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**Official Report  
of Debates  
(Hansard)**

**Wednesday 29 April 2009**

**Journal  
des débats  
(Hansard)**

**Mercredi 29 avril 2009**

**Standing Committee on  
General Government**

Green Energy and Green  
Economy Act, 2009

**Comité permanent des  
affaires gouvernementales**

Loi de 2009 sur l'énergie verte  
et l'économie verte

Chair: David Oraziotti  
Clerk: Trevor Day

Président : David Oraziotti  
Greffier : Trevor Day

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES**

Wednesday 29 April 2009

Mercredi 29 avril 2009

*The committee met at 1604 in committee room 1.*

**GREEN ENERGY AND GREEN  
ECONOMY ACT, 2009**

**LOI DE 2009 SUR L'ÉNERGIE VERTE  
ET L'ÉCONOMIE VERTE**

Consideration of Bill 150, An Act to enact the Green Energy Act, 2009 and to build a green economy, to repeal the Energy Conservation Leadership Act, 2006 and the Energy Efficiency Act and to amend other statutes / Projet de loi 150, Loi édictant la Loi de 2009 sur l'énergie verte et visant à développer une économie verte, abrogeant la Loi de 2006 sur le leadership en matière de conservation de l'énergie et la Loi sur le rendement énergétique et modifiant d'autres lois.

**The Chair (Mr. David Oraziotti):** Good afternoon, everyone. I call the committee to order to continue on clause-by-clause of Bill 150.

Before we get moving with the additional proposed amendments, Albert Nigro, legislative counsel, would like to say a few words on a couple of items.

**Mr. Albert Nigro:** If I could just take the committee's time for a moment: Under clause (b) of section 139 of the standing orders, my office has the responsibility for the correctness of all bills in their various stages. I start with that simply to report this: In reviewing the motions in my office after Monday afternoon, we found a couple of what would amount to editorial changes that we will make in the reprinted bill. The motions that will be tabled in the House will be exactly as passed by the committee.

If you want to know, in motion 6R, which replaced section 2 of schedule A to the bill, there's an incorrect cross-reference in subsection 2(5). The reference should be to subsection (4); it's to subsection (5), which makes no sense legally. We will make that change.

Similarly, in motion 71R, we refer to paragraph (a). It's not a paragraph; it's a clause for purposes of Ontario drafting, and we will change that to "clause." Just to let the committee know.

**The Chair (Mr. David Oraziotti):** From last day, schedule G, section 10: motion 89, NDP. Mr. Tabuns, if you'd like to go ahead with that motion.

**Mr. Peter Tabuns:** Mr. Chair, I've asked if I could have unanimous consent to reopen schedule B so that the definition of "feed-in tariff program" could be amended to note "with an obligation to purchase all renewable

energy produced." I have had an opportunity to talk to the other parties about this. I haven't gotten their consent, but I've had a chance to talk to them.

**The Chair (Mr. David Oraziotti):** Mr. Tabuns is seeking unanimous consent to discuss section 7 of schedule B to the bill. Do we have unanimous consent to reopen that section? Would anyone like to speak to the motion? Mr. Tabuns, go ahead.

**Mr. Peter Tabuns:** Unfortunately, due to criss-crossing between legislative counsel and my research staff, one amendment that should have come forward did not make it into our package. We had intended to amend definition (3) in this program to include a definition for feed-in tariff program that required an obligation to purchase all renewable energy produced, based on the commentary of those who have worked with renewable energy feed-in tariffs in other jurisdictions.

1610

**The Chair (Mr. David Oraziotti):** Further comment?

**Ms. Laurel C. Broten:** I want to thank my friend for raising this issue. I will say to the committee that we are not prepared to reopen the debate on a point that has passed and has previously been voted on in the committee. But I do want to tell the member that as we continue to work with the OPA, the IESO and various experts to bring Ontario's Green Energy Act to a reality, consultations with respect to the feed-in tariff terms are under way, and these issues raised in this motion are being looked at at this moment.

As we move forward, the resolution of the issues raised in the motion are a priority in those consultations; however, we do not think that at this point, while consultations are ongoing, it's appropriate to establish specifics in legislation. Rather, it is an item that should remain open to conclusion and to continue to be worked on with experts. I do invite the member to participate in those expert consultations, and I do so in a genuine way. We look forward to working on this and other issues once, and if, this bill is passed.

**The Chair (Mr. David Oraziotti):** Any further comment on the motion?

**Mr. Peter Tabuns:** I appreciate the commentary from my colleague. I just want to say that given the advice that we've had in order to make the bill effective, in order to give assurance to those who are going to invest that the product that they will create will have a market, you need an amendment of this nature; and I believe you need it in

the legislation rather than in a regulation because regulations are far more subject to change than the legislation. Failure to include it will undermine the intent of the government and will undermine the ability of the government to reach the stated objectives. I think it's substantially problematic.

The government can deny unanimous consent if it so desires.

**The Chair (Mr. David Oraziotti):** Fair enough. Any further debate? Seeing none, all in favour of the motion—or is there unanimous consent to reopen—opposed? There is not unanimous consent, so we won't be reopening that.

We'll go back to schedule G, section 10: NDP motion number 89. Mr. Tabuns, if you want to go ahead with that.

**Mr. Peter Tabuns:** Withdrawn, Mr. Chair.

**The Chair (Mr. David Oraziotti):** Government motion number 90. Ms. Broten.

**Ms. Laurel C. Broten:** I move that clause 142.2(1)(a) of the Environmental Protection Act, as set out in section 10 of schedule G to the bill, be struck out and the following substituted:

“(a) a description of how engaging in the renewable energy project in accordance with the renewable energy approval will cause,

“(i) serious harm to human health, or

“(ii) serious and irreversible harm to plant life, animal life or the natural environment.”

**The Chair (Mr. David Oraziotti):** Any further comment? Questions? All in favour of the government motion? Opposed? The motion is carried.

Shall schedule G, section 10, as amended, carry? All in favour? Carried.

Sections 11 and 12: There are no amendments. Shall they carry? Carried.

Section 13, government motion number 91. Ms. Broten.

**Ms. Laurel C. Broten:** I move that subsections 145.2.1(2) to (5) of the Environmental Protection Act, as set out in section 13 of schedule G to the bill, be struck out and the following substituted:

“What tribunal must consider

“(2) The tribunal shall review the decision of the director and shall consider only whether engaging in the renewable energy project in accordance with the renewable energy approval will cause,

“(a) serious harm to human health; or

“(b) serious and irreversible harm to plant life, animal life or the natural environment.

“Onus of proof

“(3) The person who required the hearing has the onus of proving that engaging in the renewable energy project in accordance with the renewable energy approval will cause harm referred to in clause (2)(a) or (b).

“Powers of tribunal

“(4) If the tribunal determines that engaging in the renewable energy project in accordance with the renewable energy approval will cause harm referred to in clause (2)(a) or (b), the tribunal may,

“(a) revoke the decision of the director;

“(b) by order direct the director to take such action as the tribunal considers the director should take in accordance with this act and the regulations; or

“(c) alter the decision of the director, and, for that purpose, the tribunal may substitute its opinion for that of the director.

“Same

“(5) The tribunal shall confirm the decision of the director if the tribunal determines that engaging in the renewable energy project in accordance with the renewable energy approval will not cause harm described in clause (2)(a) or (b).”

**The Chair (Mr. David Oraziotti):** Any further discussion? All in favour? Opposed? Carried. Thank you.

Shall schedule G, section 13, as amended, carry? All in favour? Carried. Thank you.

Sections 14, 15, 16, 17, 18 and 19: There are no amendments. Shall they carry? Carried. Thank you.

Schedule G, section 20, government motion number 92. Ms. Broten.

**Ms. Laurel C. Broten:** I move that clause 176(4.1)(d) of the Environmental Protection Act, as set out in subsection 20(2) of schedule G to the bill, be struck out and the following substituted:

“(d) governing the location of renewable energy generation facilities, including prohibiting or regulating the construction, installation, use, operation or changing of renewable energy generation facilities in parts of Ontario;”

**The Chair (Mr. David Oraziotti):** Any further comment? All those in favour? Opposed? Carried.

Government motion number 93. Ms. Broten.

**Ms. Laurel C. Broten:** I move that subsection 176(9.1) of the Environmental Protection Act, as set out in subsection 20(3) of schedule G to the bill, be struck out and the following substituted:

“Regulations relating to part XIII

“(9.1) The Lieutenant Governor in Council may make regulations relating to part XIII,

“(a) governing procedures for hearings required under section 142.1 and for applications to stay the operation of a decision made in respect of a renewable energy approval;

“(b) providing that section 142.1 does not apply in respect of a renewable energy approval, or prescribing circumstances in which section 142.1 does not apply in respect of a renewable energy approval, if,

“(i) under part II or II.1 of the Environmental Assessment Act, the holder of the renewable energy approval is authorized to proceed with the renewable energy project or was authorized, immediately before part V.0.1 of this act came into force, to proceed with the project,

“(ii) pursuant to an exempting regulation made under the Environmental Assessment Act, a statement of completion in respect of the renewable energy project was filed with the director appointed under that act before part V.0.1 of this act came into force, or

“(iii) all the approvals, permits and other instruments required under this act and the Ontario Water Resources Act to engage in the renewable energy project were obtained before part V.0.1 of this act came into force.

“Same

“(9.2) A regulation made under clause (9.1)(a) may provide that it prevails over a provision of the Statutory Powers Procedure Act, despite anything in that act.”

**The Chair (Mr. David Oraziotti):** Any further comments? Those in favour? Opposed? Carried. Thank you.

Shall schedule G, section 20, as amended, carry? Carried. Thank you.

Sections 21, 22, 23, 24, 25 and 26: There are no amendments. Shall they carry? Carried. Thank you.

Schedule G, NDP notice. Mr. Tabuns, go ahead.

**Mr. Peter Tabuns:** The submission by Mark Winfield on the problems with this section was convincing. I don't think the fundamental problem we've had with siting renewable energy projects is the difficulty with environmental approvals. As he said it, the problem is consistency, policy and, frankly, a commitment to purchase the power. I would recommend, rather than removing environmental protection, that we vote against this section of the bill, and I'd like a recorded vote.

**The Chair (Mr. David Oraziotti):** Shall schedule G, as amended, carry?

#### Ayes

Brotten, Mauro, McNeely, Mitchell, Ramal, Yakabuski.

#### Nays

Tabuns.

**The Chair (Mr. David Oraziotti):** Thank you. The section is carried.

Schedule H, sections 1, 2 and 3: There are no amendments. Shall they carry? Carried. Thank you.

Government motion 95, schedule H, section 4. Ms. Mitchell.

1620

**Mrs. Carol Mitchell:** I move that section 4 of schedule H to the bill be amended by adding the following subsection:

“(0.1) Clause 75(1.2)(b) of the act, as re-enacted by subsection 1(18) of the Safeguarding and Sustaining Ontario's Water Act, 2007, is repealed and the following substituted:

“(b) governing the implementation of the provisions listed in subsection (1.3) and,

“(i) prescribing requirements that apply to the director under section 34.1 for the purpose of implementing the provisions listed in subsection (1.3) and specifying which decisions of the director that are subject to the prescribed requirements are also subject to sections 34.10 and 34.11, and

“(ii) prescribing requirements that apply to the director under section 47.5 of the Environmental Protection Act for the purpose of implementing the provisions listed in subsection (1.3) and specifying which decisions of the director that are subject to the prescribed requirements are also subject, with necessary modifications, to sections 34.10 and 34.11;”

**The Chair (Mr. David Oraziotti):** Thank you. Any further comment? Mr. Tabuns?

**Mr. Peter Tabuns:** Could you explain exactly what this does?

**Ms. Laurel C. Brotten:** Sure.

**Mr. Peter Tabuns:** That's not a trick question. I'd actually like to know what you're proposing.

**Ms. Laurel C. Brotten:** Sure. In 2005, Ontario, Quebec and the other Great Lakes states entered into the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement. In 2007, Safeguarding and Sustaining Ontario's Water Act was passed to satisfy Ontario's commitments under that agreement by amending the permit-to-take-water provisions under the Ontario Water Resources Act.

However, in the case under this act, where renewable energy approvals take water but do not transfer water between Great Lakes watersheds, Bill 150 proposes to replace the permit to take water with the new renewable energy approval.

This motion is necessary to ensure that when regulations are made under the Ontario Water Resources Act to implement aspects of the agreement, decisions in relation to the renewable energy approval can also be effected to ensure that water-takings in the Great Lakes basin are addressed in a manner that is consistent with Ontario's commitments under agreement. So it's to flow through our commitments under agreement now through to the new renewable energy approvals.

**The Chair (Mr. David Oraziotti):** Any further discussion? None? All those in favour? Opposed? Carried.

Shall schedule H, section 4, as amended, carry? Carried. Thank you.

Section 5, government motion number 96. Ms. Mitchell.

**Mrs. Carol Mitchell:** I move that section 5 of schedule H to the bill be amended by,

(a) striking out “Subject to subsection (2)” at the beginning of subsection (1) and substituting “Subject to subsections (2) and (3)”; and

(b) adding the following subsection:

“(3) Subsection 4(0.1) comes into force on the later of the following days:

“1. The day subsection 4(1) of schedule G to the Green Energy and Green Economy Act, 2009 comes into force.

“2. The day subsection 1(18) of the Safeguarding and Sustaining Ontario's Water Act, 2007 comes into force.”

**The Chair (Mr. David Oraziotti):** Thank you. Any further comment? All those in favour? Opposed? Carried. Thank you.

Shall schedule H, section 5, as amended, carry? Those in favour? Carried. Thank you.

NDP notice number 97: Mr. Tabuns speaking to this.

**Mr. Peter Tabuns:** It's the same argument that I've made with the repealing of the Environmental Protection Act. I don't think it's necessary, to actually deliver the changes we need.

**The Chair (Mr. David Oraziotti):** Thank you.

Voting on schedule H, as amended: All those in favour? Opposed? Carried.

Schedule I, sections 1 through to and including 8. There are no amendments. Shall they carry? Carried.

Shall schedule I carry? Carried.

Schedule J, section 1, government motion 98—

*Interjection.*

**The Chair (Mr. David Oraziotti):** Sorry, we have to go back to schedule I. We did 1 to 8, but apparently section 9 is missing here. There's a section 9. There are no amendments proposed. All those in favour of section 9? Shall it carry? Opposed? Carried.

Shall schedule I carry? Carried.

Schedule J, section 1, government motion 98. Ms. Mitchell.

**Mrs. Carol Mitchell:** I move that subsection 1(1) of schedule J to the bill be amended by striking out "energy conservation" and substituting "energy and water conservation".

**The Chair (Mr. David Oraziotti):** Any further comment? Those in favour? Opposed? Carried.

NDP motion 99. Mr. Tabuns.

**Mr. Peter Tabuns:** I move that subsection 1(2) of schedule J to the bill be amended by adding the following as subsection 34 (7) of the Building Code Act, 1992:

"Renewable energy technologies

"(7) Without limiting the scope of the reviews required by subsection (6), a primary purpose of the reviews is to ensure that the building code mandates the inclusion of renewable energy technologies in new buildings."

Very simply, if you're going to move forward in the direction we're moving on, just as Portugal has done and I believe Spain has done, we should be mandating the inclusion of renewable energy technologies into new buildings.

**The Chair (Mr. David Oraziotti):** Further comment? Ms. Broten.

**Ms. Laurel C. Broten:** Certainly, the intention behind this motion is appreciated. However, details as to how energy conservation in buildings should be enhanced are more appropriately left to the regulations, particularly given that the 2006 edition of the building code includes significantly higher energy conservation requirements, and under the new building code there is a building code energy advisory council.

**The Chair (Mr. David Oraziotti):** Mr. Tabuns, further comment?

**Mr. Peter Tabuns:** I would just note that if in the act, you're going to be mandating energy conservation and efficiency, it's entirely consistent to mandate inclusion of

renewable energy. They are not in conflict with each other. The argument that you've just made would say that you shouldn't be including energy conservation requirements in this legislation either.

**The Chair (Mr. David Oraziotti):** Any further comments? Okay. Motion 99, all those in favour? Opposed? The motion is defeated.

Motion 100. Mr. Tabuns?

**Mr. Peter Tabuns:** I move that subsection 1(2) of schedule J to the bill be amended by adding the following as subsections 34(8) and (9) of the Building Code Act, 1992:

"Enforcement re energy matters

"(8) The minister shall act to ensure enforcement of building code with particular regard to energy matters.

"Report

"(9) The minister shall report annually on the levels of enforcement of the building code."

As was noted to us in a presentation, I think on our last evening, by Mr. Bob Bach, there's a significant lack of enforcement of the building code, particularly with regards to energy efficiency. If in fact the government wants to meet the targets that it's set for energy efficiency and conservation and wants the building code to be a substantial instrument in these matters, enforcement is of consequence. We should be ensuring that part of the process of meeting our energy conservation goals is enforcing the adoption of those codes in buildings themselves.

**The Chair (Mr. David Oraziotti):** Ms. Broten?

**Ms. Laurel C. Broten:** The government does not accept this motion. Under the Building Code Act, 1992, municipalities are required to enforce the act and the building code, including the energy efficiency requirements. The Ministry of Municipal Affairs and Housing supports effective enforcement through the development of building code technical training and best practice guidelines, and the provision of information and advice about the building code.

**The Chair (Mr. David Oraziotti):** Motion 100: All those in favour? Opposed? The motion is lost.

Shall schedule J, section 1, as amended, carry? Carried.

Schedule J, section 2, NDP motion 101. Mr. Tabuns.

**1630**

**Mr. Peter Tabuns:** I move that section 34.1 of the Building Code Act, 1992, as set out in section 2 of schedule J to the bill, be amended by adding the following subsection:

"Renewable energy technologies

"(4) Without limiting the scope of clause (3)(a), the council's advice to the minister shall include recommendations in relation to ensuring that the building code,

"(a) mandates the inclusion of renewable energy technologies in new buildings; and

"(b) progresses towards achieving a net zero energy use for all buildings."

Again, if our goal is to move away from 20th-century technologies and move to a renewable century, we have

to be starting to reshape the building code to take buildings away from their dependence on fossil fuels. To the extent that a building can both generate and receive power and have no net impact on the grid, it is a huge advantage to our economy and our environment. It would show this government is quite progressive if in fact it adopted a net zero standard or goal for its building code.

**The Chair (Mr. David Oraziotti):** Ms. Broten?

**Ms. Laurel C. Broten:** Although the intention behind the motion is certainly appreciated, we do not want to take steps that would pre-empt the work of the new building code energy advisory council. If the bill is passed, the council would bring together a broad range of expertise to develop practical and implementable recommendations related to energy conservation in buildings, and we look forward to taking those steps.

**The Chair (Mr. David Oraziotti):** Any further comment?

**Mr. Peter Tabuns:** I'll make them in the speech on third reading.

**The Chair (Mr. David Oraziotti):** Okay. All those in favour of NDP motion 101? Opposed? The motion is defeated.

Shall schedule J, section 2, carry? Carried.

Schedule J, section 3: There are no amendments. Shall section 3 carry? Carried.

Shall schedule J, as amended, carry? Carried.

Schedule K, section 1, government motion 102. Ms. Broten.

**Ms. Laurel C. Broten:** I move that section 1 of schedule K to the bill be struck out and the following substituted:

"1. Subsection 1(1) of the Planning Act is amended by adding the following definitions:

"'renewable energy generation facility' has the same meaning as in the Electricity Act, 1998; ('installation de production d'énergie renouvelable')

"'renewable energy project' has the same meaning as in the Green Energy Act, 2009; ('projet d'énergie renouvelable')

"'renewable energy testing facility' has the same meaning as in the Green Energy Act, 2009; ('')

"'renewable energy testing project' has the same meaning as in the Green Energy Act, 2009; ('')

"'renewable energy undertaking' means a renewable energy generation facility, a renewable energy project, a renewable energy testing facility or a renewable energy testing project; ('')

**The Chair (Mr. David Oraziotti):** Any further comments? Seeing none, all those in favour? Opposed? The motion is carried.

Schedule K, section 1, a Conservative notice. Mr. Yakabuski.

**Mr. John Yakabuski:** The Progressive Conservative Party recommends voting against section 1 of schedule K to the bill. While setting provincial standards is practical and laudable, the provincial takeover of all municipal authority through official plans, municipal orders, agreements and bylaw controls in this area is unacceptable.

There should be an amendment for a province-wide official plan amendment, to be discussed with the Association of Municipalities of Ontario, with exceptions allowed for various reasons.

I know the government claims that their amendments will address these concerns, but how they attempt to do that and whether it will be acceptable remains to be seen, so we believe we should be voting against this section of the bill.

**The Chair (Mr. David Oraziotti):** We're voting on schedule K, section 1, as amended. All those in favour of schedule K, as amended? Opposed? It's carried.

Schedule K, section 2, government amendment 103. Ms. Mitchell.

**Mrs. Carol Mitchell:** I move that clause 50(3)(d.1) of the Planning Act, as set out in schedule K to the bill, be amended by striking out "40 years" and substituting "50 years".

**The Chair (Mr. David Oraziotti):** Further debate? All those in favour of government motion 103? Opposed? The motion is carried.

Number 104.

**Mrs. Carol Mitchell:** I move that clause 50(5)(c.1) of the Planning Act, as set out in subsection 2(2) of schedule K to the bill, be amended by striking out "40 years" and substituting "50 years".

**The Chair (Mr. David Oraziotti):** Further comment? All those in favour? Opposed? Carried. Thank you.

Shall schedule K, section 2, as amended, carry? Carried.

Government motion number 105.

**Mrs. Carol Mitchell:** I move that section 62.0.2 of the Planning Act, as set out in section 3 of schedule K to the bill, be struck out and the following substituted:

"Renewable energy undertakings

"Policy statements and provincial plans

"62.0.2(1) Despite any act or regulation, the following do not apply to a renewable energy undertaking, except in relation to a decision under section 28 or part VI:

"1. A policy statement issued under subsection 3(1).

"2. A provincial plan, subject to subsection (2).

"Exception

"(2) Subsection (1) does not apply in respect of,

"(a) the Niagara Escarpment plan;

"(b) another provincial plan, if the provincial plan is prescribed for the purposes of this subsection; or

"(c) a provision of another provincial plan, if the provision is prescribed for the purposes of this subsection.

"Official plans

"(3) For greater certainty, an official plan does not affect a renewable energy undertaking.

"Same

"(4) Section 24 does not apply to,

"(a) the undertaking of a public work that is a renewable energy undertaking or is intended to facilitate or support a renewable energy undertaking;

"(b) the passing of a by-law with respect to a public work described in clause (a); or

“(c) the passing of a by-law that is intended to facilitate or support a renewable energy undertaking.

“Demolition control area

“(5) A by-law passed under section 33 does not apply to a renewable energy undertaking.

“By-laws and orders under part V

“(6) A by-law or order passed or made under part V does not apply to a renewable energy undertaking.

“Transition, existing agreements

“(7) An agreement that is entered into under part V before the day subsection 4(1) of schedule G to the Green Energy and Green Economy Act, 2009 comes into force applies to a renewable energy project, and to any related renewable energy testing facility and renewable energy testing project, until the day a renewable energy approval is issued under section 47.5 of the Environmental Protection Act in relation to the renewable energy project.

“Development permit system

“(8) A regulation or by-law made or passed under section 70.2 does not apply to a renewable energy undertaking.

“City of Toronto Act, 2006, ss. 113, 114

“(9) A by-law passed under section 113 or 114 of the City of Toronto Act, 2006 does not apply to a renewable energy undertaking.

“Ontario Planning and Development Act, 1994, s. 17

“(10) An order made under section 17 of the Ontario Planning and Development Act, 1994 does not apply to a renewable energy undertaking.”

**The Chair (Mr. David Oraziotti):** Further comment? Mr. Yakabuski.

**Mr. John Yakabuski:** Could I have an explanation, Ms. Mitchell, with respect to—I know we had more than one submission come in concerning renewable energy projects on the Niagara Escarpment. Because I’m not one who writes these things, nor necessarily even understands them, can you tell me what these amendments mean? Because there is an exception for the Niagara Escarpment plan. What does this mean concerning renewable projects on the Niagara Escarpment?

1640

**Mr. Peter Tabuns:** Same question.

**The Chair (Mr. David Oraziotti):** Same question. Ms. Broten, go ahead.

**Ms. Laurel C. Broten:** Thank you. Through subsections 62.0.2(1) and (2) that replace the old 62.0.2, we will ensure that the provincial policy statement and provincial plans, other than the Niagara Escarpment plan and prescribed plans, do not apply to renewable energy undertakings, except in relation to decisions on community improvement plans. So it carries forward the intention to provide that exemption to the Niagara Escarpment plan and prescribed plans. They will be treated separately.

**The Chair (Mr. David Oraziotti):** Mr. Yakabuski, go ahead.

**Mr. John Yakabuski:** In the case of all other municipal plans, or other than those excepted, the Green

Energy Act will take precedence, but not in the case of the Niagara Escarpment plan?

**Ms. Laurel C. Broten:** That’s right.

**Mr. John Yakabuski:** Thank you.

**The Chair (Mr. David Oraziotti):** Any further comment?

Government motion number 105: All those in favour? Opposed? It’s carried.

Conservative motion 105.0.1 is being inserted here. Mr. Yakabuski.

**Mr. John Yakabuski:** I move that subsection 62.0.2(4) of the Planning Act, as set out in section 3 of schedule K to the bill, be struck out and the following substituted:

“By-laws, orders and agreements made under part V

“(4) A by-law, order or agreement made under part V does not apply to a renewable energy generation facility or renewable energy project, except as set out in subsection (4.1).

“Exception, solar farms and class 1, 2, 3 or 4 agricultural land

“(4.1) Subsection (4) does not affect a by-law or order made under part V that restricts or prevents the installation of solar farms on agricultural land in category 1, 2, 3 or 4 according to the Canada Land Inventory, national site database, Agriculture and Agri-Food Canada.”

This is as a result of the hearings and the concerns of the Ontario Federation of Agriculture that without some exemptions or protection, there would be solar farms erected on prime agricultural land in this province, and this amendment would preclude that.

**The Chair (Mr. David Oraziotti):** Thank you. Any further comment on this? Mr. Tabuns, go ahead.

**Mr. Peter Tabuns:** Just clarity from Mr. Yakabuski: The first part of the amendment is necessary in order to make the second part, the protection of agricultural land, work?

**Mr. John Yakabuski:** I’d have to defer to Mr. Nigro for that.

**Mr. Albert Nigro:** Not being an expert in the Planning Act, but as I do read the two sections, it seems to me that subsection (4.1) will not work without subsection (4,) because it creates the exception.

**Mr. Peter Tabuns:** Fine.

**Mr. John Yakabuski:** That’s the way I thought. In all my law training, that’s what I would have thought too.

**The Chair (Mr. David Oraziotti):** Any further comment? Conservative motion 105.0.1: All those in favour? Opposed? The motion is lost.

Conservative motion 105.1. Mr. Yakabuski.

**Mr. John Yakabuski:** I move that section 62.0.2 of the Planning Act, as set out in section 3 of schedule K to the bill, be struck out and the following substituted:

“Official plans and Green Energy and Green Economy Act, 2009

“62.0.2 The Minister and the Association of Municipalities of Ontario shall jointly develop a package of standard amendments to be made to all official plans in

order to align them with the Green Energy and Green Economy Act, 2009.”

We didn’t get what we wanted in the last one, so we’re hoping that this is a little softer and perhaps the government would have some compassion at this time and allow us to have at least one of our amendments approved.

**The Chair (Mr. David Oraziotti):** Ms. Broten?

**Ms. Laurel C. Broten:** I’m sorry to say to Mr. Yakabuski that the government will not be supporting his amendment, but we will establish a working group involving the Ministries of Municipal Affairs and Housing, Environment, Natural Resources, Energy and Infrastructure, and the Association of Municipalities of Ontario, to work towards our streamlined approvals process and to ensure that the municipalities are well-engaged in the Green Energy Act moving forward.

**The Chair (Mr. David Oraziotti):** Further comment? All those in favour of motion 105.1? All those in favour? Would you like to vote in favour of your motion? Okay. Opposed? The motion is lost.

Schedule K, section 3. Shall it carry, as amended?

*Interjection.*

**The Chair (Mr. David Oraziotti):** Pardon me?

**Mr. Peter Tabuns:** I think there are substantial problems with taking this much power out of the hands of municipalities. I’ve fought against NIMBY battles in my own riding and I’ve taken stands to get things through in my own riding. I think the government is making an error with this, I think they will regret it later, and I think that they could have strong municipal allies if they were willing to work with them, even to set provincial direction for them. They would be in better shape.

I’d call for a recorded vote against this section.

**The Chair (Mr. David Oraziotti):** A recorded vote has been asked for. Schedule K, section 3, as amended: Shall it carry? All those in favour?

*Interjection.*

**The Chair (Mr. David Oraziotti):** If you want to comment again, go ahead.

**Mr. John Yakabuski:** There are no opportunities to comment on this motion, on this notice.

**The Chair (Mr. David Oraziotti):** It’s not a motion. There’s nothing on the floor at this point. Mr. Tabuns wanted to offer comment. If you’d like to offer additional comment, go ahead.

**Mr. John Yakabuski:** Well, we share the concerns. We heard repeatedly during the hearings about the concern from municipalities, and we asked the question about whether or not they were concerned that this was still too much power on the Minister of Energy and Infrastructure. Almost unanimously, municipalities agreed that they were very concerned about this kind of power being put in the hands of one person.

The third party’s motion is something that we think the government should be reconsidering—the whole premise of removing the power of municipalities to make

decisions on behalf of the people who elect them at the most local level. We think they are making a mistake.

**The Chair (Mr. David Oraziotti):** Further comment? Okay, a recorded vote has been called for.

#### Ayes

Broten, Mauro, McNeely, Mitchell, Ramal.

#### Nays

Tabuns, Yakabuski.

**The Chair (Mr. David Oraziotti):** Section 3 is carried.

Schedule K, section 4 has no amendments. Shall it carry? Carried.

Shall schedule K, as amended, carry? Carried.

Schedule L, section 1. There are no amendments. Shall it carry? Carried. Thank you.

Schedule L, section 2. NDP notice 106. Mr. Tabuns.

**Mr. Peter Tabuns:** My concern is removing the power of the conservation authorities. Frankly, they are charged with protecting the public and the installations and the infrastructure that we put in place from flooding. I would say that removal of their powers is not to our advantage.

Again, I think if you’re going to properly protect the renewable energy installations and make sure that there are conservation activities to protect against flooding and to protect local natural areas, they shouldn’t be subjected to a removal in this act.

**The Chair (Mr. David Oraziotti):** Thank you. Any further comment? Ms. Broten, go ahead.

**Ms. Laurel C. Broten:** The government will ensure the protection of human health and the natural environment, including natural heritage values, through the new streamlined approval process. Conservation authorities under the act will continue to have authority to issue permits with respect to wetlands and natural hazard lands.

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**The Chair (Mr. David Oraziotti):** Any further comment? Seeing none, shall schedule L, section 2 carry? Carried.

Schedule L, sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14—no amendments. Shall they carry? Carried.

Schedule L, section 15, Conservative amendment 106.1. Mr. Yakabuski.

**Mr. John Yakabuski:** Given that I don’t know the act—and Ms. Broten may be able to explain it to me; I don’t know, but we’ll go ahead and go through it. I don’t know the details of the Niagara Escarpment Planning and Development Act, and I’m not sure what briefing you folks have had on it.

I move that subsection 19(2.1) of the Niagara Escarpment Planning and Development Act, as set out in subsection 15(2) of schedule L to the bill, be struck out and the following substituted:

“Renewable energy projects, minimum setback

“(2.1) On the day the Green Energy Act, 2009 comes into force, the Niagara Escarpment plan is amended to require a minimum set back of at least two kilometres in respect of renewable energy projects, as defined in that act.”

**The Chair (Mr. David Oraziotti):** Any further comment? Ms. Broten?

**Ms. Laurel C. Broten:** Currently, the Niagara Escarpment plan does allow for renewable energy projects under the definition of “utility.” The policies of the Niagara Escarpment plan and the authority of the Niagara Escarpment Commission are not altered by the Green Energy Act. Both environmental and visual values will continue to be applied when considering proposals in the plan area.

**The Chair (Mr. David Oraziotti):** Further comment? Mr. Yakabuski?

**Mr. John Yakabuski:** Does your previous amendment, which we talked about earlier, take care of this concern? It allows them the latitude to adjust their act?

**Ms. Laurel C. Broten:** The Niagara Escarpment Commission continues to have responsibility under their act. However, you would note that it is the Ministry of the Environment that is currently on a consultation to establish province-wide minimum setback standards and regulations regarding renewable energy projects, and that process is continuing.

**Mr. John Yakabuski:** But the Niagara Escarpment is exempt. The Niagara Escarpment act, based on the amendment you brought earlier, is exempt.

**Ms. Laurel C. Broten:** The Niagara Escarpment Commission will continue to have responsibility for their own plan area.

**Mr. John Yakabuski:** Okay, thank you.

**The Chair (Mr. David Oraziotti):** Further comment? Seeing none, all those in favour of Conservative amendment 106.1? Opposed? The motion is lost.

Motion 106.2: Mr. Yakabuski, go ahead.

**Mr. John Yakabuski:** I move that section 15 of schedule L to the bill, amending section 19 of the Niagara Escarpment Planning and Development Act, be amended by striking out subsection (3).

This amendment was requested by Sylvia Jones’ constituents. The purpose of the Niagara Escarpment Planning and Development Act and the plan is to provide for the maintenance of the Niagara Escarpment and land in its vicinity, substantially as a continuous natural environment, and to ensure only such development occurs as is compatible with that natural environment.

**The Chair (Mr. David Oraziotti):** Further comment? Ms. Broten?

**Ms. Laurel C. Broten:** As I said in response to the previous motion, in reviewing renewable energy projects, the Niagara Escarpment Commission will ensure that it upholds the intent of the Niagara Escarpment plan while balancing the need for a reliable and sustainable supply of electricity for the future.

**Mr. John Yakabuski:** Does that mean you’re voting against it?

*Interjection.*

**Mr. John Yakabuski:** It’s a total shutout. I’m just shocked.

**The Chair (Mr. David Oraziotti):** Any further comments? Seeing none, all those in favour of Conservative motion 106.2? Opposed? The motion is lost.

Schedule L, section 15: Shall it carry? Carried.

Schedule L, section 16: There are no amendments. Shall it carry? Carried.

NDP motion number 107 to insert a new section: schedule L, 16.1. Mr. Tabuns.

**Mr. Peter Tabuns:** I move that schedule L to the bill be amended by adding the following section:

“16.1 Subsection 25(12) of the act is amended by striking out ‘and’ at the end of clause (a), adding ‘and’ at the end of clause (b) and by adding the following clause:

“(c) the decision of the delegate is not related to a renewable energy project.”

It essentially leaves the powers in place of the Niagara Escarpment Commission to review renewable energy development. I think it is reasonable, given their historic performance, to leave them with those powers.

**The Chair (Mr. David Oraziotti):** Thank you. Any further comment? Ms. Broten?

**Ms. Laurel C. Broten:** The government does not support this amendment. We will continue to work with the Niagara Escarpment Commission. We need to maintain the flexibility provided by this section, as currently drafted, to ensure an appropriate decision-making structure for development in the Niagara Escarpment planning area and to support the existing protection provided by the Niagara Escarpment plan.

**The Chair (Mr. David Oraziotti):** Any further comment? Seeing none, shall schedule L, section 16.1, carry?

*Interjections.*

**The Chair (Mr. David Oraziotti):** It’s NDP motion number 107. It’s to insert the new section. Shall schedule L, section 16.1—the new amendment, 107—carry? Opposed? The motion does not carry.

Schedule L, sections 17, 18 and 19: There are no amendments. Shall sections 17, 18 and 19 carry? Carried.

Section 20, NDP notice 108. Mr. Tabuns.

**Mr. Peter Tabuns:** The NDP recommends voting against section 20 of schedule L to the bill.

The provision would effectively downgrade the approval requirement for electricity generation projects within protected areas. This provision applies to electricity projects of all types, not just renewable energy. I have to ask the government to consider the fact that they’re opening it up to non-renewable energy projects.

**The Chair (Mr. David Oraziotti):** Any further comment? Ms. Broten.

**Ms. Laurel C. Broten:** The changes proposed in Bill 150 to the Provincial Parks and Conservation Reserves Act are being put in place, as we have said on many occasions, to expedite approvals for important renewable energy projects while still ensuring the protection of our provincial parks and conservation reserves. Renewable energy projects permitted in provincial parks and

conservation reserves for use within communities not connected to the IESO grid are important, as they offer a sustainable energy form for communities that are often relying on fossil fuels like diesel for their electricity. Accordingly, we can't support the NDP motion.

**The Chair (Mr. David Oraziotti):** Any further comment? Shall schedule L, section 20, carry? Carried.

NDP notice 109, section 21. Mr. Tabuns.

**Mr. Peter Tabuns:** We recommend voting against section 21 of schedule L to the bill. It's essentially the same argument that I had made with the previous section.

**The Chair (Mr. David Oraziotti):** Any comments? Mr. Yakabuski?

**Mr. John Yakabuski:** Absolutely. This is going to be the last chance. We're just about to wrap it up, aren't we?

You actually had one amendment approved, didn't you, Peter?

**Mr. Peter Tabuns:** If I dig through, I might find one.

**Mr. John Yakabuski:** I wanted to congratulate you on that because that's a significant victory in a room such as this, which is dominated by government members who

are unwilling to listen to the wise counsel of the opposition. So I do congratulate you. I don't know how you managed to do it, but I'm proud of you.

**The Chair (Mr. David Oraziotti):** Any further comment?

**Mr. John Yakabuski:** That was the end of my comment.

**The Chair (Mr. David Oraziotti):** Thank you. Shall schedule L, section 21, carry? Carried.

Schedule L, section 22, through and including section 25: There are no amendments. Shall they carry? Carried.

We need to go back to those first three sections that we held off on until we went through all of the schedules.

Shall sections 1, 2 and 3 of the bill carry? Carried.

Shall the title of bill carry? Carried.

Shall Bill 150, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

Thank you. The committee is adjourned.

*The committee adjourned at 1657.*

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