in the cases, on the conditions and to the extent that may be determined by the Government” after “remuneration” in the fourth paragraph.

40. Section 30 of the Act is amended

(1) by replacing “and the minister responsible for education and higher education” in the first paragraph by “, the minister responsible for education and the minister responsible for higher education”;

(2) by inserting “, except in the cases, on the conditions and to the extent that may be determined by the Government” after “remuneration” in the fourth paragraph.

41. Section 42 of the Act is amended

(1) by replacing “and to the minister responsible for education and higher education” in the first paragraph by “, to the minister responsible for education and to the minister responsible for higher education”;

(2) by replacing “and the minister responsible for education and higher education” in the second paragraph by “, the minister responsible for education and the minister responsible for higher education”.

ACT RESPECTING WORKFORCE MANAGEMENT AND CONTROL
WITHIN GOVERNMENT DEPARTMENTS, PUBLIC SECTOR
BODIES AND NETWORKS AND STATE-OWNED ENTERPRISES

42. Section 16 of the Act respecting workforce management and control within government departments, public sector bodies and networks and state-owned enterprises (chapter G-1.011), amended by section 1034 of chapter 34 of the statutes of 2023, is again amended, in the first paragraph,

(1) by inserting “or by any member of the body’s personnel designated by the chief executive officer” at the end of the first sentence;

(2) by striking out the last sentence.

43. Section 17 of the Act is amended by replacing “The directive is also sent to the Chair of the Conseil du trésor who” by “The Chair of the Conseil du trésor”.

44. Section 21 of the Act is amended

(1) by striking out the first paragraph;

(2) by striking out “also” and “other” in the second paragraph.

REGULATION RESPECTING CERTAIN SUPPLY CONTRACTS OF PUBLIC BODIES

45. Section 39 of the Regulation respecting certain supply contracts of public bodies (chapter C-65.1, r. 2) is amended by inserting “or a statement to the effect that the sole purpose of the contract is to meet the need expressed in a public call for tenders for which no compliant tenders were submitted, accompanied, in such a case, by the number of the notice of the call for tenders published in the electronic tendering system, the tender closing date set for the call for tenders and the date of receipt of the proposal from the supplier that was awarded the contract” at the end of paragraph 7.

REGULATION RESPECTING CERTAIN SERVICE CONTRACTS OF PUBLIC BODIES

46. Section 52 of the Regulation respecting certain service contracts of public bodies (chapter C-65.1, r. 4) is amended by inserting “or a statement to the effect that the sole purpose of the contract is to meet the need expressed in a public call for tenders for which no compliant tenders were submitted, accompanied, in such a case, by the number of the notice of the call for tenders published in the electronic tendering system, the tender closing date set for the call for tenders and the date of receipt of the proposal from the service provider that was awarded the contract” at the end of paragraph 7.

REGULATION RESPECTING CONSTRUCTION CONTRACTS OF PUBLIC BODIES

47. Section 42 of the Regulation respecting construction contracts of public bodies (chapter C-65.1, r. 5) is amended by inserting “or a statement to the effect that the sole purpose of the contract is to meet the need expressed in a public call for tenders for which no compliant tenders were submitted, accompanied, in such a case, by the number of the notice of the call for tenders published in the electronic tendering system, the tender closing date set for the call for tenders and the date of receipt of the proposal from the contractor that was awarded the contract” at the end of paragraph 7.

REGULATION RESPECTING CONTRACTING BY PUBLIC BODIES IN THE FIELD OF INFORMATION TECHNOLOGIES

48. Section 73 of the Regulation respecting contracting by public bodies in the field of information technologies (chapter C-65.1, r. 5.1) is amended by inserting “or a statement to the effect that the sole purpose of the contract is to meet the need expressed in a public call for tenders for which no compliant tenders were submitted, accompanied, in such a case, by the number of the notice of the call for tenders published on the electronic tendering system, the tender closing date set for the call for tenders and the date of receipt of the proposal from the supplier or service provider that was awarded the contract” at the end of paragraph 7.

CHAPTER IV

TRANSITIONAL AND FINAL PROVISIONS

49. For the purposes of section 21.17 of the Act respecting contracting by public bodies (chapter C-65.1), the partnership contracts covered are, from the date of coming into force of section 1 of this Act and until the Government determines another amount in accordance with that section 21.17, those involving an expenditure equal to or greater than \$5,000,000 and for which the tendering or awarding process is underway or begins after that date.

50. Order in Council 793-2014 dated 10 September 2014 (2014, G.O. 2, 2045), concerning public-private partnership contracts involving an expenditure equal to or greater than \$5,000,000, is repealed.

51. The provisions of Chapters I.2, II, III and IV of the Regulation respecting supply contracts, service contracts and construction contracts of bodies referred to in section 7 of the Act respecting contracting by public bodies (chapter C-65.1, r. 1.1) apply, with the necessary modifications, in respect of any partnership contract-tendering process until the coming into force of the provisions of the first regulation made under paragraphs 13.1 and 14 of section 23 of the Act respecting contracting by public bodies (chapter C-65.1) that apply to partnership contracts.

For the purposes of this section, where the tendering process involves making use of an electronic documentation room, the provisions of Chapter I.2 of the Regulation respecting supply contracts, service contracts and construction contracts of bodies referred to in section 7 of the Act respecting contracting by public bodies that refer to the electronic tendering system approved by the Government under section 11 of the Act respecting contracting by public bodies must, where the tender documents so provide, be read as referring to the electronic documentation room for the purpose of processing complaints.

52. An association of employees wishing to represent a bargaining unit of the Société québécoise des infrastructures provided for in section 80.1 of the Public Infrastructure Act, enacted by section 33 of this Act, must file a petition for certification with the Administrative Labour Tribunal before (*insert the date that is 30 days after the date of assent to this Act*).

After that date, the Administrative Labour Tribunal proceeds as follows:

(1) if the Tribunal concludes that no petition for certification complying with the Labour Code (chapter C-27) was filed for a particular class of personnel, the employees of that class remain unrepresented until, if applicable, an association files a petition that complies with section 25 of the Labour Code;

(2) if the Tribunal concludes that the petitioning association of employees is the only association to have filed a petition to represent the employees to be included in the bargaining unit, it certifies the association, indicating the class of personnel included in the new bargaining unit; or

(3) if the Tribunal concludes that there is more than one association of employees petitioning to represent the employees to be included in a bargaining unit, it orders the holding of a vote for the employees of the bargaining unit and certifies the association of employees that obtains the greatest number of votes, indicating the class of personnel included in the new bargaining unit.

At the end of the process, the certifications that do not comply with sections 80.1 and 80.2 of the Public Infrastructure Act, enacted by section 33 of this Act, are revoked.

53. Despite section 52 of this Act, an association of employees representing employees included in a bargaining unit whose composition, as at (*insert the date of assent to this Act*), complies with the provisions of sections 80.1 and 80.2 of the Public Infrastructure Act, enacted by section 33 of this Act, is not required to file a petition for certification. The association must, however, apply to the Administrative Labour Tribunal to have the description of its bargaining unit changed.

54. The collective agreements of the employees of the Société québécoise des infrastructures who were represented by an association of employees that is not referred to in section 53 of this Act remain in force until their date of expiry. They continue to apply, despite their expiry, until a new collective agreement is entered into by the new certified association of employees. If no association has been certified under section 52 of this Act, the conditions of employment provided for under those collective agreements also continue to apply until new conditions of employment are determined by a by-law of the Société.

The newly certified association of employees is subrogated by operation of law in the rights and obligations resulting from a collective agreement to which a certified association of employees it replaces was a party.

55. The provisions of this Act come into force on (*insert the date of assent to this Act*), except those of sections 12 and 13, which come into force on the date or dates to be set by the Government.