

THIRD SESSION
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 56

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

First reading
Second reading
Third reading

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L'ÉDITEUR OFFICIEL DU QUÉBEC

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EXPLANATORY NOTES

The main objects of the proposed amendments to the Montreal Urban Community Act and to the Act to incorporate the Montreal South Shore Transit Commission are the following:

(a) *to enable the Transit Commission of the Montreal Urban Community and the Montreal South Shore Transit Commission to supply public transport services in the whole of their territory, by giving them the power to acquire by agreement or expropriation the public transport undertakings supplying these services;*

(b) *to determine the amount and use of the provisional indemnity, in the event of the acquisition by expropriation of such an undertaking;*

(c) *to give these transit commissions jurisdiction outside their territory to operate and extend the services acquired;*

(d) *to set up a special way of apportioning the deficit among the municipalities situated outside the territory of the Transit Commission of the Montreal Urban Community or the Montreal South Shore Transit Commission, with a right of appeal before the Commission municipale du Québec;*

(e) *to give those transit commissions the power to fix the tariffs of the transport services they supply outside their territory and amend the lines and routes thereof; and*

(f) *to enable the Montreal South Shore Transit Commission to supply transport services outside its territory through a subsidiary.*

Sec. 1. *The amendment replaces the reference to the Code of Civil Procedure by a reference to the Expropriation Act.*

Sec. 2. *The amendment enables the C.T.C.U.M. to operate the public transport permits it acquires, even where such permits extend outside its territory. It also provides that the Act respecting municipal and intermunicipal transit corporations applies outside its territory in regard to any part of the territory it has acquired under section 287.*

Bill 56

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

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

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

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

2. Section 269 of the said act is amended by replacing the second paragraph by the following paragraphs:

“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.

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.

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.

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.”

Sec. 3. *The amendment enables the C.T.C.U.M. to dispose, with the authorization of the Ministre des transports, of the public transport permits it has acquired.*

Sec. 4. *This provision is completely new legislation.*

Sec. 5. (a) *The section submitted reproduces the present text of the first paragraph of section 287, where the words "wholly or to a great extent" in the seventh and eighth lines are replaced by the words "in whole or in part".*

(b) *This provision is completely new legislation.*

6. The amendment submitted is intended to give the C.T.C.U.M., outside its territory, the same powers as inside as regards lines and routes by replacing the authorization of the executive committee by that of the municipalities involved.

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.”

4. The said act is amended by inserting after section 286*b* the following:

“**286*c*.** 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.”

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:

“**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:

“To expropriate, the Commission shall proceed by using the powers of the Community, *mutatis mutandis*, except that 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.

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

Sec. 7. *This provision is designed to complete section 294 by creating a right of appeal before the Commission des transport du Québec.*

Sec. 8. *The section submitted reproduces the present text of section 296 but also enables the C.T.C.U.M. to establish tariffs for the transport services supplied outside its territory.*

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.

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)."

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:

"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."

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:

"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."

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

"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.

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

Sec. 9. *This provision is intended to specify the responsibility of the municipalities of the territory of the C.T.C.U.M. in connection with the deficit from the transport services it receives.*

Sec. 10. *The section proposed reproduces the present text of subsection 1 of section 313 and corrects a clerical error.*

Sec. 11. *The sections submitted are designed to create a special system of apportioning the deficit for the municipalities situated outside the territory of the C.T.C.U.M., and they grant them a right of appeal before the Commission municipale du Québec.*

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.”

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

“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.”

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:

“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.”

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

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

“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.

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.

Sec. 12. *The second paragraph of section 19 of the act presently reads as follows:*

"It may also, as long as it deems it expedient, continue the operation even outside its territory of 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 amendment submitted gives the C.T.R.S.M. the power to operate the system directly or through a subsidiary.

The amendment submitted provides also for the application of the Act respecting municipal and intermunicipal transit corporations, outside its territory, to any part of the territory it has acquired under section 39.

“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.

“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.

(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.

“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.

(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).”

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:

“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.

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.

Sec. 13. *This amendment replaces the reference to the Code of Civil Procedure by a reference to the Expropriation Act.*

Sec. 14. *The section submitted reproduces the present text of paragraph i of section 38 and replaces the authorization of the Commission des transports du Québec by that of the Ministre des transports.*

Sec. 15. *This provision is completely new legislation.*

Sec. 16. (a) *The section submitted reproduces the present text of the first paragraph of section 39 and replaces the words "in whole or for the greater part" by the words "in whole or in part".*

(b) *This provision is completely new legislation.*

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.

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."

13. Section 36 of the said act is amended by replacing the third paragraph by the following paragraph:

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

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."

15. The said act is amended by adding after section 38 the following sections:

"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.

"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."

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:

"39. With the previous authorization of the Council, the Commission may acquire by agreement or expropriation all or part

Sec. 17. *The section submitted is designed to enable the C.T.R.S.M. to exercise the powers provided in section 46 over the transport systems outside its territory.*

Sec. 18. *The section submitted reproduces the present text of section 48 and enables also the C.T.R.S.M. to establish the tariffs of the transport services supplied outside its territory.*

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:

“In the case of acquisition by expropriation, 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.

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.

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).”

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:

“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.

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

“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 or operated by it, in whole or in part, through a subsidiary. The Commission may also exercise the powers provided for in this paragraph in respect of any service authorized by the Commission des transports du Québec under section 38a.

Sec. 19. *The section submitted reproduces the present text of the second paragraph of section 62 and adds in the eleventh line the words "or to any other formula determined by regulation of the Government".*

Sec. 20. *This provision is designed to specify the responsibility of the municipalities of the territory of the C.T.R.S.M. respecting the deficit from the transport services they receive and respecting the bonds issued by the C.T.R.S.M.*

Sec. 21. *The sections submitted are designed to create a special system for apportioning the deficit among the municipalities situated outside the territory of the C.T.R.S.M. These sections give them also a right of appeal before the Commission municipale du Québec and determine the powers of the latter in respect of the appeal.*

The secretary of the Commission must send forthwith to the municipalities in the territory of the Commission or, as the case may be, to 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."

19. Section 62 of the said act is amended by replacing the second paragraph by the following paragraph:

"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 immovables 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."

20. The said act is amended by inserting after section 71, the following section:

"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."

21. The said act is amended by inserting after section 74 the following sections:

"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 immovables situated in each of such municipalities, or to any other formula determined by regulation of the Government.

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.

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

Sec. 22. *This transitional provision establishes an adjustment period for the C.T.C.U.M. respecting the transport services supplied pursuant to the acquisition of a public transport undertaking and determines the manner of apportioning the deficit therefrom.*

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.

(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.

"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.

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.

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

"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)."

22. 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.

Sec. 23. *This provision enables the municipalities served by the C.T.C.U.M. or the C.T.R.S.M., after the acquisition of a public transport undertaking, to reduce the expected deficit by applying to the Commission des transports du Québec for a tariff raise.*

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.

23. 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.

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

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.

24. 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.