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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 213

(Private)

## **An Act respecting Municipalité régionale de comté d'Arthabaska**

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**Introduced 13 May 2004**

**Passage in principle 17 June 2004**

**Passage 17 June 2004**

**Assented to 23 June 2004**

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# Bill 213

(Private)

## AN ACT RESPECTING MUNICIPALITÉ RÉGIONALE DE COMTÉ D'ARTHABASKA

AS it is in the interest of the regional county municipality known as “Municipalité régionale de comté d’Arthabaska” that it be granted certain powers;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** The regional county municipality known as “Municipalité régionale de comté d’Arthabaska” may act as a founder of a company under section 123.9 of the Companies Act (R.S.Q., chapter C-38).

The articles of incorporation of the company, as well as its articles of amendment, if any, must be submitted for approval to the Minister of Municipal Affairs, Sports and Recreation; once approved, they are filed by the Minister with the enterprise registrar, under section 123.11 or 123.104 of the said Act.

**2.** The regional county municipality must issue a call for tenders to select as co-founder a person operating an enterprise in the private sector.

The call for tenders must invite persons operating an enterprise in the private sector to submit their expertise and main achievements in the provision of goods and services relating to residual materials management and indicate which installations for the treatment and disposal of residual materials the person intends to set up in the territory of the regional county municipality to attain the objective stated in the call for tenders.

The call for tenders must be published by means of an electronic tendering system accessible to contractors having an establishment in Québec and to contractors having an establishment in a province or territory covered by an intergovernmental trade liberalization agreement applicable to the regional county municipality and in a newspaper in the territory of the regional county municipality.

**3.** The activities of the company referred to in section 1 are restricted to carrying out the agreement referred to in section 7.

In no case may the company make a public distribution of shares.

**4.** The company referred to in section 1 is considered to be a legal person established for a private interest.

**5.** The by-laws passed by the company referred to in section 1 under section 91, 92 or 93 of the Companies Act, as well as any shareholders' agreement, must be approved by the Minister of Municipal Affairs, Sports and Recreation.

**6.** Members of the council of the regional county municipality must be in the majority at all times on the board of directors of the company referred to in section 1 and only they are qualified to serve as chair. The regional county municipality may hold shares in the company; it must at all times hold the majority of voting shares.

**7.** The regional county municipality may, with the authorization of the Minister of Municipal Affairs, Sports and Recreation, enter into an agreement with the company referred to in section 1 relating to the exercise of its jurisdiction over residual materials management.

**8.** The agreement referred to in section 7 must include

- (1) a detailed description of its object;
- (2) the obligations of the parties, including the obligations relating to their financial participation;
- (3) the procedure for determining the cost of carrying out the agreement;
- (4) the obligations of the parties in case of total or partial non-execution of the agreement;
- (5) the duration of the agreement and, where applicable, the conditions for its renewal.

**9.** The company must, before 1 October each year, transmit to the regional county municipality an estimate of the costs relating to the implementation of the agreement and the financial participation required from the regional county municipality for that purpose for its next fiscal year.

Moreover, for each of the five fiscal years following the year of its incorporation, the company must send in good time to the Minister of Municipal Affairs, Sports and Recreation its budget estimates, its financial statements and any other information pertaining to its financial situation requested by the Minister.

**10.** Despite section 4, the company referred to in section 1 is a public body for the purposes of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1).

**11.** The company must take out insurance, and maintain it in force, to cover the liability of its directors, officers and other representatives.

**12.** Any member of the council of the regional county municipality who, during a term of office as council member, directly or indirectly acquires or holds shares issued by the company referred to in section 1 or by any of its subsidiaries, or has a direct or indirect interest in a contract with any of those companies is disqualified from holding the office of member of the council of any municipality.

The disqualification persists until the expiry of a period of five years after the day on which the judgment declaring the person disqualified becomes *res judicata*.

The declaration of disqualification may be sought by means of an action for declaration of disqualification under sections 308 to 312 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2).

**13.** Section 12 does not apply in the cases described in paragraphs 1 and 2.1 to 9 of section 305 of the Act respecting elections and referendums in municipalities.

**14.** Any person who directly or indirectly acquires or holds shares issued by the company referred to in section 1 or by any of its subsidiaries, or has a direct or indirect interest in a contract with any of those companies is disqualified from holding a position as an officer or employee of the regional county municipality other than that of an employee within the meaning of the Labour Code (R.S.Q., chapter C-27).

**15.** The company may not acquire shares in another company or acquire an interest in a partnership unless the activities of that company or partnership are limited to residual materials management or a related field. No such shares or interest may be acquired without the authorization of the regional county municipality.

**16.** With the authorization of the Minister of Municipal Affairs, Sports and Recreation, the regional county municipality may stand surety for the company referred to in section 1 up to the value of the shares it holds in the company.

Before granting authorization, the Minister may order the regional county municipality to submit the resolution or by-law authorizing the suretyship for their approval to the qualified voters in the local municipalities whose territories are subject to the jurisdiction of the regional county municipality in the field of residual materials management under articles 678.0.2.1 to 678.0.2.7 and 678.0.2.9 of the Municipal Code of Québec (R.S.Q., chapter C-27.1).

The Act respecting elections and referendums in municipalities, with the necessary modifications, applies to the approval referred to in the second paragraph.

**17.** For the purposes of this Act, the regional county municipality may acquire immovables, by agreement or expropriation, in order to transfer or lease them to the company referred to in section 1.

**18.** This Act applies notwithstanding the Act respecting municipal industrial immovables (R.S.Q., chapter I-0.1), the Municipal Aid Prohibition Act (R.S.Q., chapter I-15) and the Act respecting sales of municipal public utilities (R.S.Q., chapter V-4).

**19.** Articles 14.1 and 935 to 938.4 of the Municipal Code of Québec apply to the company referred to in section 1, except where the agreement referred to in section 7 is concerned. Articles 935 to 938.4 do not apply to a contract awarded to the person whose tender has been retained in accordance with section 2 or an associate, if a non-application provision has been provided for in the documents relating to the call for tenders.

**20.** The Act respecting mixed enterprise companies in the municipal sector (R.S.Q., chapter S-25.01) does not apply with respect to the company referred to in section 1.

**21.** This Act comes into force on 23 June 2004.