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**Assemblée législative  
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**Official Report  
of Debates  
(Hansard)**

**Thursday 23 May 2002**

**Journal  
des débats  
(Hansard)**

**Jeudi 23 mai 2002**

**Standing committee on  
public accounts**

Ethics and Transparency  
in Public Matters Act, 2001

**Comité permanent des  
comptes publics**

Loi de 2001 sur l'éthique  
et la transparence des questions  
d'intérêt public

Chair: John Gerretsen  
Clerk: Tonia Grannum

Président : John Gerretsen  
Greffière : Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

## STANDING COMMITTEE ON PUBLIC ACCOUNTS

## COMITÉ PERMANENT DES COMPTES PUBLICS

Thursday 23 May 2002

Jeudi 23 mai 2002

*The committee met at 1005 in committee room 1.*

### ETHICS AND TRANSPARENCY IN PUBLIC MATTERS ACT, 2001

### LOI DE 2001 SUR L'ÉTHIQUE ET LA TRANSPARENCE DES QUESTIONS D'INTÉRÊT PUBLIC

Consideration of Bill 95, An Act to require open meetings and more stringent conflict rules for provincial and municipal boards, commissions and other public bodies / Projet de loi 95, Loi exigeant des réunions publiques et des règles plus strictes de règlement de conflit pour les commissions et conseils provinciaux et municipaux ainsi que les autres organismes publics.

**The Chair (Mr John Gerretsen):** I'd like to call the meeting to order. Today's meeting will deal with Bill 95, An Act to require open meetings and more stringent conflict rules for provincial and municipal boards, commissions and other public bodies. We'll go through it section by section. Any opening comments? Ms Di Cocco.

**Ms Caroline Di Cocco (Sarnia-Lambton):** Yes, if I could. Tonya, did you get the—

**Clerk of the Committee (Ms Tonya Grannum):** They're being copied.

**Ms Di Cocco:** OK. What has happened, for clarification: subsections 3(3), 3(4), 3(5), 3(6) and 5(3)—I guess there was some kind of computer issue with regard to putting them in the package here. It had been previously submitted, I believe, way back in February, but maybe you can speak to that, please.

**Mr Albert Nigro:** For the record, my name is Albert Nigro, legislative counsel. I'd like to apologize to the member, Ms Di Cocco, the members and the Chair of the committee. They had to replace the hard drive on my computer, but when I copied a package, for reasons that I cannot explain, two motions in particular were not copied with it. When I sent it out, I did not check to see that it was complete, because usually when using a copy function on a computer, you assume it's complete. I should not have relied on the technology. I apologize to the committee and to the member in particular for that.

**Ms Di Cocco:** I also assume that everyone has the overview as to what the amendments constitute. Hopefully there's been lots of time to submit any kinds of comments or questions to me in that regard. I believe it

definitely does fine-tune the bill and address a number of the issues that have been dealt with at this committee.

**The Chair:** They're the last two pages of the package that was delivered to our offices—the overview.

**Ms Di Cocco:** The overview. Yes, exactly.

**The Chair:** Can we start then? Yes, Mr Maves.

**Mr Bart Maves (Niagara Falls):** Two weeks ago we said we were bringing this bill back for today, I believe it was, when we talked about it. If we go back to February, we were about to start clause-by-clause and probably defeat the bill on our side, because we had concerns with it. At that time, I undertook to provide some comments to Ms Di Cocco about some of my concerns and some of our concerns about the bill. I worked on some stuff for a couple of weeks and then, frankly, other things overtook it. I put it away and never went back to it. I forgot about it and never really heard from anyone about, "Where's your letter? I haven't received any input from you," until two weeks ago when we said that Bill 95 is going to come back for clause-by-clause. I apologize, Ms Di Cocco, that I wasn't more vigilant. It's not my bill; it's not my preoccupation. I did do some work on it, but I didn't complete that work. I received a letter from her this week asking me for those comments, and I pulled my stuff back out and went at it again. I have a work-in-progress, but it's not complete. That's number one.

Number two, we just received a package of amendments this morning. Ms Di Cocco's comments that she just made about, "I assume you've had an opportunity to ask my office if they have any questions or concerns about the amendments"—we just got them this morning, so we wouldn't have had any opportunity to read them.

**The Chair:** Just a minute now. I believe that the original package of amendments was delivered to all the members on May 21, two days ago.

**Mr Maves:** I received mine this morning. So no, we haven't had an opportunity to review them or forward any questions or comments about them. I think what we tried to do in February was say, "Here's a different process that we'd rather follow." I apologize for not, as I said, being more vigilant in completing what I undertook to do.

However, we decided two weeks ago, for some reason, to bring this back and do clause-by-clause right away on it. I don't think we're in a much different position than we were back in February. I don't know where

the impetus was to come back and say, "OK, bring it back, and let's do clause-by-clause on it."

**1010**

**The Chair:** Just for the record, two weeks ago we agreed on a work schedule for the next six weeks. It was agreed that any amendments to this bill would be submitted to the Clerk's office, I believe by last Thursday or Friday, and they would then be distributed to the members quickly thereafter, and that today we would be discussing this bill. That's what happened a couple of weeks ago. So if things have changed, then things have changed. But I think that's what happened.

**Ms Di Cocco:** I'm surprised that you received the letter just recently, because it was drafted a lot earlier. I don't know how all of this sometimes gets worked out in the mail, but certainly I had attempted to remind the members. When I had not heard any comments from the government members, I thought I would just give a heads-up that this bill was now on the agenda again and that I was looking forward to any comments. I certainly abided by all of the timelines that were provided to me to submit any other amendments or any comments that dealt with the concerns from the last discussion. So I certainly attempted to do that and was as diligent as I could possibly be, knowing what the timeline was.

However, I really do want this bill to be given proper consideration, because I think it's good legislation. I think it makes the governance much improved in public bodies. That's certainly my opinion. That's the rationale. I'm hoping the government members also have the courage to move forward on something like this type of legislation.

**Mr Richard Patten (Ottawa Centre):** If the government side is saying they'd like more time to review this, that's fine. There's no point in going ahead if you're not ready, in my opinion. So if they're asking for a postponement of a week or two, then let's hear what they have to say on the timeline.

**The Chair:** Just so there's no misunderstanding, it's my understanding that these original amendments were filed on February 20 and that the amendments that were erroneously taken off a hard drive, or whatever happened, are the same as were included in the original package on February 20. They've been shuffled around a little bit so that they fit the right sections. The substance is the same.

**Mr Maves:** That's fine, but I never even had a chance to look at them or to know that or compare them or anything.

**The Chair:** Well, what's your wish?

**Ms Di Cocco:** Again, February 20 till today is a good length of time to go over them if there's interest in this to move it forward, unless the intention is to keep postponing it. We all are busy, but this is part and parcel of the work that's coming here. We all knew when the Legislature was going to resume and this was going to be dealt with. How much more time would the government members like? If the government—

**The Chair:** Go ahead. Does anybody want to say anything? Ms Di Cocco, or—

**Mr Patten:** She asked a question.

**The Chair:** OK.

**Ms Shelley Martel (Nickel Belt):** I don't want to undermine what Ms Di Cocco's trying to do, which is to give the government another opportunity to get ready for this. For my part, speaking only for myself, I am extremely frustrated by this process. We have had these amendments for a long time. We did not deal with this bill previously, because Mr Maves, on behalf of the government, wanted more time to address this and bring forward his own concerns. I think he had an obligation to do that. It's not Ms Di Cocco's obligation to remind him to do that.

We knew that this was going to be scheduled for today. We knew two weeks ago and agreed to this schedule. I just find it very hard to believe that we are in a position again here today where we cannot deal with this bill.

For my part, I would just say to the government that if all you're going to do is vote this down, then do it today and let's get this over with, because I'm not interested in coming back here, looking for some more time on a schedule that's already crowded to come back here and to have us do it again. If that's what your intention is and you're just trying to delay and delay so we don't get to that point, let's just do it now.

**The Chair:** Not to confuse the matter any further, I have just received a letter that has been copied from the Ministry of Consumer and Business Services that they want to distribute about Bill 95 to the members of the committee—it's got 10:37 on the 23rd; they must not have reset the clock after we went into daylight time. I'll have to distribute it, so that we have all the information in front of us. It's from the minister himself, as a matter of fact.

**Mr Raminder Gill (Bramalea-Gore-Malton-Springdale):** Especially in light of this recent memo, and certainly there is confusion, I think it's fair to ask to review it next week and defer it till then.

**The Chair:** Yes, we could defer it until next week.

**Mr Gill:** That's my submission.

**Mr Maves:** I can, as I said, give Ms Di Cocco what I've got to date. That, I assume, is going to cause her to have a look at the concerns raised and try to address them either with amendments or with an argument that it's an inappropriate concern. So if I gave her what I have now and completed it over the ensuing week, then she would have just gotten that letter. How do we then do clause-by-clause next week? And I don't know what's in here, but—

**Ms Di Cocco:** I think that, with all due respect, there has been enough time provided. There is the business of having to deal with this bill. I certainly have attempted to provide information and to provide my own views on the bill as clearly and as quickly as I could. We all have work to do and we're all busy, but I think there's been plenty of time given for the amendments, to deal with the issues

from the different ministries. Let's get on with this and let's move forward.

**The Chair:** Unless there's a motion to the contrary, we'll now start clause-by-clause.

**Mrs Julia Munro (York North):** I'm waiting for the opportunity to comment on section 1.

**The Chair:** All right, let's deal with section 1.

Are there any amendments to the section?

**Mrs Munro:** I'd just like to point out that in the earlier meeting that we had on this bill, I raised the issue of definitions. I'm disappointed to see that in the amendments that have been provided to us, what I have here starts with section 2.

**The Chair:** Yes, there are no amendments proposed with respect to section 1.

**Mrs Munro:** My comments then go back to that previous meeting we had where I did raise this issue, because I feel that it's really important, when you are looking at a process—much of this bill deals with process and the need, then, to provide a clear set of definitions for people to operate within the intent of the bill, which is of course a reflection primarily of process.

**1020**

I want to express my concerns, because things such as meetings, as a first example, are not defined. This means, then, that the intent of the bill could very easily be corrupted by simple procedural changes that would then allow people to do the very things that the bill purports to eliminate.

There is again no definition of a decision. Decisions, according to this bill, would have to be documented and minuted, but there's no guide as to what constitutes a decision. As it stands now, it would be unclear whether this would, for example, include the results and motions, procedural rulings by the chair or both.

Another area that I think is extremely problematic is the question of what constitutes or what defines an open or closed meeting. If there are no parameters in the bill, obviously there's no way to determine whether in fact someone has breached the act.

The issue of conflict of interest is a huge issue in the ability of this bill to meet the intent. We know in our own lives as legislators how important it is to be able to define conflict of interest. I mean, there are volumes written; we have an arbiter in terms of the Integrity Commissioner. Again, I think there's a huge danger that the intent of the bill could in fact be abandoned, quite frankly, by the manipulation of the bill as it stands, because you don't have a guideline that would determine without a comprehensive definition.

I have to say that I'm disappointed, because I feel that these are integral to the intent of the bill. Quite frankly, without these I think we would be jeopardizing the intent of this bill and the way in which it would work. So I was looking for those kinds of amendments that would really create a firm ground on which the rest of the bill then would function.

**Ms Di Cocco:** I understand the need to find holes in the bill. I mean, I understand the reason for the position

that was taken. Under the Corporations Act, there are a number of, if you want to call them, givens with regard to what decisions are and what meetings are. If a municipal body or others don't know what a meeting is, we've got some real problems. On the other hand, under "Open meetings" there is an amendment that deals with what constitutes an open meeting for that purpose.

When it comes to the integrity, if you want, of the intent, the bodies that are in this legislation have a very, very clear understanding of what constitutes a decision, what constitutes a meeting, and that's a given that's integral to those corporations in doing business. What this bill does is enforce, through a fine—a number of these corporations or, if you want, these public bodies, conduct business inappropriately behind closed doors, which goes on over and over again. It provides a penalty for that. That's the intent of the bill.

You can consistently nitpick if you want, and you can find this way and that. I really don't believe that is a very good argument. Nonetheless I do respect the member's opinion on that, although I fundamentally disagree with a number of those arguments.

**Mr Maves:** One part of my comments that I was working on for the member opposite was a similar concern over the definitions, or lack thereof, in the bill, including the schedules that are applied to the bill, which lists, I believe, 17 organizations or provincial agencies, of which there are 300. I noted that from the introduction of the bill through the public hearings on the bill and other feedback, different people were taken out of the schedule over time, so that we're left with the 19 that are on here. But there are 300 provincial agencies, and as I see it we have randomly picked 19 provincial agencies. Why aren't we applying this to everybody else, all these other provincial agencies? I don't understand the rationale for that. I think several of those agencies, like the marketing boards, came to Ms Di Cocco and said, "You need to remove us from this legislation and here's why." She said yes, OK, and removed them from the legislation.

We just got a letter today from the Minister of Consumer and Business Services saying that the Electrical Safety Authority has some concerns about being included in the act, as does the Alcohol and Gaming Commission of Ontario. If the rest of these 300 provincial agencies and organizations came forward and explained why they shouldn't be under the act, I wonder if they would similarly be removed, or some more included. There's a concern I have over that, and I think we've expressed that before.

**The Chair:** Any further comments?

**Ms Di Cocco:** We can continue these comments. On one hand, there are substantive principles involved here about public bodies. Again, I don't agree with the comment that I just arbitrarily decided this, that or the other thing. I think the arguments put forth as to which public bodies should be in the bill were very sound.

I've already commented on this previously at the other meetings, but I believe the government has an agenda, and the agenda is that it has to defeat this bill because it

comes from an opposition member. That's the intent, and that's what's going to happen here today.

**Mr Patten:** The minister actually supports the bill. If you read the letter, he says, "While I support the goal of increased accountability for public bodies, I believe..." I don't think he would send a message asking to exclude two bodies that he doesn't feel fall within the purview of the bill—at least one. He said, "I would like to assure you that I continue to support the intent of Bill 95."

**Mr Maves:** That's not what he says.

**Mr Patten:** I'm reading what he says. "In making this request, I would like to assure you that I continue to support the intent of Bill 95 in improving..." but asks you to consider the two bodies he mentions. Anyway, I don't know if everybody's had a chance to read this letter.

1030

**Mr Maves:** Reading verbatim, he says, "While I support the goal of increased accountability for public bodies," and in the next paragraph, "I would like to assure you that I continue to support the intent of Bill 95." Nowhere does he say he supports the bill as it is.

**Mr Patten:** "I would like to assure you that I continue to support the intent" of the bill.

**Mr Maves:** The intent.

**The Chair:** Is there any further discussion? If not, I'm going to call for the vote. Shall section 1 carry?

**Ms Martel:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** That section is defeated. Section 2.

**Ms Di Cocco:** I move that section 2 be amended by adding the following:

"Meeting

"(2) Sections 3 to 10 apply to any meeting of a designated public body if the purpose of the meeting is the making of any decision or recommendation, the taking of action or the giving of advice in respect of any matter or matters within the jurisdiction or terms of reference of the public body and,

"(a) a sufficient number of the members of the public body are invited to attend to constitute a quorum; or

"(b) a sufficient number of the members of the public body attend so as to constitute a quorum."

**The Chair:** Discussion?

**Mrs Munro:** I have a question about clauses (a) and (b). If I understand this correctly, it suggests (a) or (b), and (a) only requires that the members of the public body are invited as opposed to actually being physically there. Am I correct in my interpretation? In other words, if you actually extend an invitation to these people, does it count as a quorum?

**Ms Di Cocco:** I would ask legislative counsel to provide an explanation.

**Mr Nigro:** In part, I would say the member is correct, although you cannot read clauses (a) and (b) without reading what I would call the opening words of the section. The opening words say, "Sections 3 to 10 apply to any meeting of a designated public body." So it's a meeting of a designated public body where a number of things could happen: either a sufficient number of members are invited to attend to constitute a quorum, or a quorum actually attends the meeting. It's either of those two events. However, it is a meeting of a designated public body, and it starts in those terms.

**Mrs Munro:** First of all, I thought it was unusual that if you get invited, you constitute a quorum. Secondly, would this not then be related to the issue that was raised earlier about definitions? The member suggested in remarks about the definitions that each of these publicly constituted bodies would have in their own constitutions those definitions with regard to meetings; that is, what defines a meeting. Now we're giving a definition, in a sense, to a particular kind of meeting, and I'm just wondering how that fits with the earlier explanation of why we didn't have a definition of a meeting in section 1.

**Mr Nigro:** I'm not sure what the member is asking me. As a general matter, we don't tend to put substantive provisions in definitions. We do what is done here. This is an application section. This tells you what it applies to. If a designated public body has, through its own procedural rules or other constating documents, rules as to what constitutes a meeting for purposes of that designated body—all this section says is, for any meeting of a designated public body. You would look to how the public body conducts itself, and then you would look to see—for purposes of sections 3 to 10 of the act, if a quorum is invited or if a quorum attends, then it's a meeting for those sections of this act to apply.

**Mrs Munro:** My question then to counsel is, what happens if in their own constitutions or the legal framework under which they operate there are already sections that deal with such things as quorums?

**Mr Nigro:** This section doesn't deal with the issue of what constitutes a quorum. It only says if a quorum is invited. In fact, you would look to their own rules to find out what the quorum is. You would look to their bylaws and whatever rules of procedure they operate under. It doesn't tell you what a quorum is. It doesn't purport to do that.

**Mr Patten:** I'm just saying that every incorporated body is required to have bylaws that constitute what a quorum is, the conditions under which they meet etc. Quite frankly, I think any legally constituted body with that would be covered.

**The Chair:** Any further comments? Shall the amendment carry?

**Ms Martel:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** The amendment is defeated.

We'll now vote on section 2. Shall section 2 carry?

**Ms Martel:** Recorded vote.

**Ayes**

Barrett, Di Cocco, Gill, Martel, Maves, Munro, Patten.

**The Chair:** That's carried.

Section 3: any amendments?

**Ms Di Cocco:** I move that clause 3(2)(d) of the bill be struck out and the following substituted:

"(d) personnel matters involving an identifiable individual, including an employee of the designated public body or of a committee of the designated public body, will be discussed;"

**The Chair:** Any discussion on the amendment?

**Mr Maves:** One second, Chair.

**The Chair:** This has the effect of limiting personnel matters.

**Ms Di Cocco:** Yes. It narrows the basis on which the public can be excluded from meetings where personnel matters are discussed, and it adds as the grounds for public exclusion from meetings where negotiations related to labour relations or employment will be discussed.

**The Chair:** Any discussion? Shall the amendment carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** The amendment is defeated.

Any further amendments to section 3?

**Ms Di Cocco:** I move that subsection 3(2) of the bill be amended by adding the following clause:

"(d.1) negotiations or anticipated negotiations between the body or a committee of the body and a person, bargaining agent or party to a proceeding or an anticipated proceeding relating to labour relations or a person's employment by the body or a committee of the body will be discussed."

1040

**The Chair:** Any discussion? Shall the amendment carry?

**Ms Di Cocco:** A recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** The amendment is defeated.

Are there any further amendments to section 3?

**Ms Di Cocco:** I move that section 3 of the bill be amended by adding the following subsections:

"Motion stating reasons

"(3) A designated public body or a committee of a designated public body shall not exclude the public from a meeting before a vote is held on a motion to exclude the public, which motion must clearly state the nature of the matter to be considered at the closed meeting and the general reasons why the public is being excluded.

"Taking of vote

"(4) The meeting shall not be closed to the public during the taking of the vote on the motion under subsection (3).

"Minutes

"(5) The minutes of a designated public body or a committee of a designated public body shall record any motion moved under subsection (3), including the nature of the matter to be considered and the reasons for excluding the public that are stated in the motion."

**The Chair:** Any discussion? Shall the amendment carry?

**Ms Di Cocco:** A recorded vote, please.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** The amendment is defeated.

That's the last of the amendments to section 3.

Shall section 3 carry?

**Ms Di Cocco:** A recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** Section 3 is defeated.

Are there any amendments to section 4?

**Ms Di Cocco:** I move that section 4 of the bill be amended by adding the following subsection:

"Offence—head or chairperson

"(3) If the person who is convicted of an offence under subsection (1) is the head or chairperson of the designated public body, the maximum fine that may be imposed is \$2,500 and not as provided in subsection (1).

"Same

"(4) Subsection (3) does not apply unless the court is satisfied that the person who is convicted was, at the time of the offence, the duly elected, appointed or selected, as the case may be, head or chair of the public body."

**The Chair:** Any discussion on the amendment?

**Mrs Munro:** I believe originally the fine was to be \$1,000.

**Ms Di Cocco:** For the members of the body.

**Mrs Munro:** And now you're suggesting in this amendment that the chair would have—

**Ms Di Cocco:** If you'd like, I could explain.

**Mrs Munro:** OK, the maximum fine that could be imposed, that may be imposed.

You refer here in subsection (4) to "unless the court is satisfied." Does this mean your intent is that this would require court action? Is that what we're talking about?

**Ms Di Cocco:** Does legislative counsel want to speak to this, please?

**Mr Nigro:** Yes. If the act allows for prosecution if members breach the openness section, which is what section 4 does, what the amendment does is impose a greater fine if you are a chair or a head of a designated public body.

**Mrs Munro:** I guess my question really comes from the fact that what's implied here is that there would be a court case.

**Mr Nigro:** A prosecution under the Provincial Offences Act, in effect, yes.

**Mrs Munro:** OK. Is that made clear in another part of the act?

**Mr Nigro:** If you were to look at subsection 4(1)—and there are several other offence sections in this act as well, but that's basically the offence.

**Mrs Munro:** OK. I just couldn't remember whether that was there. Would the individual then be compelled to pay the fine, would it come from the budget of the body or do you have insurance? What kind of things? This isn't referenced here. This is a fairly substantial kind of penalty to be imposed.

**Ms Di Cocco:** My understanding is it would be paid by the individual.

**Mrs Munro:** I'm just wondering: if the bill is silent on that, then it does leave open these kinds of possibilities, does it not?

**Mr Nigro:** The bill is silent on who pays the fine. If someone were convicted under this section, a court would have no jurisdiction to be concerned with how the fine was paid if one were imposed, only that it was paid. Could a member of a public body who was convicted of an offence under this section ask the public body to pay for the fine? There's no reason in law that I know of that he or she could not.

**Mrs Munro:** I'm just wondering if that doesn't undermine the intent. I see the possibility here of simply, "OK, now we carry extra insurance to be able to cover this kind of potential liability," when the bill is silent on that.

**The Chair:** Just a question to the legislative counsel: does any other legislation say who actually ends up paying a fine?

**Mr Nigro:** I'm not aware of any legislation that directs that the fine can or cannot be paid by a particular person. That's not to say there isn't any; I would say that it's not common, though.

**The Chair:** OK. Any further comments on this amendment? Shall the amendment carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** The amendment is defeated. Are there any further amendments to section 4? No. Shall section 4 carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** Section 4 is defeated. Section 5: any amendments?

**Ms Di Cocco:** Yes. I move that section 5 of the bill be amended by adding the following subsection—

**The Chair:** Would you do the other one first—clause 5(1)(c).

**Ms Di Cocco:** Sorry. I move that clause 5(1)(c) of the bill be struck out and the following substituted:

"(c) be made available to the public at the same time they are made available to the members of the designated public body or the committee of the designated public body, whether the minutes have been adopted or not."

**The Chair:** Are there any comments?

**Ms Di Cocco:** If they need an explanation, it just means that minutes must be available to the public at the same time as they're available to the members of the body. They don't necessarily have to be approved, but the minutes do have to be made available.

**1050**

**The Chair:** Any discussion on this amendment?

**Mrs Munro:** Just a question. What's the purpose of doing them before they're adopted?

**Ms Di Cocco:** I believe it was one of the recommendations that have been made. So as they are being discussed at the open meeting, those minutes are made available at the same time as the members' minutes. If there are any changes that are made, the public has an opportunity to see where the changes are being made and why.

**Mr Maves:** Then you have different versions of minutes floating around: those before and those after.

**The Chair:** Any further discussion on the amendment? Shall the amendment carry?

**Ms Di Cocco:** A recorded vote.



**Ayes**

Di Cocco, Martel.

**Nays**

Barrett, Gill, Maves, Munro, Patten.

**The Chair:** The amendment is defeated.

Now, you've got one other amendment to 5?

**Ms Di Cocco:** Yes. I move that section 5 of the bill be amended by adding the following subsection:

“Recording decisions made in absence of the public

“(3) Despite subsection (2), the minutes shall record decisions that are made at any meetings or parts of meetings from which the public was excluded.”

**The Chair:** Discussion on the amendment?

**Mrs Munro:** I just wanted to have a little explanation of “the minutes shall record decisions.” This is the first time, if I'm correct, that we've had anything that gives some kind of direction with regard to minutes. Is that correct?

**Ms Di Cocco:** I don't know if that's correct or not. I could be wrong, but I thought it was submitted way back when. Maybe somebody can help me here. We've had so many meetings and discussions, I'm not exactly sure. It just means that the minutes will record what decision was made in camera, that's all. After the decision has taken place in camera, the decision has to be made public; it has to be in the minutes of the open meeting.

**Mrs Munro:** The practice today is not—

**Ms Di Cocco:** It's varied. Some bodies do, and some bodies don't. It's a mixed bag.

**Mrs Munro:** Yes, because I was thinking of bodies from which I receive minutes—all of us would as members—and all it says is “in camera.” That's why I asked you today. So there would be a patchwork in terms of—

**Ms Di Cocco:** Yes, across the province. Some municipalities do—that's part of their procedure—and some don't. With other public bodies such as school boards, once the decision is taken in camera they report it, but some don't. Again, that's not consistent, I guess.

**Mrs Munro:** So they would only have to report when they've actually made the decision.

**Ms Di Cocco:** When they've arrived at the decision.

**Mrs Munro:** I was just thinking that in terms of on-going issues, then obviously they would remain in camera; it would only be with regard to some kinds of decisions.

**Ms Di Cocco:** Yes.

**Mr Gill:** On this one, Ms Di Cocco, I'm a little confused as well. If there's a need for an in camera meeting, why would you publish minutes of it right after that?

**Ms Di Cocco:** It's not a matter of publishing the minutes, it's a matter of disclosing the decision taken. For instance, if there is a decision taken that property has been bought, that the deal has been done and there has been an expenditure of millions of dollars, the negotiations have gone forth etc, the minutes of the open meeting of that body should report what that decision has

been: that it was decided that a piece of property be bought and this was the cost.

**Mr Gill:** I know where you're coming from. I think the results certainly should be known, naturally—

**Ms Di Cocco:** The results; that's what I'm saying.

**Mr Gill:** —but not the minutes of the meeting.

**Ms Di Cocco:** No, no. The decisions taken at the meeting should be included in the public record is what I'm saying. But I agree with you. It's not that the minutes be made public but that the decisions taken be part of the public record.

**The Chair:** Any further discussion? Shall the amendment carry?

**Ms Di Cocco:** Recorded vote, please.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** So that's defeated. Shall section 5 carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** That's defeated.

Section 6: there are no amendments to section 6. Any discussion? Hearing none, shall section 6 carry?

**Ms Martel:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** Section 6 is defeated.

Section 7: No amendments. Any discussion? Hearing none, shall section 7 carry?

**Ms Martel:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** Section 7 is defeated.

Section 8: any amendments?

**Ms Di Cocco:** For section 8 there is an amendment.

I move that section 8 of the bill be amended by adding the following, and I think this is a repeat:

“Offence—head or chair

“(2) If the person who is convicted of an offence under subsection (1) is the head or chair of the designated public body, the maximum fine that may be imposed is \$2,500 and not as provided in subsection (1).

“Same

“(3) Subsection (2) does not apply unless the court is satisfied that the person who is convicted was, at the time of the offence, the duly elected, appointed or selected, as the case may be, head or chair of the public body.”

**The Chair:** Any comments or discussion? Shall the amendment carry?

**Ms Martel:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** The amendment is defeated.

Shall section 8 carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** It’s defeated.

Section 9: any amendments to section 9?

**Ms Di Cocco:** There’s an amendment, I believe, to section 9.

I move that section 9 of the bill be amended by striking out “Attorney General” wherever it appears and substituting “Information and Privacy Commissioner.”

**The Chair:** Any discussion on the amendment? Shall the amendment carry?

**Ms Martel:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** That’s defeated.

Section 9, any discussion? Shall section 9 carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** Section 9 is defeated.

Section 10: any amendments?

**Ms Di Cocco:** I move that section 10 of the bill be amended by striking out “Attorney General” wherever it appears and substituting “Information and Privacy Commissioner.”

**The Chair:** Discussion? Shall the amendment carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** The amendment is defeated.

Section 10: any discussion? Shall section 10 carry? I’m hearing a no.

A recorded vote has been requested.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** It’s defeated.

Section 11: seeing no amendments, is there any discussion on section 11? Shall section 11 carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Barrett, Gill, Maves, Munro.

**The Chair:** Section 11 is defeated.

Section 12: an amendment?

**1100**

**Ms Di Cocco:** I move that section 12 of the bill be amended by adding the following subsection. Again, it states that if the person is convicted—do you want me to read this in?

**The Chair:** Yes.

**Ms Di Cocco:** OK.

“Offence—head or chair

“(2) If the person who is convicted of an offence under subsection (1) is the head or chair of the designated public body, the maximum fine that may be imposed is \$2,500 and not as provided in subsection (1).

“Same

“(3) Subsection (2) does not apply unless the court is satisfied that the person who is convicted was, at the time

of the offence, the duly elected, appointed or selected, as the case may be, head or chair of the public body.”

**The Chair:** Any discussion on the amendment to section 12? Shall the amendment carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro.

**Interjection:** What about Barrett?

**Clerk of the Committee:** He’s only a substitute.

**The Chair:** I have a substitution notice for the committee that you were only eligible to vote until 11 o’clock and then you were replaced by Mr Spina, who has now entered the room.

**Interjection:** That cancels out the last five votes then, doesn’t it? It nullifies the last five votes.

**The Chair:** No. They were taken before 11:00.

Is Mr Spina voting on this?

All those opposed?

**Nays**

Gill, Maves, Munro, Spina.

**The Chair:** OK. The amendment is defeated.

Section 12. Shall section 12 carry?

**Ms Martel:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro, Spina.

**The Chair:** Section 12 is defeated.

Section 13: seeing no amendments, is there any discussion on section 13? Shall section 13 carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro, Spina.

**The Chair:** That’s defeated.

Is there an amendment to section 14?

**Ms Di Cocco:** Yes.

“On January 1,”—I think there’s a typo here—it says 2003. Is it? OK—“2003, Part II of the”—

**The Chair:** OK. I’m sorry. This is an addition to 14, because it’s labelled 14.1. Let’s deal with section 14 first. Any discussion on section 14 as printed in the bill? Shall section 14 carry? I’m hearing a no.

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro, Spina.

**The Chair:** So that’s defeated. Now, you have an addition to 14.

**Ms Di Cocco:** Yes.

“Repeal

“14.1 On January 1, 2003, Part II of the schedule to this act is repealed and the following substituted:

“Part II

“2. The following are types of designated public bodies for the purposes of this Act:

“Item number	Type of designated public body
1.	A conservation authority established by or under the Conservation Authorities Act or a predecessor of that Act.
2.	The board of directors of the Ontario Development Corporation, the Northern Ontario Development Corporation or the Eastern Ontario Development Corporation, as continued under the Development Corporations Act.
3.	A district social services administration board established under section 3 of the District Social Services Administration Boards Act.
4.	A district school board or school authority as defined in section 1 of the Education Act.
5.	A board of health as defined in section 1 of the Health Protection and Promotion Act.
6.	A commission as established under section 174 of the Municipal Act, 2001.
7.	A council of a municipality.
8.	A local board as defined in section 1 of the Municipal Affairs Act.
9.	A committee of adjustment constituted under section 44 of the Planning Act.
10.	A land division committee constituted under section 56 of the Planning Act.

- 11. A planning advisory committee established under section 8 of the Planning Act.
- 12. The board of directors, governors, trustees, commission or other governing body or authority of a hospital to which the Public Hospitals Act applies.
- 13. A public library board, a union board, a county library board or a county library co-operative board, or an Ontario library service board established or continued under the Public Libraries Act.”

**The Chair:** Is there any discussion on the amendment? Hearing none, shall the amendment carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro, Spina.

**The Chair:** The amendment is defeated.

Shall section 15 of the bill carry?

**Ms Di Cocco:** Recorded vote, please.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro, Spina.

**The Chair:** That’s defeated.

Shall section 16 carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro, Spina.

**The Chair:** That’s defeated.

Are there any amendments to the schedule?

**Ms Di Cocco:** Yes. I move that the schedule be amended by striking out item 17 in part I and substituting the following:

- |     |   |  |
|-----|---|--|
| 17. | Board of directors of the Ontario Property Assessment Corporation | Section 2 of the Municipal Property Assessment Corporation Act, 1997 |
|-----|---|--|

**1110**

**The Chair:** Any discussion? Shall the amendment carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro, Spina.

**The Chair:** The amendment is defeated.

Dealing with part I, then, of the schedule as printed.

Any discussion?

Shall part I of the schedule carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro, Spina,

**The Chair:** Part I is defeated.

Amendments to part II?

**Ms Di Cocco:** Yes. Since there’s a substantial amount to be read here, could I move that it just be included?

*Interjection.*

**Ms Di Cocco:** No? I have to read it?

**The Chair:** You could move it, but if you want the amendment to be considered and be part of Hansard, you have to read it out.

**Ms Di Cocco:** OK. I will read it out.

I move the schedule be amended by striking out part II and substituting the following:

“Part II

“2. The following are types of designated public bodies for the purposes of this act:

“Item number      Type of designated public body

- |    |  |
|----|--|
| 1. | A conservation authority established by or under the Conservation Authorities Act or a predecessor of that act.  |
| 2. | The board of directors of the Ontario Development Corporation, the Northern Ontario Development Corporation or the Eastern Ontario Development Corporation, as continued under the Development Corporations Act. |
| 3. | A district social services administration board established under section 3 of the District Social Services Administration Boards Act.   |

4. A district school board or school authority as defined in section 1 of the Education Act.
5. A board of health as defined in section 1 of the Health Protection and Promotion Act.
6. A board of control established under section 64 or 65 of the Municipal Act.
7. A commission as established under section 25.3 of the Municipal Act.
8. A council of a city, town, village, police village, township, county or municipality to which the Municipal Act applies, including a regional, metropolitan, upper-tier, lower-tier or district municipality and the county of Oxford.
9. A local board as defined in section 1 of the Municipal Affairs Act.
10. A committee of adjustment constituted under section 44 of the Planning Act.
11. A land division committee constituted under section 56 of the Planning Act.
12. A planning advisory committee established under section 8 of the Planning Act.
13. The board of directors, governors, trustees, commission or other governing body or authority of a hospital to which the Public Hospitals Act applies.
14. A public library board, a union board, a county library board or a county library co-operative board, or an Ontario library service board established or continued under the Public Libraries Act.
15. A local board as defined in section 1 of the Regional Municipalities Act.”

**The Chair:** Any discussion on the amendment? Shall the amendment carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro, Spina.

**The Chair:** The amendment is defeated.

Shall part II of the schedule carry as printed?

**Ms Di Cocco:** Recorded vote, please.

**Ayes**

Di Cocco, Martel, Patten.

**Nays**

Gill, Maves, Munro, Spina.

**The Chair:** That’s defeated.

Shall the title of the bill carry?

**Mr Patten:** Is there anything left? What’s left of the bill?

**The Chair:** Section 2 is left.

Shall the title of the bill carry?

**Ms Di Cocco:** Recorded vote.

**Ayes**

Di Cocco, Martel.

**Nays**

Gill, Maves, Munro, Patten, Spina.

**The Chair:** That’s lost.

Shall I report that the bill not be reported to the House? The reason for that is we only have section 2 of the bill left, which makes the bill totally meaningless.

**Ms Di Cocco:** As I said, it’s unfortunate that there isn’t the courage to proceed with a bill that deals with open and accountable decision-making. I’m a little bit discouraged by, if you want to call it, the partisan nature of the voting—obviously, not even the title of the bill is considered adequate. But nonetheless, this is the process with which we must work. I don’t know if the next process for me is just to withdraw the bill, as it is defeated, or what. Maybe the clerk can help me as to what the process is with regard to what happens from here.

**Clerk of the Committee:** The bill has been defeated by the committee. We can’t amend the bill so that it’s intelligible, and that’s what has happened so far. We’ve defeated the bill. The Chair is going to put the question, “Shall the bill be not reported to the House?” and that decision has to be taken by the committee. It would be not reported. When we defeat a bill, we then report that it be not reported to the House, when we’re reporting back.

**The Chair:** Since the bill makes no sense—we only have one section that refers to basically seven sections of a bill that no longer exist—the question that I’m putting is, “Shall I report to the House that the bill not be reported?”

**Ms Di Cocco:** Would it not be that the bill has been defeated at the committee level?

**Clerk of the Committee:** That’s not the wording.

**Ms Di Cocco:** OK, then.

**The Chair:** People can make up their own minds from reading Hansard.

Shall I report that the bill not be reported to the House? Is there a request for a vote on that?

**Ms Martel:** Chair, I just want to be clear. There's no other mechanism for it to be reported that the bill was defeated in committee other than by the mechanism you're outlining to us?

**Clerk of the Committee:** That is correct.

**Ms Martel:** Ms Di Cocco has no other option?

**Clerk of the Committee:** If the committee didn't agree with the question that was just put, that the bill be not reported, that bill would still be before our com-

mittee. But we've defeated it. I'd have to check to see how we would proceed with a bill that doesn't really exist that's sitting in committee.

**The Chair:** I will ask the question again: shall I report that the bill not be reported? All in favour? Opposed? Carried.

That closes the open session of the public accounts committee for May 23.

*The committee continued in closed session at 1118.*



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