



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 164

(2000, chapter 49)

**An Act respecting transport
infrastructure partnerships**

**Introduced 15 November 2000
Passage in principle 28 November 2000
Passage 12 December 2000
Assented to 13 December 2000**

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EXPLANATORY NOTES

This bill establishes standards for projects relating to the construction, repair or operation of transport infrastructures in partnership with the private sector. It grants in this respect specific powers to the Minister of Transport and the Government.

More specifically, the bill provides a framework for the erection and operation of road infrastructures under a partnership agreement, and makes provision for the enforcement of the Highway Safety Code on the infrastructures and for the enforcement of certain rules regarding tolls and their payment.

LEGISLATION AMENDED BY THIS BILL :

- Highway Safety Code (R.S.Q., chapter C-24.2);
- Act respecting administrative justice (R.S.Q., chapter J-3);
- Act respecting the Société de l'assurance automobile du Québec (R.S.Q., chapter S-11.011).

Bill 164

AN ACT RESPECTING TRANSPORT INFRASTRUCTURE PARTNERSHIPS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

CHAPTER I

PARTNERSHIP PROJECT AND AGREEMENT

1. This Act applies to any long term partnership agreement between the Government and a private enterprise for the construction, repair or operation of a transport infrastructure. Such an agreement must involve the sharing of risks between the Government and the private sector.

Subject to the Act respecting the Ministère du Conseil exécutif (R.S.Q., chapter M-30), another government or municipality may also be a party to such an agreement.

2. The Minister, with the authorization of the Government, shall define the partnership project and, subject to the Public Administration Act (2000, chapter 8), determine the rules that apply thereto.

3. The proposals submitted by potential partners shall be assessed according to the criteria and procedure determined by the Minister, as approved by the Government and stated in the proposal solicitation documents.

4. The Minister may, for the purposes of a partnership project, acquire by agreement or by expropriation or lease any property the Minister deems useful. The Minister may, for the same purposes, transfer or lease out any property under the Minister's management.

5. The Minister may, with the authorization of the Government and on the terms and conditions it determines, enter into a transport infrastructure partnership agreement.

Any such agreement that pertains to the carrying out of a road infrastructure project must involve private sector participation in the financing of the project.

6. Every property and work acquired, built or operated by a partner under this Act shall remain or become the property of the Government upon the expiry of the partnership agreement.

7. Any road infrastructure operated under a partnership agreement is a public highway within the meaning of section 4 of the Highway Safety Code (R.S.Q., chapter C-24.2); the said Code, as well as any other Act applicable to public highways, applies to the road infrastructure as if it were a public highway maintained by the Minister of Transport.

For the purposes of the said Code, a partner operating a road infrastructure is deemed to be the person responsible for the maintenance of that public highway.

8. The Minister may, in a partnership agreement and on the conditions the Minister determines, delegate to a partner all or part of the Minister's powers regarding the operation of a road infrastructure.

The Minister may also, on the conditions the Minister determines, authorize the partner to delegate those powers to another person.

9. In case of resiliation of a partnership agreement, the Minister may exercise all powers and rights and perform all obligations relating thereto, subject to the conditions and for the period fixed by the Government.

10. Every partnership agreement entered into by the Minister shall be tabled by the Minister in the competent parliamentary committee of the National Assembly within 30 days of its signature.

CHAPTER II

ROAD TOLLS

11. The Government may, by regulation, in respect of a road infrastructure referred to in section 7, establish standards concerning

(1) the establishment of the tolls, fees and charges and the interest rates referred to in section 12;

(2) the nature, components, construction and mode of operation of toll devices;

(3) the nature, quality and use of devices or equipment used to identify a vehicle at a toll station;

(4) the registration and distribution of toll devices; and

(5) the verification or certification, by a designated body, of toll devices or devices or equipment used to identify a road vehicle at a toll station.

The Government may also, by regulation, exempt any road vehicle or class of road vehicle from the payment of a toll.

12. A partner may, subject to the regulations made under subparagraph 1 of the first paragraph and the second paragraph of section 11,

(1) establish, collect and enforce payment of tolls with respect to the operation of any road vehicle or class of road vehicle on a road infrastructure designated by the Minister;

(2) establish, collect and enforce administration fees, and fees payable with respect to an application for cancellation of a default notice for failure to pay a toll or with respect to an application for review of a decision on the former application; and

(3) establish interest rates to be charged on unpaid tolls, fees and charges, and collect interest charged at those rates.

13. A toll and any related fees, charges and interest payable under this Act for the operation of a road vehicle on a designated road infrastructure shall be paid to the partner

(1) if a toll device is affixed to the road vehicle, by the person in whose name the toll device is registered;

(2) if a toll device is not affixed to the road vehicle or if the device is not in operation, by the holder of the registration certificate issued with respect to the road vehicle; and

(3) in other cases, by the driver of the road vehicle.

14. Photographic or electronic evidence pertaining solely to the registration plate on a road vehicle and establishing the use of the road vehicle on the designated infrastructure is proof, in the absence of any evidence to the contrary, of the obligation to pay a toll.

15. A partner is authorized to collect, from any government or body and solely for the purpose of collecting or enforcing payment of a toll, the following personal information concerning the holder of a registration certificate issued with respect to a road vehicle:

(1) the name and address of the holder;

(2) the particulars identifying the road vehicle; and

(3) the class of the road vehicle.

16. The tolls, fees, charges and interest collected by a partner or on a partner's behalf belong to the partner, unless otherwise provided by the partnership agreement.

17. A partner may neither use nor transmit to another person the personal information collected within the scope of a partnership agreement otherwise than for the purpose of collecting or enforcing payment of a toll.

18. If a toll charged for operating a road vehicle on a designated infrastructure or any administration fee is not paid within 30 days after the day it is payable, the partner may send to the person responsible for the payment of the toll a default notice for failure to pay the toll

(1) setting out the amount due, including the administration fees and the interest rate charged;

(2) informing the person that he or she may apply for the cancellation of the default notice on a ground referred to in section 19; and

(3) informing the person that if he or she applies for the cancellation of the default notice,

(a) the person must send an application for cancellation to the partner within 30 days of receiving the default notice and state therein the grounds for the application;

(b) the person bears the onus of proving the grounds on which the application for cancellation is based; and

(c) the toll, fees, charges and interest set out in the default notice shall be deemed to be paid if the partner fails to send a decision, with reasons, to the person within 30 days of receiving the application for cancellation.

19. A person who receives a default notice for failure to pay a toll may apply for the cancellation of the notice on any of the following grounds:

(1) the toll was paid in full;

(2) the amount claimed is incorrect;

(3) the vehicle, registration plate or toll device registered in the person's name was, without the person's consent, in the possession of a third person at the time the toll should have been paid;

(4) the person is not the person responsible for the payment of the toll.

20. A person whose application for cancellation has been dismissed by the partner may, within 30 days of receiving the decision, apply for a review of the decision by the person designated by the Minister.

On sending a copy of the decision to the person concerned, the partner shall inform the person of his or her right to apply for a review by the person designated by the Minister and of the time limit for doing so.

21. The review decision must be rendered within 30 days of receipt of the application and must be sent in writing to the person concerned. If the application for review is dismissed, the person concerned may contest the decision before the Administrative Tribunal of Québec within 30 days after notification of the review decision.

On notifying a decision dismissing an application for review to the person concerned, the person designated by the Minister shall inform the person of his or her right to contest the decision before the Administrative Tribunal of Québec and of the time limit for doing so.

22. A person who does not apply for the cancellation of a default notice for failure to pay a toll must comply therewith within 30 days of receiving the notice.

A person whose application for cancellation of a default notice was dismissed must comply with the notice within 30 days of receiving the decision of the partner, the decision of the person designated by the Minister or the decision of the Administrative Tribunal of Québec, as the case may be.

23. The partner may advise the Société de l'assurance automobile du Québec of the failure of a person referred to in the first paragraph of section 22 to comply with the default notice within the time allotted in order that the Société not renew the right to drive the vehicle in respect of which the toll is payable. The partner, the person designated by the Minister or the Administrative Tribunal of Québec, as the case may be, may, to the same end, advise the Société of their decision to dismiss an application.

The partner shall advise the Société de l'assurance automobile du Québec without delay when the amount payable to it has been paid, and shall immediately send a copy of the notice to the holder of the registration certificate issued with respect to the vehicle.

24. The partner shall compensate the Société, according to the terms fixed by agreement with the Société, for disbursements made by the Société in carrying out its responsibilities under this Act.

CHAPTER III

MISCELLANEOUS PROVISIONS

25. Section 31.1 of the Highway Safety Code (R.S.Q., chapter C-24.2) is amended

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

“In addition, the owner must have complied with any default notice for failure to pay a toll in accordance with section 22 of the Act respecting

transport infrastructure partnerships (2000, chapter 49), in respect of which the Société received a notice under the first paragraph of section 23 of that Act.”;

(2) by inserting “or where, on the due date, the Société has not received the notice referred to in the second paragraph of section 23 of the Act respecting transport infrastructure partnerships” after “paragraph” in the third line of the third paragraph;

(3) by adding the following at the end of the fourth paragraph: “, and the Société must, in the case of a failure to pay a toll, have received the notice referred to in the second paragraph of section 23 of the Act respecting transport infrastructure partnerships”.

26. Section 417.1 of the said Code is amended by adding the following: “or the sum payable under the Act respecting transport infrastructure partnerships.”

27. Section 648 of the said Code is amended by adding “and the amounts received pursuant to section 24 of the Act respecting transport infrastructure partnerships” at the end of paragraph 5.

28. Schedule IV to the Act respecting administrative justice (R.S.Q., chapter J-3), amended by section 32 of chapter 32 of the statutes of 1999 and by section 22 of chapter 10 of the statutes of 2000, is again amended by adding the following:

“(30) section 21 of the Act respecting transport infrastructure partnerships (2000, chapter 49).”

29. Section 17 of the Act respecting the Société de l’assurance automobile du Québec (R.S.Q., chapter S-11.011) is amended by inserting “of the Act respecting transport infrastructure partnerships (2000, chapter 49),” after “(chapter C-24.2),” in the fourth line of the second paragraph.

CHAPTER IV

FINAL PROVISIONS

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

31. This Act comes into force on 13 December 2000 except sections 23 to 27 and 29, which come into force on the date to be fixed by the Government.