



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-EIGHTH LEGISLATURE

Bill 53

**An Act respecting the Agence de gestion
des structures routières du Québec**

Introduction

**Introduced by
Madam Julie Boulet
Minister of Transport**

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EXPLANATORY NOTES

This bill creates, under the name “Agence de gestion des structures routières du Québec”, an Agency that will manage the road structures determined by order of the Government.

The bill defines the mission of the Agency, which includes seeing to the inspection, the maintenance and, if necessary, the replacement of road structures under its management. In addition, the Agency may see to the construction of new road structures, at the Government’s request.

The Agency is a body subject to the Act respecting the governance of state-owned enterprises. Consequently, at least two thirds of the members of its board of directors, including the chair, will have to qualify as independent directors.

The bill contains amending and transitional provisions, particularly as regards the transfer to the Agency of certain employees of the Ministère des Transports.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting the governance of state-owned enterprises (R.S.Q., chapter G-1.02);
- Act respecting the Ministère des Transports (R.S.Q., chapter M-28);
- Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2);
- Act respecting roads (R.S.Q., chapter V-9).

Bill 53

AN ACT RESPECTING THE AGENCE DE GESTION DES STRUCTURES ROUTIÈRES DU QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

ESTABLISHMENT

- 1.** A legal person is established under the name “Agence de gestion des structures routières du Québec” (the Agency).
- 2.** The Agency is a mandatary of the State.

The property of the Agency 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 head office of the Agency is located in the territory of Ville de Québec. Notice of the location and any relocation of the Agency’s head office is published in the *Gazette officielle du Québec*.

CHAPTER II

MISSION AND POWERS

- 4.** The mission of the Agency is to manage the road structures determined by the Government.

The Agency must pursue its mission with the dual objective of ensuring structure sustainability and offering quality services for users, while focussing on safety, efficiency and sustainable development.

- 5.** The Agency’s functions, in the pursuit of its mission, include

(1) seeing to the inspection, maintenance, repair and, if necessary, replacement of the road structures under its management;

(2) at the request of the Government, seeing to the construction of new road structures the Government determines; and

(3) promoting the development of technical and scientific knowledge with respect to road structures.

6. For the purposes of this Act, road structures under the Agency's management are road bridges, culverts, tunnels and any other engineering structure determined by government order.

7. The road structures built or rebuilt by the Agency under this Act are deemed to be built or rebuilt under the Act respecting roads (R.S.Q., chapter V-9), and sections 6 and 7 of that Act apply, with the necessary modifications, with respect to those structures, according to whether they are part of a road or an autoroute.

8. For the purposes of this Act, the Minister may acquire by expropriation in favour of the domain of the State any property that the Agency cannot otherwise acquire.

The immovables and immovable real rights acquired by the Agency and necessary for managing road structures are deemed to be transferred to or acquired by the Minister.

Sections 6 and 7 of the Act respecting roads apply, with the necessary modifications, with respect to those immovables and immovable real rights, according to whether they are part of or relate to a road or an autoroute.

9. The Government may, by order, determine that, as of the date specified in the order, a road structure under the management of the Minister or of a municipality is to be managed by the Agency, or that a road structure under the management of the Agency is to be managed by the Minister or by a municipality.

10. The Agency is not responsible for maintaining the sidewalks, traffic lights or other works and installations of a road structure under its management unless otherwise provided in an agreement with the municipality concerned.

If there is no such agreement or if the Agency does not do so of its own accord, the municipality must maintain its works and installations although it is not bound to clear snow from sidewalks.

11. The Agency maintains the part of a road structure that serves as a bridge for a municipal road that passes over a road under the Minister's management; however, the municipality remains responsible for maintaining the roadway, sidewalks, railings, drainage and lighting of such a bridge.

12. No person may build or install works or installations in the right of way of a road structure or encroach on such a right of way except with the authorization of the Agency.

In the case of a contravention of the first paragraph, the Agency sends a notice to the offender ordering the offender to remove, within the time specified, the works or installation built or installed without the Agency's authorization. If the offender does not comply with the notice, the Agency removes the works or installation and restores the right of way of the road structure at the offender's expense.

13. The Minister and the Agency may enter into an agreement under which they undertake to carry out, on each other's behalf and subject to the terms of the agreement, specific operations related to the Agency's mission or the Minister's functions. However, such an agreement may not pertain to clearing snow from the part of a road located on a road structure, which is always under the Minister's management.

The agreement provides for the remuneration of the Agency or the Minister, if expedient.

14. The Agency may enter into an agreement with any person for the carrying out of its mission, subject to the terms of the agreement.

When such an agreement has been made with a municipality, the latter may carry out work outside its territory if required by the agreement.

15. The Agency may enter into an agreement with a Native community, represented by its band council within the meaning of the Indian Act (Revised Statutes of Canada, 1985, chapter I-5) or the Cree-Naskapi (of Québec) Act (Statutes of Canada, 1984, chapter 18), under which the community is to carry out repair work, maintenance work and, if necessary, construction work on a road structure at the Agency's expense.

16. At the request of the Minister, the Agency advises the Minister on any matter under its jurisdiction and makes any recommendation it considers appropriate.

17. The Agency may alienate the expertise it has acquired or developed and the related intellectual property rights. The Agency may also provide consulting services related to its expertise.

18. Subject to the applicable legislative provisions, the Agency may enter into an agreement with a government other than that of Québec, with a department of such a government, with an international organization or with a body of such a government or organization.

19. Sections 28 to 31 of the Act respecting roads, on exemption from liability, apply to the Agency with the necessary modifications.

CHAPTER III

ORGANIZATION AND OPERATION

20. The Agency is administered by a board of directors consisting of 11 members, including the chair and the president and chief executive officer.

The Government appoints the members of the board of directors, other than the chair and the president and chief executive officer, taking into consideration the expertise and experience profiles approved by the board. Board members are appointed for a term of up to four years.

21. The Government appoints the chair of the board of directors for a term of up to five years.

On the expiry of their term, board members remain in office until replaced or reappointed.

22. Any vacancy on the board of directors is filled in accordance with the rules of appointment to the board.

Non-attendance at a number of board meetings determined by the Agency's internal by-laws constitutes a vacancy in the cases and circumstances specified in the by-laws.

23. On the recommendation of the board of directors, the Government appoints the president and chief executive officer, taking into consideration the expertise and experience profile approved by the board.

The president and chief executive officer is appointed for a term of up to five years.

The Government determines the remuneration, employment benefits and other conditions of employment of the president and chief executive officer.

The office of president and chief executive officer is a full-time position.

24. The members of the board of directors other than the president and chief executive officer receive no remuneration except in the cases, on the conditions and to the extent that may be determined by the Government. They are entitled, however, to the reimbursement of expenses incurred in the exercise of their functions in the cases, on the conditions and to the extent determined by the Government.

25. If the board of directors does not recommend a candidate for the position of president and chief executive officer in accordance with section 23 within a reasonable time, the Government may appoint the president and chief executive officer after notifying the board members.

26. If the president and chief executive officer is absent or unable to act, the board of directors may designate a member of the Agency's personnel to exercise the functions of that position.

27. The quorum at meetings of the board of directors is the majority of its members.

28. The minutes of the meetings of the board of directors, approved by the board and certified by the chair, the vice-chair, the president and chief executive officer, the secretary or another person authorized by the Agency, are authentic. The same applies to documents and copies emanating from the Agency or forming part of its records, if they are so certified.

29. A deed, document or writing is binding on and may be attributed to the Agency only if it is signed by the chair, the president and chief executive officer or another personnel member of the Agency and, in the latter case, only to the extent determined by the by-laws of the Agency.

30. The Agency may, by by-law and subject to specified conditions, allow a signature to be affixed by means of an automatic device, an electronic signature to be affixed, or a facsimile of a signature to be engraved, lithographed or printed on specified documents. However, the facsimile has the same force as the signature itself only if the document is countersigned by a person referred to in section 29.

31. The Minister may issue directives concerning the organization and operation of the Agency. These directives are binding on the Agency.

32. The members of the personnel of the Agency are appointed in accordance with the staffing plan established by by-law of the Agency.

Subject to the provisions of a collective agreement, the standards and scales of remuneration, employment benefits and other conditions of employment of the personnel members are determined by by-law of the Agency in accordance with the conditions defined by the Government.

CHAPTER IV

FINANCIAL PROVISIONS

33. The Agency may not, without the Government's authorization,

(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 contrary to the conditions 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 contrary to the conditions determined by the Government;

(4) dispose of shares in a legal person or an interest in a partnership in excess of the limits or contrary to the conditions determined by the Government;

(5) acquire or dispose of other assets in excess of the limits or contrary to the conditions determined by the Government; or

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

34. The Government may, on the conditions and in the manner it determines,

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

(2) authorize the Minister of Finance to advance to the Agency any amount considered necessary to meet its obligations or pursue its mission.

The sums required for the purposes of this section are taken out of the consolidated revenue fund.

35. The operations of the Agency are funded by the revenue it derives from the commissions and professional and other fees it charges under an agreement or government order, the proceeds from the goods and services it provides and the other monies it receives.

36. The monies received by the Agency must be allocated to the payment of its obligations. The Agency retains any surpluses unless the Government decides otherwise.

37. Each year, the Agency submits its budgetary estimates for the following fiscal year to the Minister, in accordance with the form and content and the schedule that the Minister determines.

The estimates are submitted to the Minister for approval.

CHAPTER V

ACCOUNTS AND REPORTS

38. The fiscal year of the Agency ends on 31 March.

39. Not later than 31 July each year, the Agency files its financial statements for the preceding fiscal year with the Minister.

The financial statements must contain all the information required by the Minister.

40. The Minister lays the financial statements before the National Assembly within 30 days of their receipt or, if the Assembly is not sitting, within 30 days of resumption.

41. The Auditor General audits the books and accounts of the Agency each year and whenever so ordered by the Government.

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

CHAPTER VI

AMENDING PROVISIONS

42. Schedule II to the Financial Administration Act (R.S.Q., chapter A-6.001) is amended by inserting "Agence de gestion des structures routières du Québec" in alphabetical order.

43. Schedule I to the Act respecting the governance of state-owned enterprises (R.S.Q., chapter G-1.02) is amended by inserting "Agence de gestion des structures routières du Québec" in alphabetical order.

44. Section 3 of the Act respecting the Ministère des Transports (R.S.Q., chapter M-28) is amended by inserting the following subparagraph after subparagraph *e* of the first paragraph:

"(e.1) see that the Act respecting the Agence de gestion des structures routières du Québec (*insert the year and chapter number of this bill*) is applied;"

45. Schedule C to the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2) is amended by inserting "The Agence de gestion des structures routières du Québec" in alphabetical order.

46. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by inserting "the Agence de gestion des structures routières du Québec" in alphabetical order.

47. Schedule II to the Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1) is amended by inserting "the Agence de gestion des structures routières du Québec" in alphabetical order.

48. Section 2 of the Act respecting roads (R.S.Q., chapter V-9) is amended by striking out the second and third paragraphs.

49. Section 4 of the Act is amended by adding the following at the end: ", except any road structure specified in a government order under section 6 or

9 of the Act respecting the Agence de gestion des structures routières du Québec (*insert the year and chapter number of this bill*)”.

50. Section 16 of the Act is repealed.

51. Section 50 of the Act is repealed.

CHAPTER VII

TRANSITIONAL AND MISCELLANEOUS PROVISIONS

52. The documents of the Ministère des Transports relating to road structures, and the agreements and contracts to which the Minister of Transport is a party for the purposes of the functions described in paragraph 1 of section 5, become documents, agreements and contracts of the Agency, to the extent and on the conditions the Government determines.

53. The Agency becomes, without continuance of suit, a party to all proceedings to which the Minister of Transport was a party with respect to the functions listed in section 5.

54. Subject to the conditions of employment applicable to them, the employees of the Ministère des Transports assigned to the functions described in paragraph 1 of section 9 who are in office on (*insert the date of coming into force of this section*) become employees of the Agency, provided that a decision of the Conseil du trésor providing for their transfer is made before (*insert the date occurring one year after the date of coming into force of this section*).

55. The employees of the Agency who are represented by a certified association at the time of their transfer continue to be represented by that association, and the collective agreements in force at that time continue to apply.

56. Subject to the conditions of employment applicable to them, the employees referred to in section 54 hold the positions and perform the duties assigned to them by the Agency.

57. An employee of the Agency referred to in section 54 who, when appointed to the Agency, was a public servant with permanent tenure may request a transfer to a position in the public service or take part in a competition for promotion for such a position, in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

58. Section 35 of the Public Service Act applies to an employee referred to in section 57 who takes part in a competition for promotion for a position in the public service.

59. An employee referred to in section 57 who applies for a transfer or takes part in a competition for promotion may ask the chair of the Conseil du trésor for an assessment of the classification the employee would be assigned in the public service. The assessment must take into account the employee's classification on the last day of employment in the public service and the experience and training acquired in the course of employment with the Agency.

If an employee is transferred under section 57, the deputy minister or chief executive officer determines the employee's classification in accordance with the assessment provided for in the first paragraph.

If an employee is promoted under section 57, the classification assigned to the employee must take into account the criteria set out in the first paragraph.

60. In the event of a partial or total discontinuance of the operations of the Agency or a shortage of work, an employee referred to in section 57 is entitled to be placed on reserve in the public service with the classification held on the last day of employment in the public service.

In that case, the chair of the Conseil du trésor determines the employee's classification taking into account the criteria set out in the first paragraph of section 59.

61. A person who, in accordance with the applicable conditions of employment, refuses to be transferred to the Agency is assigned to the Agency until the chair of the Conseil du trésor is able to place the person in accordance with section 100 of the Public Service Act. The same applies to a person placed on reserve in accordance with section 60, who remains in the employ of the Agency.

62. Subject to remedies available under a collective agreement, an employee referred to in section 54 whose employment is terminated or who is dismissed may bring an appeal under section 33 of the Public Service Act.

[[**63.** The sums required to carry out this Act for the first fiscal year of the Agency are taken out of the consolidated revenue fund to the extent the Government determines.]]

64. Despite sections 20 and 23, the Government appoints the first directors of the Agency for a one-year term without being required to comply with the method of appointment set out in those sections; the president and chief executive officer may be appointed for a term of up to three years.

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

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

