

December 2, 2020

VIA electronic submission

Standing Committee on Finance and Economic Affairs
99 Wellesley Street West
Room 1405, Whitney Block
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CC: Hon. Rod Phillips, Minister of Finance: rod.phillipsco@pc.ola.org
Hon. Doug Ford, Premier of Ontario: doug.fordco@pc.ola.org

Re: Bill 229, Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020

Please find for the assistance of the Standing Committee my recommendation, as discussed below, that:
Schedule 6 (proposed changes to the Conservation Authorities Act and consequential amendments) and Schedule 8 (proposed changes to the Crown Forest Sustainability Act, 1994) both be withdrawn in their entirety from Bill 229.

I am concerned primarily with the lack of due process due to the inclusion of these two schedules in an omnibus bill. However, I also have concerns over the regressive nature of many of the elements in each schedule.

Primary Concern: Due Process

On November 5, 2020, the Ontario government tabled omnibus budget measures Bill 229 (the proposed Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020) for First Reading in the Ontario Legislature. Schedule 6 of Bill 229 proposes fundamental changes to the Conservation Authorities Act (CAAct) and to the conservation authorities' role in land use planning. Schedule 8 of Bill 229 proposes a permanent exemption for authorized logging operations from prohibitions against killing species at risk and destroying their habitats. An Environmental Registry of Ontario (ERO) bulletin titled Updating the Conservation Authorities Act (ERO # 019-2646) was also posted on November 5, 2020, stating that public consultation is not required under Ontario's Environmental Bill of Rights, 1993 (EBR) because the proposed amendments form part of a budget.

The government's reliance on exemption from public debate for budget measures implementation when proposed amendments to environmental laws are likely to have significant ecological and social impacts is inconsistent with the public participation rights guaranteed in the EBR and is very concerning to me.

I communicated these concerns in writing to my MP, Stephen Crawford. In response, I received a letter from Mr. Crawford's office that, in part, stated "over the past year and a half, the government has consulted on the core role of conservation authorities...(and) (t)hrough these consultations, the government heard some concerns that conservation authorities have expanded their programs and services beyond their core mandate." I presume that these consultations are the basis of your decision to draft this schedule into an omnibus bill and then to submit a bulletin, stating that public consultation is not required under Ontario's Environmental Bill of Rights.

These are drastic measures the government is taking in response to these consultations. I would expect these consultations to be very enlightening. However, I understand, the Ontario government has never published a summary of the input received. As a result, the public has no way of knowing what the purported consultation summary actually says. Further, I understand the only groups present at the consultations that expressed the view that Conservation Authorities have “moved beyond their core mandate” were developers and extreme landowner rights groups who do not want Conservation Authorities to question or modify their plans to pave over wetlands, forests and river valleys or to be concerned about the community-wide impacts and costs of development.

I replied to this letter asking if the minutes of the consultation sessions were in fact available and I was mistaken. I did not receive a reply and must, therefore, presume my understanding is correct.

Therefore, I see no reason for the government to take such extreme measures to include Schedule 6 and Schedule 8 in the omnibus bill.

I would also like to remind the committee the name (and therefore assumed scope) of bill 229 is “Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020”. Including two schedules related to changes to environmental laws appears disingenuous at best and completely undermining of public interest at worst.

While my primary concern with these schedules is the lack of due process and public consultation, I would also like to identify specific concerns I have with the content of each schedule.

Schedule 6 Issues

While Schedule 6 may have small number of proposed changes that might address some legitimate concerns with the current practices of Conservation Authorities, the majority of the Schedule 6 amendments are regressive in nature and are completely contradictory to fulfilling both the purpose of the Conservation Authorities Act. Below, is a non-exhaustive list of concerns with this schedule (which are written with input from the Canadian Environmental Law Associations’ submission to this Standing Committee - see <https://cela.ca/wp-content/uploads/2020/11/CELA-Bill-229-Schedules-6-and-8-Submission-to-Standing-Committee-Nov-2020-1.pdf>):

1. Narrowing of duties of conservation authorities’ members is counter to the watershed approach needed to build climate resilient communities for the future. Conservation authorities were established to have a watershed-based approach and oversight precisely because municipal boundaries and interests do not align completely with ecologically relevant (e.g. watershed) boundaries. The proposed legislation narrows that duty by not including the duty of members to “further the objects” of a conservation authority and requiring members be municipal councillors who act on behalf of their respective municipality, not the watershed, as intended.
2. Narrowing the objects and powers of conservation authorities is counter to the watershed approach needed to build climate resilient communities for the future. For example, conservation authorities’ powers to study & investigate, enter land throughout the watershed, cause research to be done, and expropriate will be narrowed or removed, making the ability to use a watershed approach next to impossible.
3. Removing conservation authorities’ status as independent public bodies in land use planning will set integrated watershed management back decades
4. New procedures are being introduced without indication of whether matching third party rights of appeal in the public interest will be provided
5. Much of the detail, particularly in relation to setting out the scope of programs and services, any standards and requirements, and other important matters, continue to be left to the development of future regulations

Schedule 8 Issues

Schedule 8 is genuinely concerning to me.

I read with interest, the Canadian Environmental Law Association's submission to this Standing Committee (see: <https://cela.ca/wp-content/uploads/2020/11/CELA-Bill-229-Schedules-6-and-8-Submission-to-Standing-Committee-Nov-2020-1.pdf>). I am particularly concerned about the issues they raise regarding the removal of ESA's prohibitions "that no person shall kill, harm, or harass a listed species nor damage or destroy its habitat necessary for their survival and recovery - from forestry operations".

I am also concerned about the removal of the ability for "the Minister to issue orders in circumstances when there is imminent danger to an at-risk species"

Conclusion

Biodiversity and science-based decision making are key elements of sustainable policies – both for the economy and the environment. Proposal 6 and Proposal 8 contain very concerning elements that negate thoughtful and science-based policy making.

More importantly to me, these proposals are introduced in a manner that sidestep proper constituent consultation and input. Please remove schedule 6 and 8 from bill 229. Introduce bills that follow due process and allow for public input and consultation. The resulting legislation will likely address the specific concerns in each schedule and will definitely address the primary concern of due process and public consultation.

Regards,

A handwritten signature in blue ink that reads "Michael Brown". The signature is stylized with a long horizontal line extending from the end of the name.

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