

BILL NO. 198

(as passed, with amendments)



*1st Session, 59th General Assembly
Nova Scotia
54 Elizabeth II, 2005*

Government Bill

Halifax-Dartmouth Bridge Commission Act

CHAPTER 7 OF THE ACTS OF 2005

The Honourable Peter G. Christie
Minister of Finance

[First Reading](#): May 10, 2005 (LINK TO BILL AS INTRODUCED)

Second Reading: May 12, 2005

[Third Reading](#): May 19, 2005 (WITH COMMITTEE AMENDMENTS)

Royal Assent: May 19, 2005



An Act Respecting the Halifax-Dartmouth Bridge Commission

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Halifax-Dartmouth Bridge Commission Act* .

2 In this Act,

(a) "Board" means the Nova Scotia Utility and Review Board;

(b) "Bridges" means the bridges across Halifax Harbour known as the Angus L. Macdonald Bridge and the A. Murray Mackay Bridge, and the approaches and other real and personal property relating to the Bridges;

(c) "Commission" means the Halifax-Dartmouth Bridge Commission;

(d) "electronic collection system" means the methods, equipment and other tangible and intangible personal property used in the collection of tolls, fees, rates and related charges, by which the construction, operation and maintenance of certain facilities are paid for in whole or in part by the users of the facilities and, without limiting the generality of the foregoing, includes

(i) toll booths,

(ii) paying stations,

(iii) equipment for receiving and accounting for cash, tokens and debit and credit card payments,

(iv) transponders and transponder readers,

(v) the computer hardware and software used in connection with the collection of tolls, rates, fees and related charges and the preparation of reports relating to tolls,

(vi) manuals and other documentation,

(vii) such other tangible and intangible personal property that may be used in connection with the collection of tolls, rates, fees and related charges;

(e) "funded obligation" means any money indebtedness the principal amount of which, by its terms, is not payable on demand and the maturity date of which is more than twelve months after such indebtedness was incurred or, where renewed, last renewed;

(f) "Minister" means the Minister of Finance;

(g) "Municipality" means the Halifax Regional Municipality;

(h) "transportation project" means a bridge, tunnel, fixed crossing or similar structure and the approaches, facilities and other real and personal property relating to it, so long as the construction, operation and maintenance of such structure or facility is financed in whole or in part by tolls, rates, fees and other charges charged to its users.

3 The Halifax-Dartmouth Bridge Commission is continued as a body corporate and continues to possess and may exercise all powers conferred upon and vested in it by law and continues to have title to and control of property and funds vested in or held by or belonging to it and consists of

(a) five members appointed by the Governor in Council, one of whom is to be the Chair and one of whom is to be the Vice-chair; and

(b) four members appointed by the Municipality.

4 (1) Subject to subsection (2) and Section 5, each member of the Commission holds office for three years and is eligible for re-appointment.

(2) The terms of members of the Commission are for one year, two years or three years, as may be determined by the Governor in Council in the case of members appointed by the Governor in Council and by the Council of the Municipality in the case of members appointed by the Municipality, so that

(a) each year the terms of two members appointed by the Governor in Council and one member appointed by the Municipality expire; and

(b) the terms of the Chair and the Vice-chair do not expire in the same year.

5 (1) Where a member of the Commission, who at the date of the member's appointment was the Mayor or a councillor of the Municipality, ceases to be the Mayor or councillor, that person ceases to be a member of the Commission effective as of the date the person ceased to be the Mayor or councillor.

(2) Where a member of the Commission, because of mental or physical disability, is unable to perform the duties of Chair, Vice-chair or a member of the Commission, that person ceases to be the Chair, Vice-chair or a member of the Commission, as the case may be.

(3) Where a vacancy occurs pursuant to subsection (2) or because of a death or resignation, the Governor in Council, in the case of a member appointed by the Governor in Council, and the Municipality, in the case of a member appointed by the Municipality, shall appoint a Chair, Vice-chair or a member of the Commission, as the case may be, to complete the vacant term of office.

(4) A vacancy on the Commission does not impair the ability of the remaining members to act.

6 Each member of the Commission is entitled to receive such remuneration and reasonable expenses as determined by the Governor in Council.

7 (1) The Commission may from time to time make, alter and repeal rules and regulations that in any manner relate to its schedule of rates, tolls, fees and charges and such rules and regulations come into force upon being approved by the Board.

(2) Subject to the approval of the Governor in Council, the Commission may from time to time make, alter and repeal by-laws not inconsistent with this Act and not relating to its schedule of rates, tolls, fees and charges as it deems necessary or proper for the direction, conduct and government of the Commission and its employees and for the management and control of the Bridges or a transportation project authorized by Section 27 and traffic thereon and all other property of the Commission and generally as it may determine necessary or proper for the management of its affairs.

(3) The *Summary Proceedings Act* applies to any violation of a rule, regulation or by-law of the Commission.

(4) Notwithstanding this Act and the *Motor Vehicle Act*, the Minister of Transportation and Public Works may appoint the Commission to be a traffic authority and, upon such appointment, the *Motor Vehicle Act* applies *mutatis mutandis* to all property of the Commission and persons and vehicles making use of the same.

8 The Commission shall appoint such officers and employees as it deems necessary for the administration of

the affairs of the Commission and shall fix the salaries, wages and other remuneration of such officers and employees and determine their powers and duties.

9 The objects of the Commission are to

(a) maintain and operate the Bridges and any other transportation project authorized by Section 27; and

(b) assess, market, license, implement, provide, maintain and integrate such electronic collection systems as are approved by the Governor in Council.

10 (1) Without limiting the generality of any powers conferred by this Act, the Commission has the following powers:

(a) to pay the costs, charges and expenses preliminary and incidental to the formation and establishment of the Commission;

(b) to enter into contracts and to make and grant any lease or licence of, or in respect of, real or personal property of the Commission, including any approved electronic collection systems, that may seem directly or indirectly calculated to benefit the Commission and to do all such acts, deeds and things and to execute all such documents as may be considered expedient in the attainment of the objects of the Commission;

(c) to charge and collect rates, tolls, fees and charges for the use by the public of the Bridges and any transportation project authorized by Section 27;

(d) to institute, conduct, defend, compound or abandon any legal proceeding by or against the Commission, its officers, servants or agents or otherwise concerning the affairs of the Commission, and to compound and allow time for payment for satisfaction on any debts due, and of any claims or demands by or against the Commission;

(e) to make and give receipts, releases and other discharges for money payable to the Commission and for the claims and demands of the Commission;

(f) subject to the approval of the Governor in Council, to borrow or raise or secure the payment of money in such manner as the Commission thinks fit including, but not so as to restrict the generality of the foregoing, by mortgage, charge, hypothecation or pledge of or upon all or any of the property of the Commission, both present and future, and to draw, make, discount and issue promissory notes and other evidences of indebtedness and generally to make, accept, endorse, execute and issue bills of exchange, bills of lading, warrants and other negotiable or transferable instruments;

(g) to determine who is entitled to sign, on behalf of the Commission, bills, notes, receipts, acceptances, endorsements, cheques, releases, contracts and documents;

(h) to sell such property and assets as are not required for the purposes of the Commission or that may advantageously be disposed of but, where the property or assets are valued at one hundred thousand dollars or more, only with the approval of the Governor in Council;

(i) to invest and deal with any of the monies of the Commission not immediately required for its purposes in such manner as trust funds may be invested under the *Trustee Act* ;

(j) to charge third parties for supplying electronic-collection-system services on a fee for service basis;

(k) to provide for proper and adequate depreciation of its property and assets and to establish and maintain

such depreciation and reserves as it deems prudent from time to time; and

(l) generally to do all acts and things necessary or incidental or conducive to or consequential upon the carrying out of the foregoing powers or any of them.

(2) Except as otherwise provided in this Act, the Provincial Finance Act or from time to time by order of the Governor in Council, the Commission has all the powers of a company limited by shares incorporated pursuant to the *Companies Act*.

11 The Commission may sue and be sued in any court of competent jurisdiction.

12 (1) Where the Commission considers it necessary to acquire real property for a purpose relating to the Bridges or a transportation project authorized by Section 27, the Commission may expropriate the real property.

(2) Where real property is proposed to be expropriated,

(a) the Commission shall survey the property and prepare a description of it;

(b) Commission employees and agents of the Commission may enter upon the property to survey or examine it; and

(c) the Commission may make borings or other excavations in the property and shall reimburse the owner for any damage done if the expropriation is not completed.

(3) The Expropriation Act applies to expropriation by the Commission.

13 (1) Subject to the Provincial Finance Act and with the approval of the Governor in Council, the Commission has the power and may borrow from time to time such sums as it may require for the objects of the Commission and issue and sell bonds or debentures for that purpose, and may secure such bonds or debentures or other borrowings by mortgage or deed of trust or otherwise on the revenues and real and personal property and undertaking of the Commission, including after-acquired property.

(2) The bonds or debentures may be for such separate sums and at such rates of interest and upon such terms or conditions and in such form and payable at such period or periods or at such time or times and place or places as the Commission recommends and the Governor in Council approves.

(3) Every bond or debenture issued by the Commission must be signed by the Vice-chair of the Commission and bear the engraved, lithographed or other facsimile signature of the Chair or a member designated by the Commission, and be sealed with the common seal of the Commission, and the interest coupons must bear the engraved, lithographed or other facsimile signature of the Vice-chair but need not be sealed.

14 The Government of the Province may unconditionally guarantee the bonds or debentures issued by the Commission as to principal and interest.

15 The Minister may pay such amounts as are appropriated for the purpose of Section 14 or, with the approval of the Governor in Council, advance to the Commission such amounts as the Minister may from time to time consider necessary for that purpose.

16 Upon the Government of the Province guaranteeing the bonds or debentures of the Commission as provided in Section 14, the Municipality may, by agreement with the Government of the Province, undertake to reimburse the Province for forty per cent of any sum or sums that the Minister pays from time to time by

reason of the guarantee.

17 Notwithstanding any enactment, the Municipality is empowered and authorized to

(a) make such payments to the Minister as may be required to comply with the agreement referred to in Section 16; and

(b) borrow the amount so required, or any part of that amount, from any chartered bank for such time, not exceeding twelve months, and on such terms as are agreed upon,

and such borrowing may be in addition to that authorized for other municipal purposes under any other Act.

18 Every sum required by the Municipality pursuant to its agreement with the Government of the Province is deemed to be sums required for ordinary lawful purposes of the Municipality and shall be raised, levied and collected in the same manner and in all respects as other sums required for the ordinary lawful purposes of the Municipality are raised, levied and collected.

19 (1) The Commission is a public utility within the meaning of the *Public Utilities Act* and is subject to that Act, except that the provisions of that Act relating to

(a) new construction, improvements or betterments in, or extensions or additions to the property of a public utility and relating to the issuance of shares, stocks, bonds, debentures or any evidence of indebtedness issued by a public utility;

(b) the provision of proper and adequate annual depreciation of its property and assets and the setting up, maintaining, use and disposal of depreciation reserve funds; and

(c) the assessment, marketing, licensing, implementing and integrating of electronic collection systems that do not relate to either of the Bridges or a transportation project authorized by Section 27, including the earning of income and the incurring of expenses,

do not apply to the Commission nor may any such income or expense or any property of the Commission devoted to the activities set out in clause (c) be taken into account by the Board in regulating the Bridges, unless the Governor in Council otherwise directs.

(2) The Commission, for a reasonable compensation, shall permit the use of its works by any other public utility whenever public convenience and necessity require such use and such use will not result in any substantial detriment in the service to be rendered by the Commission.

(3) In case of failure to agree upon such use, or the conditions or compensation for such use, any public utility or any person or corporation interested may apply to the Board and, where, after investigation, the Board determines that public convenience and necessity require such use and that it would not result in any substantial detriment to the service to be rendered by the Commission, the Board shall, by order, direct that such use be permitted and prescribe conditions and compensation for such joint use.

(4) The use ordered pursuant to subsection (3) must be permitted and the conditions and compensation so prescribed are the lawful conditions and compensation to be observed, followed and paid.

(5) An order of the Board made pursuant to this Section may be revised by the Board upon application of any interested party or upon its own motion.

20 (1) Notwithstanding Section 19 and the *Public Utilities Act*, the Board may, on any application of the

Commission to the Board to set the tolls, rates, fees and charges to be paid to the Commission for services rendered and facilities provided, take into account any allowance for proper and adequate annual depreciation of its property and assets that the Commission wishes to provide, set aside and maintain.

(2) All orders and directions of the Board previously made under this Act and the *Public Utilities Act*, relating to the provision of proper and adequate annual depreciation of its property and assets and the setting up, maintaining, use and disposal of depreciation reserve funds or special depreciation reserves, cease to bind the Commission and the Commission may dispose of or use as it sees fit in its undertakings any funds or assets held in the depreciation reserve fund or the special depreciation reserve.

(3) In this Section and in Section 19, "property and assets" means the property and assets of the Commission used and useful in furnishing, rendering or supplying its services and facilities.

21 (1) The property of the Commission is exempt from taxation except that the Commission shall annually pay to any municipality, with respect to real property located in the municipality, a grant in lieu of taxes on

(a) real property acquired by it within the municipality before the coming into force of this Act in relation to

(i) the Angus L. Macdonald Bridge, on the assessed value of such property and the classification thereof as appears in the respective assessment rolls for the year 1950, and

(ii) the A. Murray Mackay Bridge, on the assessed value of such property and the classification thereof as appears in the respective assessment rolls for the year 1964;

(b) real property acquired by it within the municipality in relation to the Bridges, other than the property referred to in clause (a), or a transportation project authorized by Section 27 on the assessed value of such property and the classification of that property as appears in the respective assessment roll for the year in which the property is acquired by the Commission, any such assessment to be based on the unimproved value of such property excluding the value of any transportation project or any past, present or future improvement constructed on the property; and

(c) the assessed value of any real property not related to the Bridges or a transportation project authorized by Section 27.

(2) A municipality may also assess, rate, impose and levy real property taxes on lessees of the Commission, as if they were owners, and also on occupiers of real property situate within the municipality, owned by the Commission and leased by it, and such assessment is to be on the land and improvements to the land so leased, and such assessment and rating done pursuant to the Municipal Government Act.

22 Notwithstanding Section 21 and in addition to the amounts required to be paid pursuant to that Section, buildings owned by the Commission and used for administration purposes, and being within the Municipality, are subject to assessment and taxation in the normal way, and the Commission shall pay a grant in lieu of the normal rates and taxes on the buildings, but not including the land on which the buildings stand, except as provided in Section 21, and not including gates, staff compartments or structures that form part of or are situated at the entrance or exit of the bridges owned or operated by the Commission.

23 (1) Profits of the Commission in any year, after providing for interest and principal payments on funded obligations, retirement fund or sinking funds for funded obligations, depreciation and all expenses of maintenance and operation, shall be paid into a reserve account, which may be invested and which may only be used for the following purposes and in the following order:

(a) to pay interest on any funded obligation;

(b) for the ordinary expenses of the Commission in any year that the current revenue of the Commission is insufficient for those purposes;

(c) to pay principal on any funded obligation;

(d) to purchase and retire bonds of the Commission on such terms as may be determined by the by-laws of the Commission;

(e) for such purposes as the Commission, the Government of the Province and the Municipality may unanimously agree.

(2) Notwithstanding subsection (1), no payment may be made that would result in a default by the Commission under any funded obligation, bond, indenture, loan agreement, security or other obligation to any third party.

24 The Government of the Province, after all bonded indebtedness of the Commission has been retired, may, on payment to the Municipality of any sum or sums that the Municipality may have paid to the Minister pursuant to Section 16 together with interest on such sum or sums at the rate of three per cent per annum and on the Province assuming all the obligations and liabilities of the Commission, take and on proclamation acquire and take over all right, title and interest to the real and personal property, assets and undertakings of the Commission, and on such proclamation the right, title and interest to the real and personal property, assets and undertakings of the Commission vest in the Government of the Province.

25 The Commission shall make an annual report to the Government of the Province and the Municipality and the report must include an audited statement of the affairs of the Commission certified by an accountant or firm of accountants named by the Governor in Council.

26 (1) Notwithstanding the *Public Utilities Act*, the Commission may at any time suspend all traffic or restrict traffic or classes of traffic across either of the Bridges for such time and to such extent as the Commission in its discretion deems advisable.

(2) Where the violation of any rule, regulation or by-law of the Commission is attended with danger or annoyance to the public or hindrance to the Commission in the use or operation of either of the Bridges or a transportation project, the Commission may, by or through its officers or employees, prevent or stop such violation and may use reasonable force for such purpose, without prejudice to any liability for any penalty that may be incurred by reason of such violation.

(3) Notwithstanding the Expropriation Act, the Commission is not liable for injurious affection as a result of suspending all traffic or restricting traffic or classes of traffic across either of the Bridges or a transportation project during periods of construction or maintenance.

27 (1) With the approval of the Governor in Council, the Commission may construct, maintain and operate a transportation project across Halifax Harbour and the North West Arm, or either of them.

(2) Where the Government of the Province or the Municipality request the Commission to investigate the sufficiency of the means of access to Halifax provided by the Bridges or the present or future need of a transportation project referred to in subsection (1), the Commission may

(a) conduct such investigation and studies as it considers advisable respecting

- (i) the need or advisability of a transportation project referred to in subsection (1),
 - (ii) the proper location of any such transportation project,
 - (iii) the manner or method of financing and operating any such transportation project,
 - (iv) the probable cost of acquiring lands for the purposes of an additional transportation project and the cost of constructing such transportation project,
 - (v) any other matter related to the construction, operation or financing of a transportation project referred to in subsection (1) that the Commission considers relevant;
- (b) for the purpose of making investigation and studies, engage expert or technical assistance;
- (c) defray the cost of its investigations and studies out of the ordinary revenue of the Commission;
- (d) make reports and recommendations to the Government of the Province and the Municipality.
- (3)** Any costs incurred by the Commission under this Section are expenses of operating the Bridges or a transportation project in respect of which the Commission is collecting tolls, fees, rates and other charges.
- 28** Chapter 192 of the Revised Statutes, 1989, the Halifax-Dartmouth Bridge Commission Act, is repealed.
- 29** This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

