

ASSEMBLÉE NATIONALE DU QUÉBEC



Bill 112

An Act respecting the Communauté urbaine de Montréal

First reading
Second reading
Third reading

M. GUY TARDIF
Ministre des affaires municipales

EXPLANATORY NOTES

This bill more clearly defines the existing powers of the Commission de transport de la Communauté urbaine de Montréal with respect to the acquisition of the capital stock or property of the companies called Métropolitain Provincial (1967) Inc. and Autobus Trans-Urbain Inc., in particular, allowing the Commission to acquire only part of the property of the latter company.

The bill also prescribes the terms and conditions for the integration into the Commission de transport de la Communauté urbaine de Montréal of the employees of those companies who would be affected if the companies were acquired by the Commission. The following terms and conditions would apply in such a case:

(1) the unions representing the employees to be integrated would be dissolved and the employees integrated into the union representing the drivers of the Commission de transport de la Communauté urbaine de Montréal; the latter union would succeed in the rights and obligations of the former unions;

(2) the collective agreements governing the employees to be integrated, as well as the proceedings in progress for their renewal, would be annulled; these would be replaced by the collective agreement in force at the Commission de transport de la Communauté urbaine de Montréal;

(3) a guarantee is given that no regular employee would be dismissed by reason of the proposed integration;

(4) full recognition of the general seniority of the employees to be integrated would be assured;

(5) a lump sum would be paid to the employees by their present employer to compensate them for their loss of purchasing power while without a collective agreement.

The bill also replaces the existing Conseil des arts de la région métropolitaine de Montréal by a new arts council, which

will be under the jurisdiction of the Communauté urbaine de Montréal rather than of the city of Montréal. The new council will have essentially the same powers and functions as its predecessor.

The bill grants the urban community the power to establish a company under the new Part IA of the Companies Act. The principal activity of the company will be to furnish third parties with services that the Community is itself authorized to furnish in respect of the construction, operation, supervision and management of public transport systems.

Finally, the bill is meant to clarify certain powers of the secretary of the Communauté urbaine de Montréal with respect to a certain municipality situated within the territory of the Community.

Bill 112

An Act respecting the Communauté urbaine de Montréal

HER MAJESTY, with the advice and consent of the National Assembly of Québec, enacts as follows:

CHAPTER I

ACQUISITION BY THE COMMISSION DE TRANSPORT DE LA COMMUNAUTÉ URBAINE DE MONTRÉAL OF CERTAIN PUBLIC TRANSPORT UNDERTAKINGS

DIVISION I

DEFINITIONS

1. In this chapter,

(1) “Commission” means the Commission de transport de la Communauté urbaine de Montréal;

(2) “date of acquisition” means the date on which the Commission becomes the owner or possessor of the capital stock of, or the property acquired by agreement or expropriation from, the company called Métropolitain Provincial (1967) Inc. or the company called Autobus Trans-Urbain Inc., as the case may be;

(3) “brotherhood” means the Fraternité des chauffeurs d'autobus, opérateurs de métro et employés des services connexes au transport de la Commission de transport de la Communauté urbaine de Montréal.

DIVISION II

ACQUISITION OF THE CAPITAL STOCK OR MOVEABLE AND
IMMOVEABLE PROPERTY OF MÉTROPOLITAIN PROVINCIAL (1967) INC.

2. In this chapter,

(1) "company" means the company called Métropolitain Provincial (1967) Inc.;

(2) "union" means the Syndicat des employés du transport provincial (C.S.N.), section chauffeurs, division Métropolitain Provincial (1967) Inc.

3. Notwithstanding the seventh paragraph of section 287 of the Montréal Urban Community Act (1969, c. 84) and section 45 of the Labour Code (R.S.Q., c. C-27), in the case where the Commission proceeds to acquire, by agreement or by expropriation, the capital stock or the moveable and immoveable property of the company, the union is dissolved from the date of acquisition.

4. Any proceeding then in progress for the making of a collective agreement between the company and the union is without effect. Similarly, any collective agreement then in force between them ceases to have effect, except in respect of causes for grievance which arose before the date of acquisition and for which the procedure of settlement and arbitration of grievances provided for by the agreement continues to apply.

5. The employees of the company included in the bargaining unit contemplated by the certification held by the union then become employees of the Commission and are integrated into the group of employees for which the brotherhood is certified.

6. The brotherhood then succeeds in the rights and obligations of the union, which must, within thirty days from the date of acquisition, send to the brotherhood a certified statement of its finances at the time of acquisition.

Similarly, the Commission succeeds, on the date of acquisition, in the rights and obligations that the company then has towards the union.

7. In no case may a regular employee included in the bargaining unit contemplated by the certification held by the union at the time of acquisition be dismissed by reason of the acquisition.

For the purposes of this section, "regular employee" means a regular employee within the meaning of the latest collective agreement entered into by the company and the union.

8. From the date of acquisition, the general seniority, understood as being the total length of service in years, months and days of an employee included in the bargaining unit contemplated by the certification held by the union, acquired in the service of the company is recognized as the total length of service in years, months and days of that employee in the transport service of the Commission.

However, the general seniority thus recognized does not entitle an employee, for the purposes of the supplemental pension plan of the employees of the Commission, to recognition of an equivalent number of years of service or years of contribution to the plan.

9. In the case where a collective agreement is not in force between the company and the union on the date of acquisition, the company shall pay a lump sum to each employee included in the bargaining unit contemplated by the certification held by the union who was in the employ of the company both on the date of expiry of the last collective agreement between the company and the union, and on the date of acquisition, as compensation for the period extending from the date of expiry of that collective agreement to the date of acquisition.

The lump sum referred to in the first paragraph is computed by multiplying the percentage of the general salary increase agreed to for the first year of the collective agreement entered into on 10 December 1979 by the Commission and the brotherhood by the applicable hourly base rate, for the period contemplated in the first paragraph, in regard to the class to which the employee belonged when he was in the service of the company, and by the number of hours, not exceeding a total of forty-two hours and one-half per week, for which the employee has been paid or is entitled to be paid by the company for that period, excluding any overtime work.

10. An interested party may, within three months of the date of acquisition, by way of a petition addressed to the labour commissioner-general appointed under the Labour Code, request the designation of a labour commissioner to determine if a person was, on the date of acquisition, an employee of the company included in the bargaining unit contemplated by the certification held at that time by the union.

11. Any disagreement respecting the interpretation or the application of section 7 or the first paragraph of section 8 must be submitted to arbitration within twelve months of the date of acquisition, in accordance with the procedure for the settlement and arbitration of grievances prescribed by the collective agree-

ment entered into on 10 December 1979 by the Commission and the brotherhood.

12. Any work or kind of work performed by the company before the date of acquisition for which the method of operation is not provided for under the collective agreement entered into on 10 December 1979 by the Commission and the brotherhood must be the subject of an agreement between the Commission and the brotherhood within thirty days following the sending by either to the other of a notice to bargain in that respect.

Failing an agreement within that period, the dispute shall be submitted to arbitration within the fifteen following days in the manner provided in section 74 to 91 of the Labour Code. The award of the council of arbitration shall be an integral part of the collective agreement contemplated in the first paragraph.

The method of operation for that work or for that kind of work which existed at the company before the date of acquisition continue to apply until an agreement is reached or, as the case may be, the award provided for in this section is handed down, and the employees who were employed by the company before the date of acquisition and who performed that work or that kind of work shall continue to perform it during that period.

DIVISION III

ACQUISITION OF PART OF THE MOVEABLE AND IMMOVEABLE PROPERTY OF AUTOBUS TRANS-URBAIN INC.

13. In this division,

(1) "company" means the company called Autobus Trans-Urbain Inc.;

(2) "union" means the Syndicat des chauffeurs d'autobus de Trans-Urbain (service local).

14. Notwithstanding the seventh paragraph of section 287 of the Montréal Urban Community Act (1969, c. 84) and section 45 of the Labour Code, in the case where the Commission proceeds to acquire, by agreement or by expropriation, the moveable and immoveable property used exclusively or mainly for the urban transport operations of the company, the union is dissolved from the date of acquisition.

15. Sections 4 to 12 apply, *mutatis mutandis*, in respect of the acquisition of property contemplated in this division.

For the purposes of this section, the second paragraph of section 9 must be read as if the words “forty-five hours” were substituted therein for the words “forty-two hours and one-half”.

DIVISION IV

EXTENSION OF THE PUBLIC TRANSPORT SERVICE

16. Section 287 of the Montréal Urban Community Act (1969, c. 84), amended by section 16 of chapter 73 of the statutes of 1972, by section 140 of chapter 38 of the statutes of 1973 and by section 5 of chapter 104 of the statutes of 1978, is again amended by replacing the second paragraph by the following paragraphs:

“The Commission may extend its service to the territories served on (*insert here the date of the tabling of Bill 112*) by either the companies, Métropolitain Provincial (1967) Inc. or Autobus Trans-Urbain Inc., including the part of those territories situated outside its own territory, on the condition of acquiring, by agreement or by expropriation, the capital stock or the moveable and immoveable property of the company to whose territory it extends its service.

The Commission may also extend its service to the territory served on (*insert here the date of the tabling of Bill 112*) by the company called Autobus Trans-Urbain Inc., including the part of that territory situated outside its own territory, in regard to the public transport operations of that company other than those relating to school transport, on the condition, however, of acquiring, by agreement or by expropriation, the moveable and immoveable property used exclusively or mainly for those operations.”

CHAPTER II

ESTABLISHMENT AND ORGANIZATION OF THE CONSEIL DES ARTS DE LA COMMUNAUTÉ URBAINE DE MONTRÉAL

17. The Montréal Urban Community Act (1969, c. 84) is amended by inserting, after section 87, the following heading and sections:

“ § 4a.—*Conseil des arts de la Communauté urbaine de Montréal*

“**87a.** A select committee of the Community, hereinafter called the “arts council”, is hereby established under the name of “Conseil des arts de la Communauté urbaine de Montréal”.

“87 b. The arts council has the following functions:

(a) to draw up and keep a permanent list of the associations, societies, corporations, organizations, groups or persons who engage in artistic and cultural activities in the territory of the Community;

(b) to combine, co-ordinate and promote artistic or cultural initiatives in the territory of the Community;

(c) within the limits of the available funds for that purpose, to designate the associations, societies, corporations, organizations, groups or persons and the cultural or artistic events worthy of receiving grants, fix the amount of any grant and recommend the payment of it by the Community.

The Council of the Community may, by by-law, confer any other power on the arts council or impose on it any other duty it considers advisable to better enable it to attain its objects.

“87 c. The Council of the Community shall establish, by by-law, the number of members composing the arts council, the qualifications they must have, the duration of their terms and the time and mode of their appointment and replacement, as well as the rules of internal management and operation of the arts council, and the rules of procedure for its meetings.

“87 d. The members of the arts council must be Canadian citizens and be domiciled in a municipality forming part of the territory of the Community.

The members are appointed by the Council of the Community, which shall designate a chairman and two vice-chairmen from among them, the whole on a report of the executive committee. The Council of the Community may dismiss the report but shall not amend it.

“87 e. The members of the arts council are not remunerated. However, they are entitled to repayment by the arts council of all expenses authorized by it incurred in the discharge of their duties.

“87 f. The members of the arts council may retain the services of the personnel they require, including a secretary, and fix their remuneration.

Employees of the arts council are not by that sole fact employees of the Community.

The treasurer of the Community or such assistant as he may designate is *ex officio* the treasurer of the arts council.

“87 g. The fiscal period of the arts council coincides with that of the Community and the latter’s auditor must examine the financial statements of the arts council and, within one hundred and twenty days following the expiry of the fiscal period, make a report of his examination to the Community and to each of the municipal corporations in respect of which the arts council has jurisdiction pursuant to section 87k.

“87 h. A special fund hereinafter called “the fund” is hereby established under the name of “Fonds du Conseil des arts de la Communauté urbaine de Montréal”. The treasurer of the arts council has custody of the fund.

“87 i. The fund is constituted of

(a) the gifts, legacies and grants made to the arts council and previously approved by the executive committee;

(b) the contributions from the municipal corporations contemplated in section 87k;

(c) the sums voted annually for that purpose out of the budget of the Community, and

(d) the sums put at the disposal of the arts council every year that have not been used before the end of the fiscal period.

The Council of the Community may, by by-law, prescribe the minimum amount that must be allocated every year for the purposes of subparagraph c of the first paragraph. As long as the by-law remains in force, the treasurer of the Community must include the amount thus prescribed in the certificate prepared by him in accordance with section 247.

“87 j. The fund shall be used exclusively to pay the grants authorized by the executive committee on the recommendation of the arts council and to defray the administrative costs of this council.

At the end of each fiscal period, the treasurer of the arts council must render account to it of the sums paid under the first paragraph.

“87 k. The jurisdiction of the arts council extends to every municipal corporation whose territory is wholly or partly situated within a radius of fifty kilometres from the territorial limits of the Community and which has expressed the wish therefor by a resolution of its council transmitted to the secretary general of the Community.

The council of such a municipal corporation is empowered to pass the resolution provided for in the first paragraph.

The resolution remains in force for a period of three years; it is thereafter renewed by tacit renewal every three years for a new period of three years unless the municipal corporation has given to the secretary general of the Community a notice to the contrary effect at least six months before the date of expiration of the three-year period then in progress.

The arts council has jurisdiction in respect of the municipal corporation as long as the resolution remains in force.

87 l. The executive committee shall fix the annual contribution that must be paid into the fund by a municipal corporation in respect of which the arts council has jurisdiction pursuant to section 87k; it shall also fix the terms and conditions and the time of payment of the contribution.

A municipal corporation may demand that the executive committee fix in its respect, for a period of three years, the contribution, the terms and conditions and the time contemplated in the first paragraph before it transmits its resolution to the secretary general of the Community in accordance with the first paragraph of section 87k or, where applicable, at least one month before the expiry of the time allowed it to give a notice in accordance with the third paragraph of that section.

87 m. For the purposes of this subdivision, the expression "territory of the Community" comprises the territory of a municipal corporation in respect of which the arts council has jurisdiction pursuant to section 87k."

18. The Conseil des arts de la Communauté urbaine de Montréal succeeds to the Conseil des Arts de la région métropolitaine de Montréal, assumes its obligations and acquires its property, rights and privileges.

It is, without continuance of suit, a party to any proceeding to which the Conseil des arts de la région métropolitaine de Montréal was a party.

19. The members, officers and employees of the Conseil des arts de la région métropolitaine de Montréal continue in the same functions with the Conseil des arts de la Communauté urbaine de Montréal as they had with the former body, until they are replaced in accordance with this act, and on the same conditions, until these are changed in accordance with this act.

20. By-law 2325 of the city of Montréal, to the extent that it is not inconsistent with this act, continues to have effect until it is amended, repealed or replaced by a by-law of the Communauté urbaine de Montréal adopted in accordance with this act.

The Communauté urbaine de Montréal is substituted for the city of Montréal for the purposes of by-law 2325 of that city, as if it were a by-law adopted by the Community itself.

21. Decisions taken by the Conseil des arts de la région métropolitaine de Montréal continue to have effect until they are amended, repealed or replaced by a decision of the Conseil des arts de la Communauté urbaine de Montréal.

22. The Fonds du Conseil des arts de la Communauté urbaine de Montréal succeeds to the Fonds du Conseil des Arts de la région métropolitaine de Montréal. The sums of money accumulated in the latter fund on the date of the coming into force of this act are transferred to the first named fund.

23. The executive committee of the Communauté urbaine de Montréal may, for its fiscal period 1980, allocate to the Fonds du Conseil des arts de la Communauté urbaine de Montréal the amount it determines out of the appropriations voted for that year by the Council of the Community for the purposes of unforeseen expenses for administration, settlement of claims and payment of judgments. The treasurer of the Community shall pay that sum into the fund.

CHAPTER III

MISCELLANEOUS PROVISIONS

24. Article 195 of the Charter of the City of Montréal (1959-1960, c. 102) is repealed.

25. Section 99 of the Montréal Urban Community Act (1969, c. 84), amended by section 7 of chapter 82 of the statutes of 1974, is again amended by adding at the end the following paragraph:

“(j) constitute, in accordance with Part IA of the Companies Act (R.S.Q., c. C-38), a company whose principal activity is furnishing a third party with any and all services, advice, substances, materials and equipment contemplated in section 318b.”

26. Section 2 of the Act respecting the municipality of the county of Jacques-Cartier (1971, c. 118) is amended by replacing the third paragraph by the following paragraph:

“For the purposes of this section, the secretary of the Communauté urbaine de Montréal shall exercise the powers and per-

form the duties of the secretary-treasurer of the municipality of the county of Jacques-Cartier.”

27. This act comes into force on the day of its sanction.