

BILL NO. 10

Government Bill

*3rd Session, 56th General Assembly
Nova Scotia
44 Elizabeth II, 1995*

An Act to Provide for the Financing, Construction and Operation of the Western Alignment of Highway 104

**The Honourable Richard W. Mann
Minister of Transportation and Communications**

*Halifax
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**An Act to Provide for
the Financing, Construction and Operation
of the Western Alignment of Highway 104**

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Highway 104 Western Alignment Act*.

2 The purpose of this Act is to provide for the financing, design, construction, operation and maintenance of the Western Alignment of Highway 104 (Trans Canada Highway) in the Counties of Colchester and Cumberland by a partnership of the public and private sectors.

3 In this Act,

(a) "Board" means the Board of Directors of the Corporation;

(b) "Corporation" means the Highway 104 Western Alignment Corporation;

(c) "Minister" means the Minister of Transportation and Communications;

(d) "Western Alignment" means the part of Highway 104 (Trans Canada Highway) constructed or to be constructed in the Counties of Colchester and Cumberland as delineated by the regulations and includes the toll booths, weigh stations, service facilities and maintenance facilities located on or adjacent to and serving that part.

4 The Minister has the general supervision and management of this Act.

5 (1) There is hereby established a body corporate to be known as the Highway 104 Western Alignment Corporation.

(2) The Corporation is not an agent of Her Majesty in right of the Province for any purpose.

6 The sole objects of the Corporation are the financing, design, construction, operation and maintenance of the Western Alignment.

7 The share capital of the Corporation consists of one share without nominal or par value which is owned by Her Majesty in right of the Province and is not transferable.

8 The Corporation shall be managed by a Board of Directors.

9 (1) The Board shall consist of such number of members as the Governor in Council determines.

(2) The members of the Board shall be appointed by the Governor in Council.

(3) The Board may determine and appoint the officers of the Board and the Corporation.

(4) The Board may pass by-laws regulating its proceedings, determining the powers and duties of its officers, servants and agents and, generally, respecting the management of the Corporation.

(5) The directors, officers, servants and agents of the Corporation are not, in the performance of their duties, servants or agents of Her Majesty in right of the Province.

10 (1) Subject to this Act, Corporation has the capacity, rights, powers and privileges of a natural person.

(2) Without limiting the generality of the foregoing, the Corporation may enter into agreements with any person, including the Minister on behalf of Her Majesty in right of the Province, with respect to the financing, design, construction, operation, maintenance, leasing or acquisition of the whole or part of the Western Alignment and, for that purpose, the imposition, setting, amendment and collection of tolls for the operation of any vehicle or class of vehicle on and the charging of other fees for services relating to the operation of the Western Alignment.

(3) In accordance with an agreement pursuant to this Act between the Corporation and the Minister on behalf of Her Majesty in right of the Province, the Corporation may set tolls for the operation of any vehicle or class of vehicle on and charge fees for services relating to the operation of the Western Alignment.

(4) The Corporation shall not engage in any business except for the purpose of carrying out its objects.

(5) The Corporation shall not borrow except for the purpose of carrying out its objects.

11 (1) The Corporation is not liable for any damages suffered by any person by reason of any defect or insufficiency in the design, construction, operation or maintenance of the Western Alignment.

(2) For all purposes of determining the liability of the occupier of real property on which the Western Alignment is situate, Her Majesty in right of the Province, and not the Corporation, is the occupier of the real property.

12 (1) The Corporation may borrow money on its own credit solely for the purpose of carrying out its objects and, without limiting the generality of the foregoing,

(a) issue its bonds, debentures or other securities and sell or pledge those securities; and

(b) secure its borrowings, bonds, debentures, securities or other debts or obligations by charging all or any of its assets and undertaking and, in particular, the revenue arising from the collection of tolls for the operation of vehicles on the Western Alignment.

(2) Her Majesty in right of the Province is not liable for any debt of the Corporation and no debt of the Corporation constitutes any lien or other charge on the Western Alignment.

13 (1) With the approval of the Governor in Council, the Minister on behalf of Her Majesty in right of the Province may enter into agreements with the Corporation with respect to the financing, design, construction, operation, maintenance, leasing or acquisition of the whole or any part of the Western Alignment and, for that purpose, the imposition, setting, amendment and collection of tolls for the operation of any vehicle or class of vehicle on and the charging of other fees for services relating to the operation of the Western Alignment.

(2) Tolls shall cease to be imposed or collected in respect of the Western Alignment when all costs and liabilities relating thereto, including its financing, design, construction, operation and maintenance, and any repair, improvement, replacement, alteration or extension, have been paid or otherwise discharged, and all financing with respect to the Western Alignment has been paid or otherwise discharged.

14 Neither the Corporation nor its property is liable to taxation under any enactment.

15 The Corporation is not a public utility within the meaning of the *Public Utilities Act*, the Western Alignment is not a service within the meaning of that Act and, for greater certainty, that Act does not apply to the Corporation or the Western Alignment.

16 (1) The Corporation is not a public body within the meaning of the *Freedom of Information and Protection of Privacy Act* and, for greater certainty, that Act does not apply to the Corporation.

(2) The Corporation is not a department or a crown corporation within the meaning of the *Provincial Finance Act*, the funds of the Corporation are not public money within the meaning of that Act and, for greater certainty and notwithstanding subsection 72(5) of that Act, that Act does not apply to the Corporation.

17 The Corporation shall comply with all building code, safety, construction, fire, environmental, health and other standards under any enactment except that

(a) the *Electrical Installation and Inspection Act* and *Planning Act* do not apply to the Western Alignment; and

(b) no building permit is required for the construction of, addition to, renovation of or repair of the Western Alignment.

18 For greater certainty, nothing in or done pursuant to this Act affects

(a) the status of the Western Alignment as a highway for any purpose including, without limiting the generality of the foregoing, the application of the *Motor Vehicle Act* and the *Public Highways Act*;

(b) the ownership of the Western Alignment;

(c) the liability of Her Majesty in right of the Province as the owner and occupier of the Western Alignment; or

(d) the policing of the Western Alignment.

19 (1) The Governor in Council may make regulations

(a) respecting the Corporation;

(b) delineating and further defining the Western Alignment;

(c) respecting the financing, design, construction, operation and maintenance of the Western Alignment;

(d) subject to any agreement between the Corporation and the Minister on behalf of Her Majesty in right of the Province, imposing tolls, respecting the collection of tolls and respecting the enforcement of the payment of tolls for the operation of vehicles or classes of vehicles within and the charging of other fees for services relating to the operation of the Western Alignment including, without limiting the generality of the foregoing, payment to the Corporation for tolls and fees not paid;

(e) subject to any agreement between the Corporation and the Minister on behalf of Her Majesty in right of the Province, exempting any class of persons or vehicles from any provision of this Act or the regulations;

(f) defining any word or expression used in this Act and not defined in this Act;

(g) respecting any matter or thing the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

20 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

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1st Reading: April 20, 1995

2nd Reading:

C.W.H.:

3rd Reading:

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1995