



## *Submission*

Regarding An Act to establish the Canada Infrastructure Bank, Division 18 of Bill C-44, An Act to implement certain provisions of the budget tabled in Parliament on March 22, 2017, and other measures

from the

National Union of Public and General Employees

to the

House of Commons Standing Committee on  
Finance

Senate Committee on Banking, Trade and  
Commerce

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## **Introduction**

The National Union of Public Employees has 370,000 members in 9 provinces. Our members deliver public services of every kind to Canadians. We also have a large and growing private sector membership.

Division 18 of Bill C-44 dealing with the proposed Canada Infrastructure Bank is of particular concern to our members. Our objections to the Canada Infrastructure Bank, as it is currently proposed, arise from the experiences of our members delivering public services and as members of the public relying on public services.

## **Key concerns**

- Loss of democratic control
- Loss of transparency and accountability
- Returns investors expect on investments are significantly higher than what the federal government is paying to borrow money
- Higher cost to the public as a result of relying on user fees to fund infrastructure
- Quality of public services suffers

## **Loss of democratic control**

When infrastructure is publicly owned and operated, through the people they elect, it is possible for the public to exercise democratic control over what is built and how it is run. If maintenance, service levels, or user fees are seen as problems, the public have the means to get problems fixed.

Plans for the Canada Infrastructure Bank undermine democratic control over public services. If private or institutional investors are relying on profits from user fees for a return on their investments, they will expect to control the infrastructure in which they are investing. Regardless of whether investors control infrastructure through actual ownership or through public-private-partnerships (P3s), it will mean that the infrastructure has effectively been privatized.

Investors will expect generating a profit to come before the public good, and with the control they will have over infrastructure, they will have the ability to ensure that happens. The types of infrastructure proposed as potential investments through the Canada Infrastructure Bank—roads, bridges, public transit, water and sewer systems, airports and ports—are seen by Canadians as essential public services. But the way the Canada Infrastructure Bank is supposed to operate would leave the public with little control over these basic services that they depend on.

Even decisions about what infrastructure gets built may become less democratic. Instead of priorities being set by governments based on public need, there is a real danger that the decision about what infrastructure is built will be determined by what appears profitable to investors.

## **Loss of transparency and accountability**

Bill C-44 would exempt the Canada Infrastructure Bank from most of the legislation and mechanisms intended to ensure public services are transparent and accountable. The bank would be exempt from the *Access to Information Act*. Whistleblowers face the prospect of up to 6 months in prison and a fine of up to \$10,000.

And this is in addition to the well-documented issues with transparency and accountability involving P3 privatization schemes. When the public attempt to find out exactly what level of service is meant to be provided, or how much a P3 privatization scheme costs, they are refused the information on the grounds of “commercial confidentiality.”

Where documentation related to P3 privatization schemes is made public, it is almost always a cynical window-dressing exercise. Hundreds of pages may be released, but the sections with the information that is most important to the public are blacked out or left blank with “redacted” stamped across them.

## **Private investment will push up cost of infrastructure**

When it was first proposed in 2015, the Canadian Infrastructure Bank was supposed to “provide low-cost financing for new infrastructure projects.” Unfortunately, if traditional P3s or other privatization schemes are used to attract private or institutional investment, infrastructure financing costs will increase.

The return on investment that private investors expect is far higher than what it would cost the federal government to borrow money. Michael Sabia, a member of the Advisory Council on Economic Growth, which had proposed that the federal government substantially alter its plans for an infrastructure bank, was quoted last year as saying institutional investors expect a return of between 7 and 9 per cent. That is several times what it costs the federal government to borrow money.

Claims that higher financing costs will be offset by transferring risks to private investors through the P3 type of privatization schemes don’t stand up to scrutiny. Auditors general in 5 provinces have found that cost comparisons were manipulated to make P3 privatization schemes appear cheaper than they really were. When there is a fair comparison, the costs of P3 privatization schemes are much higher. In 2014, Ontario’s Auditor General found using P3 privatization schemes added \$8 billion to the cost of 74 projects.

## **Higher cost to the public as a result of relying on user fees to fund infrastructure**

While private investment does not reduce the cost of infrastructure, it does change how the public will pay for it. Traditionally, much of the cost of public infrastructure has been

funded through taxation. Under what is proposed by this legislation, user fees will play a much greater role.

Moreover, that has not been made clear to the public. Two of the best-known examples of user fees being used to fund infrastructure are Highway 407 north of Toronto and the Port Mann and Golden Ears bridges in British Columbia. None of these examples is popular with the public. What this suggests is that using a model relying on user fees will undermine support for the Canada Infrastructure Bank and limit its ability to get new infrastructure built.

There is also a question of fairness. With many types of infrastructure, it is not just the users who benefit. If the community as a whole benefits from new infrastructure, it is unfair to rely on user fees to fund it.

In many cases, relying on user fees rather than taxes to fund infrastructure also increases income inequality. While our tax system is not perfect, there is at least some recognition of ability to pay. That is not the case with user fees. Increased reliance on user fees to fund infrastructure will penalize low- and middle-income Canadians to assist those with high incomes.

### **Quality of public services suffers**

Many of NUPGEs members work in facilities built through P3 privatization schemes. What we have heard from too many of our members is that the focus on returns for investors, which is an essential part of existing P3 privatization schemes, makes it that much harder for them to deliver the high quality service they feel the public deserve.

The defects in the Toronto South Detention Centre P3 privatization scheme and the problems getting them fixed are a good illustration of the problems our members face. Because unbreakable windows were not specified in the contract—even though unbreakable windows are an obvious requirement in a jail—the private sector consortium installed windows inmates could and did break. There was no financial penalty for the private sector consortium.

Inmates in the P3 jail were also able to break the locks easily. The locks are still not all fixed, even though it's over a year since the problem came to light. What has contributed to the delays is the need to go through the private sector consortium and resolve issues around whether the government or private consortium will foot the bill.

These are just two of many problems at one P3 privatization scheme, but they are typical of the problems that occur when infrastructure is privatized.

What will also harm service is if privatized infrastructure is supposed to be funded by revenue generated by fares, user fees, and other non-tax revenues. Concerns have already been raised about how this will affect the cost of air travel or transit.

An added problem is that when the private consortium controlling a service must rely on revenue generated by the infrastructure project to make a profit, the priority will be maximizing revenues. Coordination of public services, or making the most efficient use possible of resources, will have to take a back seat to generating enough revenue to provide a generous return for investors.

### **New legislation needed**

As proposed in 2015, the Canada Infrastructure Bank would have played an important role in reducing the infrastructure deficit. A way to provide low-cost financing for infrastructure is still needed, but significant changes are needed to what is in Bill C-44.

Priorities for infrastructure investment must be set through a public, open, and transparent process. Infrastructure financed by the bank must be publicly controlled. The operation and maintenance of the asset must be done by public employees. To protect the public interest, projects must be fully transparent and subject to review by public authorities, including auditors general. User fees should not be the primary means of funding public infrastructure.

### **Recommendation**

What is currently in Division 18 of Bill C-44 cannot deliver these objectives. If the government wants to meet its original objective of low-cost financing for infrastructure, it needs to remove Division 18 from Bill C-44 and start again.