

Legislative
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Bill 23

**An Act to prohibit certain restrictions on the use of aggregates
in performing public sector construction work**

Ms S. Jones

Private Member's Bill

1st Reading March 27, 2018

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill prohibits any person or body that forms part of the public sector from refusing to consider a bid for construction work or from refusing to enter into a contract for construction work for the sole reason that the work, or any part of it, can or will be performed using aggregates that are not newly produced. The term “public sector” is broadly defined.

**An Act to prohibit certain restrictions on the use of aggregates
in performing public sector construction work**

Preamble

Ontario residents expect the Government of Ontario to take a leadership role in balancing the relationship between primary aggregate extraction and secondary aggregate recycling, the latter of which contributes to preserving the environment.

Ontario residents expect the Government of Ontario and the broader public sector, including government-funded institutions, to conduct business in a sustainable way that is both operationally and economically viable.

Ontario residents also expect that, where appropriate, recycled aggregates will be fairly considered for use in all construction contracts entered into by the Government of Ontario and the broader public sector. This allows for a better balance between the need for primary aggregate extraction and secondary aggregate recycling in Ontario.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1 In this Act,

“aggregate” has the same meaning as in the *Aggregate Resources Act*; (“agrégats”)

“construction work” means constructing, altering, decorating, repairing or demolishing buildings, structures, roads, sewers, water or gas mains, pipe lines, tunnels, bridges, canals or other works at a site or performing other work of a similar nature that is prescribed by the regulations made under this Act; (“travaux de construction”)

“public sector” means,

- (a) the Crown in right of Ontario, an agency thereof, or an authority, a board, a commission, a corporation, an office or an organization of persons, a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council or a member of the Executive Council,
- (b) the corporation of a municipality in Ontario,
- (c) a local board as defined by the *Municipal Affairs Act* or an authority, a board, a commission, a corporation, an office or an organization of persons, some or all of whose members, directors or officers are appointed or chosen by or under the authority of the council of the corporation of a municipality in Ontario,
- (d) a board as defined in the *Education Act*,
- (e) a university in Ontario or a college of applied arts and technology or post-secondary institution in Ontario, whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating annual operating grants entitlements,
- (f) a hospital referred to in the list of hospitals and their grades and classifications maintained by the Minister of Health and Long-Term Care under the *Public Hospitals Act* or a private hospital operated under the authority of a licence issued under the *Private Hospitals Act*,
- (g) a corporation with share capital, at least 90 per cent of the issued shares of which are beneficially held by or for an employer or employers described in clauses (a) to (f), and every wholly-owned subsidiary thereof,
- (h) a corporation without share capital, the majority of whose members, directors or officers are members of, or are appointed or chosen by or under the authority of, an employer or employers described in clauses (a) to (f), or a wholly-owned subsidiary thereof,
- (i) a board of health under the *Health Protection and Promotion Act*,
- (j) the Office of the Lieutenant Governor of Ontario, the Office of the Assembly, a member of the Assembly or the offices of persons appointed on an address of the Assembly,

- (k) any authority, board, commission, corporation, office, person or organization of persons, or any class of authorities, boards, commissions, corporations, offices, persons or organizations of persons, prescribed by the regulations made under this Act,
- (l) Hydro One Inc. or any of its subsidiaries, and
- (m) Ontario Power Generation Inc. or any of its subsidiaries. (“secteur public”)

Usage of aggregates to perform construction work

2 (1) No person or body that forms part of the public sector shall, in calling for tenders for any construction work, refuse to consider a bid for the sole reason that it proposes that the work, or any part of it, can or will be performed using aggregates that are not newly produced.

Same, contract

(2) No person or body that forms part of the public sector shall refuse to enter into a contract for the performance of construction work for the sole reason that the contract permits or requires the work, or any part of it, to be performed using aggregates that are not newly produced.

Regulations

3 The Lieutenant Governor in Council may make regulations,

- (a) doing anything described as prescribed in the definition of “construction work” in section 1 or clause (k) of the definition of “public sector” in that section;
- (b) specifying what constitutes aggregates that are not newly produced for the purposes of section 2;
- (c) exempting any person or body or class of person or body from any provision of this Act or the regulations made under this Act, and prescribing conditions or restrictions that apply in respect of an exemption;
- (d) governing transitional matters that, in the opinion of the Lieutenant Governor in Council, are necessary to implement this Act or the regulations made under it.

Commencement

4 This Act comes into force on the day it receives Royal Assent.

Short title

5 The short title of this Act is the *Aggregate Recycling Promotion Act, 2018*.