



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 60

(2004, chapter 35)

An Act respecting the Société de financement des infrastructures locales du Québec and amending the Highway Safety Code

Introduced 17 June 2004

Passage in principle 9 November 2004

Passage 15 December 2004

Assented to 17 December 2004

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EXPLANATORY NOTES

This bill gives effect to a measure announced in the 30 March 2004 Budget Speech regarding the creation of the Société de financement des infrastructures locales du Québec.

The Société's mission is mainly to provide financial assistance to municipal bodies for infrastructure projects relating to waste water, local roads and public transit and for infrastructure projects having an economic, urban or regional impact. The bill determines the powers of the Société and how they may be exercised, and sets out its organizational rules.

This bill also gives effect to another measure announced in the Budget Speech authorizing the collection of an additional registration duty in respect of certain road vehicles and providing for the payment of this duty to the Société.

As well, the bill includes concordance and transitional amendments.

LEGISLATION AMENDED BY THIS BILL:

- Financial Administration Act (R.S.Q., chapter A-6.001);
- Highway Safety Code (R.S.Q., chapter C-24.2).

Bill 60

AN ACT RESPECTING THE SOCIÉTÉ DE FINANCEMENT DES INFRASTRUCTURES LOCALES DU QUÉBEC AND AMENDING THE HIGHWAY SAFETY CODE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

ESTABLISHMENT

1. The “Société de financement des infrastructures locales du Québec” is established.

The Société is a legal person and a mandatary of the State.

2. The property of the Société forms part of the domain of the State, but the execution of its obligations may be levied against its property.

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

3. The head office of the Société is located in the territory of Ville de Québec. Notice of the location and any relocation of the head office is published in the *Gazette officielle du Québec*.

The Société may hold its meetings anywhere in Québec.

CHAPTER II

MISSION AND POWERS

4. The mission of the Société is to provide financial assistance to municipal bodies for infrastructure projects relating to drinking water, waste water, local roads and public transit and for infrastructure projects having an economic, urban or regional impact. An infrastructure project relating to public transit may include the acquisition of vehicles.

5. In pursuing its mission, the Société may

(1) grant subsidies; and

(2) grant any other financial assistance in the form and on the conditions that may be determined by government regulation.

6. For the purposes of this Act, municipal bodies include

(1) municipalities, bodies declared by law to be the mandatary or agent of a municipality, bodies whose board of directors is composed in a majority of members of the council of a municipality, as well as bodies whose budget is adopted by a municipality or more than half of the financing of which is assumed by a municipality;

(2) metropolitan communities, regional county municipalities, intermunicipal boards, transit authorities, intermunicipal boards of transport, the Kativik Regional Government and other bodies whose board of directors is composed, in the majority, of members of the councils of several municipalities; and

(3) mixed enterprise companies established under the Act respecting mixed enterprise companies in the municipal sector (R.S.Q., chapter S-25.01).

In addition, a municipal body referred to in subparagraphs 1 and 2 of the first paragraph may, for the application of this Act to infrastructure projects located on its territory, propose to the Société that a legal person, partnership or body it identifies be considered a municipal body.

7. The Société may not grant financial assistance without the authorization of

(1) the Minister of Municipal Affairs, Sports and Recreation, as regards infrastructure projects relating to drinking water and waste water and infrastructure projects having an economic, urban or regional impact; and

(2) the Minister of Transport, as regards infrastructure projects relating to public transit and local roads.

8. The Minister of Finance, the Minister of Municipal Affairs, Sports and Recreation and the Minister of Transport jointly submit an investment plan to the Government for approval, not later than 1 March each year, after filing it with the Conseil du trésor.

The plan must include the distribution of financial assistance between the following infrastructure project categories:

(1) drinking water infrastructure projects;

(2) waste water infrastructure projects;

(3) local road infrastructure projects;

(4) public transit infrastructure projects; and

(5) other infrastructure projects having an economic, urban or regional impact.

9. The Société must enter into an agreement with the Minister of Finance, the Minister of Municipal Affairs, Sports and Recreation and the Minister of Transport in respect of the management of its affairs.

10. The financial assistance granted by the Société may be subject to conditions that only the Government determines.

11. If a recipient fails to comply with the conditions on which assistance is granted, the Société may either suspend financial assistance or put an end to it.

For the same reasons, the Société may reduce the amount of the assistance, change the conditions of the assistance, or take any other step it considers necessary to preserve its rights. The Société may not, however, change the conditions of the assistance if it entails an increase in its costs.

CHAPTER III

ORGANIZATION AND OPERATION

12. The affairs of the Société are administered by a board of directors composed of seven members appointed by the Government. Five of the members must be deputy ministers, associate deputy ministers or assistant deputy ministers appointed under the Public Service Act (R.S.Q., chapter F-3.1.1) and two must be members of the council of a municipality appointed after consulting representatives of the municipal sector, including representatives of the Union des municipalités du Québec and of the Fédération québécoise des municipalités locales et régionales.

Board members are appointed for a term not exceeding five years.

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

13. The chair and vice-chair of the board of directors are designated by the Government from among the board members.

The chair calls and presides at meetings of the board of directors, sees to the proper conduct of the board's proceedings and exercises any other functions assigned by the board.

The vice-chair exercises the functions of the chair when the latter is absent or unable to act.

14. The secretary of the Société is appointed by the Government.

15. A vacant position on the board of directors is filled by the Government for the unexpired portion of the term of the member to be replaced.

Absence from the number of board meetings determined in the internal by-laws of the Société, in the cases and circumstances specified, constitutes a vacancy.

16. Board members and the secretary receive no remuneration. They are entitled, however, to the reimbursement of expenses incurred in the exercise of their functions of office in the cases, on the conditions and to the extent determined by the Government.

17. The quorum at meetings of the board of directors is the majority of its members, including the chair or vice-chair.

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

18. The members of the board of directors may waive notice of a meeting. Attendance at a meeting of the board constitutes a waiver of notice, unless the members are present to contest the legality of the meeting.

19. If all agree, the board members may take part in a meeting by means of equipment enabling all participants to communicate with one another.

20. Written resolutions, signed by all board members entitled to vote, have the same value as if they had been adopted during a meeting of the board of directors.

A copy of all such resolutions is kept with the minutes of the proceedings or other equivalent record book.

21. The minutes of the meetings of the board of directors, approved by the board and certified by the chair, the secretary or another person authorized to do so by the Société, are authentic. The same applies to documents and copies emanating from the Société or forming part of its records, if they are so certified.

22. An intelligible transcription of a decision or other data stored by the Société in a computer or in a computer-readable medium is a document of the Société; it is evidence of its contents if it is certified by a person referred to in section 21.

23. A deed, document or writing is binding on and may be attributed to the Société only if it is signed by the chair, the vice-chair, the secretary or another person, but, in the latter case, only to the extent determined by regulation.

24. The Société may, by regulation 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 23.

25. The Société may make any regulation regarding the exercise of its powers and its internal management. The Société may, in its internal by-laws, determine the mode of operation of the board of directors.

26. The Société may, by regulation, provide for the delegation of its powers under this Act to the chair, the secretary or another person it designates.

27. Regulations made under sections 23 to 26 are submitted to the Government for approval.

28. The Société must determine the standards of ethics and conduct applicable to its personnel. The standards must contain provisions that include at least the requirements with regard to public servants prescribed under the Public Service Act (R.S.Q., chapter F-3.1.1).

29. Personnel members of the Société are appointed in accordance with the staffing plan established by by-law of the Société, which plan cannot provide for more than five employees.

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

CHAPTER IV

FINANCIAL PROVISIONS

30. The Société may not, except with 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) grant a subsidy or other financial assistance in excess of the limits or contrary to the conditions determined by the Government;

(3) make a financial commitment in excess of the limits or contrary to the conditions determined by the Government;

(4) acquire or hold shares in a legal person or an interest in a partnership;

(5) 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;

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

(7) accept a gift or legacy to which a charge or condition is attached; or

(8) accept a contribution from the Government of Canada.

31. The Government may, subject to the conditions it determines,

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

(2) make any commitment in relation to the carrying out or financing of a project of the Société; and

(3) authorize the Minister of Finance to advance to the Société any amount considered necessary for the pursuit of its mission.

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

32. The Société pays its obligations and finances its operations out of the monies available to it, in particular, those received from the Government and those assigned to it by law.

33. The monies received by the Société must be allocated to the payment of its obligations. The Société retains any surpluses.

CHAPTER V

ACCOUNTS AND REPORTS

34. The fiscal year of the Société ends on 31 March.

35. Not later than 31 July each year, the Société files its financial statements and an operations report for the preceding fiscal year with the Minister.

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

36. The Minister lays the financial statements and operations report before the National Assembly within 15 days of their receipt or, if the Assembly is not sitting, within 15 days of resumption.

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

The Auditor General may, with regard to the recipients, audit the use of any subsidies or other financial assistance granted by the Société or its subsidiaries.

The Auditor General may also, with regard to the Société and its subsidiaries, conduct a value-for-money audit without obtaining the prior concurrence provided for in the second paragraph of section 28 of the Auditor General Act (R.S.Q., chapter V-5.01).

The Auditor General's report must be submitted with the Société's financial statements and operations report.

38. The Société must communicate to the Minister any information required by the Minister concerning its operations.

CHAPTER VI

AMENDING PROVISIONS

FINANCIAL ADMINISTRATION ACT

39. Schedule 2 to the Financial Administration Act (R.S.Q., chapter A-6.001), amended by Order in Council 1081-2003 dated 15 October 2003, is again amended by inserting "Société de financement des infrastructures locales du Québec" in alphabetical order.

HIGHWAY SAFETY CODE

40. Section 21 of the Highway Safety Code (R.S.Q., chapter C-24.2), amended by section 1 of chapter 5 of the statutes of 2003, is again amended by adding the following subparagraph at the end of the first paragraph:

"(6) in respect of a road vehicle belonging to a class determined by regulation, equipped with an engine with a displacement determined by regulation, pay an additional duty determined by regulation."

41. Section 31.1 of the said Code is amended

(1) by replacing "et" in the tenth line of the first paragraph in the French text by a comma;

(2) by inserting "and, in respect of a road vehicle belonging to a class determined by regulation, equipped with an engine with a displacement determined by regulation, an additional duty determined by regulation" after "\$40,000" in the last line of the first paragraph;

(3) by replacing "additional duty" in the fifth line of the third paragraph by "additional duties";

(4) by replacing "additional duty" in the fourth line of the fifth paragraph by "additional duties".

42. Section 194.3 of the said Code, enacted by section 8 of chapter 5 of the statutes of 2003 and amended by section 17 of chapter 2 of the statutes of 2004, is again amended by replacing “additional duty” by “additional duties”.

43. Section 618 of the said Code, amended by section 69 of chapter 2 of the statutes of 2004, is again amended by replacing “additional duty” in paragraphs 8.5, 8.7 to 8.9, 11 and 11.2 by “additional duties”.

44. The said Code is amended by inserting the following section after section 619.4:

“619.5. The Government may establish, by regulation, a class of road vehicles equipped with an engine with a displacement it determines in respect of which an additional duty is payable and fix the amount of the additional duty according to the vehicle’s engine displacement or determine the methods to calculate the additional duty.”

45. Section 648 of the said Code, amended by section 14 of chapter 5 of the statutes of 2003, is again amended by adding the following paragraph after paragraph 6:

“(7) the additional duty collected on road vehicles of a class determined by regulation, equipped with an engine with a displacement determined by regulation.”

46. The said Code is amended by inserting the following section after section 648.2:

“648.3. The additional duty collected on road vehicles of a class determined by regulation, equipped with an engine with a displacement determined by regulation, is paid to the Société de financement des infrastructures locales du Québec.”

CHAPTER VII

TRANSITIONAL AND MISCELLANEOUS PROVISIONS

47. The first regulation made under sections 618, 619.4 and 619.5 of the Highway Safety Code and the first regulation made under section 151.1 of the Automobile Insurance Act (R.S.Q., chapter A-25) to determine the rules governing the application of the additional duty in respect of road vehicles equipped with an engine with a displacement determined by regulation are not subject to the publication requirement or the date of coming into force provided in sections 8 and 17 of the Regulations Act (R.S.Q., chapter R-18.1). They come into force on the date of their publication in the *Gazette officielle du Québec* and have effect from the date or dates set in the regulations but not prior to 1 November 2004.

48. The Minister of Finance is responsible for the administration of this Act.

49. Sections 41 to 43, 45 and 46 have effect from 1 November 2004 with respect to road vehicles whose payment period is subsequent to 31 October 2004.

50. This Act comes into force on 17 December 2004, except section 40, which comes into force on 1 January 2005.