



Conservation Authorities Act Review – Proposed Amendments Bill 139 – Building Better Communities and Conserving Watersheds Act (2017)

What is the name of the Bill?

Bill 139, the *Building Better Communities and Conserving Watersheds Act, 2017* was introduced into the legislature and passed First Reading on May 30, 2017. The Bill proposes amendments to the *Conservation Authorities Act* and can be viewed at http://www.ontla.on.ca/bills/bills-files/41_Parliament/Session2/b139_e.pdf

Bill 139 is an 'omnibus bill' which groups various Acts to be amended including the *Conservation Authorities Act*. In addition to other Acts, the Bill also encompasses changes to the *Planning Act* and proposes replacing the Ontario Municipal Board with a new Local Planning Review Tribunal.

Conservation Authorities and Conservation Ontario are focused on **Schedule 4** of Bill 139 which refers to the *Conservation Authorities Act*.

Bill 139 is on the Orders and Notices Paper for the next session of Parliament scheduled to commence Monday, September 11, 2017. It joins approximately 72 other Bills that will start at the Second Reading stage.

The Province's media release about the Bill can be read here:

<https://news.ontario.ca/mma/en/2017/05/building-better-communities-and-conserving-watersheds.html>

When will the Bill be enacted?

The Bill has to pass through two more readings in the legislature before it could be enacted which could take place during the next sitting of the Legislature which starts September 11, 2017. During this time, it will be debated by Members of the Legislature and could be referred to a Standing Committee for a 'clause by clause' review.

What is the policy document still to be posted?

In the coming weeks the Province will be posting *Conserving our Future: A Modernized Conservation Authorities Act* that supports the Bill by describing the changes being proposed and other policy and program changes resulting from the review. Members will be circulated the document as soon as it is available on the Environmental Bill of Rights registry.

What are the objectives of the proposed changes?

The Province states that the proposed changes will modernize the *Conservation Authorities Act* framework by:

- Strengthening oversight and accountability.
- Increasing clarity and consistency in programs and services.
- Increasing clarity and consistency in regulatory requirements.
- Improving collaboration and engagement.
- Modernizing funding mechanisms.

What are the proposed amendments to the *Conservation Authorities Act*?

Bill 139: *Building Better Communities and Conserving Watersheds Act*, 2017,

In its “explanatory note” for the amendments, the Province posted the following information on the Legislative Assembly of Ontario website

http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&Intranet=&BillID=4936 :

Schedule 4:

The Schedule makes numerous amendments to the *Conservation Authorities Act*. In addition to many housekeeping amendments, the Schedule makes more significant amendments as follows:

1. A new purpose section (section 0.1) is added to the Act.

From the proposed amended CA Act: “The purpose of this Act is to provide for the organization and delivery of programs and services that further the conservation, restoration, development and management of natural resources in watersheds in Ontario.”

2. Enlargement of the area of jurisdiction of an authority, the amalgamation of authorities and dissolution of an authority

Various amendments are made in relation to the enlargement of the area of jurisdiction of an authority, the amalgamation of two or more authorities and the dissolution of an authority (sections 10, 11 and 13.1), including amendments relating to the notice that is required before some of these events can occur. Also, the amendments to section 11 add a requirement for the Minister’s approval of any amalgamation of two or more authorities.

3. Membership and governance of authorities

Some amendments are made in relation to the membership and governance of authorities (sections 14 to 19.1). The rules relating to the appointment and term of office of members of an authority are clarified. The maximum term of office of a member is increased from three to four years.

A requirement that meetings of the authority be open to the public is added, subject to exceptions that may be provided in an authority’s by-laws.

Authorities are required to establish advisory boards in accordance with the regulations.

A new section 19.1 is enacted setting out the power of an authority to make by-laws in relation to its governance, including its meetings, employees, officers and its executive committee. Many of these powers were previously regulation-making powers that the authorities held under section 30 of the Act. The Minister may direct an authority to make or amend a by-law within a specified time. If the authority fails to do so, the Minister has the power to make a regulation that has the same effect as the by-law was intended to have.

4. Objects, powers and duties of authorities

Amendments are made to the objects, powers and duties of authorities (sections 20 to 27.1) in particular their powers in relation to programs and services and in relation to projects that they undertake. New section 21.1 sets out the three types of programs and services that an authority is required or permitted to provide: the mandatory programs and services that are required by regulation, the municipal programs and services that it provides on behalf of municipalities and other programs and services that it determines to provide to further its objects.

New section 21.2 sets out the rules for when an authority may charge fees for the programs and services it provides and the rules for determining the amount of the fees charged. Authorities are required to maintain a fee schedule that sets out the programs and services in respect of which it charges a fee and the amount of the fees. The fee schedule is set out in a written fee policy that is available to the public. Persons who are charged a fee by an authority may apply to the authority to reconsider the charging of the fee or the amount of the fee.

Sections 24 to 27 of the Act are repealed and replaced with new sections allowing authorities to recover their capital costs with respect to projects that they undertake and their operating expenses from their participating municipalities. Currently the apportionment of those costs and expenses is based on a determination of the benefit each participating municipality receives from a project or from the authority. The amendments provide that the apportionment will be determined in accordance with the regulations.

5. Regulating-making powers

The provisions regulating activities that may be carried out in the areas over which authorities have jurisdiction are substantively amended (sections 28 and 29). Section 28 of the Act is repealed. That section currently gives authorities certain regulation-making powers, including the power to regulate the straightening, changing and diverting of watercourses and development in their areas of jurisdiction and to prohibit or require the permission of the authority for such activities. The re-enacted section 28 prohibits such activities so that the previous regulation-making power is no longer required.

Furthermore, new section 28.1 gives the authorities the power to issue permits allowing persons to engage in the prohibited activities and section 28.3 allows authorities to cancel the permits in specified circumstances. New regulation-making powers are set out in section 28.5 in respect of activities that impact the conservation, restoration, development or management of natural resources.

6. Enforcement of the Act and offences

Sections 30 and 30.1 are repealed and sections 30 to 30.4 are enacted in relation to the enforcement of the Act and offences. Authorities are given the power to appoint officers who may enter lands to ensure compliance with the Act, the regulations and with permit conditions. The officers are also given the power to issue stop orders in specified circumstances.

Offences for contraventions of the Act, the regulations, permit conditions and stop orders are set out in section 30.4 and the maximum fines under the Act are increased from \$10,000 to \$50,000 in the case of an individual and to \$1,000,000 in the case of a corporation. An additional fine of

\$10,000 a day for individuals and \$200,000 a day for corporations may be imposed for each day the offence continues after the conviction.

Section 30.6 expands the existing powers of the court when ordering persons convicted of an offence to repair or rehabilitate any damage resulting from the commission of the offence.

Various regulation-making powers are enacted.

What has been the initial response from Conservation Ontario?

On May 31, 2017 Conservation Ontario issued a media release which said that CO and the Conservation Authorities would be reviewing the Bill in detail and will continue to work with the Province in moving forward.

The media release can be found on Conservation Ontario's website:

http://conservationontario.ca/images/Media_Releases/MediaRelease_CA_Act_COMay2017_FNL_rev.pdf

The Bill is being reviewed by a Conservation Ontario CA Act Working Group comprised of a number of CA General Managers and CO staff. A report to the broader membership is scheduled for the June 2017 Council meeting.

Background

In 2015, the Province initiated a review of the *Conservation Authorities Act* (CA Act) which governs Ontario's 36 Conservation Authorities. They developed an initial Conservation Authorities [Discussion Paper](#) (Fall 2015) to provide an overview of Conservation Authorities, their funding and governance.

In Spring 2016, MNRF posted a second discussion paper which identified priorities for moving forward with the CA Act review: [Conserving Our Future: Proposed Priorities for Renewal](#). This was followed up by multi-stakeholder engagement sessions.

Conservation Ontario and the Conservation Authorities have provided input to both documents. An amended *Conservation Authorities Act* was introduced to the legislature on May 30, 2017 for first reading.

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