



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 183

(2000, chapter 51)

An Act respecting the resumption of normal public transport service in the territory of the Société de transport de la Communauté urbaine de Québec

Introduced 15 December 2000

Passage in principle 15 December 2000

Passage 15 December 2000

Assented to 15 December 2000

EXPLANATORY NOTES

The purpose of this bill is to provide for the resumption of normal public transport service in the territory of the Société de transport de la Communauté urbaine de Québec.

To that end, specific obligations are imposed on the employees represented by the Syndicat des salariés de garage de la STCUQ inc. (C.S.N.), on that employees' association and on the transit authority to ensure the maintenance of service, and the latest collective agreement between the parties is reinstated until 31 May 2001. The bill further provides, in particular, that passenger fares cannot be raised during the period it indicates.

Moreover, a government-appointed mediation council will be responsible for assisting the parties in improving labour relations and work organization within the enterprise, and for facilitating the conclusion of a collective agreement.

The bill also provides for the possibility of the matter of the negotiation of a collective agreement being referred to an arbitrator, for a decision based on final proposals by the parties. The resulting arbitration award would be binding on the parties from 1 June 2001 to 31 December 2003.

In addition, the bill authorizes the Minister of Labour to designate a person to investigate certain policies and practices within the Société and associations representing members of the personnel of the Société, and the relationship between the Société, the members of its personnel and those associations.

Lastly, administrative, civil and penal sanctions are provided for any failure to fulfil obligations.

Bill 183

AN ACT RESPECTING THE RESUMPTION OF NORMAL PUBLIC TRANSPORT SERVICE IN THE TERRITORY OF THE SOCIÉTÉ DE TRANSPORT DE LA COMMUNAUTÉ URBAINE DE QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

DIVISION I

INTERPRETATION

1. In this Act, unless the context indicates otherwise,

“association” means the Syndicat des salariés de garage de la STCUQ Inc. (C.S.N.);

“employee” means an employee within the meaning of the Labour Code (R.S.Q., chapter C-27) who, on 15 December 2000, is in the bargaining unit for which the association is certified or is subsequently included in that bargaining unit; and

“Société” means the Société de transport de la Communauté urbaine de Québec.

DIVISION II

RESUMPTION OF SERVICE

2. Every employee must, as of 05:01 a.m. on 17 December 2000, report for work according to his or her regular work schedule and the other conditions of employment that are applicable to the employee.

3. Every employee must, as of 05:01 a.m. on 17 December 2000, perform all the duties attached to his or her functions, according to the conditions of employment that are applicable to the employee, without any stoppage, slowdown, reduction or alteration of his or her normal activities.

4. The Société, its executives and representatives must, as of 05:01 a.m. on 17 December 2000, take the appropriate measures to ensure that normal public transport service is provided.

5. The association is prohibited from declaring or carrying on a strike or participating in any concerted action if the strike or concerted action involves a contravention of section 2 or section 3 by employees.

Similarly, the Société is prohibited from resorting to a lock-out if it involves such a contravention.

6. The association must, before 05:01 a.m. on 17 December 2000, communicate the content of this Act publicly to the employees and send an attestation of such communication to the Minister of Labour.

7. The association must take the appropriate measures to induce the employees to comply with sections 2 and 3.

8. No person may, by an omission or otherwise, prevent or impede in any manner the resumption of public transport service or the performance of work related to such service by employees, or contribute directly or indirectly to slowing down or delaying the performance of such work.

9. No person may hinder a person's access to a place to which that person has a right of access in order to exercise functions related to public transport service for the Société or in order to obtain such service.

DIVISION III

POWERS OF THE SOCIÉTÉ REGARDING FARES AND CLASSES OF USERS

10. Until a new collective agreement is concluded between the association and the Société or an arbitration award is rendered under section 29, passenger fares shall not exceed the fares in effect on 1 June 2000.

Moreover, the Société shall not, during that period, modify the classes of users determined by the Société as of 1 June 2000.

DIVISION IV

CONDITIONS OF EMPLOYMENT

11. As of 05:01 a.m. on 17 December 2000, the latest collective agreement between the association and the Société, the renewal of which is being negotiated, shall again be binding on the parties until 31 May 2001, notwithstanding the term provided for therein.

However, the increases in wages and premiums dated 27 December 1997, 26 December 1998, 1 January 2000 and 1 January 2001 in the collective agreement shall be determined by the arbitrator appointed under Division VI or by agreement between the parties.

12. The parties may come to an agreement at any time on the content of the new collective agreement, even after the appointment of an arbitrator under Division VI.

DIVISION V

MEDIATION COUNCIL

13. A mediation council, composed of three members, including a chair, appointed by the Minister of Labour after consultation with the association and the Société, is hereby established, to be operational until 31 March 2001.

14. The mandate of the mediation council is to

(1) facilitate the conclusion of a collective agreement between the association and the Société; and

(2) make any proposal to the association and the Société that it considers conducive to improving labour relations and work organization within the enterprise.

15. The mediation council may, of its own initiative or at the request of the Minister of Labour, submit a report to the Minister containing its observations on the situation prevailing between the association and the Société in the area of labour relations and personnel management, and formulate recommendations as part of its mandate.

16. The mediation council has all the powers necessary to carry out its mandate. If it considers it appropriate, the council may meet directly with the employees, the members of the board of directors of the Société and the members of the council of the Communauté urbaine de Québec.

17. Two members of the mediation council form a quorum.

The remuneration and expenses of the members of the mediation council shall be determined by the Minister of Labour. They shall be borne, in equal proportions, by the association and the Société, except the remuneration and the living and travelling expenses of the chair, which shall be borne by the Ministère du Travail.

18. The mediation council may terminate its work at any time and recommend to the Minister that the matter of the negotiation of a collective agreement between the association and the Société be referred to an arbitrator.

DIVISION VI**SETTLEMENT OF DISAGREEMENTS BETWEEN THE ASSOCIATION AND THE SOCIÉTÉ**

19. On receipt of a recommendation under section 18 or from 31 March 2001, the Minister of Labour may refer the matter of the negotiation of a collective agreement between the association and the Société to an arbitrator and so notify the parties.

20. Within 10 days of receiving the notice provided for in section 19, the parties must consult as to the choice of an arbitrator; if they come to an agreement, the Minister of Labour shall appoint the person they have chosen. Failing agreement, the Minister shall appoint an arbitrator *ex officio* in accordance with section 77 of the Labour Code.

21. On the fifteenth day following the appointment of an arbitrator, the Société and the association must each transmit a final proposal for a collective agreement to the arbitrator.

The final proposals must specify the increases in wages and premiums dated 27 December 1997, 26 December 1998, 1 January 2000 and 1 January 2001 in the latest collective agreement if the increases have not been determined by agreement between the parties.

22. Before arbitration begins, the arbitrator must deliver a copy of the final proposals to the parties and endeavour to bring the parties to an agreement.

If the parties have not reached an agreement within seven days of receiving the final proposals, the arbitrator must begin arbitration, and shall notify the parties thereof.

23. Section 76, the first paragraph of section 80, sections 81 to 87, 89, 91, 91.1 and 139 to 140 of the Labour Code apply to the arbitration, with the necessary modifications.

24. Within five days of transmission of a notice under section 22, the parties may transmit written observations to the arbitrator.

25. The arbitrator shall proceed with the arbitration on examination of the record. If the arbitrator considers it necessary, a hearing may be held.

26. In choosing between the two final proposals, the arbitrator must take into account the conditions of employment applicable to the other employees of the Société, the conditions of employment and work organization existing in similar transit authorities or in similar circumstances, as well as prevailing and anticipated wage and economic conditions in Québec. The arbitration award shall reproduce the content of the final proposal chosen.

If the arbitrator receives only one final proposal, the arbitration award shall reproduce the content of that proposal.

27. The arbitrator may not amend a final proposal, except to correct an error in writing or in calculation or any other clerical error. The arbitrator may, if necessary, make adjustments to a provision contained in a final proposal to accurately reflect the true intent of the party having made the proposal or to incorporate a provision into the collective agreement.

28. The arbitration award must be rendered within 30 days of the transmission of the notice provided for in section 22.

Where, in the opinion of the Minister of Labour, exceptional circumstances so warrant, the Minister may, at the request of the arbitrator, extend the time as the Minister determines.

29. The arbitration award must be in writing, contain reasons and be signed by the arbitrator.

30. The arbitration award is binding on the parties.

However, the parties may agree to amend all or part of the content of the award.

31. The arbitration award is effective from 1 June 2001 to 31 December 2003, unless the parties agree otherwise before the filing of the final proposals.

32. The Minister of Labour shall determine the remuneration and costs to which the arbitrator is entitled. The remuneration and costs shall be borne in equal proportions by the association and the Société and are deemed to be paid to the arbitrator pursuant to a contractual obligation of the association and the Société.

DIVISION VII

POWER OF INVESTIGATION

33. As soon as the matter of the negotiation of a collective agreement may be referred to an arbitrator, the Minister of Labour may designate a person to investigate the policies and practices within the Société and associations representing members of the personnel of the Société relating to human resource management and work organization and the relationship between the Société, the members of its personnel and those associations.

34. In conducting the investigation, the investigator is vested with the powers and immunity of a commissioner appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

35. At the request of the Minister of Labour, the investigator designated by the Minister shall report on the progress and results of the investigation. The final report shall be remitted to the Minister, who shall forward a copy to the Société and to each association representing members of its personnel.

DIVISION VIII

SANCTIONS

§1. — Administrative measures

36. If the Government is of the opinion that the employees are not complying with section 2 or section 3 in sufficient number to ensure that normal public transport service is provided, the Government may, by order, suspend the union check-off for the functions related to public transport service exercised by the employees in relation to that service.

From the date fixed in the order, the Société is prohibited from withholding any union assessment or dues, contribution or amount in lieu thereof from the wages paid to the employees.

The suspension and prohibition shall be effective for a period equal to 12 weeks per day or part of a day during which, in the opinion of the Government, the employees do not comply with section 2 or section 3 in sufficient number to ensure that regular public transport service is provided.

37. Any employee who contravenes section 2 or section 3 shall receive no remuneration for the contravention period.

In addition, in the case of absence from work or a work stoppage, the wages to be paid to the employee under the applicable collective agreement for work performed after the absence or work stoppage shall be reduced by an amount equal to the wages the employee would have received for each period of absence or work stoppage.

The Société must make the deductions resulting from the application of the second paragraph, up to 20% of the wages per pay period. The Société shall remit the sums deducted to a registered charity within the meaning of the Taxation Act designated by order of the Government.

The employee is only entitled to the reimbursement of the amount deducted if the employee shows that he or she has complied with section 2 or section 3, as the case may be, or that he or she was unable to comply despite having taken every reasonable means to do so, and that the failure to comply was not part of any concerted action.

Any person to whom a decision taken by the Société pursuant to this section is referred for arbitration has authority only to confirm or quash it on the sole basis of the fourth paragraph.

38. An employee who is released to carry on union activities for the association on a day or part of a day during which the association contravenes section 5 shall not be remunerated by the Société for that day or part of day.

In addition, the salary to be paid to the employee after the association's contravention, according to the applicable conditions of employment, shall be reduced by an amount equal to the amount that would have been paid to the employee in the absence of contravention.

If the Société ascertains that an offence has been committed under the first paragraph, it must make the deductions resulting from the application of the second paragraph, up to 20% of the salary per pay period and pay the sums deducted to a registered charity within the meaning of the Taxation Act (R. S. Q., chapter I-3), designated by order of the Government.

An employee who did not participate in the activities of the association that are related to the contravention is entitled to a reimbursement of the deductions made under the second paragraph.

Any disagreement as to the application of this section must be referred to arbitration as if it were a grievance within the meaning of the applicable conditions of employment.

39. If the Société ascertains that the association has declared or carried on a strike in contravention of section 5, the Société must cease to pay, for the period determined under the third paragraph, to any employee released during that period to carry on union activities for the association, after so advising the association, any salary for the time during which the employee is released.

The first paragraph also applies if the Société ascertains that the employees are not complying with section 2 or 3 in sufficient number to ensure that normal public transport service is provided.

The cessation of payment prescribed by this section shall continue for 12 weeks for each day or part of day during which the Société has ascertained the existence of circumstances described in the first or second paragraph.

§2. — *Civil liability*

40. The association is liable for any damage caused by employees during a contravention of section 2 or section 3 unless it is established that the damage is not a result of the contravention or that the contravention is not part of any concerted action.

Any person who suffers damage by reason of an act in contravention of section 2 or section 3 may apply to the competent court to obtain compensation.

Notwithstanding article 1003 of the Code of Civil Procedure (R.S.Q., chapter C-25), if a person brings a class action under Book IX of the Code of Civil Procedure by way of a motion in accordance with the second paragraph of article 1002 of the said Code, the court shall authorize the bringing of the class action if it is of the opinion that the person to whom the court intends to ascribe the status of representative is in a position to adequately represent the members of the group described in the motion.

§3. — *Penal provisions*

41. Every person who contravenes any provision of section 2, 3, 4, 8, 9 or the second paragraph of section 36 is guilty of an offence and liable, for each day or part of a day during which the contravention continues, to a fine of

(1) \$100 to \$500 in the case of an employee or a natural person not referred to in paragraph 2;

(2) \$7,000 to \$35,000 in the case of an executive, employee or representative of the association or an executive or representative of the Société;

(3) \$25,000 to \$125,000 in the case of the association or the Société.

42. If the association contravenes any provision of the first paragraph of section 5, it is guilty of an offence and liable, for each day or part of a day during which the contravention continues, to the fine prescribed in paragraph 3 of section 41. The same applies to the Société if it contravenes the second paragraph of section 5.

43. If the association contravenes any provision of section 6, it is guilty of an offence and liable, for each day or part of a day of delay, to the fine prescribed in paragraph 3 of section 41.

44. If the association contravenes any provision of section 7, it is guilty of an offence and liable, for each day or part of a day that a contravention of section 2 or section 3 continues, to the fine prescribed in paragraph 3 of section 41.

45. Every person who helps or, by encouragement, advice, consent, authorization or command, induces another person to commit an offence under any provision of this Act is guilty of an offence.

A person convicted under this section is liable to the same penalty as that prescribed for the offence the person helped or induced another person to commit.

DIVISION IX**FINAL PROVISIONS**

46. The provisions of this Act relating to the collective agreement binding the association and the Société are deemed to form part thereof.
47. The Minister of Labour is responsible for the carrying out of this Act.
48. Division II ceases to have effect on 1 June 2001.
49. This Act comes into force on 15 December 2000.