



CHAPTER 104

An Act to amend the Montreal Urban Community Act and the Act to incorporate the Montreal South Shore Transit Commission

[Assented to 23 June 1978]

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

1969, c. 84,
s. 102,
replaced. **1.** Section 102 of the Montreal Urban Community Act (1969, chapter 84) is replaced by the following section:

Procedure. “**102.** In order to expropriate, the Community shall proceed in accordance with the Expropriation Act (1973, chapter 38).”

1969, c. 84,
s. 269, am. **2.** Section 269 of the said act is amended by replacing the second paragraph by the following paragraphs:

Territorial
compe-
tence. “The Commission has competence over the territory of the municipalities mentioned in Schedule B, which constitutes its territory; it has competence also to operate outside its territory any public transport system, franchise and permit included in or held by a public transport undertaking whose assets or capital stock it has acquired.

Provisions
applicable. Notwithstanding any contrary provision in this act, the Act respecting municipal and intermunicipal transit corporations (1977, chapter 64) applies to any part of a public transport undertaking operated by the Commission outside the territory of the municipalities mentioned in Schedule B.

Transfer of
permits. Within three months after the establishment of a municipal or intermunicipal transit corporation, the Commission must transfer to that corporation the parts of permits relating to the territory of the corporation.

Indemnity. The indemnity for the transfer of such parts of permits is fixed by the Expropriation Tribunal on the basis of the price the Commission paid to acquire them.”

1969, c. 84
s. 286, am. **3.** Section 286 of the said act, amended by section 28 of chapter 90 and by section 25 of chapter 99 of the statutes of 1971, by section 173 of chapter 55 of the statutes of 1972 and by section 34 of chapter 82 of the statutes of 1974, is again amended by inserting after subparagraph *e* of the second paragraph the following subparagraph:

“(f) with the previous authorization of the *Ministre des transports*, but without any other permission or special formality, to alienate any part, situated outside the territory of a municipality mentioned in Schedule B, of a public transport undertaking it has acquired and the permits relating thereto, if any.”

1969, c. 84,
s. 286c,
added. **4.** The said act is amended by inserting after section 286b the following:

Change,
etc., to a
transport
service. **“286c.** Subject to section 294, the Commission may change or extend any transport service it supplies outside its territory after an acquisition made under section 287; it shall not, however, without the authorization of the *Commission des transports*, supply a transport service in a municipality other than that formerly served by a transport undertaking acquired under section 287.”

1969, c. 84,
s. 287, am. **5.** Section 287 of the said act, amended by section 16 of chapter 73 of the statutes of 1972 and by section 140 of chapter 38 of the statutes of 1973, is again amended:

(a) by replacing the first paragraph by the following paragraph:

Acquisition
of assets,
etc., of
under-
taking. **“287.** With the authorization of the *Community* and of the *Commission municipale du Québec*, the Commission may acquire by agreement or by expropriation all or part of the assets or of the capital stock of any public transport undertaking by autobus whose routes are situated in whole or in part within its territory.”;

(b) by replacing the third paragraph by the following paragraphs:

Procedure
for expro-
priation
and in-
demnity. **“To expropriate, the Commission shall proceed by using the powers of the *Community*, *mutatis mutandis*, except that, notwithstanding any law, agreement, deed of trust or any provision, the Commission becomes the owner of the expropriated property from the end of the delay for taking possession provided for in section 48 or section 49 of the *Expropriation Act* (1973, chapter 38), provided that it has paid to the expropriated party or deposited, in conformity with this section, a provisional indemnity equivalent to seventy per cent of its offer.**

Deposit
and distri-
bution of
indemnity. The provisional indemnity, as fixed in this section, may be deposited by the Commission in the office of the *Superior Court*. In the case of an expropriation of assets, the indemnity must be

used first to pay the obligations of the expropriated undertaking. The prothonotary shall distribute such indemnity by taking into account the rank of each creditor.

Refusal to transfer possession.

As soon as the provisional indemnity has been paid or deposited in conformity with this section, the Commission, should the expropriated party refuse to transfer possession of the expropriated property, may apply to the court as provided in section 56 of the Expropriation Act (1973, chapter 38)."

1969, c. 84, s. 294, am.

6. Section 294 of the said act, amended by section 29 of chapter 90 of the statutes of 1971, is again amended by adding at the end the following paragraph:

Approval of municipality.

"Where the establishment, change, cancellation or replacement of an autobus line or the change of route is related to the territory of a municipality other than those mentioned in Schedule B, the approval of that municipality is substituted for that of the executive committee and, subject to section 295, the Commission shall not then give effect to its decision before having obtained that approval."

1969, c. 84, s. 295, am.

7. Section 295 of the said act, amended by section 173 of chapter 55 of the statutes of 1972, is amended by adding at the end the following paragraph:

Approval of Commission.

"When a municipality contemplated in the second paragraph of section 294 has not given to the Commission, within thirty days after the latter has so required, the approval provided for therein, the Commission, within thirty days after the end of the delay above mentioned and in the manner indicated in this section, may apply to the Commission des transports, which may then give, on the conditions it determines, the approval provided for in section 294, in the place and stead of the municipality concerned."

1969, c. 84, s. 296, replaced.

8. Section 296 of the said act is replaced by the following section:

Tariffs.

"296. The Commission may at any time establish tariffs for the transport of the users of its vehicles and establish different tariffs according to the means of transport or the classes of users or services. The Commission may also establish different rates for the users of any means or system of transport of an undertaking it has acquired under section 287 or that it operates under section 286c.

Certified copy of resolution.

The secretary of the Commission must send forthwith to the Community, the municipalities mentioned in Schedule B or, as the case may be, any other municipality in whose territory tariffs apply as determined above, a certified copy of the resolution of the

Commission setting forth any decision provided for in this section and have it published without delay in a daily newspaper circulated in the territory under its jurisdiction.”

1969, c. 84,
s. 308a,
added.

9. The said act is amended by inserting, after section 308, the following section:

Municipalities
contem-
plated.

“308a. Only the municipalities mentioned in Schedule B are regarded as being served by the transport system of the Commission for the purposes of the application of sections 304, 306, 307 and 308.”

1969, c. 84,
s. 313, am.

10. Section 313 of the said act, amended by sections 135 and 173 of chapter 55 of the statutes of 1972, is again amended by replacing subsection 1 by the following subsection:

Permit for
charter
trips.

“313. (1) No permit may be granted by the Commission des transports to any carrier for the making of special or charter trips by autobus from one point to another within the territory of the Commission unless the applicant files, together with its application for the permit, the consent of the chairman and general manager of the Commission or of another commissioner or officer of the Commission specially authorized for such purpose by the chairman and general manager, unless the Board is of opinion that the Commission is not in a position to provide the service covered in the application for the permit.”

1969, c. 84,
ss. 338a-
338e,
added.

11. The said act is amended by inserting after section 338, the following sections:

Separate
accounts.

“338a. The Commission must keep a separate account for each transport service supplied outside the territory described in Schedule B.

Apportion-
ment of
deficit.

“338b. The Commission must apportion, between the municipalities having a service contemplated in section 338a, the deficit, if any, for that service. The deficit must be apportioned between the municipalities concerned by assigning to each the portion of the deficit for the service it has received, either proportionately to the total valuation of the taxable real estate situated in each such municipality or to any other formula determined by regulation of the Government.

Idem.

The Commission is not bound to apportion the operating deficit provided for in this section connected with the various means of public transport or the operating deficits connected with the various lines of a single means of public transport, among the same municipalities or according to the same criterion.

Notice to municipalities.

“338c. The Commission must send to every municipality contemplated in section 338a a notice addressed to the clerk or the secretary treasurer, stating the aliquot share of the operating deficit payable by that municipality for the service it has received. Section 308 applies *mutatis mutandis* to the payment of that share.

Copy to Commission municipale.

“338d. (1) The Commission must send the notice provided for in section 338c on the date mentioned thereon, to every municipality served under section 338a. It must also forward a copy of that notice to the Commission municipale du Québec.

Appeal.

(2) Every municipality contemplated in subsection 1 must pay the amount of its share within thirty days after receiving the notice of the Commission, unless it decides to appeal therefrom before the Commission municipale du Québec by a motion filed therewith and served on the Commission within that thirty days' delay.

Hearing and decision.

“338e. (1) The Commission municipale du Québec, after hearing the Commission and the appellant municipality, must render its decision within two months thereafter and inform the parties of its decision. It may also exercise, *mutatis mutandis*, in connection with that decision, the powers provided in the fifth, sixth and seventh paragraphs of section 248.

Declaration of default.

(2) Every municipality contemplated in subsection 1 must pay the amount fixed by the Commission municipale du Québec within thirty days after its decision, in default of which the Commission municipale du Québec, on the demand of the Commission, may petition to have that municipality declared in default in accordance with Division v of the Municipal Commission Act (Revised Statutes, 1964, chapter 170).”

1971, c. 98, s. 19, am.

12. Section 19 of the Act to incorporate the Montreal South Shore Transit Commission (1971, chapter 98) is amended by replacing the second paragraph by the following paragraphs:

Approval of Ministre des transports in certain cases.

“It may also, as long as it deems it expedient, operate even outside its territory any public transport system, franchise and permit included in or held by a public transport undertaking whose assets or capital stock it has acquired. The Commission may operate the whole or part of that system through a subsidiary with the approval of the Ministre des transports.

Applicability.

Notwithstanding any contrary provision of this act, the Act respecting municipal and intermunicipal transit corporations (1977, chapter 64) applies to any part of a public transport undertaking operated, by the Commission itself or through a subsidiary, outside its territory.

Transfer of permits. Within three months of the establishment of a municipal or intermunicipal transit corporation, the Commission must transfer to that corporation the parts of permits relating to the territory of the corporation.

Indemnity. The indemnity for the transfer of such parts of permits is fixed by the Expropriation Tribunal on the basis of the price the Commission paid to acquire them."

1971, c. 98,
s. 36, am. **13.** Section 36 of the said act is amended by replacing the third paragraph by the following paragraph:

Procedure. "In order to expropriate, the Commission shall proceed in accordance with the Expropriation Act (1973, chapter 38)."

1971, c. 98,
s. 38, am. **14.** Section 38 of the said act, amended by section 153 of chapter 55 of the statutes of 1972, is again amended by replacing paragraph *i* by the following paragraph:

"(i) with the previous authorization of the Ministre des transports but without any other permission or special formality, alienate any part, situated outside its territory, of a public transport undertaking it has acquired and the permits relating thereto."

1971, c. 98,
ss. 38a-
38b, added. **15.** The said act is amended by adding after section 38 the following sections:

Change, etc., in transport service. **"38a.** The Commission may change or extend any transport service it supplies itself or through a subsidiary; it shall not, however, without the authorization of the Commission des transports du Québec, supply a transport service outside its territory in a municipality other than that formerly served by a transport undertaking acquired under section 39. The Commission shall then proceed in accordance with the formalities provided for in section 46.

Powers of Lt.-Gov. in C. **"38b.** The Lieutenant-Governor in Council may order that every municipality on whose territory the Commission supplies a transport service through a subsidiary be included in the territory of the Commission and that the transport service be supplied in that territory by the Commission."

1971, c. 98,
s. 39, am. **16.** Section 39 of the said act, amended by section 10 of chapter 39 of the statutes of 1973 and by section 7 of chapter 91 of the statutes of 1973, is again amended:

(a) by replacing the first paragraph by the following paragraph:

Acquisition of assets, etc., of undertaking. **"39.** With the previous authorization of the Council, the Commission may acquire by agreement or expropriation all or part

of the assets or capital stock of any public transport undertaking operated in whole or in part within its territory.”;

(b) by replacing the second paragraph by the following paragraphs:

Acquisition
by expro-
priation,
provisional
indemnity.

“In the case of acquisition by expropriation, notwithstanding any law, agreement, deed of trust or any provision, the Commission becomes the owner of the property expropriated from the end of the delay for taking possession provided for in section 48 or section 49 of the Expropriation Act (1973, chapter 38), provided that it has paid to the expropriated party or deposited, in conformity with this section, a provisional indemnity equivalent to seventy per cent of its offer.

Deposit,
etc., of
indemnity.

The provisional indemnity, as fixed in this section, may be deposited by the Commission in the office of the Superior Court. In the case of an expropriation of assets, the indemnity must be used first to pay the obligations of the expropriated undertaking. The prothonotary shall distribute such indemnity by taking into account the rank of each creditor.

Refusal to
transfer
possession.

As soon as the provisional indemnity has been paid or deposited in conformity with this section, the Commission, should the expropriated party refuse to transfer possession of the expropriated property, may apply to the court as provided in section 56 of the Expropriation Act (1973, chapter 38).”

1971, c. 98,
s. 46, am.

17. Section 46 of the said act, amended by section 8 of chapter 91 of the statutes of 1973, is again amended by adding, after the second paragraph, the following paragraph:

Applica-
bility.

“This section applies in the same manner to every municipality situated outside the territory of the Commission on whose territory the Commission supplies a transport service through a subsidiary. In this case, the resolution of the Commission is sent only to the municipality concerned.”

1971, c. 98,
s. 48, am.

18. Section 48 of the said act is replaced by the following section:

Tariffs,
etc.

“**48.** The Commission may at any time establish tariffs for the transport of the users of its vehicles and establish different tariffs according to the means of transport or the classes of users or services. The Commission may also establish different rates for the users of any means or system of transport of an undertaking it has acquired under section 39, whether or not the service received by the users formerly served by that undertaking is supplied by the Commission itself or through a subsidiary. The Commission may also exercise the powers provided for in this section in respect of any service authorized by the Commission des transports du Québec under section 38a.”

1971, c. 98,
s. 62, am. **19.** Section 62 of the said act is amended by replacing the second paragraph by the following paragraph:

Apportionment of expenses. “Such expenses shall be apportioned among such municipalities in proportion to the number of miles covered in the territory of each during the preceding fiscal year, or to the total number of hours during which each vehicle of the Commission circulated in the territory of each during the preceding fiscal year, or to their population, or to the total uniform valuation of the taxable immoveables situated in each of such municipalities, or to any other formula determined by regulation of the Government or according to certain or several of such criteria taken together.”

1971, c. 98,
s. 70a,
added. **20.** The said act is amended by inserting, after section 70, the following section:

Loan for subsidiary, etc. “**70a.** The Commission may borrow money in the name of its subsidiary. The payment of the capital and interest of the bonds issued by the Commission is then warranted by the general fund of the municipalities served by the Commission through such subsidiary.”

1971, c. 98,
s. 71a,
added. **21.** The said act is amended by inserting after section 71, the following section:

Exclusion. “**71a.** A municipality not included in the territory of the Commission is not a municipality served for the purposes of sections 61, 62, 63, 70 and 71.”

1971, c. 98,
ss. 74a-
74d,
added. **22.** The said act is amended by inserting after section 74 the following sections:

Apportionment of operating deficit. “**74a.** The operating deficit, if any, connected with a transport service supplied by the Commission through a subsidiary must be assumed by the municipalities involved and apportioned among them by the Commission by charging each the portion of the operating deficit connected with the service the latter has received, in proportion to the total valuation of the taxable immoveables situated in each of such municipalities, or to any other formula determined by regulation of the Government.

Idem. The Commission is not required to apportion the operating deficit contemplated in this section connected with the various means of public transport or the operating deficits connected with various lines of a single means of public transport, among the same municipalities or according to the same criterion.

Notice to municipalities. “**74b.** (1) At the time provided for in section 61, the Commission must send to every municipality contemplated in section 74a

a notice addressed to the clerk or the secretary treasurer, stating the aliquot share of the operating deficit payable by that municipality. The Commission must also send a copy of that notice to the Commission municipale du Québec.

Appeal,
etc.

(2) Every municipality contemplated in subsection 1 must pay the amount of its aliquot share within thirty days after receiving the notice of the Commission, unless it decides to appeal therefrom before the Commission municipale du Québec by a motion filed therewith and served on the Commission within that thirty days' delay.

Hearing
and
decision.

“74c. After hearing the Commission and the appellant municipality, the Commission municipale du Québec must render its decision within two months thereafter and inform all the interested parties of its decision.

It may confirm or amend the apportionment of the operating deficit of the Commission. However, it shall not amend it unless it is convinced that it is seriously prejudicial to the taxpayers.

Order
binding.

It may order the party at fault to pay the amount the Commission deems fair to cover the expenses incurred for the appeal; the order for that purpose shall be homologated upon a motion to the Provincial Court or Superior Court, depending on their respective jurisdictions; the order so homologated is binding as a judgment of such court.

Inter-
locutory
order.

The Commission may render any interlocutory order to safeguard the rights of the interested parties during the proceedings.

Declara-
tion of
default.

“74d. Every municipality contemplated in section 74c must pay the amount fixed by the Commission municipale du Québec within thirty days after its decision, in default of which the Commission municipale du Québec, on the demand of the Commission, may petition to have that municipality declared in default in accordance with Division V of the Municipal Commission Act (Revised Statutes, 1964, chapter 170).”

Transport
service
continued.

23. The Transit Commission of the Montreal Urban Community may supply, on the territory of any municipality mentioned in Schedule B of the Montreal Urban Community Act (1969, chapter 84), where that municipality was formerly served by a public transport undertaking it has acquired in conformity with section 287 of the said act, the same transport service as that supplied by that undertaking during the fiscal year in which it has acquired that undertaking and during the first fiscal year after that acquisition. Separate accounts must be kept for this service.

Provisions applicable. Sections 338*b* to 338*e* of the Montreal Urban Community Act (1969, chapter 84) apply *mutatis mutandis* to the apportionment of the deficit connected with the transport service contemplated in the preceding paragraph and to any appeal therefrom.

Revision of tariffs. **24.** Within sixty days after the Transit Commission of the Montreal Urban Community has acquired a public transport undertaking contemplated in section 287 of the Montreal Urban Community Act (1964, chapter 84) or within sixty days after that undertaking has been acquired, in the event of an acquisition by expropriation, any municipality formerly served by that undertaking may, in conformity with section 297 of that act, apply to the Commission des transports du Québec to have the tariffs revised for the transport service it receives.

Hearing. Every application for revision contemplated in the preceding paragraph must be heard by preference before the Commission des transports du Québec.

Applicability. The preceding paragraphs apply likewise to every municipality formerly served by a public transport undertaking acquired by the Montreal South Shore Transit Commission under section 39 of the Act to incorporate the Montreal South Shore Transit Commission (1971, chapter 98). The municipality shall file its application for revision under section 49 of the said act.

Powers of Lt.-g. in C. **25.** The Lieutenant-Governor in Council may, on the conditions he determines, warrant the payment of the capital and interest of the bonds issued by the Montreal South Shore Transit Commission to finance the acquisition, by agreement or expropriation, of the assets or capital stock of the company called Métropolitain Sud (1967) Incorporée.

Coming into force (20 Sept. 1978, G.O., p. 6013). **26.** This act will come into force on the date to be fixed by proclamation of the Government, except the sections excluded in that proclamation, which will come into force on any later date which may be fixed by proclamation of the Government.