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**Official Report
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Monday 23 November 2009

**Journal
des débats
(Hansard)**

Lundi 23 novembre 2009

**Standing Committee on
General Government**

Environmental Protection
Amendment Act (Greenhouse
Gas Emissions Trading), 2009

**Comité permanent des
affaires gouvernementales**

Loi de 2009 modifiant la Loi sur
la protection de l'environnement
(échange de droits d'émission
de gaz à effet de serre)

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Monday 23 November 2009

Lundi 23 novembre 2009

The committee met at 1406 in room 151.

**ENVIRONMENTAL PROTECTION
AMENDMENT ACT (GREENHOUSE GAS
EMISSIONS TRADING), 2009**

**LOI DE 2009 MODIFIANT LA LOI SUR
LA PROTECTION DE L'ENVIRONNEMENT
(ÉCHANGE DE DROITS D'ÉMISSION
DE GAZ À EFFET DE SERRE)**

Consideration of Bill 185, An Act to amend the Environmental Protection Act with respect to greenhouse gas emissions trading and other economic and financial instruments and market-based approaches / Projet de loi 185, Loi modifiant la Loi sur la protection de l'environnement en ce qui concerne l'échange de droits d'émission de gaz à effet de serre ainsi que d'autres instruments économiques et financiers et approches axées sur le marché.

The Chair (Mr. David Oraziatti): Committee members, welcome back to the Standing Committee on General Government. We left off clause-by-clause at Conservative motion number 16, so I'll leave it with Mr. Barrett, if you would like to get started and move that motion for us.

Mr. Toby Barrett: I move that subsection 2(2) of the bill be amended by adding the following subsection to section 176.1 of the Environmental Protection Act:

“Competitive disadvantage

“(8) A regulation under this section that relates to greenhouse gases shall not be made unless the government of Ontario has established a program to assist persons who may be subject to a disproportionate competitive disadvantage as a result of the regulation.”

The concern here, certainly with the proposed bill itself, is putting the province of Ontario out in front of the pack compared to most of the jurisdictions that we do business with, and that we run that far ahead and we turn around and find out that we have implemented legislation, let alone implemented regulation, that would hamper economic activity within the province unfairly compared to other jurisdictions that may well not have legislation or regulation to hamper their economic activity for the purpose of cap-and-trade and dealing with climate change.

There are concerns too around litigation, retaliatory tariffs. This conceivably could be the other side of the

issue, where certain jurisdictions—perhaps Japan, perhaps the United States—have brought forward legislation and perceive that the province of Ontario, or Ontario within the Dominion of Canada, is not up to snuff, so to speak, does not have legislation of the calibre of legislation that they have. Ontario could be perceived as not having the allowances or the offsets to diminish greenhouse gases, and hence could be subject to retaliatory action with respect to international trade—could be subject to tariffs, for example.

Again, I'm just opening the question of, where is government if we were to find that our trade was embargoed with respect to certain other jurisdictions that may perceive themselves to be far ahead of the province of Ontario as far as implementing cap and trade?

The Chair (Mr. David Oraziatti): Ms. Jaczek, your comments?

Ms. Helena Jaczek: We won't be able to support PC motion 16. We certainly do share some of the concerns that Mr. Barrett has raised, but we feel these are very well addressed by government motion 19 in ensuring that auction revenues for greenhouse gas reduction purposes will be used to help industries invest in transformative technologies, programs, infrastructure, and in so doing will in fact create some new jobs. So although Ontario is certainly out with groups such as the Western Climate Initiative, we don't feel that we are way out ahead of the pack in any way at all. We're working in concert.

To a certain extent, though, we are happy to be a leader in this regard, certainly as it compares with some other jurisdictions. So we will not be supporting PC motion 16.

The Chair (Mr. David Oraziatti): Any further comments? All those in favour of Conservative motion 16? Opposed? The motion's lost.

We'll move to Mr. Tabuns, NDP motion 17.

Mr. Peter Tabuns: I move that subsection 2(2) of the bill be amended by adding the following subsection to section 176.1 of the Environmental Protection Act:

“Same

“(9) Any amount paid to the crown in right of Ontario from the distribution of financial instruments under the regulations made under clause (4)(a) shall be used for the following purposes, in the following order of priority:

“1. First, to support transition by persons and other bodies away from fossil fuel use.

"2. Second, to support a just transition for workers affected by the phasing out of fossil fuels.

"3. Third, to assist people whose livelihood has been negatively affected by climate change, including but not limited to farmers and victims of extreme weather."

The Chair (Mr. David Oraziotti): Thanks, Mr. Tabuns, for that. However, this motion is out of order as it involves the expenditure of money. Standing order 57, and for the benefit of members: "Any bill, resolution, motion or address, the passage of which would impose a tax or specifically direct the allocation of public funds, shall not be passed by the House unless recommended by a message from the Lieutenant Governor, and shall be proposed only by a minister of the crown." So I have to rule that motion out of order.

Conservative motion 18, Mr. Barrett.

Mr. Toby Barrett: I move that subsection 2(2) of the bill be amended by adding the following subsection to section 176.1 of the Environmental Protection Act:

"Technology fund

"(9) A regulation under this section that relates to greenhouse gases shall not be made unless the government of Ontario has established a technology fund to assist in,

"(a) moderating the cost of new technology to reduce greenhouse gas emissions; and

"(b) directing investment to the development of new technology to reduce greenhouse gas emissions."

I'm not sure if—do I continue discussion on this?

The Chair (Mr. David Oraziotti): If you want to add a further explanation on your motion, you can; otherwise I'll ask the government or any other members if they'd like to speak.

Mr. Toby Barrett: Very simply, if this government is serious about reducing greenhouse gas emissions, then it's fine to bring in this proposed legislation, to bring in regulation, to bring in all kinds of rules and red tape and forms to fill out, and to move money around. But we think it's important—and I know several deputants called for this, the creation of a technology fund, where the government, which would be the recipient of funding through this process, must also play a role in setting aside funds for research, development and the implementation of technologies. I certainly talked about carbon capture and storage in the past as one example that, at minimum, requires research and requires a look at.

The Chair (Mr. David Oraziotti): Thank you, Mr. Barrett. Ms. Jaczek, any comments?

Ms. Helena Jaczek: Simply to say that we believe that government motion 19 addresses some of the concerns the member has raised, and that has been duly accepted.

The Chair (Mr. David Oraziotti): Any further comment? Conservative motion 18, all those in favour? Opposed? The motion is lost.

Motion 19 has been dealt with.

Motion 20: Mr. Barrett, go ahead.

Mr. Toby Barrett: I move that subsection 2(2) of the bill be amended by adding the following subsection to section 176.1 of the Environmental Protection Act:

"No tax

"(10) A regulation under this section that relates to greenhouse gases shall not impose a tax on persons who emit greenhouse gases."

We do know that at the federal level—the federal opposition at the time, Stéphane Dion—there was a great deal of discussion with respect to a carbon tax. As I recall, a number of deputants and submissions that this committee received advocated a carbon tax rather than a cap-and-trade system. A carbon tax is normally very transparent, much more so than, say, the cap-and-trade system, about which there's a concern that it could set up a system for what in effect would be a hidden tax.

Again, whether it's a carbon tax or cap and trade or cap and tax, it does get muddled after a while. When the choice is being made between a cap-and-trade system and a carbon tax system, I feel it's important for an amendment, if this bill were to pass, where the province of Ontario—the government—does not put itself in a position where it could have a double impact on those businesses, manufacturers and the economy under the guise of diminishing greenhouse gas or under the guise of environmentalism.

The Chair (Mr. David Oraziotti): Ms. Jaczek.

Ms. Helena Jaczek: Again, government motion 19 has addressed some of these concerns. Our amendment would create a special-purpose account, specifying that auction revenues would be directed toward greenhouse gas reduction, particularly in the capped sectors.

This approach definitely would not impose a tax and, we believe, is consistent with many of the comments we've received from industry and other stakeholders. So we will not be supporting this motion.

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

Conservative motion number 20: All those in favour? Opposed? The motion is lost.

Mr. Barrett, number 21 is yours as well.

Mr. Toby Barrett: I move that subsection 2(2) of the bill be amended by adding the following subsection to section 176.1 of the Environmental Protection Act:

"Consultation

"(11) A regulation that relates to greenhouse gases shall not be made under this section unless the minister has engaged in transparent public consultation on the final draft of the regulation."

Very simply, the purpose of this amendment is to provide a guarantee to people in Ontario that there would be full public consultation, which would include elected members of the Legislative Assembly, before this legislation is allowed to be implemented and before the final draft of a regulation is implemented. That would entail public hearings pulling together a committee and having some elected members on that committee.

The Chair (Mr. David Oraziotti): Ms. Jaczek.

Ms. Helena Jaczek: We don't believe this motion needs to be included in Bill 185. We have consulted very, very broadly to date, and we intend to continue that kind of consultation. There have been two discussion papers and direct engagement with stakeholders in the various sectors. The Environmental Bill of Rights registry actually requires this type of consultation, and this is precisely what we have been doing. In fact, we heard from a number of deputants that they were very pleased with the amount of consultation. So we feel that our actions to date have been all that is required, and we intend to continue this type of broad consultation.

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

Conservative motion number 21: All those in favour? Opposed? The motion is lost.

The last remaining motion, number 22, is yours as well, Mr. Barrett.

Mr. Toby Barrett: The motion is somewhat an extension of the last proposal.

I move that subsection 2(2) of the bill be amended by adding the following subsection to section 176.1 of the Environmental Protection Act:

“Approval of Assembly

“(12) A regulation under this section that relates to greenhouse gases is not effective unless it has been approved by a resolution of the Legislative Assembly.”

We feel that this is important to ensure, again, that elected members have a say in the regulation stage of this legislation, given that, as we know, this is enabling legislation. It's only a page and a half, as opposed to the House of Representatives legislation, which is well over 1,000 pages and pretty well maps out—and mapped out for the Senate—exactly where the elected members were going with that one.

As far as the actual marching orders of this legislation, we feel it is important, given the impact of this, that we have Legislative Assembly approval of any regulation that comes out of this fairly vague legislation. Without that, the concern is that you're giving somebody a blank cheque.

The Chair (Mr. David Oraziotti): Ms. Jaczek, go ahead.

Ms. Helena Jaczek: As I've already stated, we intend to keep the dialogue open, in terms of discussing the content of regulations with our stakeholders. Of course, the Legislature does grant the government authority through legislation to write regulations. With this type of consultation and making sure we're working in concert with jurisdictions in the US, we're confident that we will have some excellent legislation through this process.

The Chair (Mr. David Oraziotti): Comments?

Mr. Toby Barrett: A recorded vote, when we get to that stage.

The Chair (Mr. David Oraziotti): Any further comments? A recorded vote has been called for on Conservative motion 22.

Ayes

Barrett.

Nays

Balkissoon, Jaczek, Kular, Mauro, Moridi, Tabuns.

The Chair (Mr. David Oraziotti): The motion is lost. Shall section 2, as amended, carry? All those in favour? Opposed? Carried.

Shall sections 3 and 4, with no amendments, carry? Carried.

Shall the preamble carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 185, as amended, carry? Carried.

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

Thank you. That concludes hearings on Bill 185 and clause-by-clause. The committee is adjourned.

The committee adjourned at 1423.

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