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**Official Report
of Debates
(Hansard)**

Wednesday 5 March 2014

**Journal
des débats
(Hansard)**

Mercredi 5 mars 2014

**Standing Committee on
Regulations and Private Bills**

Great Lakes Protection Act, 2014

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

Loi de 2014 sur la protection
des Grands Lacs

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Wednesday 5 March 2014

Mercredi 5 mars 2014

The committee met at 0900 in committee room 1.

**GREAT LAKES PROTECTION ACT, 2014
LOI DE 2014 SUR LA PROTECTION
DES GRANDS LACS**

Consideration of the following bill:

Bill 6, An Act to protect and restore the Great Lakes-St. Lawrence River Basin / Projet de loi 6, Loi visant la protection et le rétablissement du bassin des Grands Lacs et du fleuve Saint-Laurent.

The Vice-Chair (Mr. John Vanthof): The Standing Committee on Regulations and Private Bills will now come to order. We're here to resume clause-by-clause consideration of Bill 6, An Act to protect and restore the Great Lakes-St. Lawrence River Basin. The committee is resuming debate on government motion 6b.

If it is the committee's will, I'd like to resume with the speaker list that was developed at the last committee meeting. According to that speaker list, I believe it's Mr. Harris.

Mr. Michael Harris: Has the motion actually been read in yet? We never got to this, did we?

The Vice-Chair (Mr. John Vanthof): I can read it in right now.

The Clerk of the Committee (Ms. Valerie Quioc Lim): It was moved but—

Mr. Michael Harris: It was? Okay.

The Vice-Chair (Mr. John Vanthof): I will read the motion in:

Motion to be moved in committee by Mr. McNeely:

I move that the definition of "public body" in subsection 3(1) of the bill be struck out and the following substituted:

"'public body' means:

"(a) a municipality, local board or conservation authority;

"(b) a ministry, board, commission or agency of the government of Ontario; or

"(c) a body that has been prescribed by the regulations or an official of such body; ('organisme public')"

This was moved by Mr. McNeely.

Mr. Phil McNeely: I heard it, and what I have written here under (b) is "a ministry, board, commission or agency." That was just a small—

The Vice-Chair (Mr. John Vanthof): Okay. We have the comma, perhaps, in the wrong place.

Mr. Phil McNeely: This motion would replace the definition of "public body" with one that includes municipalities, conservation authorities, provincial ministries or a body prescribed by regulation. This motion recognizes that public bodies should be those with a core regulatory mandate related to the protection of the ecological health of the Great Lakes.

Mr. Rick Nicholls: What are you reading?

Mr. Michael Harris: I'll wait until he's done.

The Vice-Chair (Mr. John Vanthof): Is that a new edition?

Ms. Dipika Damerla: No, no, he was just giving the rationale.

The Vice-Chair (Mr. John Vanthof): Thank you.

Mr. Michael Harris: I need to ask the government lawyer questions on this, so I'd ask him to come forward.

Ms. Dipika Damerla: Chair, can I just suggest—I mean, the question should come to the parliamentary assistant, and then perhaps directed to officials. That's my understanding of the protocol, if you want to rule on that.

The Vice-Chair (Mr. John Vanthof): They have the ability to call ministry staff, so if you would like to call him, please.

Mr. Michael Harris: Yes, thank you. Do you want to come forward? So my question here is—

The Vice-Chair (Mr. John Vanthof): Excuse me. Could you please give your name for Hansard?

Mr. James Flagal: Sure. My name is James Flagal, and I'm with the Ministry of the Environment legal services branch.

The Vice-Chair (Mr. John Vanthof): Thank you.

Mr. Michael Harris: A question for you: Was the intent of this amendment simply to replace the one that was struck, the last one? Was it simply just to put back into the legislation the one that we had removed? Was that the intent of this?

Mr. James Flagal: The committee had already voted in relation to the definition of "public body" that's now in Bill 6. The committee had already voted to strike out, if you look at the definition of "public body," clause (c). So clause (c) was already voted to be struck out, to not include a source protection authority or a source protection committee.

Then, as you know, there was another motion. This motion just tries to reinsert “public body” without clause (c), and then, as I explained last week, “or official”—I think Mr. Walker asked why that was struck out. It would be out of order to put in a definition of “public body” without a slight modification to the definition because it was already something that the committee had considered. This is basically the definition of “public body” again.

Mr. Michael Harris: So basically, yes, this new motion is simply trying to redo something that was done last week when the government voted with the Conservatives to modify that definition.

Mr. James Flagal: Yes. I’m not sure I’m following the question. It’s to be consistent with the direction that the committee already voted on. I think it was all members that voted on that, and that was to strike out clause (c).

Mr. Michael Harris: But we’re adding it back in now. The one before this, we voted to remove it. Now you’re bringing it back with just a slight change. The real intent is just to bring back the definition as it was before the committee voted to strike those aspects of the definition.

Mr. James Flagal: You can speak to the government members. My recollection was there was a vote on the definition of “public body”. All members voted to strike out clause (c). Then there was another vote. There was an indication by one of the members that they wanted to vote a particular way. They did not and—anyhow, there is a desire now to go ahead and reconsider the definition of “public body,” which is within the rules. It’s fine so long as there’s a slight modification. This is in order. The attempt is to—the motion is to put back in the definition of or the term “public body,” with the clauses, except for clause (c).

The Vice-Chair (Mr. John Vanthof): Mr. Schein first.

Mr. Jonah Schein: I think it’s well established that we’ve actually spoken about the essence of this amendment quite a bit. In fact, the amendment that we’re talking about right now has simply been put on the floor to try to fix a mistake by the government, who mistakenly voted for the Conservative amendment. That’s why I would like that we call the question and vote for this now.

Mr. Michael Harris: I do have a subamendment.

The Vice-Chair (Mr. John Vanthof): Mr. Harris.

Mr. Michael Harris: I do have a subamendment that I’d like to put forward. Do you want me to read it out?

The Vice-Chair (Mr. John Vanthof): If you could go ahead and move it, please, Mr. Harris.

Mr. Michael Harris: I move that the definition of “public body” in subsection 3(1) be amended by striking out clause (a) and substituting the following:

“(a) a municipality or a local services board within the meaning of the Northern Services Boards Act;”

The Vice-Chair (Mr. John Vanthof): I’m going to ask for a short recess so we can have copies made.

Ms. Dipika Damerla: Shouldn’t we first be voting on the motion as put forward by the government, rather than amending it, and then they can introduce their amendments if they wanted to?

The Vice-Chair (Mr. John Vanthof): He’s moving an amendment to an amendment. That’s within the rules.

The committee recessed from 0908 to 0920.

The Vice-Chair (Mr. John Vanthof): We’ll resume debate. Has everyone got a copy of the amendment?

We’ll go back to Mr. Harris to introduce it.

Mr. Michael Harris: So I’ll reread this revised amendment to 6B.

I move that the motion be amended by striking out clause (a) in the definition of “public body” and substituting the following:

“(a) a municipality or a local services board within the meaning of the Northern Services Boards Act;”

Really, the reason for the subamendment would remove conservation authorities from the definition of public bodies and properly define what a local board really is. We believe that locally elected representatives should take the lead on this, and if a municipality wants to work with a conservation authority or other local governments within their watershed, that should be left up to local decision-makers who actually have been elected. I think a great example of this actually is decision-makers taking a leadership role. The Great Lakes and St. Lawrence Cities Initiative is a fine example.

So “local board” is not properly defined in the government’s subamendment, and we need to ensure that this definition refers to a municipal board and not a school or police services board and so on.

We can ask the committee lawyer to explain to the committee why we put that definition there and why that potentially is important.

Ms. Tara Partington: Is the question, why “local services board” has been substituted for “local board”?

Mr. Michael Harris: Well, why adding in “local services board within the meaning of the Northern Services Boards Act” specifically.

Ms. Tara Partington: So within the bill right now, “local board” is defined in subsection 3(1). It has the same meaning as in the Municipal Affairs Act. If you go to the Municipal Affairs Act, that definition is the following: “‘local board’ means a school board, municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or parts thereof.”

The “local services board within the meaning of the Northern Services Boards Act” is a different thing. My understanding is that it functions similarly to a municipality within unorganized territory in the province.

Mr. Michael Harris: I guess it’s important that the government lawyer address this question that I have. Was

that the initial intent, to include boards such as police boards? Would that be the intended scope perhaps of this bill? Was that where you were going with this, or is this a change that you would agree needs to be better defined?

The Vice-Chair (Mr. John Vanthof): Mr. Flagal, could you come forward, please?

Mr. James Flagal: This definition of “public body” is consistent with other statutes like the Lake Simcoe Protection Act, where the same thing that you see in clause (a), “public body”—you see here, right?—means “a municipality, local board”—like in the Lake Simcoe Protection Act as an example, and many statutes do this, by the way. When they use the term “local board,” they then go on to say that “local board” has the same meaning as what is in the Municipal Affairs Act.

Your question, as I understand it, was, what was the intention by doing this? The term “public body” is best understood by looking at where it comes up in the bill as a particular concept. What do public bodies do under this bill, as an example. They can lead the preparation of a proposal for a geographically focused initiative alone or in coordination with other public bodies. They can then, after that proposal is approved by the Lieutenant Governor in Council, go and prepare a geographically focused initiative, which gets submitted to the minister and then is approved, again, by the Lieutenant Governor in Council.

Finally, as we see in the implementation part of the bill, public bodies can be given certain responsibilities for policies under the geographically focused initiative, like a monitoring policy. That’s why it’s best understood in the context of that.

The desire here is that if you are naming, for instance, public bodies in a geographically focused initiative about which public body is responsible for monitoring the quality of water or something like that in relation to a geographically focused initiative focused on trying to reduce nutrients because of a nutrient concern, there may be a desire, when the geographically focused initiative is being developed by the municipality, to say, “You know what? We’ve set up this local board that does all our sewage and water works,” and this is often the case. They will set up a local board to operate that. That sewage and water works local board may have certain expertise that they think is appropriate, that they should be conducting this particular monitoring program they have designed in that policy.

So that’s why the definition of “local board” relies on the Municipal Affairs Act, because municipalities often act through these local boards that they establish. But you’re right: It was not intended to capture these local services boards that you’re talking about that are in unorganized territory.

Mr. Michael Harris: Would you agree with our amendment to properly define what a local board is, so that we can avoid any bureaucratic mess that would be left if we leave it ambiguous by saying “local board” and not properly define it?

Mr. James Flagal: I don’t have the amendment. Unfortunately, someone didn’t give me a copy of the amendment, but I understand the amendment to be—

Mr. Michael Harris: Can we get him a copy of the amendment?

Mr. James Flagal: Okay. As I understand it, your amendment is to replace this “local board” here—is this correct?—in order to give it with “northern services board”?

Mr. Michael Harris: We want to properly define what a local board is.

Mr. James Flagal: I think the problem would be that now you’ve struck out the ability for municipalities to even come to their local boards. Not only is “conservation authorities” missing here; you’ve said, “We don’t want ‘conservation authorities’ here because they’re not elected officials,” even though municipalities actually appoint all the members of a conservation authority for their board.

Mr. Michael Harris: We’re leaving the municipality in.

Mr. James Flagal: What you’re trying to do, as I understand it here, is get rid of the concept of “local board” and replace it just with “local services board,” and I guess the only—

Mr. Michael Harris: No, no. We’re trying to properly define what a local board is.

Mr. James Flagal: But you’ve knocked out “local board” within the meaning of the Municipal Affairs Act.

Mr. Michael Harris: So we don’t have police boards trying to establish a geographically focused initiative.

Mr. James Flagal: As I said, the local board definition in the Municipal Affairs Act speaks to local boards in municipalities established to carry out municipal types of services like sewage and water services.

Mr. Michael Harris: I just think it’s—

Mr. James Flagal: I understand. It’s something for the committee to discuss, but I think the problem, when you’re looking at this, is that when it comes to giving responsibilities to a public body, like a local board in a geographically focused initiative—the desire here is that there may be appropriate times when developing a document like a geographically focused initiative to say, “This local board that is responsible for sewage and water services, they may be appropriate for doing this type of monitoring program,” because, for instance, they’re responsible for the sewage treatment plant that discharges all these nutrients into the water. So we don’t want to put that on the municipality. The municipality’s developing its geographically focused initiative and says, “We’re going to give this monitoring responsibility to our local services board.”

Mr. Michael Harris: I don’t know if I can go back to the committee lawyer on the verification of why we need to clearly define that. In hearing what he said, what is your opinion of that?

Ms. Tara Partington: I think that the confusion that’s arising is “local board,” within the meaning of the Municipal Affairs Act—it means a lot of different things. I read it out so you would see all the things a local board could be.

My understanding of what Mr. Flagal’s saying is that the intention is not for school boards or public library

boards to be involved necessarily, but the definition of “local board” includes any other board, commission, committee, body or local authority.

0930

I think what he’s saying is that there might be appropriate boards, commissions, committees or bodies within that definition that would be suitable to meet the policy objectives of the geographically focused initiative. I think your concern, as I’m understanding it, is that the definition is broader than it maybe needs to be. As Mr. Flagal said, it’s something to be discussed.

Mr. James Flagal: And just quickly, nothing in this bill imposes itself as a free-standing obligation on a public body or a local board. It’s all done—because this is enabling legislation—through the design of a geographically focused initiative. I understand the concern: “Oh, my God, we may see a geographically focused initiative telling these police services boards to go out and monitor water quality.” Well, I believe that the public bodies that are going to be charged with the responsibility for developing a geographically focused initiative aren’t going to sit around the table and go, “Hey, let’s get the police to go and monitor water quality.” That’s why—

Mr. Michael Harris: Or you could have it vice versa, though. The unintended consequence, in fact, would be to allow those police boards to bring forward that—

Mr. James Flagal: No, I understand that. This definition—again, we’ve talked about this, “public body” as enabling—is consistent in many statutes, and that type of nuisance hasn’t happened. So even though “public body” in the Lake Simcoe Protection Act had the same definition, when you went to the Lake Simcoe Protection Plan, you never found that a police services board was given a responsibility. What happened in the Lake Simcoe Protection Plan was—and there, it was obviously a plan that was done by the ministry in concert with the local authorities—there was a lot of consultation about which bodies were appropriate to do what. That’s why I think when you read the definition of “public body,” it’s so important to know the context of where it comes up in the bill.

Mr. Michael Harris: Well, I think it’s appropriate to ask the government, then, what other boards under the Municipal Affairs Act would potentially need to be included here, and I ask them that question. We want to avoid a bureaucratic mess at the back end. We want to get it right. We want to properly define it, and that’s why we’ve put forward this reasonable amendment to do such. I’m just curious now if the government can explain or tell us whether their local boards may be included.

The Vice-Chair (Mr. John Vanthof): Legislative counsel?

Ms. Tara Partington: If I may, I just want to clarify one additional thing, which is that “local board,” within the meaning of the Municipal Affairs Act, as I understand it, does not currently include local services boards.

Mr. James Flagal: No, it does not.

Ms. Tara Partington: So this is another distinction. Number one is, your amendment to the amendment has removed “local boards” from the provision and you’ve added in “local services boards,” which are the governing entities in unorganized territory. Right now, that is missing. That does not appear in the proposed government definition of “public body.” The only way local services boards could become public bodies under this act is if they were prescribed by the regulations under clause (c).

There are really two issues, as I see here: the question of local boards and the question of local services boards.

Mr. James Flagal: And that’s what you’ve done—just to rephrase again, when you remove “local board” the way that you have, if a municipality is sitting around and they are responsible, along with other municipalities, for developing a geographically focused initiative, many of them have set up local boards to basically carry out their services. You have removed the ability for them to say, “It would be a really good idea for our local board, which is responsible for our sewage and water services, to carry out this monitoring program.” That’s what you’ve done with this particular motion.

It is important for municipalities, when they are developing a geographically focused initiative, to be able to have the flexibilities to say, “You know what? I think we’re going to assign this responsibility to our local board.” That’s what you’ve removed with this clause.

The Vice-Chair (Mr. John Vanthof): Mr. Schein was first on my list.

Ms. Dipika Damerla: I was before him.

The Vice-Chair (Mr. John Vanthof): Well, Mr. Schein has been on my list for a long time.

Mr. Jonah Schein: I appreciate the input from legislative counsel and I’d like to call the question.

The Vice-Chair (Mr. John Vanthof): I will say that I’ve got quite a speaking list, and I think they deserve to be heard. Thank you.

Next on my list is Mr. Nicholls.

Mr. Rick Nicholls: Thank you very much, Chair. To Mr. Flagal, if I may—perhaps you may want to join us. Sorry, I was trying to get your attention so you wouldn’t be playing musical chairs.

First of all, I want to thank you for that clarification—I think you did well—and our legislative counsel, for trying to help clarify this.

I think, again, the intent of this subamendment, in my opinion, is to narrow the definition of “public body” in scope, so it is more specific, recognizing the fact that, in general, the term “public body” has a wide scope. We’re trying to just zero it in on this particular bill, hence, eliminating any other, perhaps, confusion that may in fact create some confusion amongst other boards.

Again, as I go back to looking at “a municipality or a local services board within the meaning of the Northern Services Boards Act,” could you not see where, perhaps, having a more narrow scope of definition would be of benefit to this particular bill and assist in the further clarification?

Mr. James Flagal: That's a policy matter for the committee to make, but I'll say this: What I see as substantive—and I would ask these questions back to the committee. I would say, is it the desire of the committee to remove the ability of a municipality to say, "We'd like to give this responsibility to one of its local boards"? If the answer to that is, "No, no, we don't want to take that away; we understand municipalities need to make those decisions," and we want to keep in that concept, I would say, okay, I would suggest keeping in "local board."

Then the next question I would ask is to consider carefully whether or not these local services boards are the appropriate entity you want to give a geographically focused initiative to, because it is an unorganized territory, and also whether or not you want to give them responsibilities etc., because again, geographically focused initiatives come with certain responsibilities. My understanding is that local services boards do have a limited capacity in that sense, but if the desire is, "No, we want to be able to name them in case we want to name them," that's fine; you would preserve that.

The only other thing I see that's different, from what you've suggested here, is the desire to take away conservation authorities. Obviously, you've seen other motions that try and preserve conservation authorities as a potential public body, but if the desire of this particular motion is to remove conservation authorities, that they should not be responsible for the development of geographically focused initiatives or they should not be given responsibilities for monitoring programs and the like of geographically focused initiatives, that's fine. Again, that's a policy consideration, and that may be your assertion about why we want to remove conservation authorities.

Mr. Rick Nicholls: Thank you. I appreciate that. The point being, as well, is that we see this—at least I see this—as we're trying to minimize a lot of bureaucratic red tape. Getting other boards involved, like conservation, whereby they could slow down a process in terms of the decision-making and hence, that's why we want to have it more narrow in scope and eliminate the conservation—

Mr. James Flagal: Okay, and I get that, but one thing I'll say quickly about conservation authorities as you pointed out, my experience with legislation has been that when it comes to something like a geographically focused initiative, which will largely be about the watershed, conservation authorities have enormous expertise in this area.

I know we've done initiatives like the Lake Simcoe Protection Plan, as an example; they were a critical player. In fact, they brought together all the municipalities. There was a very collaborative effort and, in fact, it made things far more efficient by having the conservation authorities involved. I'll just point that out.

The conservation authorities are really often the ones that have, for instance, a lot of fantastic documents on watershed plans. We know that there are many conservation authorities that, with their municipal involvement,

have very important and developed types of programs that could feed into these geographically focused initiatives. I think the intention is that conservation authorities be working with their municipal partners etc. on the development of a geographically focused initiative, and then when it's being implemented, to assume certain responsibilities.

Just like you see, again, in the Lake Simcoe Protection Plan. If you go to that plan, you can see the different responsibilities that the Lake Simcoe Region Conservation Authority has—

Mr. Rick Nicholls: So, then, what you're suggesting there is that they would be serving in an advisory capacity?

Mr. James Flagal: No; it's always important to look at the way "public body" comes up in the bill.

When you get to the geographically focused initiative, I think many people think, "Oh, the public body must be the one and only." When you read the bill, you find out that, no, a geographically focused initiative can be led by many public bodies, more than one.

And then a public body comes up, for instance, in the provision dealing with monitoring programs. If there's a monitoring program in a geographically focused initiative, they're directed that they must implement it. Certainly, a body like a conservation authority would be perfectly appropriate for carrying out monitoring programs. They do that now in the watershed, and they certainly do so, for instance, in the Lake Simcoe Protection Plan.

0940

Mr. Rick Nicholls: All right, thank you. I have no further questions.

The Vice-Chair (Mr. John Vanthof): Ms. Damerla.

Ms. Dipika Damerla: Thank you, Chair. Actually, I had a question for—

Mr. Michael Harris: Mr. Flagal.

Ms. Dipika Damerla: My apologies.

Mr. Rick Nicholls: We're going to have to get you a seat belt.

Mr. James Flagal: Yes, I'm sorry. I don't want to take up too much of your time.

Ms. Dipika Damerla: Chair, I have two distinct comments to make. One is that I noticed that the PCs' motion number 7 contradicts their subamendment to our—well, I don't know what the number is. I just have it as 7 here.

Mr. Michael Harris: 6B?

Ms. Dipika Damerla: No—yes, it would be 7.

Mr. Michael Harris: We're on 6B.

Ms. Dipika Damerla: I know, but the one that comes after.

Interjection.

Ms. Dipika Damerla: What's that? I'm just pointing out that it contradicts your subamendment, because in that, you actually say you want the conservation authority. So I'm at a loss to understand what has changed, because this was your own amendment. That was one.

My other is, I do hear MPP Harris's concern around—I had a question for legislative counsel, because I do hear

his concern. Does it have to be either/or? Does it have to be a definition that is so restrictive that municipalities would not be able to appoint somebody like the sewer board that you were talking about? Or then you're stuck with a situation where we know that, in a reasonable world, the police services board would never be asked to do, but you do wonder about having legislation that allows that to happen.

So isn't there a way to address his concern but, at the same time, leave municipalities the flexibility to either create a new board that they see fit to sit on whatever conservation committee it is—the public body? Give them the flexibility, but take away the ones that would definitely not ever be required to sit—a school board or a police board. I'm trying to understand that.

Mr. James Flagal: I do. Thank you. There's always a challenge, when you're developing legislation, to try and craft legislation with the proper parameters so that it has the flexibility to go into the future, to achieve the purposes that you want to achieve without, all of the sudden, making it so restrictive that you have left something out.

What I can tell you is that the definition of "public body," by including this definition of "local board," is not unique or anything else. This is something that I've seen in many other statutes like this.

When that happens, I guess my answer would be, the reason why—if you're asking me is that okay, is there going to be a mischief or a nuisance—is because I look at the bill as a whole of where "public body" comes up, and my experience has been that when that has happened, no, the police services board hasn't, all of the sudden, gotten a call from somebody, saying, "Why aren't you monitoring the water quality?" And why? Because the bodies responsible under that statute for administering it ensure that the legislation is implemented in a way that's a wise fashion. That's why you have controls like—a geographically focused initiative comes back, after it has been developed, to the Lieutenant Governor in Council for approval, to make sure that it is appropriate, just in case—and I can't imagine this would ever be—that somebody would draft a geographically focused initiative and put that kind of responsibility, let's say, on the police services board.

The reason why that doesn't even happen at that instance is because, when you develop documents like this, you must consult with the bodies. This happened in the Lake Simcoe Protection Plan; it happens under source protection plans. Whatever plan it may be, you always consult with the bodies that have to implement.

The police services board would find out very early on in the process: "Oh, we're thinking about giving you a water quality monitoring program." I think the police services board would say, "Well, it's not really covered in our budget."

I think that's why it is consistent with legislation that when you provide a definition like this, it is broad, and the way that it basically gets implemented is the way it controls that there's no mischief or nuisance.

Ms. Dipika Damerla: Let me just ask a question. If you had a mayor who was, I don't know, a little bit

different than the average mayor and decided to appoint the police services board and give them this responsibility, is there anything in the act that would stop the mayor from—

Mr. James Flagal: Yes—

Ms. Dipika Damerla: Okay. That's what I wanted to understand.

Mr. James Flagal: The answer is, there are many controls—

Ms. Dipika Damerla: That's fair, then. Okay.

Mr. James Flagal: —including the way in which these documents are prepared. You could potentially put a rule in place that says you can only impose a responsibility on a particular board so long as they have given their concurrence with that responsibility—that sort of thing.

All I can say is that, yes, there are many, many ways to make sure that the geographically focused initiatives impose responsibilities on the appropriate body.

Ms. Dipika Damerla: Chair, I would say that his response satisfies me, that it addresses the concern that MPP Harris raised—but I'm happy to hear his views. But I do feel strongly that the conservation authority ought to be in there, and I'm not sure why you're dropping it because your next motion asks for the conservation authority to be in the act, so there's no way I can support that. I just wanted to make that clear. That's all we have to say.

Mr. Michael Harris: I'll directly respond to that, then?

The Vice-Chair (Mr. John Vanthof): Mr. Harris, directly respond to that, and then we'll go back to the speaking list.

Mr. Michael Harris: I'll directly respond to that. There's a succession of amendments. Eventually—7R comes before 7, so we'll get to that, and it's a succession.

Mr. Flagal, you talked about the police board. Don't forget, though, is it not correct that a public board actually initiates a GFI? The police board wouldn't get tapped to start it; they would actually have the ability to initiate it. You bring up some very legitimate concerns, and that's why we want to properly define it.

So secondary to that first question, my second question that I didn't get an answer to is, I think it's important that the government—we want you to just tell us what other boards may be included so we can properly define it and know who is in and who is out and leave it open-ended, because a public board initiates a—

Mr. James Flagal: But that's—I'm so sorry.

Mr. Michael Harris: Go ahead.

Mr. James Flagal: That's not the way the bill is structured. You just have to go to part V, section 9 of the bill: Geographically focused initiatives are actually initiated by the process set up in subsection (1), and that is, first, there is a council meeting where the minister is tabling a summary of a proposed direction that he or she is considering. If a police services board is very interested—that's great; we want to protect the Great Lakes—and wants to go ahead and do a geographically focused

initiative, as you contend, they just can't go ahead and start the process. The process is set out in part V, and it really does start out with the minister initiating that process.

Just quickly, no doubt, as you know, when you have the ability for a minister to initiate a process, people can write in, and they often do. They say, "We think it would be appropriate, Minister, to consider a geographically focused initiative in the Grand to deal with the nutrient problems in the Grand. We've had a problem" etc., and then the ministry could come together with the particular watershed partners on that particular theme—municipalities, potentially the conservation authority etc.—and try to develop something called a summary of a proposed direction, which would be tabled at a council meeting.

Mr. Michael Harris: Right. Again, you bring up some legitimate aspects to this. We are simply asking to list those other boards that may be included so we can properly define and move forward. That's all we're asking when we ask the government what other boards may be included in this.

Mr. James Flagal: This—and then I'll leave it over, because it is something for debate in committee: Other legislation doesn't try to list the boards simply because under the Municipal Act, a municipality has the ability to create local boards to give services to local boards, and I guess there would be a concern that you may not get all the local boards that you want. That's why it's meant to be enabling. I agree the police services board—when would they ever be involved? But that's why so many pieces of legislation like this rely on the definition of "local board"—it's enabling. Which exact local board gets basically tagged with responsibility is really controlled through the implementation of the statute.

The Vice-Chair (Mr. John Vanthof): Mr. Walker. I have a long speaker list; I can't help it.

Mr. Bill Walker: Mr. Flagal, if I could, please. I'd like to thank you because you have provided much better clarity for me. I think what we're trying to get at—or certainly what I'm trying to get at—is the clearer you can make legislation for the average person to understand, the better it's going to be for all of us. Would you agree with that?

Mr. James Flagal: Like I said, honestly, there's a real balance. What you're bringing up is something that is a fascinating thing for me. I know with respect to development of legislation in environmental protection matters, the Supreme Court has often said that when you're developing environmental protection legislation, you have to make sure that you provide the proper breadth, all the time. That's why general pollution prohibitions, as an example, are as broad as they are.

I hate to draw that as an example, but "Thou shalt not cause an adverse effect." Many people have said, "Oh, my God, that's so broad, your definition of 'adverse effect,'" and they've taken runs at it constitutionally. But the courts have said, "Well, my goodness, pollution comes in so many forms. How can you know what's going to happen in years to come?"

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It's a very rough analogue to this whole thing of, "Does legislation have to be precise?" In fact, legislation sometimes needs to be crafted to anticipate things that are off in the future; we're trying to make sure that we can basically accommodate those particular needs. That's why there's a real struggle; there's no doubt about it. But in environmental protection matters, I often find that's the type of thing, and the Supreme Court has often commented on that, especially on environmental protection laws.

Mr. Bill Walker: I certainly appreciate that you would craft it with that thought in mind. But from the other side, we get a lot of pushback at our local level, as legislators, from the more localized municipal council legislators, who are saying, "We have to actually execute. We have to put these things and implement them. We have to be the people who do it."

One of the biggest concerns we have when it's that broad is that you could theoretically have an unelected body, a guardians' council, that actually is unelected, coming in, again, with more administrative bureaucracy, putting requirements and directives in to a local municipal council to have to do.

I look at this amendment and say that "a municipality or a local services board within the meaning of the Northern Services Boards Act" gives it back to that local municipality. It gives it to that council to be able to make the decision. They can appoint whomever they wish to serve.

There are some people who would suggest even that a conservation authority has expanded their scope over time to be much more powerful than what they were originally set out to be, and they've expanded their broad terms. So there are concerns about that.

What I'm really trying to get my head around is back to that "clearly defined," respecting that there needs to be some broad vision, but it needs to be defined so that you can't usurp.

I'll use an example with respect to the government of the day. The Green Energy Act totally usurped not only the Municipal Act, but every other act out there, and took total autonomy and decision-making power away from the responsible people who were elected. Our concern is that if the wrong group got involved, it could do the same thing, and you could have people who are very much a special interest group driving the bus, but the local councillor and the local taxpayer have to pay to implement that.

We have very broad concerns that it's too ambiguous at this point, and we're just trying to say, "Look, there's a municipality here. They should be able to appoint whomever they wish within their own area that they know, and move forward." We just don't want the legislation to be too broad and ambiguous. That's where I'm trying to get to.

I certainly appreciate where you came from, but it's concerning that we can't find a way—when I read "a municipality," should the municipality not be able to appoint whomever they wish?

Mr. James Flagal: There was a lot in your comments, just quickly. First, let's start with the role of council, because that's one of the first things you raised. What I read from that—and I could be wrong—is that you have a concern about the role of this council.

Mr. Bill Walker: I have to clarify so that you can answer appropriately.

Mr. James Flagal: No, no. That's okay. The reason I say this is because I think there is imputed in this a lot of concern about the policy of the bill that's being infused into this definition of "public body." What I would point out is that if there are certain policy directions that you have concerns with in the bill, it may be more appropriate to address them within those particular parameters.

I want to give you an example of council. Council doesn't come up in the definition of "public body." If one of the concerns is that council has too great a role when it comes to these geographically focused initiatives because they can impose their will, let's say, on municipalities, the first thing I would say is: "Oh, no, no. Council is really merely advisory," so that would be number one; and number two: "Municipalities are actually given the ability." They will be working to decide who gets sent to council.

But more importantly, as you talked about the geographically focused initiatives, I think the desire is that the municipalities that want to particularly take a lead in this, the next step would be approaching the minister and they'd work together to develop something that would basically go.

That's why I wanted to basically say that if that is the concern, I'm not sure if it's through the definition of "public body" that's going to get at your concern, and I need to understand exactly what perception you have of the bill, if you have a concern, and then I could basically point out and say, "Well, I don't think that's a concern because this is the way this works." Or sometimes I may say, "Oh no. If that's a concern, that's fine; you'd have to change this section."

But I say that just because we're talking about a lot of matters that are substantive in the bill through the context of this frame of the definition of "public body." And the definition of "public body" is just a definition right now and it can only be understood where the term "public body" comes up in the bill. That's the only way to understand this particular definition and whether it's appropriate.

Mr. Michael Harris: So—

The Vice-Chair (Mr. John Vanthof): Excuse me, Mr. Harris. Mr. McNeely has been on the list a long time.

Mr. Phil McNeely: Thank you, Chair. I just want to say that lots of other legislation use the definition that the government motion proposes for public bodies.

It seems strange that the amendment to our legislation would throw out conservation authorities, where the PC motion to Bill 6 says "'public body' means a municipality, local board, conservation authority..." So you're proposing the conservation authorities be in in motion 7.

I would like to move forward. From our perspective, we're ready to vote against the amendment. We're prepared for that.

Mr. Bill Walker: Point of order: With all due respect to you, Mr. Chair, Mr. Flagal was directing me, and I wasn't totally finished. You've kind of jumped over to the government without me being able to finish—

The Vice-Chair (Mr. John Vanthof): I believe that there are still other people on the list who would like to speak as well.

Mr. Bill Walker: Great, as long as he's not going to call something and I don't get to finalize my comment, that would be greatly appreciated.

Ms. Dipika Damerla: Chair?

The Vice-Chair (Mr. John Vanthof): Ms. Damerla.

Ms. Dipika Damerla: I just feel like the opposition has made their point. There is some validity to it, but I also think that we've addressed it by saying there are enough checks and balances within the existing legislation that their fears are unfounded. The opposition also supported the same definition under the Lake Simcoe act, so I'm not sure how that concern has—if they were okay then, I'm hopeful that they'd be okay now.

Let's just put it to a vote because they're restating the same case over and over again. There's nothing new coming out. We've all heard—and he's given the best answer possible, so I think there has been enough debate. It's already 10 o'clock, and we haven't even voted on a single amendment. We haven't even voted on the sub-amendment, never mind getting to the original amendment.

I just beg your indulgence: If you're not coming up with anything new in this discussion, perhaps it's time to just put it to a vote and see how the chips fall.

The Vice-Chair (Mr. John Vanthof): What I'm going to do is, we're going to go back to Mr. Walker. If I continue to hear repetition, we'll ask if it's the committee's will to vote.

Mr. Bill Walker: Thank you, Mr. Chair. Ms. Damerla, once again, you're trying to tell me how to do my job, and I don't appreciate that. I will take as long in this room or any room I'm in to respect and protect my constituents. When you tell me to hurry along, it's not going to fly. All right? Let's just get that straight on the record today.

What we're going to do is, until I'm clear in my mind what a definition is before I have to vote, I'll ask anybody at any time. That's my prerogative; that's my due diligence. I will always do that. So thank you very much.

With all due respect, the Green Energy Act has a lot of people in my riding worried about how you steamroll things through, and we will continue to ask questions—

The Vice-Chair (Mr. John Vanthof): Excuse me, Mr. Walker. If you'd like to continue your questions, I think what we're looking for here is quality questions, quality comments and not repetitiveness. As long as you've got new questions, we're open to new questions. We're not open to repeating the same issue over and over.

Mr. Bill Walker: Thank you, Mr. Chair. When I ask a point of clarification, I don't deem that to be repetitive. I deem that to be a point of clarification so that I fully understand the issue at hand.

Mr. Flagal, I do appreciate where you're coming from. You did ask me a question, but because of all this, I kind of forget that question. Could you just tell me what the question was?

Mr. Monte Kwinter: If you can't remember your own question, why are you asking it?

Mr. Bill Walker: Careful, Monte. Let's remember last week.

Mr. James Flagal: I apologize. I'm not sure if I—

Mr. Bill Walker: I think you were trying to get us to clarity.

Mr. James Flagal: Yes. I was saying that, when I listened to your comments, what I heard was there was concern about certain substantive portions of the bill that were being expressed through this definition of "public body." So what I just needed to do, as this committee goes through the bill, is to talk about what those concerns are. Then, just as I did with Mr. Harris, I could basically say, "There's this section here, and this is what it says. This is why, if that was the perception, I'm hoping the section shows you that's not the case." But there may be a time when you say, "Okay, well, I have a concern about this," and I'll say, "Yes, the bill does say this in this section here—not in 'public body,' but in this section here. So if you have a problem with that, you would need to amend this section."

That's all I'm saying. I find there are a lot of matters being raised through this definition of "public body" which are more appropriate being discussed in later sections; that's all. Like the role of council, as an example. You raised the role of council and I thought, "Well, the council is not really involved in the definition." That's all. That was my comment and question.

Mr. Bill Walker: You then would suggest that our current amendment would not permit what you're trying to achieve?

Mr. James Flagal: There's a motion that amends this motion. The motion that was there before was trying to achieve, in that clause (a), that conservation authority, municipality and, yes, local board, be included, but not local board as defined in the Northern Services Boards Act.

Mr. Bill Walker: Thank you for that clarity.

Mr. James Flagal: Thank you.

The Vice-Chair (Mr. John Vanthof): Mr. Harris? I hope it's something new.

Mr. Michael Harris: No, we'll move on. We'll vote if you guys want. Let's do it.

The Vice-Chair (Mr. John Vanthof): Is the room ready to vote?

Ms. Dipika Damerla: Yes.

The Vice-Chair (Mr. John Vanthof): All those in favour of—

Mr. Phil McNeely: Chair, we're talking about the amendment?

The Vice-Chair (Mr. John Vanthof): The amendment, yes. Would you like me to read the amendment again to clarify?

Mr. Phil McNeely: Yes.

The Vice-Chair (Mr. John Vanthof): Okay. I'll read the amendment before the vote.

Moved by Mr. Harris: I move that the motion be amended by striking out clause (a) in the definition of "public body" and substituting the following:

"(a) a municipality or a local services board within the meaning of the Northern Services Boards Act;"

All those in favour? All those opposed? The motion is defeated.

Mr. Michael Harris: Chair? I'll be putting forward another subamendment then, if you don't mind. I think it will clarify our discussion from the previous one.

The Vice-Chair (Mr. John Vanthof): We'll have to have a recess so everyone can—

Mr. Michael Harris: Well, I can read it in first.

The Vice-Chair (Mr. John Vanthof): Okay.

Mr. Michael Harris: I'd like to put forward a subamendment. I move that the motion be amended by striking out clause (a) and substituting the following:

"(a) a municipality, conservation authority, a local board or a local services board within the meaning of the Northern Services Boards Act;"

The Vice-Chair (Mr. John Vanthof): Okay. I'll call for a short recess so this can be distributed.

The committee recessed from 1001 to 1007.

The Vice-Chair (Mr. John Vanthof): Does everyone have a copy? We're resuming debate. Does everyone have a copy of the motion?

Mr. Michael Harris: Should I read it—

The Vice-Chair (Mr. John Vanthof): Yes, I would like—the floor back to Mr. Harris. He's here.

Mr. Michael Harris: I'll reread the amendment.

I move that the motion be amended by striking out clause (a) and substituting the following:

"(a) a municipality, conservation authority, a local board or a local services board within the meaning of the Northern Services Boards Act."

I'll just explain this amendment, which I think is very conciliatory in terms of adding back in the conservation authorities. As Mr. Flagal brought up, the reason why local boards should be in—we just believe that those local services boards should be clearly defined as per the Northern Services Boards Act.

I hope the government will see us trying to work together to properly define this. Again, the following motions will likely then be pulled because of this. I hope that they see the goodwill that we're trying to put forward here. And I think it was through good, thorough debate that we brought up—on both sides. Mr. Flagal brought up some legitimate concerns, as did we. That's why we've got this amendment brought forward, and I hope we can carry on.

The Vice-Chair (Mr. John Vanthof): Further comments? Is the room ready to vote? Would you like me to

reread the motion, to make sure you know what we're voting on?

It's a motion moved by Mr. Harris:

I move that the motion be amended by striking out clause (a) and substituting the following:

“(a) A municipality, conservation authority, a local board, or a local services board within the meaning of the Northern Services Boards Act.”

All those in favour? I believe it's unanimous. Carried.

Mr. Michael Harris: I have another subamendment. Chair?

The Vice-Chair (Mr. John Vanthof): Another amendment?

Mr. Michael Harris: Yes, I do.

The Vice-Chair (Mr. John Vanthof): Please read it into the record.

Mr. Michael Harris: I move that the motion be amended by striking out:

“(b) a ministry, board, commission or agency of the government of Ontario; or

“(c) a body that has been prescribed by the regulations or an official of such body;”

I'll table that with you and then distribute it to the committee. When we come back, I'll explain why I'm putting forward this amendment.

The Vice-Chair (Mr. John Vanthof): Once again, we'll have a recess.

The committee recessed from 1009 to 1017

The Vice-Chair (Mr. John Vanthof): We would like to resume. The floor is yours, Mr. Harris, to reintroduce your motion.

Mr. Michael Harris: I move that the motion be amended by striking out clauses (b) and (c).

I think it was clear that we modified the last amendment we put forward. We were trying to be conciliatory; we co-operated on this one. However, we adamantly have a huge concern with those other two items, and basically this subamendment removes “ministries, boards and commissions,” as well as “bodies and officials prescribed by regulation” from the definition of a public body.

Our rationale, really, in moving this amendment is to ensure that local decision-makers and even local scientists at conservation authorities play a leadership role, not the bureaucrats in Toronto—no offence.

Look, we don't need more provincial agencies, boards or commissions telling local decision-makers how to run their communities. We've seen that far too often. This clause really opens the door for bigger government bureaucracy and excessive new red tape burden for municipalities. We do not need the Liberal government creating or empowering new provincial bodies through legislation to tie local decision-makers' hands with red tape.

Therefore, we have put forward that motion or amendment to strike those clauses (b) and (c) out. I know that my colleagues will want to reiterate the importance of doing so. There are far too many examples in our communities already. Local decision-making ability, using

the expertise of those local scientists—again, working together, we changed things around to include local boards. We've clearly defined local services boards and we hope that the government will work with us to make sure that's clear going forward.

The Vice-Chair (Mr. John Vanthof): Thank you. Mr. Schein?

Mr. Jonah Schein: Thank you, Chair. I'm conscious of the time and that both the government and the Conservatives have prioritized other legislation to be discussed in this committee going forward, and that we're not getting through this really important legislation here. So I'm going to ask that this committee write a letter to the House leaders to meet in the intersession next week. I've got a motion that I'm ready to pass around, if I can. I'd like written letter from—

The Vice-Chair (Mr. John Vanthof): Mr. Schein, we're in the middle of clause-by-clause. If I could ask if you could make that request right before we adjourn.

Mr. Jonah Schein: As long as we have time, Mr. Chair. Sure. I just want to make sure that happens. Thank you.

Mr. Michael Harris: For the record, we don't want to see procedural things when we're going through clause-by-clause.

The Vice-Chair (Mr. John Vanthof): Further debate? Mr. Walker.

Mr. Bill Walker: Yes. I think what we're—and we've said this all the way through: We really are concerned—and we hear this every day on various issues in the government from our local municipal politicians, our local ratepayers, taxpayers, constituents and the people who we are elected to serve—about how oftentimes, legislation is created here in Toronto by bureaucrats, and I give all due reverence and respect to them, who may not appreciate or understand the ability of that implementation phase. We at the local level have to increase taxes to be able to do it because the government typically doesn't offer any funds to do the implementation side. The source water protection act is one of those ones that I believe has been circulating for three or four years and has never been brought out for implementation. The fear from every one of my local municipalities is, what's the cost going to be to implement it locally? So it's designed somewhere else, there's great theory and great ideology, but at the end of the day, it's the practicality of who implements and how much can we afford to implement.

In all fairness, the spin of it is, “You don't protect the environment,” “You don't care about the environment.” Well, that's not the case at all. Who else would care about the environment but the people who live there and have to worry about the water? We live in the farming communities. We're creating the food that you all consume.

Interjection.

Mr. Bill Walker: Absolutely. The best stewards are our farmers out there, yet they're coming to me every day of the week, saying, “Look, I'm really worried about where this legislation from Toronto is coming from

because they don't have an idea of how we're going to implement. They don't bring us any funds, so how do I bear that?" Farmers are being asked to do it out of their own budget, to do work that the government is implying. That's why this guardians' council really concerns me, that they could have that much power to say, "You shall"—it's a directive—and the local municipality is left holding the bag. That whole sense of this is why we've been pushing back and making sure that we understand what the legislation is truly saying. It's why we want clear, definitive terms, so we know exactly what is being implied as opposed to, "Yes, just trust us on this one," and at the end of the day we get a bill that's going to come out and say, "Now you're doing this," and people go, "Holy smokes. Who is even there to protect us?"

That's why, Ms. Damerla, I actually push back very hard on you when you say things like we're stalling and we're not rushing this through. Well, no, I won't do that, because there are very significant concerns. I'll go back to the Green Energy Act. It has been the most vitriolic issue in my riding since the day prior to me getting elected. It was a big election topic and it continues to be because you have usurped local democracy. You've taken the rights of local, elected politicians to make decisions based on their riding. There are 80-plus municipalities that have said, "We're non-willing hosts." But right now, a Green Energy Act that was developed in a very similar process to this, I believe, if it ever came to committee, has taken that right. They've stripped out the Municipal Act rights of councils.

This is very concerning. It's very discerning for all of us to ensure what's going on. I believe my colleague has been very clear that we've been trying to be conciliatory. We're trying to understand first and foremost, then be conciliatory. We did get the last amendment through as a unanimous vote, I believe, Mr. Chair, so I think that was

a good thing. But at this point, we have to be very diligent and ensure that there's not going to be another layer of bureaucracy, there's not going to be another group formed that can come in through the side door and usurp that to add more red tape and regulation—and most concerning is the ability to implement. At the end of the day, the local people pay the freight. The government, I don't believe, is prepared, with these types of bills, to bring money to the table to allow the implementation. It's going to fall back to local taxpayers. In my riding, a very small base of constituents is going to be forced to pay for something they may not even be in agreement with. So it's very similar to that Green Energy Act, hence why we're being so cautious and diligent in our efforts to ensure exactly what the legislation will say. We will continue to ask for clarity. At the end of the day, we want to make sure that these amendments are going to actually serve the people we're all sent here to serve.

The Vice-Chair (Mr. John Vanthof): Thank you. If I may, Mr. Walker, we only have a moment left. I would like to return to Mr. Schein for—

Interjection.

The Vice-Chair (Mr. John Vanthof): Stop clause-by-clause.

Mr. Michael Harris: Chair, we cannot stop clause-by-clause for a procedural item.

The Vice-Chair (Mr. John Vanthof): If you hold a second, we will—

Interjection.

The Vice-Chair (Mr. John Vanthof): We're done.

Mr. Jonah Schein: We're not going to meet in the interim?

Mr. Bill Walker: Are we adjourned, Mr. Chair?

The Vice-Chair (Mr. John Vanthof): Yes, we're adjourned.

The committee adjourned at 1025.

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