



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-EIGHTH LEGISLATURE

Bill 32

**An Act to promote rigorous management
of public infrastructures and large
projects**

Introduction

**Introduced by
Madam Monique Jérôme-Forget
Minister responsible for Government Administration and
Chair of the Conseil du trésor**

**Québec Official Publisher
2007**

EXPLANATORY NOTES

The purpose of this bill is to ensure that state investments in public infrastructures are transparent and made in accordance with best management practices, and that they are properly apportioned between infrastructure maintenance and infrastructure development. To that end, the bill provides that a capital budget is to be tabled each year in the National Assembly. The budget is to specify the amounts allocated to maintaining and developing public infrastructures and to eliminating the maintenance deficit within 15 years. The bill also provides for a rendering of accounts with respect to the use of the budget.

A further purpose of the bill is to promote rigorous planning and monitoring of large infrastructure projects so as to reduce the risks of cost overruns and delays in project completion. To that end, a governance framework is set up that comprises control mechanisms and independent evaluations of the quality of proposed projects.

LEGISLATION AMENDED BY THIS BILL:

– Public Administration Act (R.S.Q., chapter A-6.01).

Bill 32

AN ACT TO PROMOTE RIGOROUS MANAGEMENT OF PUBLIC INFRASTRUCTURES AND LARGE PROJECTS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

OBJECT

1. The purpose of this Act is to ensure that state investments in public infrastructures are transparent and made in accordance with best management practices, and that they are properly apportioned between infrastructure maintenance and infrastructure development.

This Act also aims to promote rigorous planning and monitoring of large infrastructure projects so as to reduce the risks of cost overruns and delays in project completion.

CHAPTER II

INVESTING IN THE MAINTENANCE AND DEVELOPMENT OF PUBLIC INFRASTRUCTURES AND IN THE ELIMINATION OF THE MAINTENANCE DEFICIT

2. Not later than 1 December each fiscal year, the Conseil du trésor must submit to the Government a draft multi-year capital budget for public infrastructures.

3. “Infrastructure” means an immovable, a civil engineering work and any other equipment determined by the Government.

An infrastructure is considered to be a public infrastructure if the Government contributes financially, directly or indirectly, to building, acquiring, maintaining or improving it.

4. The capital budget must specify the amounts allocated to each of the following objectives:

(1) maintaining existing public infrastructures in keeping with the standards recognized for each type of infrastructure and identified by the Conseil du trésor;

(2) eliminating within 15 years the maintenance deficit determined on 1 April 2008; and

(3) building new public infrastructures, or improving or replacing existing public infrastructures.

5. A public body referred to in section 9 must provide, at the request of the chair of the Conseil du trésor or of the Minister responsible for the body, the information the chair considers necessary to prepare the capital budget and a yearly report detailing how the allocated amounts have been used, in particular with respect to the objectives listed in section 4.

6. The capital budget and the yearly report on how it has been used are tabled in the National Assembly by the chair of the Conseil du trésor.

The documents may be examined by the appropriate committee of the National Assembly.

7. The Government may make rules on how to allocate unused amounts in the capital budget to subsequent budgets.

CHAPTER III

GOVERNANCE FRAMEWORK FOR LARGE PROJECTS

8. This chapter applies to the following large infrastructure projects carried out by public bodies:

(1) projects for the construction or repair of buildings or for the construction of a civil engineering work that are considered major projects within the meaning of section 8 of the Act respecting the Agence des partenariats public-privé du Québec (R.S.Q., chapter A-7.002); and

(2) any other project determined by the Government.

9. For the purposes of this Act, the following are public bodies:

(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 (R.S.Q., chapter F-3.1.1), except the Commission administrative des régimes de retraite et d'assurances, the Commission de la santé et de la sécurité du travail, the Conseil de gestion de l'assurance parentale, the Public Curator, the Régie des rentes du Québec and the Société de l'assurance automobile du Québec;

(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) school boards, the Comité de gestion de la taxe scolaire de l'île de Montréal, general and vocational colleges, and university institutions referred to in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (R.S.Q., chapter E-14.1);

(6) health and social services agencies and public institutions within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-4.2) and the James Bay Cree health and social services council established under the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5);

(7) the Corporation d'hébergement du Québec and the Immobilière SHQ;

(8) a public transit authority within the meaning of section 88.1 of the Transport Act (R.S.Q., chapter T-12); and

(9) a legal person established in the public interest whose investments have an impact on government expenditure and that is designated by the Government.

10. A public body must follow the steps outlined in this chapter when carrying out a large project unless it has been exempted from doing so by the Government.

11. For each project a public body intends to carry out, the Minister responsible for the body must submit to the Conseil du trésor a strategic presentation document that includes a description and the estimated cost of the project as well as a preliminary assessment of the advisability of carrying out the project in the public-private partnership mode.

With the authorization of the Conseil du trésor, the body may develop an initial business plan.

12. The initial business plan must contain an updated description of the project and an updated cost estimate, and outline the contracting approach.

13. The preliminary assessment described in section 11 and the determination of the contracting approach that will be applied must be made together with the Agence des partenariats public-privé du Québec.

14. The quality of the initial business plan must be evaluated by the Agence des partenariats public-privé du Québec when the project is to be carried out in the public-private partnership mode, and by a committee of independent experts mandated by the chair of the Conseil du trésor in other cases.

The agency or the committee sends its advisory opinion to the chair of the Conseil du trésor and the public body.

15. The initial business plan and the advisory opinion provided for in section 14 are presented to the Government by the Minister responsible for the public body.

With the authorization of the Government, the body may pursue the project in the public-private partnership mode or, for any other contracting approach, prepare a detailed business plan.

16. The quality of the detailed business plan must be evaluated by a committee of independent experts mandated by the chair of the Conseil du trésor.

The committee sends its advisory opinion to the chair of the Conseil du trésor and the public body.

17. The detailed business plan and the advisory opinion of the committee of independent experts referred to in section 16 are presented to the Government by the Minister responsible for the public body.

With the authorization of the Government, the body may begin work.

18. The Conseil du trésor may determine the information that must be contained in the strategic presentation document, the initial business plan and the detailed business plan, and the documents, analyses or advisory opinions that must accompany them.

19. The fees of the members of the committees of independent experts are borne by the public body that submits the project.

20. The Minister responsible for the public body must inform the Government as soon as possible of any cost overrun, whether actual or anticipated, of 10% or more on a project authorized under section 17.

21. The approval of a capital program or investment plan of a public body by the competent authority under another Act does not operate to exempt the body from the application of this chapter.

CHAPTER IV

TRANSITIONAL AND MISCELLANEOUS PROVISIONS

22. Section 57 of the Public Administration Act (R.S.Q., chapter A-6.01) is amended by striking out the third paragraph.

23. Chapter III does not apply to a project for the construction or repair of a building or for the construction of a civil engineering work of a public body if all authorizations required for the project by law are received on or before *(insert the date of coming into force of section 10)* and if a call for tenders for the project is made before that date.

24. The Minister who chairs the Conseil du trésor is responsible for the administration of this Act.

25. The provisions of this Act come into force on the date or dates to be set by the Government.

