



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 26
(2019, chapter 15)

**An Act respecting the Réseau
structurant de transport en commun
de la Ville de Québec**

**Introduced 30 May 2019
Passed in principle 11 June 2019
Passed 14 June 2019
Assented to 19 June 2019**

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EXPLANATORY NOTES

The purpose of this Act is to allow the carrying out, by Ville de Québec, of a shared transit project publicly announced by that city as the “Réseau structurant de transport en commun de la Ville de Québec” (Network), which includes a tramway.

To that end, the Act grants Ville de Québec exclusive jurisdiction to carry out the Network project, but specifies that it must consult the Société de transport de Québec before making certain decisions.

Several formalities for acquiring by expropriation the property needed for the Network project are simplified. Certain contractual formalities are also simplified. As regards the acquisition of mass transit vehicles, Ville de Québec is required to impose on the supplier an obligation to contract 25 percent of the contract value in Canada.

The Act also provides for the establishment of servitudes in favour of the Network in cases where a road or immovable under the management of the Minister of Transport or a municipality is crossed or bordered by the Network’s tramway tracks.

The Act sets out the terms and conditions governing the transfer of the Network to the Société de transport de Québec for operation by the latter. Consequently, it expressly states that the Société’s mission is to operate a tramway and, in that regard, applies a legal framework to the Société that is similar to the one applicable to the Société de transport de Montréal with regard to the operation of its subway.

The Act sets out certain financing rules, in particular by specifying that any long-term loan required to finance the Network project must be contracted by the Société de transport de Québec where payment of the loan is subsidized and the subsidy is granted by the Gouvernement du Québec or one of its ministers.

No charge of any kind may be levied against Ville de Québec or the Société de transport de Québec for the issue of a certificate of approval, building permit or occupancy permit in connection with the Network.

All accessory work necessary for the Network project or the operation, alteration or extension of the Network is a matter that concerns all related municipalities of the urban agglomeration of Québec.

The Act provides that the Railway Act and the portion of the Act to ensure safety in guided land transport that concerns construction work do not apply to the Network. However, it maintains the obligation for Ville de Québec and the Société de transport de Québec to send to the Minister of Transport, on completion of all construction work, a declaration by the engineer in charge of the work to the effect that the work has been carried out in accordance with recognized engineering standards.

Lastly, under the Act and in certain circumstances, an immovable that constitutes the remainder of an immovable part of which was acquired by Ville de Québec or the Société de transport de Québec for the Network project or the operation, alteration or extension of the Network is protected by acquired rights.

LEGISLATION AMENDED BY THIS ACT:

- Charter of Ville de Québec, national capital of Québec (chapter C-11.5);
- Act respecting the exercise of certain municipal powers in certain urban agglomerations (chapter E-20.001);
- Act to ensure safety in guided land transport (chapter S-3.3);
- Act respecting public transit authorities (chapter S-30.01).

Bill 26

AN ACT RESPECTING THE RÉSEAU STRUCTURANT DE TRANSPORT EN COMMUN DE LA VILLE DE QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PURPOSE

1. The purpose of this Act is to allow the carrying out of a shared transit project publicly announced by Ville de Québec as the “Réseau structurant de transport en commun de la Ville de Québec” (Network), which includes a tramway.

The Act also sets out the terms governing the transfer of the Network to the Société de transport de Québec for operation by the latter.

CHAPTER II

CARRYING OUT OF THE NETWORK PROJECT

2. Despite section 3 of the Act respecting public transit authorities (chapter S-30.01), only Ville de Québec has jurisdiction to carry out the Network project.

Ville de Québec may, within the scope of that jurisdiction, acquire any property required for the construction and operation of the Network, dig a tunnel under any immovable regardless of its owner, and build any accessory works.

Ville de Québec succeeds to the rights and obligations of the Société de transport de Québec for any decision made by the Société regarding the Network project since 1 January 2018.

3. Any decision made by Ville de Québec with regard to the Network project that must be authorized or approved by the Government, or authorized or approved under the measures determined by the Conseil du trésor under section 14 of the Public Infrastructure Act (chapter I-8.3), must be submitted by Ville de Québec to the Société de transport de Québec for prior consultation.

4. For the purposes of the tendering process for any contract necessary for the Network project, subparagraph 2 of the second paragraph of section 573.1.0.5 of the Cities and Towns Act (chapter C-19) is to be read without reference to “, which may not exceed six months,”.

5. For the purposes of the Network project and despite any contrary provision, Ville de Québec must, in any contract for the acquisition of mass transit vehicles, impose on the supplier an obligation to contract 25 percent of the contract value in Canada. Ville de Québec may also include a provision requiring the supplier to have final assembly carried out in Canada.

For the purposes of this section, “mass transit vehicle”, “contract value in Canada” and “final assembly” have the meanings assigned to them by Annex 19-4 of the Comprehensive Economic and Trade Agreement between Canada and the European Union and its Member States as it reads on 19 June 2019.

6. No fee, duty, tax or cost of any nature, under a city’s authority, may be levied against Ville de Québec for the issue of a certificate of approval, building permit or occupancy permit in connection with the Network.

CHAPTER III

OWNERSHIP TRANSFERS

DIVISION I

OWNERSHIP TRANSFERS BY EXPROPRIATION

7. Subject to sections 571 and 572 of the Cities and Towns Act, Ville de Québec may, for the purposes of the Network project, expropriate any property required for the construction and operation of the Network.

In cases of expropriation allowed under the first paragraph,

(1) the notice of expropriation must, in addition to the particulars required under section 40 of the Expropriation Act (chapter E-24), specify the date before which the expropriated party, lessee or occupant in good faith must vacate the premises;

(2) the expropriating party’s right to expropriate may not be contested, and the 30-day period provided for in section 46 of that Act is replaced by a 90-day period that begins on the date of service of the notice of expropriation;

(3) the municipality’s notice of transfer of ownership provided for in section 8 of this Act replaces the notice of transfer of title provided for in paragraph 1 of section 53 and in section 53.1 of the Expropriation Act;

(4) the municipality's notice of transfer of ownership must be sent to the expropriated party but need not be served;

(5) the provisional indemnity, in the cases referred to in section 53.13 of the Expropriation Act, is set by Ville de Québec and includes the indemnity it considers reasonable for the injury directly caused by the expropriation, to the extent that the documents justifying the indemnity and required under the notice of expropriation were provided within 30 days after the date of service of that notice;

(6) the expropriated party, lessee and occupant in good faith may not request to retain possession of the expropriated property; and

(7) the expropriation indemnity for property is set on the basis of the value of the property and of the injury directly caused by the expropriation on the date of the expropriation, but without taking into account the increased value attributable to the public announcement, made by Ville de Québec, of the planned route for the Network or the planned site of its stations.

Consequently, the portion of subparagraph 3 of the first paragraph of section 40 after "Tribunal", sections 44 to 44.3, the first sentence of section 53.2, section 53.3, paragraph 2 of section 53.4, and sections 53.5, 53.7 and 53.14 of the Expropriation Act do not apply to such an expropriation. The other provisions of that Act apply with the necessary modifications.

8. The municipality's notice of transfer of ownership must contain

(1) the amount of the offer made by Ville de Québec;

(2) the date on which Ville de Québec is to take possession of the property; and

(3) the obligation for the expropriated party, lessee and occupant in good faith to vacate the premises before the date on which Ville de Québec takes possession of the property.

The documents establishing that the provisional indemnity has been paid to the expropriated party or filed on that party's behalf with the office of the Superior Court must be attached to the notice.

Ville de Québec may designate any member of its personnel to sign the notice.

9. Despite the modifications to the Expropriation Act provided for in section 7, if property includes all or part of a residential building, Ville de Québec may not register its notice of transfer of ownership before the expiry of 12 months following registration of a notice of expropriation in the land register. That period is increased to 18 months if the building is used, even in part, for agricultural, commercial or industrial purposes.

In all cases, the expropriated party may consent to the municipality's notice of transfer of ownership being registered within a shorter period.

10. Where Ville de Québec orders, by resolution, the expropriation of property or the establishment of a reserve for public purposes on the property, the clerk must, without delay, send a certified copy of the resolution to the clerk of any other city concerned.

After receiving the resolution or, in the case of Ville de Québec, after adopting the resolution, the city concerned may not, except for urgent repairs, issue a permit or certificate or grant an authorization for a structure, alteration or repair in connection with such property. Such a prohibition ceases six months after the date of adoption of the resolution.

No compensation is granted for buildings erected or improvements or repairs, other than authorized urgent repairs, made to the immovable during the prohibition period. However, the Administrative Tribunal of Québec may grant an indemnity as provided for in Title III of the Expropriation Act.

DIVISION II

TRANSFERS BY OPERATION OF LAW

11. When underground construction work related to the Network project is undertaken, Ville de Québec becomes, on commencement of the work, without other formality or compensation but subject to an action for damages, the owner of the underground volume occupied by the tunnel and of the area extending five metres outward from the interior concrete wall of the tunnel if the upper limit of the tunnel is at least 15 metres underground. In addition, Ville de Québec is deemed to hold a legal servitude established in favour of the volume occupied by the tunnel and limiting the stress that may be applied to the upper surface of the volume to 250 kilopascals.

However, Ville de Québec must, on commencement of the work, notify the owner of the land of the work and of the provisions of this section. In the year following completion of the work, Ville de Québec must deposit in its archives a copy of a plan certified by the head of the department concerned and showing the horizontal projection of the tunnel. It must register the plan in the registry office and the registrar must receive the plan and make a notation of it in the land register.

If the transfer of ownership provided for in the first paragraph concerns land in the domain of the State, it is subject to the reserve provided for in section 75 of the Cultural Heritage Act (chapter P-9.002).

CHAPTER IV

TRANSFERS OF TRANSPORTATION ASSETS AND FINANCING

12. Ville de Québec and the Société de transport de Québec must enter into an agreement for the transfer of the transportation assets of Ville de Québec resulting from the Network project, including, in particular, the tramway cars, buses, tracks, platforms, stations, workshops, garages, parking lots and tunnels.

An agreement entered into under the first paragraph must be approved by the Minister, who may approve it with or without amendment.

The Minister may determine the deadline for entering into an agreement. If no agreement providing for the transfer of the assets has been entered into by that deadline, the assets are transferred on the conditions and the date or dates determined by the Minister. In such a case, Ville de Québec must prepare all documents required for the transfer ahead of time. The documents must include the value of the transportation assets and the conditions for their transfer. The documents must be sent to the Minister for approval, who may approve them with or without amendment.

The registrar of the registration division concerned must register every statement signed by the director general and the secretary of the Société describing the property transferred under this section and declaring the right of ownership of the Société in the property.

The Minister may, by order, exempt certain transportation assets referred to in the first paragraph from the transfer obligation, or make other transportation assets of Ville de Québec that are related to them subject to the obligation.

For the purposes of the first paragraph, public highways and private roads open to public vehicular traffic within the meaning of the Highway Safety Code (chapter C-24.2) are not transportation assets.

13. Despite Ville de Québec's borrowing power under section 543 of the Cities and Towns Act, any long-term loan required to finance the transportation assets resulting from the Network project must be contracted by the Société de transport de Québec where a subsidy, referred to in section 1 of the Act respecting subsidies for the payment in capital and interest of loans of public or municipal bodies and certain other transfers (chapter S-37.01), is granted by the Gouvernement du Québec or one of its ministers for payment of the principal of and interest on the loan.

The Société may compensate Ville de Québec for sums the latter incurred for the Network project, up to the amount of the principal of the subsidy. If Ville de Québec and the Société fail to agree on the amount of compensation, the Minister may, if of the opinion that such compensation is justified, determine its amount and set the date for its payment.

Ville de Québec may not be designated a public body under section 4 of the Act respecting Financement-Québec (chapter F-2.01) for the financing of the Network project.

14. The Société de transport de Québec succeeds to the rights and obligations of Ville de Québec with regard to the transferred assets. Any proceedings concerning those assets to which Ville de Québec is a party are continued by the Société without continuance of suit.

Despite the first paragraph, the Société does not succeed to the obligations of Ville de Québec with regard to loans contracted by the latter to finance the transferred assets.

CHAPTER V

SERVITUDE

15. Any road under the Minister's or a municipality's management that is crossed or bordered by tracks for the Network's tramway, and any immovable under the Minister's or a municipality's authority that is deemed necessary by the Minister or municipality, as applicable, for the Minister's or municipality's purposes, are subject, without indemnity, to a servitude affecting the site required for the Network project or the operation, alteration or extension of the Network, from the making of an agreement specifying the terms and conditions of the servitude.

During the Network's project phase, the agreement is entered into by Ville de Québec, the Société de transport de Québec and, as applicable, the Minister or municipality. Once the Network is operational, the agreement is entered into by the Société and, as applicable, the Minister or municipality.

Once the agreement has been entered into, Ville de Québec and the Société may publish the servitude in the land register. Ville de Québec, during the Network's project phase, or the Société, once the Network is operational, is required to publish the servitude if

- (1) the management of the road devolves to the Minister or a municipality under the Act respecting roads (chapter V-9);
- (2) the road is permanently closed; or
- (3) the servient land is disposed of without having been included in a road's right of way.

The Minister or municipality, as applicable, must inform the Société without delay, and must inform Ville de Québec during construction of the Network, of a devolution, closure or disposition referred to in the third paragraph.

Registration of the servitude is obtained by filing a notice that describes the site of the servitude, states its terms and conditions and refers to this section.

In all cases, the servitude is extinguished with the dismantling of the Network.

CHAPTER VI

AMENDING PROVISIONS

CHARTER OF VILLE DE QUÉBEC, NATIONAL CAPITAL OF QUÉBEC

16. The Charter of Ville de Québec, national capital of Québec (chapter C-11.5) is amended by inserting the following section after section 74.6:

“**74.7.** An immovable is protected by acquired rights against any provision of a regulation adopted under the Act respecting land use planning and development (chapter A-19.1) or under a designation with regard to land use planning and development provided for by this Charter, provided the immovable meets the following conditions:

(1) it constitutes the remainder of an immovable part of which was acquired by the city or the Société de transport de Québec for the project phase, or the operation, alteration or extension, of the structuring public transit network (Network) referred to in the Act respecting the Réseau structurant de transport en commun de la Ville de Québec (2019, chapter 15) or operated under the Act respecting public transit authorities (chapter S-30.01); and

(2) immediately before the acquisition, the immovable complied with the by-laws in force at that time or was protected by acquired rights.”

ACT RESPECTING THE EXERCISE OF CERTAIN MUNICIPAL POWERS IN CERTAIN URBAN AGGLOMERATIONS

17. The Act respecting the exercise of certain municipal powers in certain urban agglomerations (chapter E-20.001) is amended by inserting the following after section 118.23:

“TITLE IV.1.1

“SPECIAL PROVISIONS APPLICABLE TO THE URBAN AGGLOMERATION OF QUÉBEC

“**118.23.1.** All accessory work necessary for the project phase, or the operation, alteration or extension, of the structuring public transit network (Network) referred to in the Act respecting the Réseau structurant de transport en commun de la Ville de Québec (2019, chapter 15) or operated under the Act respecting public transit authorities (chapter S-30.01) is a matter that concerns all related municipalities of the urban agglomeration of Québec, even if the

work is carried out in or on thoroughfares forming a road system other than the arterial road system of the urban agglomeration or on purely local water or sewer mains.

Related municipalities of the urban agglomeration of Québec may not, without the authorization of the central municipality during the Network's project phase, or of the Société de transport de Québec once the Network is operational, carry out work in places where work has already been carried out under the first paragraph. Nor may they, without such authorization, carry out work that, due to its proximity to the Network or its nature, could impact the Network."

ACT TO ENSURE SAFETY IN GUIDED LAND TRANSPORT

18. Section 4 of the Act to ensure safety in guided land transport (chapter S-3.3) is amended

(1) by inserting “, or to construction work concerning the tramway built by Ville de Québec under the Act respecting the Réseau structurant de transport en commun de la Ville de Québec (2019, chapter 15) or operated by the Société de transport de Québec under the Act respecting public transit authorities” at the end of the first paragraph;

(2) by adding the following paragraph at the end:

“Despite the first paragraph, upon completion of all construction work and before permitting the operation of the works, Ville de Québec or the Société de transport de Québec, as applicable, shall transmit to the Minister a declaration by the engineer in charge of the work to the effect that he is satisfied that the construction work has been carried out in accordance with recognized engineering standards.”

ACT RESPECTING PUBLIC TRANSIT AUTHORITIES

19. Section 154 of the Act respecting public transit authorities (chapter S-30.01) is amended by adding the following paragraph at the end:

“If the transfer of ownership provided for in the first paragraph concerns land in the domain of the State, it is subject to the reserve provided for in section 75 of the Cultural Heritage Act (chapter P-9.002).”

20. Section 155 of the Act is amended

(1) by replacing “to the city” in the first paragraph by “to the clerk of the city”;

(2) by replacing “shall not, except for urgent repairs, issue a permit or certificate for a structure, alteration or repair in connection with that immovable” in the second paragraph by “concerned may not, except for urgent repairs, issue a permit or certificate or grant an authorization for a structure, alteration or repair in connection with such property”.

21. The Act is amended by inserting the following sections before section 163:

“162.1. In addition to what is provided for in section 4, the mission of the Société de transport de Québec is to operate a guided land transport enterprise, namely a tramway, in its area of jurisdiction.

The Société de transport de Québec may acquire any property required for the operation and alteration of its tramway guided land transport enterprise, dig a tunnel under any immovable regardless of its owner, and construct and operate any accessory works.

The Société de transport de Québec may also acquire any property required for any tramway extension. The tramway network may not be expanded at any time without the authorization of the Government.

“162.2. The Société de transport de Québec may expropriate, in its area of jurisdiction, any property necessary for its tramway guided land transport enterprise.

“162.3. Where underground construction work is undertaken, as of the commencement of the work and without other formality or indemnity but subject to an action for damages, the Société de transport de Québec shall become the owner of the underground volume occupied by the tunnel and of the area extending five metres outward from the interior concrete wall of the tunnel if the upper limit of the tunnel is at least 15 metres underground. In addition, the Société is deemed to hold a legal servitude established in favour of the volume occupied by the tunnel and limiting the stress that may be applied to the upper surface of the volume to 250 kilopascals.

However, the Société de transport de Québec shall, on the commencement of the work, notify the owner of the land of the work and of the provisions of this section. In the year following the completion of the work, the Société shall deposit in its archives a copy of a plan certified by the head of the department concerned, showing the horizontal projection of the tunnel. It shall register the plan in the registry office and the registrar shall receive the plan and make a notation in its respect in the land register.

If the transfer of ownership provided for in the first paragraph concerns land in the domain of the State, it is subject to the reserve provided for in section 75 of the Cultural Heritage Act (chapter P-9.002).

“162.4. Where the Société de transport de Québec orders, by resolution, the expropriation of a property or the establishment of a reserve for public purposes on the property, the secretary must without delay send a certified copy of the resolution to the clerk of the city concerned.

After receiving the resolution, the city concerned may not, except for urgent repairs, issue a permit or certificate or grant an authorization for a structure, alteration or repair in connection with such property. Such prohibition ceases six months after the date of adoption of the resolution.

No compensation may be granted for buildings erected or improvements or repairs, other than authorized urgent repairs, made to the immovable during the prohibition period. However, the Administrative Tribunal of Québec may grant an indemnity as provided for in Title III of the Expropriation Act (chapter E-24).

“162.5. No fee, duty, tax or cost of any nature, within the authority of a city, may be levied against the Société de transport de Québec for the issue of a certificate of approval, building permit or occupancy permit in respect of the tramway network.

“162.6. On producing its program of capital expenditures, the Société de transport de Québec shall include in it a specific part for capital expenditures relating to the tramway network for the same period.

Sections 134 and 135 apply with the necessary modifications.

“162.7. When the Société de transport de Québec plans to carry out work or works necessary for the pursuit of its mission provided for in section 162.1 and relating to the tramway network, the urban agglomeration council of Ville de Québec may, by by-law, allow such work or works to be carried out.

For that purpose, and despite any provision to the contrary, the purpose of the by-law is to enact the planning rules that the Société de transport de Québec must comply with in carrying out the work and works concerned. The by-law may not be adopted before the tabling, before the urban agglomeration council of Québec, of the report on a public consultation held by the Société, in accordance with a policy adopted by its board of directors, on the work or works to be allowed by the by-law.

That policy must provide that, at least seven days before the public consultation, a notice of the consultation must be published in a newspaper in the territory of the municipality and be posted on the land where the proposed work or works are to be carried out so as to be clearly noticeable and visible from the public road.”

CHAPTER VII**MISCELLANEOUS AND FINAL PROVISIONS**

22. The Railway Act (chapter C-14.1) does not apply to Ville de Québec when it is exercising its jurisdiction under section 2.

23. Any act done by Ville de Québec since 1 January 2018 in connection with the Network project is deemed to have been done under this Act.

24. At the request of the Minister of Transport, Ville de Québec and the Société de transport de Québec must provide the Minister with any document or information the Minister considers useful concerning the Network project or the operation of the Network.

25. The Minister of Transport must, not later than 45 days after 30 March and 30 September of each year and until the work for the Network project is completed, make public a progress report indicating whether, on each of those dates, the work is on schedule and within budget.

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

27. This Act comes into force on 19 June 2019.