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# NATIONAL ASSEMBLY

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FIRST SESSION

FORTIETH LEGISLATURE

Bill 68

**An Act respecting the Agence des  
infrastructures de transport du Québec**

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**Introduction**

**Introduced by  
Mr. Sylvain Gaudreault  
Minister of Transport**

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## EXPLANATORY NOTES

*This bill proposes the establishment of the Agence des infrastructures de transport du Québec.*

*The mission of the Agency is to manage and operate road infrastructures under the authority of the Minister of Transport, as well as any other property determined by the Minister. The Agency will develop expertise relating to the study, planning, design and carrying out of road infrastructure projects. It will protect the integrity of road investments through rigorous and transparent management practices and optimization of its work processes.*

*The Agency will be called upon to carry out major public transport infrastructure projects and to work closely with public bodies that carry out such projects. It will also collaborate closely with the Minister of Transport to establish an integrated vision of mobility in Québec.*

*The Agency is granted powers and responsibilities that allow it to acquire and dispose of immovables on behalf of public bodies.*

*The Agency answers to the Minister of Transport. It will have a board of directors to supervise administrative matters, and a president and chief executive officer in charge of executive and management functions. The Act respecting the governance of state-owned enterprises is to apply to it, and it is granted all the powers required to fulfill its mission.*

*The Agency's employees will be appointed according to the staffing plan it establishes. The Agency is to determine the standards and scales of remuneration, employee benefits and other conditions of employment of its employees, in accordance with the rules defined by the Government.*

*This bill also contains the financial provisions that are to govern the Agency's activities.*

*Lastly, this bill contains the amending, transitional and other provisions needed to create the Agency, including provisions for the transfer to the Agency of some of the employees of the Ministère des Transports. In addition, public servants are given certain rights allowing them to return to the public service.*

**LEGISLATION AMENDED BY THIS BILL:**

- Financial Administration Act (chapter A-6.001);
- Act respecting the Agence métropolitaine de transport (chapter A-7.02);
- Labour Code (chapter C-27);
- Act respecting municipal taxation (chapter F-2.1);
- Act respecting the governance of state-owned enterprises (chapter G-1.02);
- Act respecting the Ministère des Transports (chapter M-28);
- Act respecting labour standards (chapter N-1.1);
- Act respecting transport infrastructure partnerships (chapter P-9.001);
- Public Protector Act (chapter P-32);
- Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2);
- Act respecting the Government and Public Employees Retirement Plan (chapter R-10);
- Act respecting the Pension Plan of Management Personnel (chapter R-12.1);
- Act respecting roads (chapter V-9);
- Public Infrastructure Act (2013, chapter 23).

**REGULATIONS AMENDED BY THIS BILL:**

- Regulation respecting the terms and conditions for the disposal of surplus immovable property of departments and public bodies (chapter C-65.1, r. 1);
- Regulation respecting government contracts for the acquisition of immovable property (chapter C-65.1, r. 6).



# Bill 68

## AN ACT RESPECTING THE AGENCE DES INFRASTRUCTURES DE TRANSPORT DU QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

### CHAPTER I

#### ESTABLISHMENT

- 1.** The “Agence des infrastructures de transport du Québec” (the Agency) is hereby established. The Agency is a legal person established in the public interest and a mandatary of the State.
- 2.** The Agency’s property forms part of the domain of the State, but the execution of its obligations may be levied against its property.

The Agency binds none but itself when it acts in its own name.

- 3.** The Agency’s head office is located in the territory of Ville de Québec, at the place determined by the Agency. The Agency publishes a notice of the location or any relocation of its head office in the *Gazette officielle du Québec*.

### CHAPTER II

#### MISSION AND RESPONSIBILITIES

##### DIVISION I

##### MISSION

- 4.** In keeping with the principle of sustainable development, the Agency manages the road infrastructures for which the Minister of Transport is responsible under the Act respecting roads (chapter V-9), along with any other property determined by the Minister.

With a view to reinforcing the know-how of the State, the Agency also promotes the development of expertise in the study, planning, design and carrying out of transport infrastructure projects, in particular with regard to road infrastructures. The Agency also develops property management expertise for the purpose of carrying out activities related to, among other things, the State’s acquisition and disposal of immovables.

The Agency works closely with the Minister to establish a comprehensive and integrated vision of mobility in Québec in order to, among other things, identify road infrastructure needs.

The Agency seeks to protect the integrity of road investments by optimizing its work processes and by managing, in a rigorous and transparent manner, the sums used to finance its activities.

**5.** More specifically, the Agency must

(1) operate the road infrastructures under its management, and inspect and maintain them with a view to ensuring their durability;

(2) study and plan the maintenance, improvement, replacement or demolition of the road infrastructures under its management and, at the request of the Minister, the addition of any such infrastructures;

(3) design and carry out road infrastructure projects in compliance with trade practices, ensuring that such projects are rigorously managed and supervised at each stage of their execution;

(4) develop technical standards establishing best practices in road infrastructure design, construction, maintenance and preservation;

(5) implement measures to facilitate the flow of road traffic, including by disseminating information to road users;

(6) administer the partnership agreements governed by the Act respecting transport infrastructure partnerships (chapter P-9.001);

(7) manage fleets of land vehicles, other than those intended for use as guided land vehicles, and fleets of service equipment for maintaining the network where such vehicles are operated;

(8) if the Minister so requests, implement any program referred to in subparagraph *c* of the first paragraph of section 3 of the Act respecting the Ministère des Transports (chapter M-28), and monitor any subsidies referred to in section 4 of the Transport Act (chapter T-12);

(9) issue the permits prescribed by the Minister under the conditions set out in the instrument of delegation, and collect the related fees;

(10) promote the development of technical and scientific knowledge and monitor technological developments with regard to road infrastructures and the management of fleets of land vehicles;

(11) carry out any mandate entrusted to it by the Minister with regard to maritime, airport and railway infrastructures;

(12) ensure that its services are available in the regions; and

(13) exercise any other function entrusted to it by the Government, the Conseil du trésor or the Minister.

**6.** For the purposes of this Act, “road infrastructure project” means any project whose purpose is to maintain, improve, replace, add or demolish any civil engineering structure or immovable relating to highway transportation, including roads, bridges, lookouts, rest areas, service areas, inspection stations, and parking areas situated on the right of way of a road belonging to a public body within the meaning of section 21 or used to deliver public services of the State.

## **DIVISION II**

### **GENERAL RESPONSIBILITIES**

**7.** The Agency may enter into an agreement, by gratuitous or onerous title, with a department or a legal person established in the public interest in order to provide services and products related to its mission, or to provide technical, contractual and financial expertise.

It may also, in accordance with the applicable legislative provisions, enter into an agreement with a government other than the Gouvernement du Québec, a department of such a government, an international organization, or a body of such a government or organization.

**8.** The Minister may delegate to the Agency any of the Minister’s functions or powers under any Act, in particular the Act respecting the Ministère des Transports. Such a decision must be published in the *Gazette officielle du Québec*. However, the Minister’s powers to make regulations, directives, policies or guidelines with regard to transport, including road transport, may not be delegated.

The Minister may, in the instrument of delegation, authorize the subdelegation of the functions and powers the Minister specifies; in such a case, the Minister must identify the Agency vice-president or employee to whom the functions and powers are to be delegated.

The instrument of delegation identifies which functions and powers are delegated to the Agency, sets all the conditions of exercise of those functions and powers and determines the amount of remuneration the Minister agrees to pay to the Agency.

**9.** By means of advisory opinions in particular, the Agency advises the Minister on any question that the Minister submits and makes recommendations as needed.

**10.** The Agency consults the Minister on the road infrastructure projects requiring public investments so that the Minister may identify the actions to

be taken in order to facilitate intermodality and shared transportation, and provide transportation that is safe, accessible, equitable and efficient.

**11.** The Agency communicates annually to the Minister, in order of priority, the road infrastructure projects whose costs it proposes to include in the Québec infrastructure plan referred to in section 6 of the Public Infrastructure Act (2013, chapter 23), along with its recommendations on the needs of the road network.

When preparing the transport infrastructure project portfolio, the Minister takes into account the order of priority submitted to the Minister by the Agency regarding asset maintenance projects.

**12.** For the purposes of the Act respecting roads, the Agency exercises the Minister's powers set out in sections 6, 10 and 12 to 27 of that Act.

The Agency has recourse to the liability exemption provisions set out in Chapter III of that Act.

In place of the Minister, the Agency may enter into the agreements referred to in Chapter IV of that Act and grant the authorizations referred to in Chapter V of that Act.

The Minister may, on request, review a decision made by the Agency under that Act, except a decision made under the second paragraph of section 23 of that Act.

**13.** For the purposes of the Highway Safety Code (chapter C-24.2), the Act to ensure safety in guided land transport (chapter S-3.3) and the Act respecting off-highway vehicles (chapter V-1.2), the Agency is deemed to be the authority or person responsible for the maintenance of the public highways it manages.

However, it is required to implement the policy directions established and measures taken by the Minister with regard to the management of public highways. Any decision made by the Minister under those Acts prevails over a decision made by the Agency.

**14.** In the exercise of their functions, Agency employees or persons authorized by the Agency may enter and pass over any land at any reasonable time in order to conduct surveys, examinations, analyses or other preparatory work related to the Agency's activities.

Persons authorized to act under the first paragraph must, on request, identify themselves and produce a certificate of authorization.

**15.** The Agency may, for the purpose of assessing the safety of a road infrastructure, order the contractor or the owner of the infrastructure to carry out any test, survey, testing or verification the Agency specifies.

The Agency may also require that the contractor or owner provide the Agency, within the time determined by the Agency, with a report on any aspect of the construction or operation of the road infrastructure, along with any required information and documents.

### **DIVISION III**

#### **PROPERTY MANAGEMENT EXPERTISE**

**16.** Despite any provision to the contrary, a public body must exclusively use the services of the Agency to acquire or dispose of an immovable that is a transport infrastructure or is related to such an infrastructure or to a transport infrastructure project.

For the purpose of acquiring or disposing of any other immovable, a public body described in any of subparagraphs 1 to 4 of the first paragraph of section 21 must also use the services of the Agency, unless the immovable has a use determined by the Government for which the services of the Société québécoise des infrastructures are required under the second paragraph of section 41 of the Public Infrastructure Act.

For the purposes of this division, a transport infrastructure is a civil engineering project or immovable used for transportation by land, air or water.

**17.** With the authorization of the Government, the Agency may expropriate any immovable to carry out road infrastructure projects.

**18.** The Agency may acquire, by agreement or expropriation, on behalf of a public body, any immovable for the purposes of the public body's mission or mandates. When the Agency acquires an immovable by expropriation, it does so with the authorization of the Government.

**19.** If the Agency acquired immovables for itself or on behalf of a public body, it may dispose of them as it sees fit when they are no longer needed. It remits the proceeds of disposition to the public body on whose behalf it acts.

**20.** In a territory undergoing a cadastral renovation, the Agency may transfer, by gratuitous title, all or part of an immovable it manages whose value is less than \$5,000 to the owner of a lot contiguous to the immovable.

If the Agency obtains the written consent of the owner of the lot, it authorizes the land surveyor preparing the cadastral renovation plan to enter that owner as the owner of the immovable.

Ownership of the lot is transferred by the opening of a land file in the land register by the registrar.

The Act respecting duties on transfers of immovables (chapter D-15.1) and sections 28 and 29 of the Act respecting the preservation of agricultural land

and agricultural activities (chapter P-41.1) do not apply to the transfer of an immovable by the Agency in accordance with this section.

**21.** The following are public bodies within the meaning of this Act:

- (1) government departments;
- (2) bodies all or part of whose expenditures are provided for in the budgetary estimates tabled in the National Assembly otherwise than under a transferred appropriation;
- (3) bodies whose personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1);
- (4) bodies a majority of whose members or directors are appointed by the Government or by a minister and at least half of whose expenditures are borne directly or indirectly by the Consolidated Revenue Fund;
- (5) the Agence métropolitaine de transport; and
- (6) any other body designated by the Government.

The Government may, on the recommendation of the Conseil du trésor and the Minister of Transport, exempt a public body referred to in the first paragraph from the application of all or part of this division.

### **CHAPTER III**

#### **ORGANIZATION AND OPERATION**

**22.** The Agency is administered by a board of directors composed of a minimum of 9 and a maximum of 13 members, including the chair of the board and the president and chief executive officer of the Agency.

Of these members, one must be a member of the Ordre des ingénieurs du Québec, one must be a member of the Ordre des comptables professionnels agréés du Québec, and at least three must have sufficient experience, in the opinion of the Government, as a high-ranking public servant or a senior officer of a department, agency or enterprise of a government.

**23.** The Government appoints the members of the board of directors, other than the chair of the board and the president and chief executive officer, taking into account the expertise and experience profiles approved by the board.

These profiles ensure that the board members collectively have suitable expertise and experience in the following fields:

- (1) project governance and management;

- (2) assets management;
- (3) financial management;
- (4) human resources management, labour relations and organizational development; and
- (5) ethics and governance.

Board members are appointed for a term of up to four years.

**24.** The Government appoints the chair of the board for a term of up to five years.

**25.** The Government appoints the president and chief executive officer on the recommendation of the board. To assist the president and chief executive officer, the Government also appoints the number of vice-presidents it determines. These appointments must take into account, among other things, the expertise and experience profiles approved by the board.

The president and chief executive officer and vice-presidents are appointed for a term of up to five years. These offices are full-time positions.

**26.** The Government determines the remuneration, employee benefits and other conditions of employment of the president and chief executive officer and the vice-presidents.

**27.** The members of the board of directors, other than the president and chief executive officer and the board members who are employed by a public sector body as defined in Schedule I to the Règles concernant la rémunération et les autres conditions de travail des titulaires d'un emploi supérieur à temps plein, enacted by Order in Council 450-2007 (2007, G.O. 2, 2723, in French only) are remunerated on the conditions and to the extent determined by the Government.

Board members are entitled to the reimbursement of expenses incurred in the exercise of their functions on the conditions and to the extent determined by the Government.

Board members are paid out of the Agency's revenues.

**28.** If the board of directors fails to recommend, within a reasonable time, a candidate for the position of president and chief executive officer, the Government may appoint him or her after notifying the board members.

**29.** At the expiry of their term of office, the members of the board and the vice-presidents remain in office until they are replaced or reappointed.

**30.** A vacancy on the board of directors or among the vice-presidents is filled in accordance with the rules of appointment to their positions.

A board member's absence from the number of board meetings determined by the Agency's by-laws, in the cases and circumstances specified, constitutes a vacancy.

**31.** If the president and chief executive officer is absent or unable to act, the board may designate a vice-president to act in the president and chief executive officer's place.

**32.** The Agency may make by-laws for its internal management, which it publishes on its website.

**33.** The quorum at meetings of the board of directors is the majority of its members, including the chair of the board or the president and chief executive officer.

Decisions of the board are made by a majority vote of the members present. In the case of a tie vote, the chair of the meeting has a casting vote.

**34.** The minutes of meetings of the board of directors, approved by the board and certified by the chair of the board, the president and chief executive officer or any other person so authorized by the by-laws of the Agency, are authentic, as are the documents and copies emanating from the Agency or forming part of its records, if so certified.

**35.** No document binds the Agency or may be attributed to it unless it is signed by the chair of the board, the president and chief executive officer or, to the extent determined in the Agency's by-laws, a member of the Agency's personnel.

**36.** In addition to the functions listed in section 15 of the Act respecting the governance of state-owned enterprises (chapter G-1.02), the board develops a risk management policy for the Agency's affairs and a public contract integrity plan.

**37.** For the purposes of Chapter III of the Act respecting the governance of state-owned enterprises, the board of directors must establish the following committees:

- (1) a governance, ethics and human resources committee;
- (2) an audit committee; and
- (3) a project supervision committee.

These committees are composed solely of board members who are independent directors.

Sections 22 and 27 of the Act respecting the governance of state-owned enterprises apply to the governance, ethics and human resources committee.

**38.** The functions of the project supervision committee include

- (1) verifying whether the Public Infrastructure Act is being complied with;
- (2) ensuring that road infrastructure projects are consistent with the policy directions of the Government or the Minister;
- (3) recommending to the board of directors an order of priority for major road infrastructure projects, within the meaning of the second paragraph of section 16 of the Public Infrastructure Act, to be included in the Québec infrastructure plan; and
- (4) recommending to the board of directors the implementation of any necessary corrective measures, in order to ensure, among other things, optimal management of risks, costs and scheduling with regard to road infrastructure projects.

## **CHAPTER IV**

### **HUMAN RESOURCES**

**39.** Agency employees are appointed in accordance with the staffing plan established by the Agency.

Subject to a collective agreement, the Agency determines the standards and scales of remuneration, the employee benefits and the other conditions of employment of its employees, in accordance with the conditions defined by the Government.

**40.** The Agency establishes a mode of organization of human resources intended to promote

- (1) the efficiency of the Agency and the optimal utilization and development of human resources;
- (2) the exercise, within the framework of the means made available, of management practices that encourage persons to invest themselves, and the application of an accountability process in this regard;
- (3) equal opportunity for all citizens to obtain employment with the Agency;
- (4) impartiality and fairness in decisions affecting employees;
- (5) the competence of persons in recruitment, promotion and evaluation matters; and

(6) the optimal contribution of the various components of Québec society.

**41.** Agency employees must exercise their functions in the public interest, loyally, with honesty and impartiality and to the best of their ability, and treat the public with consideration and diligence.

In no case may Agency employees accept any sum of money or other consideration for the exercise of their functions over and above the amount allocated to them for that purpose under this Act. In no case may Agency employees directly or indirectly grant, solicit or accept, in that capacity, any undue favour or benefit for themselves or another person, or use for their own benefit any Agency property or any information obtained as Agency employees.

In no case may Agency employees have a direct or indirect interest in any undertaking that causes their personal interest to conflict with their duties of office. When such an interest devolves to an employee by succession or gift, it must be renounced or disposed of with all possible dispatch.

**42.** Subject to the provisions relating to access to information and the protection of personal information, Agency employees are bound to confidentiality regarding any matter brought to their knowledge in the exercise of their functions.

**43.** Agency employees must remain politically neutral in exercising their functions, and act with reserve in any public display of their political opinions.

Nothing in this Act prohibits an Agency employee from being a member of a political party, attending a political meeting or making, in accordance with the applicable legislative provisions, a contribution to a political party or a party authority or to a candidate in an election.

**44.** For the purposes of positions whose functions involve, among other things, a significant degree of participation in the awarding or management of contracts or of special access to information, the Agency may require that special integrity requirements be demanded of persons occupying such positions.

**45.** If an employee of the Agency is sued by a third person for an act or omission in the exercise of his or her functions, the Agency will take up his or her defence unless the person has committed a gross fault.

**46.** No group of Agency employees may strike unless the essential services and the manner of maintaining them have been determined by a prior agreement between the parties or, failing such an agreement, by a decision of the Commission des relations du travail.

Sections 111.15.1 and 111.15.2 of the Labour Code (chapter C-27) apply, with the necessary modifications, if the parties are unable to reach an agreement on their own.

The Agency must, without delay, send a copy of any agreement made under this section to the Commission des relations du travail.

No person may derogate from any of the provisions of an agreement or a decision referred to in this section.

In the event of a contravention of the first or third paragraph, the penal provisions set out in section 142 of the Labour Code apply.

In the event of a contravention of the fourth paragraph, the penal provisions set out in section 146.2 of the Labour Code apply.

**47.** The Agency is not a professional employer within the meaning of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20).

## **CHAPTER V**

### **FINANCIAL PROVISIONS**

**48.** Each year, the Agency submits its budgetary estimates for the following fiscal year to the Minister, in accordance with the form, content and schedule determined by the Minister.

The estimates are submitted to the Government for approval.

**49.** The Agency determines the tariff of professional and other fees and other forms of remuneration payable for the use of its goods and services.

The tariff for services rendered under Division III of Chapter II is subject to the approval of the Conseil du trésor.

**50.** The Agency retains any surplus, unless the Government decides otherwise.

**51.** The Agency may not, without the authorization of the Government,

(1) contract a loan that causes the total of its current outstanding loans to exceed the amount determined by the Government;

(2) make a financial commitment in excess of the limits or in contravention of the terms determined by the Government;

(3) acquire or hold shares in a legal person or an interest in a partnership in excess of the limits or in contravention of the terms determined by the Government;

(4) transfer shares in a legal person or an interest in a partnership in excess of the limits or in contravention of the terms determined by the Government;

(5) acquire or transfer other assets in excess of the limits or in contravention of the terms determined by the Government; or

(6) accept a gift or legacy to which a charge or condition is attached.

The Government may make its authorization subject to the conditions it determines.

**[[52.** The Government may, subject to the terms and conditions it determines,

(1) guarantee the payment of the principal of and interest on any loan contracted by the Agency and the performance of its obligations; and

(2) authorize the Minister of Finance to advance to the Agency any amount considered necessary for the fulfilment of the Agency's obligations or the pursuit of its mission.

The sums required for the purposes of this section are taken out of the Consolidated Revenue Fund.]]

**53.** The Agency may deposit with the Caisse de dépôt et placement du Québec the sums required to establish an Accumulated Sick Leave Fund to provide for the payment of some or all of the benefits due to employees for unused sick leave.

The Caisse de dépôt et placement du Québec administers the deposited sums in accordance with the investment policy determined jointly by the Minister of Transport and the Minister of Finance.

## **CHAPTER VI**

### **STRATEGIC PLAN AND SERVICE STATEMENT**

**54.** The Agency must adopt a strategic plan in accordance with the form, content and schedule determined by the Government.

The strategic plan must be submitted to the Government for approval.

**55.** The Agency must publish a service statement setting out its objectives with regard to its services and the quality of its services.

The statement must specify the time frame within which services are to be provided and provide clear information on their nature and accessibility.

**56.** The Agency must be aware of the expectations of its users and simplify service delivery rules and procedures to the greatest extent possible.

It must encourage its employees to provide quality services and to collaborate in achieving the targeted results.

## **CHAPTER VII**

### **ACCOUNTS AND REPORTS**

**57.** The fiscal year of the Agency ends on 31 March.

**58.** Not later than 30 September each year, the Agency must file its financial statements and an activity report for the preceding fiscal year with the Minister.

The financial statements and activity report must contain all the financial and accounting information required by the Minister.

**59.** The Minister lays the Agency's financial statements and activity report before the National Assembly within 30 days of receiving them or, if the Assembly is not sitting, within 30 days of resumption.

**60.** The Auditor General audits the Agency's books and accounts each year and whenever so ordered by the Government.

The Auditor General's report must be submitted with the Agency's activity report.

**61.** The Agency provides the Minister with any information the Minister may require on its activities.

## **CHAPTER VIII**

### **INSPECTIONS AND INVESTIGATIONS**

**62.** The Agency may designate any person to conduct an inspection on any premises where an activity governed by this Act or another Act administered by the Minister is taking place, and in relation to a function or responsibility that has been entrusted to the Agency.

The person designated by the Agency to conduct an inspection may

- (1) enter such premises at any reasonable time;
- (2) demand any information relating to the application of any of those Acts, and the production of any related document;
- (3) examine and make copies of such documents;
- (4) examine the premises and the property found on them; and
- (5) take photographs of the premises and property.

If a construction site is being inspected, the person responsible for the site is required to accompany the inspector and to provide access and reasonable assistance.

**63.** No proceedings may be brought against an inspector for acts performed in good faith in the exercise of inspection functions.

**64.** An inspector may submit to any person the recommendations the inspector deems appropriate.

In the event of a possible failure by a contractor described in section 1 of the Act respecting contracting by public bodies (chapter C-65.1) to comply with a contractual rule, the inspector must send a copy of the inspection report to the contract rules compliance monitor designated by the Agency.

**65.** The Agency may conduct an investigation on any matter that is governed by this Act or another Act administered by the Minister and that relates to a function or responsibility that has been entrusted to the Agency.

For the purposes of such investigations, the person designated by the Agency to investigate has the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

**66.** Anyone who hinders in any way a person authorized to act under this chapter, deceives the person through concealment or false declarations, refuses to provide information or documents the person is entitled to require or examine, or conceals or destroys a document or thing that is relevant to an inspection or investigation, is guilty of an offence and liable to a fine of \$1,000 to \$5,000 in the case of a natural person and \$3,000 to \$15,000 in any other case.

**67.** Persons empowered to act under this chapter must, on request, identify themselves and produce a certificate of authorization.

## **CHAPTER IX**

### **MISCELLANEOUS PROVISIONS**

**68.** The Agency is deemed to be a public body within the meaning of the Act respecting duties on transfers of immovables.

**69.** The Agency has recourse to the Minister of Justice for all its legal services, and to this end enters into an agreement for the provision of such services.

However, if, because of the nature of the legal services required, the Minister of Justice is unable to provide the services, the Agency may, with the Minister's consent, enter into a contract for legal services at the rate determined in accordance with section 23 of the Act respecting contracting by public bodies,

unless there has been a decision of the Conseil du trésor under the second paragraph of section 25 of that Act.

## **CHAPTER X**

### **AMENDING PROVISIONS**

#### **FINANCIAL ADMINISTRATION ACT**

**70.** Schedule 2 to the Financial Administration Act (chapter A-6.001), amended by section 95 of chapter 23 of the statutes of 2013, is again amended by inserting “Agence des infrastructures de transport du Québec” in alphabetical order.

#### **ACT RESPECTING THE AGENCE MÉTROPOLITAINE DE TRANSPORT**

**71.** Section 171 of the Act respecting the Agence métropolitaine de transport (chapter A-7.02) is repealed.

#### **LABOUR CODE**

**72.** Schedule I to the Labour Code (chapter C-27) is amended by adding the following paragraph at the end:

“(32) section 46 of the Act respecting the Agence des infrastructures de transport du Québec (*insert the year and chapter number of this Act*).”

#### **ACT RESPECTING MUNICIPAL TAXATION**

**73.** Section 204 of the Act respecting municipal taxation (chapter F-2.1), amended by section 164 of chapter 23 of the statutes of 2013, is again amended by inserting “, of the Agence des infrastructures de transport du Québec” after “of the State” in paragraph 1.

#### **ACT RESPECTING THE GOVERNANCE OF STATE-OWNED ENTERPRISES**

**74.** Section 15 of the Act respecting the governance of state-owned enterprises (chapter G-1.02), amended by section 164 of chapter 23 of the statutes of 2013, is again amended by inserting “the Agence des infrastructures de transport du Québec,” after “in the case of” in paragraph 15.

**75.** Schedule I to the Act, amended by section 117 of chapter 23 of the statutes of 2013, is again amended by inserting “Agence des infrastructures de transport du Québec” in alphabetical order.

## ACT RESPECTING THE MINISTÈRE DES TRANSPORTS

**76.** Sections 9 and 10 of the Act respecting the Ministère des Transports (chapter M-28) are replaced by the following sections:

**“9.** In the exercise of their functions, civil servants or employees of the department or other persons designated by the Minister may enter and pass over any land at any reasonable time in order to conduct surveys, examinations, analyses or other preparatory work related to the Minister’s mission.

Persons empowered to act under the first paragraph must, on request, identify themselves and produce a certificate of authorization.

**“9.1.** The Minister may, for the purpose of assessing the safety of a road infrastructure, order the contractor or the owner of the infrastructure to carry out any test, survey, testing or verification the Minister specifies.

The Minister may also require that the contractor or owner provide the Minister, within the time determined by the Minister, with a report on any aspect of the construction or operation of the transport infrastructure, along with any information and documents specified by the Minister.

**“10.** The Minister may also, in accordance with the applicable legislative provisions, enter into an agreement with a government other than the Gouvernement du Québec, a department or body of such a government, an international organization or a body of such an organization.”

**77.** Sections 11 to 11.5.1 of the Act are replaced by the following section:

**“11.** With the authorization of the Government, the Minister may expropriate any property in pursuit of the Minister’s mission or functions.”

**78.** Section 11.6 of the Act is amended

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

“The Minister may require the Agence des infrastructures de transport du Québec to include a similar stipulation for the benefit of such small enterprises in any contracts it awards in the pursuit of its mission and for the carrying out of road works referred to in paragraph *i* of section 3.”;

(2) by striking out “For the purposes of this paragraph, the Minister may designate a person to inquire into the activities and operation of the association holding the brokerage permit and report to the Minister.” in the fourth paragraph;

(3) by striking out “For the purposes of this paragraph, the Minister may designate a person to inquire into the activities, operation and representativeness of the association, to hold such consultations as the Minister determines and to report to the Minister.” in the fifth paragraph;

(4) by striking out “or the person designated by the Minister” in the last paragraph.

**79.** Section 12.1 of the Act is amended by inserting “, of the Agence des infrastructures de transport du Québec” after “Minister” in the first paragraph.

**80.** Section 12.1.1 of the Act is amended

(1) by replacing “Government” by “Minister”;

(2) by replacing “the Minister” by “the Agence des infrastructures de transport du Québec”.

**81.** Section 12.2 of the Act is amended by replacing “The Minister” by “The Agence des infrastructures de transport du Québec or the partner, as applicable,”.

**82.** Section 12.2.1 of the Act is amended by replacing “the Minister” in the second paragraph by “the Agence des infrastructures de transport du Québec or the partner, as applicable,”.

**83.** Section 12.3 of the Act is amended

(1) by replacing “The Minister” in the first paragraph by “The Agence des infrastructures de transport du Québec or the partner, as applicable,”;

(2) by replacing “The Minister” in the second paragraph by “The Agence des infrastructures de transport du Québec or the partner, as applicable,”.

**84.** Section 12.30 of the Act is amended

(1) by inserting the following subparagraph after subparagraph *e* of paragraph 1:

“(e.1) the activities of the Agence des infrastructures de transport du Québec;”;

(2) by striking out paragraph 2.

**85.** Section 12.32 of the Act is amended

(1) by inserting “or the Agence des infrastructures de transport du Québec” after “Minister” in paragraph 2.4;

(2) by inserting “or the Agence des infrastructures de transport du Québec” after “Minister” in paragraph 2.6.

**86.** Section 12.32.1 of the Act is amended by replacing “*b, c, d* and *e*” in the fifth paragraph by “*b* to *e.1*”.

**87.** Subdivision 2 of Division II of Chapter II of the Act, comprising sections 12.40 to 12.42, is repealed.

**88.** The Act is amended by inserting the following chapter after section 13:

**“CHAPTER III**

**“INSPECTION AND INQUIRY**

**“14.** The Minister may designate any person to conduct an inspection of any premises where an activity subject to this Act or to another Act administered by the Minister is carried out or where an activity relating to a function assigned to the Minister by the Government is carried out.

The person designated by the Minister may

- (1) enter such premises at any reasonable time;
- (2) demand any information relating to the application of any of those Acts and the production of any related document;
- (3) examine and make copies of such documents;
- (4) examine the premises and the property found on them; and
- (5) take photographs of the premises and property.

If a construction site is being inspected, the person responsible for the site is required to accompany the inspector and provide access and reasonable assistance.

**“15.** No proceedings may be brought against an inspector for acts performed in good faith in the exercise of inspection functions.

**“16.** An inspector may submit to any person the recommendations the inspector deems appropriate.

In the event of a possible failure to comply with a contractual rule on the part of a contractor described in section 1 of the Act respecting contracting by public bodies (chapter C-65.1), the inspector must send a copy of the inspection report to the contract rules compliance monitor designated by the Minister.

**“17.** The Minister may conduct an inquiry on any matter governed by this Act or by another Act administered by the Minister, and on any activity relating to a function assigned to the Minister by the Government.

For the purposes of such inquiries, the person designated by the Minister to conduct inquiries has the powers and immunity of commissioners appointed

under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

**18.** Any person who hinders in any way a person authorized to act under this chapter, deceives that person through concealment or false declarations, refuses to provide information or documents that person is entitled to require or examine, or conceals or destroys a document or thing that is relevant to an inspection or inquiry is guilty of an offence and liable to a fine of \$1,000 to \$5,000 in the case of a natural person and \$3,000 to \$15,000 in any other case.

**19.** Persons empowered to act under this chapter must, on request, identify themselves and produce a certificate of authorization.”

#### ACT RESPECTING LABOUR STANDARDS

**89.** Section 39.0.1 of the Act respecting labour standards (chapter N-1.1) is amended by inserting the following paragraph after paragraph 15.1 of the definition of “employer subject to contribution”:

“(15.2) the Agence des infrastructures de transport du Québec;”.

#### ACT RESPECTING TRANSPORT INFRASTRUCTURE PARTNERSHIPS

**90.** Section 2 of the Act respecting transport infrastructure partnerships (chapter P-9.001) is amended by inserting “or the Agence des infrastructures de transport du Québec (the Agency), as applicable” after “Minister” and section 3 of that Act is amended by replacing “Minister, as approved” by “Minister or the Agency, as applicable, and approved”.

**91.** Section 4 of the Act is replaced by the following section:

**4.** The Minister or the Agence des infrastructures de transport du Québec may, for the purposes of a partnership project, acquire by agreement or by expropriation or lease any property the Minister or the Agency deems useful. The Minister or the Agency may, for the same purposes, dispose of any property under the management of the Minister or the Agency.”

**92.** Section 5 of the Act is amended

(1) by inserting “or the Agence des infrastructures de transport du Québec, as applicable,” after “Minister”;

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

“The Agency may, with the authorization of the Minister and on the terms and conditions the Minister determines, amend a partnership agreement entered into by the Minister and administered by the Agency under the Act respecting the Agence des infrastructures de transport du Québec (*insert the year and chapter number of this Act*).”

**93.** Section 8.2 of the Act is amended

(1) by inserting “or the Agence des infrastructures de transport du Québec, as applicable” after “Minister” in the first paragraph;

(2) by inserting “or the Agence des infrastructures de transport du Québec, as applicable,” after “Minister” in the second paragraph.

**94.** Section 9 of the Act is amended by inserting “or the Agence des infrastructures de transport du Québec, as applicable,” after “Minister”.

**95.** Section 10 of the Act is amended by inserting “or the Agence des infrastructures de transport du Québec, as applicable,” after the first occurrence of “Minister”.

**96.** Section 20 of the Act is amended by replacing “partner’s employees” in the first paragraph by “persons”.

**PUBLIC PROTECTOR ACT**

**97.** Section 15 of the Public Protector Act (chapter P-32) is amended by adding the following paragraph at the end:

“(9) the Agence des infrastructures de transport du Québec.”

**ACT RESPECTING THE PROCESS OF NEGOTIATION OF THE COLLECTIVE AGREEMENTS IN THE PUBLIC AND PARAPUBLIC SECTORS**

**98.** Schedule C to the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (chapter R-8.2), amended by section 130 of chapter 23 of the statutes of 2013, is again amended by inserting, in alphabetical order, “— The Agence des infrastructures de transport du Québec”.

**ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN**

**99.** Schedule I to the Act respecting the Government and Public Employees Retirement Plan (chapter R-10), amended by section 131 of chapter 23 of the statutes of 2013, is again amended by inserting “the Agence des infrastructures de transport du Québec” in alphabetical order in paragraph 1.

**ACT RESPECTING THE PENSION PLAN OF MANAGEMENT PERSONNEL**

**100.** Schedule II to the Act respecting the Pension Plan of Management Personnel (chapter R-12.1), amended by section 135 of chapter 23 of the statutes

of 2013, is again amended by inserting “the Agence des infrastructures de transport du Québec” in alphabetical order in paragraph 1.

#### ACT RESPECTING ROADS

**101.** Section 11 of the Act respecting roads (chapter V-9) is repealed.

#### PUBLIC INFRASTRUCTURE ACT

**102.** Section 2 of the Public Infrastructure Act (2013, chapter 23) is amended by inserting “and the Agence des infrastructures de transport du Québec” after “des infrastructures” in paragraph 4.

**103.** Section 7 of the Act is amended by adding the following paragraph at the end:

“However, a body under the authority of the Minister of Transport sends that Minister the information required under the third paragraph. As the person responsible for the transport infrastructure project portfolio, the Minister of Transport establishes the order of priority for the investments the Minister intends to allocate and communicates them to the Chair of the Conseil du trésor to enable the Chair to draw up the plan.”

**104.** Section 18 of the Act is amended by inserting “or, as applicable, the Agence des infrastructures de transport du Québec” after “infrastructures” in subparagraph 3 of the second paragraph.

**105.** Section 31 of the Act is amended

(1) by replacing “In such cases” in the second paragraph by “In the latter case”;

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

“For any transport infrastructure project considered major, the Conseil du trésor may authorize the Agence des infrastructures de transport du Québec to act in place of the Société in order to carry out the activities provided for in the first and second paragraphs.”;

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

“For the purposes of this section, a transport infrastructure project is a project within the meaning of the first paragraph of section 15 regarding a facility, immovable or civil engineering structure used for transportation by land, air or water.”

**106.** Section 41 of the Act is amended by replacing “Minister of Transport” in the second paragraph by “Agence des infrastructures de transport du Québec”.

#### REGULATION RESPECTING THE TERMS AND CONDITIONS FOR THE DISPOSAL OF SURPLUS IMMOVABLE PROPERTY OF DEPARTMENTS AND PUBLIC BODIES

**107.** The Regulation respecting the terms and conditions for the disposal of surplus immovable property of departments and public bodies (chapter C-65.1, r. 1) is amended by replacing “the Minister of Transport” and any pronoun representing the Minister wherever they appear by “the Agence des infrastructures de transport du Québec”, with the necessary modifications.

#### REGULATION RESPECTING GOVERNMENT CONTRACTS FOR THE ACQUISITION OF IMMOVABLE PROPERTY

**108.** Section 4 of the Regulation respecting government contracts for the acquisition of immovable property (chapter C-65.1, r. 6), replaced by section 142 of chapter 23 of the statutes of 2013, is amended by replacing “the Ministère des Transports” in the first paragraph by “the Agence des infrastructures de transport du Québec”.

### CHAPTER XI

#### TRANSITIONAL AND FINAL PROVISIONS

**109.** As regards the functions entrusted to it, the Agency replaces the Minister of Transport and acquires the Minister’s rights and obligations.

**110.** For the purposes of the Act to promote workforce skills development and recognition (chapter D-8.3), the Agency is not a new employer.

**111.** The documents of the Ministère des Transports with regard to the functions entrusted to the Agency, including the agreements and contracts to which the Minister of Transport is a party, become those of the Agency.

**112.** The policies, directives, standards and rules applicable within the Ministère des Transports, as they read on 31 March 2015, become, with the necessary modifications, those of the Agency. If such a policy, directive, standard or rule provides for the authorization or decision of a third party, the Agency may, if its new status does not require it, authorize or decide on its own in matters within its jurisdiction.

**113.** The Agency becomes, without continuance of suit, a party to all proceedings to which the Minister of Transport was a party with regard to the functions entrusted to the Agency.

**114.** The ethical and professional standards provided for in the regulations adopted under the Public Service Act (chapter F-3.1.1) apply to the employees

of the Agency until its board of directors has approved, under paragraph 4 of section 15 of the Act respecting the governance of state-owned enterprises (chapter G-1.02), a code of ethics applicable to them.

**115.** For an 18-month period beginning on 1 April 2015, the Agency may use a qualifications list established before that date by the Chair of the Conseil du trésor in accordance with the Regulation respecting the holding of competitions (chapter F-3.1.1, r. 6), to which the Ministère des Transports has access.

**116.** Subject to the conditions of employment applicable to them, the employees of the Ministère des Transports in office on 31 March 2015 who are assigned to functions entrusted to the Agency under this Act and are specified by the Deputy Minister of Transport before that date, become employees of the Agency.

The same is true of employees of the communications directorate of that department whom the Associate Secretary General for Government Communications identifies.

With regard to their initial assignment within the Agency, section 44 does not apply to employees who become employees of the Agency because of this section.

**117.** Employees transferred to the Agency continue to be represented by the certified associations representing them on 31 March 2015.

The collective agreements in force at that date continue to apply until the date of coming into force of new collective agreements between the Agency and the associations representing the employees, unless an agreement is entered into before 1 April 2015 concerning the renewal of the collective agreements of the employees to be transferred. In the latter case, the agreements apply to Agency employees from 1 April 2015 to the date the agreements expire.

Persons who become Agency employees after 31 March 2015 are governed by the same conditions of employment as those applicable to the group of employees to which they belong.

**118.** An employee who was a public servant with permanent tenure on the date he or she was transferred to the Agency under section 116 may apply for a transfer to a position in the public service or enter a competition for promotion to such a position in accordance with the Public Service Act.

Section 35 of the Public Service Act applies to employees who participate in such a competition for promotion.

**119.** An employee transferred to the Agency under section 116 may be transferred to a position in the public service or enter a competition for promotion to such a position in accordance with the Public Service Act if, on

*(insert the date of introduction of this bill)*, the employee is a public servant, other than a casual employee, who has not obtained permanent tenure and, at the time of the transfer or promotion, has successfully completed the probationary period required under section 13 of that Act.

The period served as an employee of the Agency is taken into account in calculating the length of the probationary period and the period of continuous employment required for the purposes of section 14 of the Public Service Act.

Section 35 of the Public Service Act applies to employees who participate in such a competition for promotion.

**120.** An employee referred to in section 118 or 119 who applies for a transfer or enters a competition for promotion may apply to the Chair of the Conseil du trésor for an assessment of the classification that would be assigned to the employee in the public service. The assessment must take account of the classification that the employee had in the public service on the date of the transfer, as well as the years of experience and the level of schooling attained while in the employ of the Agency.

If an employee is transferred into the public service under section 118 or 119, the deputy minister or chief executive officer whom the employee comes under must assign to the employee a classification compatible with the assessment provided for in the first paragraph.

If an employee is promoted under section 118 or 119, the employee must be given a classification on the basis of the criteria set out in the first paragraph.

The same applies to an employee who obtained the status of temporary employee following the implementation of letter of agreement no. 10 between the Chair of the Conseil du trésor and the Syndicat de la fonction publique et parapublique du Québec.

**121.** If some or all of the Agency's activities are discontinued, an employee referred to in section 116 is entitled to be placed on reserve in the public service with the same classification the employee had before the date on which the employee was transferred to the Agency, if the employee was a public servant with permanent tenure on the date of the transfer.

In the event of a partial discontinuance of the Agency's activities, the employee continues to be employed by the Agency until the Chair of the Conseil du trésor is able to assign the employee a position in accordance with section 100 of the Public Service Act.

When assigning a position to an employee referred to in this section, the Chair of the Conseil du trésor determines the employee's classification on the basis of the criteria set out in the first paragraph of section 120.

**122.** An employee referred to in section 116 who, in accordance with the conditions of employment applicable to the employee, refuses to be transferred to the Agency is assigned to the Agency until the Chair of the Conseil du trésor is able to assign the employee a position in accordance with section 100 of the Public Service Act.

**123.** Subject to remedies available under a collective agreement, an employee referred to in section 116 who is dismissed may bring an appeal under section 33 of the Public Service Act if, on the date of the transfer to the Agency, the employee was a public servant with permanent tenure.

**124.** The conditions of employment of an employee transferred to the Agency under section 116 who is not governed by a collective agreement continue to apply, with the necessary modifications, until they are modified by the Agency.

**125.** For the first appointment of the members of the board of directors, the Government is not bound by the first paragraph of section 23 respecting the expertise and experience profiles or by the first paragraph of section 25 respecting the recommendation of the board.

**126.** The ownership of corporeal and incorporeal movable property at the disposal of the Ministère des Transports on 31 March 2015 is transferred to the Agency at book value, in accordance with a plan for apportioning the property between the Agency and the Minister of Transport, approved by the Minister of Finance. The Agency acquires the rights and obligations with regard to such property.

**127.** The assets, including accumulated surpluses, and the liabilities as at 31 March 2015, of the Land Transportation Network Fund established under section 12.30 of the Act respecting the Ministère des Transports (chapter M-28), with regard to the functions entrusted to the Agency under this Act, are transferred to the Agency.

The responsibilities arising from the loans and advances made, and from the contracts and agreements entered into by the Minister, as manager of the Fund, for the purposes of the Fund's activities, as they stand on 31 March 2015 with regard to the functions entrusted to the Agency under this Act, are transferred to the Agency.

As regards the responsibilities transferred under this section, the Agency replaces the Minister and acquires the Minister's rights and obligations.

**128.** The assets, including accumulated surpluses, and the liabilities as at 31 March 2015, of the Rolling Stock Management Fund established under section 12.30 of the Act respecting the Ministère des Transports, are transferred to the Agency.

The responsibilities arising from the loans and advances made, and from the contracts and agreements entered into by the Minister, as manager of the Fund, for the purposes of the Fund's activities, as they stand on 31 March 2015, are transferred to the Agency.

As regards the responsibilities transferred under this section, the Agency replaces the Minister and acquires the Minister's rights and obligations.

**129.** The Minister of Finance takes out of the Accumulated Sick Leave Fund referred to in section 8.1 of the Financial Administration Act (chapter A-6.001) a sum that, on 31 March 2015, is equal to the value of sick leave accumulated by the employees transferred to the Agency under section 116 and pays it into the Fund referred to in section 53.

**130.** The Minister must, not later than 1 April 2020, report to the Government on the administration and implementation of this Act.

The report must include recommendations concerning the updating of the Agency's mission. It must also contain an assessment of the effectiveness and performance of the Agency, including benchmarking measures.

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

**131.** Any regulation made by the Government under section 12.1.1 of the Act respecting the Ministère des Transports remains in force until it is replaced or repealed by a regulation made by the Minister of Transport.

**132.** The Government may, by a regulation made before 1 April 2016, make any other transitional measure required for the carrying out of this Act.

A regulation made under the first paragraph is not subject to the publication requirement set out in section 8 of the Regulations Act (chapter R-18.1) and comes into force on the date of its publication in the *Gazette officielle du Québec*, or on any later date set in the regulation. The regulation may also, if it so provides, have effect from any date not prior to 1 April 2015.

**133.** The Minister of Transport is responsible for the administration of this Act.

**134.** This Act comes into force on 1 April 2015, except sections 22 to 27, 32 to 34, 37, 48, 51, 52, 71, 76, 88, 96, 125 and 132, which come into force on *(insert the date of assent to this Act)*.



