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Monday 30 April 2012

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Lundi 30 avril 2012

**Standing Committee on
General Government**

Ontario One Call Act, 2012

**Comité permanent des
affaires gouvernementales**

Loi de 2012 sur Ontario One Call

Chair: David Oraziotti
Clerk: Sylwia Przedziecki

Président : David Oraziotti
Greffière : Sylwia Przedziecki

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Monday 30 April 2012

Lundi 30 avril 2012

The committee met at 1414 in room 228.

ONTARIO ONE CALL ACT, 2012

LOI DE 2012 SUR ONTARIO ONE CALL

Consideration of the following bill:

Bill 8, An Act respecting Ontario One Call Ltd. /
Projet de loi 8, Loi sur Ontario One Call Ltd.

The Chair (Mr. David Oraziotti): Okay, folks. Good afternoon. Welcome back to the Standing Committee on General Government. We're going to go through clause-by-clause for Bill 8, An Act respecting Ontario One Call Ltd. I don't know if there's any other business we need to do other than start on the first motion.

Conservative motion: I guess we can start with that. Mr. Bailey, if you want—unless there's any other comments of the committee?

Mr. Robert Bailey: Yes. I move that the definition of "corporation" in section 1 of the bill be struck out and the following substituted:

"'Corporation' means the corporation continued under subsection 2(1)."

This amendment would be necessary, according to legislative counsel or the lawyers from the Leg., as Ontario One Call Ltd. becomes a not-for-profit corporation with the drafting of my original bill.

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

Mr. Paul Miller: Could we have a recorded vote on these, please?

The Chair (Mr. David Oraziotti): On number 1?

Mr. Paul Miller: On all of them.

The Chair (Mr. David Oraziotti): Okay.

Mr. Paul Miller: Thank you.

The Chair (Mr. David Oraziotti): Any further comment on Conservative motion number 1? Okay. A recorded vote has been called for.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

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

Conservative motion number 2. Mr. Bailey, go ahead.

Mr. Robert Bailey: Mr. McDonell.

Mr. Jim McDonell: I move that section 1 of the bill be amended by adding the following definition:

"'excavator'" means any individual, partnership, corporation, public agency or other person or entity that digs, bores, trenches, grades, excavates, moves or breaks earth, rock or the materials in the ground, and 'excavation' has a corresponding meaning."

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

Mr. Robert Bailey: Yes. This amendment, Mr. Chair, would clarify the bill. It affects those who plan to excavate or dig into the ground to remove the earth, whether they're homeowners, landowners or excavating companies etc. It would just clarify who those people affect.

The Chair (Mr. David Oraziotti): Okay. Further comment on motion 2? Ms. Mangat?

Mrs. Amrit Mangat: No, no.

The Chair (Mr. David Oraziotti): A recorded vote has been called for on Conservative motion 2.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Mr. Miller, sorry, just to clarify: You had requested recorded votes on the motions that are before us. Do you want a recorded vote as well on the section? So if I say here now, "Shall section 1, as amended, carry?", do you want a recorded vote on that or just a show of hands on it?

Mr. Paul Miller: I guess that would be okay to just show hands, but the whole section—if somebody votes against the whole section, that certainly should be—

The Chair (Mr. David Oraziotti): Okay.

Mr. Paul Miller: So I think a recorded vote on everything would be appropriate.

The Chair (Mr. David Oraziotti): Okay, shall section 1, as amended, carry?

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): That's carried. Thank you.

Conservative motion number 3, Mr. Bailey.

Mr. Robert Bailey: I move that subsections 2(1), (2) and (3) of the bill be struck out and the following substituted:

“Ontario One Call continued

“2(1) Ontario One Call, continued under the Corporations Act, is continued as a corporation without share capital.

“Letters patent revoked

“(2) The letters patent issued to continue the corporation are revoked, but the revocation does not affect the rights or obligations of the corporation or any by-law, resolution or appointment of the corporation except to the extent that the by-law, resolution or appointment is inconsistent with this act.”

This amendment was necessary according to our legislative counsel, who is present today, as Ontario One Call Ltd. becomes a not-for-profit corporation with the drafting of the original bill.

The Chair (Mr. David Oraziotti): Okay, thank you. Any further comment on motion 3? Seeing none, a recorded vote is called for.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): The motion is carried.

Shall section 2, as amended, carry? Recorded vote.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): That’s section 2 carried, as amended.

Section 3, Conservative motion number 4, Mr. McDonell.

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Mr. Jim McDonell: I move that subsection 3(1) of the bill be struck out and the following substituted:

“Objects

“3(1) The following are the objects of the corporation:

“1. To operate a call system to receive excavator requests for the location of underground infrastructure within Ontario.

“2. To identify for excavators whether underground infrastructure is located in the vicinity of a proposed excavation or dig site.

“3. To notify a member of the corporation of proposed excavations or digs that may affect the underground infrastructure of the member.

“4. To raise public awareness of the corporation and the need for safe digging.”

This amendment is to change “call centre” to “call system,” clarifying the language. It is intended to clarify

that the bill requires a single province-wide phone number and system to call before you dig. However, it allows for multiple call centres under the Ontario One Call umbrella.

The Chair (Mr. David Oraziotti): Thank you. Further debate? Seeing none, a recorded vote.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Carried.

Shall section 3, as amended, carry? Recorded vote.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Carried. Thank you, folks.

Conservative motion number 5: Mr. Yurek, go ahead.

Mr. Jeff Yurek: I move that subsection 4(1) of the bill be amended by striking out “query regarding” and substituting “request for”.

The amendment is recommended to clarify the language. It uses “request” uniformly throughout the bill.

The Chair (Mr. David Oraziotti): Any further debate or comment? Recorded vote on Conservative motion number 5.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Okay, that’s carried.

Conservative motion number 6: Mr. Yurek, go ahead.

Mr. Jeff Yurek: I move that subsection 4(2) of the bill be amended by “call centre’s” and substituting “call system’s.”

That’s to change “call centre” to “call system” and clarify the language.

The Chair (Mr. David Oraziotti): Any further comment on number 6? A recorded vote is called for.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Okay, that’s carried.

Mr. Paul Miller: Mr. Chair?

The Chair (Mr. David Oraziotti): Yes, sir.

Mr. Paul Miller: This is our motion and there's just a small typo here we'd like to change. We ask to change it to "municipality of Sudbury."

Ms. Sarah Campbell: Yes, she's coming around with it.

Mr. Paul Miller: She's bringing it now?

Ms. Sarah Campbell: Yes.

Mr. Paul Miller: It's just a slight change on the name.

The Chair (Mr. David Oraziotti): The NDP motion to add a new section here, 6.1, so I'll let you read it into the record. Go ahead, Ms. Campbell.

Ms. Sarah Campbell: I move that section 4 of the bill be amended by adding the following subsections:

"Call centre in northern Ontario

"(3) The corporation shall operate, as part of its call system, at least one call centre located in northern Ontario.

"Definition

"(4) In subsection (3),

"Northern Ontario' means the territorial districts of Algoma, Cochrane, Kenora, Manitoulin, Nipissing, Parry Sound, Rainy River, Sudbury, Thunder Bay and Timiskaming and the city of Greater Sudbury;"

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

Mr. Michael Coteau: Mr. Chair, what was the actual change? It looks like Sudbury is scratched, and "Sudbury" is replaced with "Sudbury." What's the actual change?

The Chair (Mr. David Oraziotti): Go ahead.

Mr. Paul Miller: In the original amendment, it did not say "the city of Greater Sudbury," which would be the Nickel Belt area, right? It didn't include that. So it's Sudbury, basically, plus the city of Greater Sudbury, which would include Nickel Belt.

Mrs. Amrit Mangat: But it does say "Greater Sudbury."

Mr. Michael Coteau: This is the amended piece.

The Chair (Mr. David Oraziotti): The original had "regional municipality of Sudbury"?

Ms. Sarah Campbell: That's right, yes.

Mr. Paul Miller: Yes.

The Chair (Mr. David Oraziotti): And you want it to read "the city of Greater Sudbury"?

Mr. Michael Coteau: Sorry, this is a bit misleading—

Mr. Paul Miller: City of Greater Sudbury.

The Chair (Mr. David Oraziotti): The city of Greater Sudbury. Okay.

Mr. Paul Miller: Yes, it's just a slight change.

The Chair (Mr. David Oraziotti): Any further comment on this particular motion that we're on? Any further comment? Okay, a recorded vote has been called for.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Okay, that's carried.

Just before we carry this section as amended, if that's the will of the committee, the clerk has alerted me to one of the previous motions that we've just dealt with here that Mr. Yurek read into the record, number 6. If you want to take a look at that, it looks like we have missed a couple of words that need to be added into this amendment:

"I move that subsection 4(2) of the bill be amended by striking out 'call centre's' and substituting 'call system's.'" "Striking out" was not included, so we're going to amend that, if that's okay with committee, add that in, and call for a recorded vote on the amended motion.

All those in favour of the amended motion for number 6?

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Okay, that's carried.

That's all of the amendments in this section. Shall section 4, as amended, carry?

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Okay, that's carried.

Section 5, Conservative motion: Mr. Bailey.

Mr. Robert Bailey: Yes, I move that subsection 5(1) of the bill be amended by striking out the portion before paragraph 1 and substituting the following:

"(1) A person or entity described in one or more of the following paragraphs is a member of the corporation if the person or entity owns or operates underground infrastructure."

Mr. Chair, an explanation of this: This amendment removes the time requirement and moves it to a latter part of the bill. If we go to amendments under subsection 5(2), it explains that in a little more detail. It's house-keeping language.

The Chair (Mr. David Oraziotti): All right. Any further comment on motion 7? Recorded vote.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Carried.

Conservative motion number 8.

Mr. Robert Bailey: I move that paragraph 7 of subsection 5(1) of the bill be struck out.

The reason for this, Mr. Chair: This was removed as it is included by what is said in paragraph 8 of subsection 5(1), and it was deemed repetitive.

The Chair (Mr. David Oraziatti): Okay. Any further comment on Conservative motion number 8? Ms. Mangat.

Mrs. Amrit Mangat: Our comment is supportive of reducing hits to underground infrastructure. Safety is our number one priority. Having said that, this bill has major public safety issues, especially when gas lines are involved; they are the greatest public safety risk. When hit, it poses a safety risk. It would also cause municipalities concern as well. The gas industry is the main proponent of the bill and the prime defender of the corporation.

The Chair (Mr. David Oraziatti): Okay. Mr Bailey has indicated that there's a duplication on this section, is that—

Mr. Robert Bailey: Yeah, if we left in paragraph 7, from my understanding, it would require anyone with a propane line under their own property to join as full members of Ontario One Call. An example would be gas stations etc. All other gas and oil pipeline companies are already covered by paragraphs 6 and 8.

The Chair (Mr. David Oraziatti): Mr. Miller, do you want to elaborate? It sounds like there was a concern raised around exemption of gas companies.

Mr. Paul Miller: There's no exemption. Actually, it's covered in 6 and 8. Except this one is repetitive, so the concern was, as Mr. Bailey spoke about, private property and who would be responsible for that situation. We certainly didn't want to make private property owners, whether it be farmers or anybody, have to join the system, because it will be covered under the person who's doing the digging.

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So if they come onto your property and do the work, they are responsible. That's covered in 11. When you guys were looking at 10, 11 and 12, that's covered there. It was repetitive, so we simply want to delete it.

The Chair (Mr. David Oraziatti): Okay. Any further comment on number 8?

Mr. Paul Miller: Mr. Chair, sorry—18 may have been the same thing. They had shown concerns about 8 and 18. I think it's in the same ballpark, and they're covered by other amendments that go hand in hand later on, that cover that. So when we get to 18, it may be omitted as well. I'm not sure what Mr. Bailey wants to do on that one.

Mr. Robert Bailey: I haven't got that far yet.

The Chair (Mr. David Oraziatti): Okay. Any further comment on 8? A recorded vote has been called for.

Ayes

Bailey, Campbell, McDonell, Paul Miller, Yurek.

Nays

Coteau, Dickson, Mangat.

The Chair (Mr. David Oraziatti): The motion is carried.

Section 5, subsection (2), Conservative motion 9: Mr. McDonell. Go ahead.

Mr. Jim McDonell: I move that subsection 5(2) of the bill be struck out and the following substituted:

“Members to provide information

“(2) A member of the corporation shall provide, at the time or times specified in the regulations, such information to the corporation as is necessary for the corporation to fulfil its objects.

“When current persons or entities to become members

“(3) Subject to subsection (4), if, on the day this act comes into force, a person or entity described in subsection (1) is not a member of the corporation, the person or entity is deemed to become a member on the first anniversary of that day, unless admitted to membership before that day.

“When current municipalities to become members

“(4) If, on the day this act comes into force, a municipality described in paragraph 1 of subsection (1) is not a member of the corporation, the municipality is deemed to become a member on the second anniversary of that day, unless admitted to membership before that day.

“When current members to provide initial information

“(5) A person or entity who becomes a member of the corporation under subsection (3) or (4) shall provide, immediately upon the person or entity becoming a member, such initial information to the corporation as is necessary for the corporation to fulfil its objects.”

The Chair (Mr. David Oraziatti): Thank you. Any further comment, further debate, on motion 9?

Mr. Jim McDonell: The amendment permits municipalities more time—an extra year—to join the One Call system after the bill receives royal assent. This is done partly to give municipalities more time and partly to give the Ontario One Call system more time to prepare for the new members.

The Chair (Mr. David Oraziatti): Okay. Thank you. Further comment? A recorded vote's been called for.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziatti): The motion is carried.

Shall section 5, as amended, carry? Recorded vote.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziatti): It's carried. Thank you.

Section 6, Conservative motion 10: Mr. Yurek, go ahead.

Mr. Jeff Yurek: I move that section 6 of the bill be struck out and the following substituted:

“Where infrastructure affected by dig

“6(1) If a member of the corporation receives a notification from the corporation about a proposed excavation or dig that may affect underground infrastructure owned by the member, the member shall,

“(a) mark on the ground the location of its underground infrastructure and provide a written document containing information respecting the location of the underground infrastructure; or

“(b) state in writing that none of its underground infrastructure will be affected by the excavation or dig.

“Member to respond within five days

“(2) The member shall make all reasonable attempts to do the things required by subsection (1) within five business days of the day the member receives notification about the proposed excavation or dig, unless there is a reasonable expectation that the excavation or dig will not start within 30 business days of the day the member receives the notification.

“Time limits

“(3) The time limit set out in subsection (1) shall not apply and a different time limit shall apply if,

“(a) the member and the excavator agree to a different time limit; or

“(b) the regulations set out a different time limit applicable to the circumstances.”

This requires that members provide excavators with a written document containing information respecting the location of the underground infrastructure to check against the locates drawn on the ground by the member of Ontario One Call. This is a safety measure to protect against incorrectly drawn locates, such as what occurred with the Bloor Street explosion in 2003.

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

Mr. Robert Bailey: Yes, I'd just like to add a little more detail to that. When the pipeline companies were explaining this and when we worked with them to help draft this, in the industry—and this is kind of legalese—they refer to this as “matching paint to paper.” When they go out to do the locate on your lawn or on the street or on the boulevard, and they put the paint or flags down to mark the delineations of any infrastructure, they also would have a drawing so that they would go out and actually see that what the paper says matches what the locator has found. Inadvertently, I think, in that other circumstance that I talked about there, there was a gap. The one drawing stopped at one end of a building, and someone came out to do another locate about a week later and started at the other end of the building. The piece of ground in between was where the incident took place.

This would put that onus on the excavator and the locator to do that, to actually match paint to paper.

The Chair (Mr. David Oraziatti): Any further comment on amendment 10? Ms. Mangat.

Mrs. Amrit Mangat: In my opinion, Chair, amendments 10, 11 and 12 are interlinked. It needs further debate and it needs further discussion and clarity, because this amendment begins to transfer liability to excavators, in my opinion, which is not right. It's not a good policy because the infrastructure owner needs to be clear on where that infrastructure lies. It further creates an uncertain threshold for enforcement.

I need further discussion; I need further clarity. I need further comments on it.

The Chair (Mr. David Oraziatti): Any response, Mr. Bailey?

Mr. Robert Bailey: Mr. Miller, would you like to comment first? I've already talked.

Mr. Paul Miller: Yes. I think that's a good question—

The Chair (Mr. David Oraziatti): Mr. Miller, can you just move the microphone a little closer to you? We can hear you, but just for recording purposes. Thank you.

Mr. Paul Miller: Sorry.

That's a good question, and I think I can solve the problem here.

What it is is that, for instance, when you have private property—it may be a farm situation or whatever—and you send people in to dig, it's not the responsibility of the landowner; it's the responsibility of the person doing the excavating. They will have had their clearances from One Call. Any additional information that is required from the landowner—I'm sure that they would provide that. If there was some hidden propane line to the house or something, it would be responsible of the owner, knowing full well that they're going to dig, to at least notify the people doing the digging that there could be a line on the property. They're not held liable for that, but the people doing the digging would certainly go through One Call and clarify whatever they need.

I think if there are any hidden things, it would be up to the owner of the land to make at least the people doing the construction aware of it.

The Chair (Mr. David Oraziatti): Mr. Bailey?

Mr. Robert Bailey: I'd just like to add to what I said before. This puts the onus on the excavator and the locator, who is there representing the owner of the utility, whether it's hydro or gas, to make sure that that drawing they're going to give to that excavator to do that excavation actually matches what the document says where the actual locate is done in the field is actually represented on the paper. So, like I say, in the trade, it's called matching paint to paper. That's what they call it.

I understand what happened in this Bloor Street example, so I think that this would go a long way to preventing those types of incidents again.

The Chair (Mr. David Oraziatti): Further comment? Ms. Mangat?

Mrs. Amrit Mangat: Chair, can you ask member Bob Bailey to clear it for me? In the original bill, you were asking for five business days to locate, right? But why

are you changing it to making “all reasonable attempts”? What’s the logic behind it?

Mr. Robert Bailey: Say the locate wasn’t going to take place and the excavator said, “Look, I don’t intend to do that. I’m not going to start within the first five days.” Some of the people we heard from said—and I won’t name any of the companies, but some of the companies were very good to respond within 48 hours. There were other utility operators who would maybe show up two, three weeks later, so that would necessitate those original people going back. It was to allow them to talk together and say, “Look, we don’t intend to start this excavation for two weeks,” so that it would give them a little bit more flexibility about when they would come out to do the locates.

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I think the wording was a little firmer before, like you had to start within so many hours. This was to give them a little bit more flexibility. Five business days would be 100-and-some hours, right? So it would give them a little bit more flexibility. That was why that was changed, to give a little bit more flexibility to both the utilities and to the excavator to work together.

Jim, you worked in the trade. Does that make sense to you?

The Chair (Mr. David Orazietti): Mr. Miller?

Mr. Paul Miller: A further explanation is, some of what the companies were saying, when they made their presentations: Sometimes they’d be all ready to go and there’d be one group holding them up and they’d take a month. It was time-consuming and certainly costly to the people doing the excavation, as well as the businesses or whoever was getting the locate done, to start the process off—it was basically holding up everything.

What we’ve done is given them a five-day period that they have to answer within, and that should suffice to allow all utilities to respond in a certain level of time. Because if one utility drags their feet, then it holds up the whole thing, and it’s very costly to the province and the municipality.

Mrs. Amrit Mangat: So what kind of mechanism for enforcement do you suggest?

Mr. Paul Miller: Well, there would be penalties. If they don’t respond, there will be penalties. That’s covered in, I believe, number 12, isn’t it, Bob, about the regulations? That would fall under regulations.

Mrs. Amrit Mangat: Okay.

Mr. Paul Miller: We haven’t cut that all out exactly on the regulations, but that would be up to whoever—

Mr. Robert Bailey: Yes, and there was one more addition that I was just reminded of. For an example—and this is an extreme example. But say the city of Toronto, Toronto Hydro, called up Ontario One Call and said, “We’re going to do 5,000 drill locations tomorrow; we’re going to start next week.” Well, they couldn’t possibly do all those locates; it just would be physically impossible. But the onus would be on them to set some type of schedule to meet, as Mr. Miller said, and to agree on what’s reasonable. But they’ve made the notification; they know that the work is going to take place, and there

would be some type of plan put in place to actually do the locates and to plan for the work.

The Chair (Mr. David Orazietti): Ms. Mangat?

Mrs. Amrit Mangat: So what kind of penalties would you suggest?

Mr. Robert Bailey: Sorry?

Mrs. Amrit Mangat: What kind of penalties—

Mr. Robert Bailey: Penalty?

Mrs. Amrit Mangat: Yes.

Mr. Robert Bailey: We haven’t got to the penalties. The penalties are covered under 18—I’m not sure. The penalties are under section 12.

Mrs. Amrit Mangat: Yes, that’s why I’m saying they’re interlinked—10, 11 and 12.

Mr. Robert Bailey: Oh, yes. Okay. Good thing we’ve got assistance. The penalties would be left for the minister. They would set them under regulations, so that would be up to the minister of the day and the government, working with the industry and with his advisers to set those actual penalties, but I think we cover them under 12.

Mrs. Amrit Mangat: Okay. Thank you.

Mr. Robert Bailey: Thank you.

The Chair (Mr. David Orazietti): Jim, go ahead.

Mr. Jim McDonell: I think this is reasonable. Some of these projects can be very large and you don’t want them holding up construction, because even five days is considerable, if you’re talking about a project. If it’s a large project, you don’t want to locate it too early, either. So I think it just allows for that—it gives an overall project to be issued. Of course, there’s some discussion held as to when they’ll do each component.

The Chair (Mr. David Orazietti): Okay. Any further comment on motion 10? A recorded vote has been called for.

Ayes

Bailey, Campbell, McDonell, Paul Miller, Yurek.

Nays

Coteau, Dickson, Mangat.

The Chair (Mr. David Orazietti): The motion is carried.

On that same section, there are no other amendments. Shall section 6, as amended, carry? A recorded vote has been called for.

Ayes

Bailey, Campbell, McDonell, Paul Miller, Yurek.

Nays

Coteau, Dickson, Mangat.

The Chair (Mr. David Orazietti): The section is carried, as amended.

Conservative motion number 11, a new section 6—pardon me. Yes, 6.1—sorry. Conservative motion number 11: Go ahead, Mr. Bailey.

Mr. Robert Bailey: I move that Bill 8 be amended by adding the following section:

“Excavator duties re locates

“6.1(1) For the purposes of this section, a member of the corporation properly provides a locate if,

“(a) it makes a mark on the ground indicating the location of its underground infrastructure; and

“(b) it provides a written document containing information respecting the location of its underground infrastructure.

“Same

“(2) No excavator shall commence an excavation or dig unless,

“(a) it has contacted the corporation to request locates for all underground infrastructure that may be affected by the excavation or dig;

“(b) each member that owns or operates underground infrastructure that may be affected by an excavation or dig has properly provided locates for its affected underground infrastructure or has stated in writing that none of its underground infrastructure will be affected by the excavation or dig; and

“(c) if locates are properly provided, the excavator has ensured that the locate markings on the ground do not conflict with the written information provided respecting the underground infrastructure.

“Same

“(3) No excavator shall excavate or dig in a manner that the excavator knows or reasonably ought to know would damage or otherwise interfere with any underground infrastructure.”

Mr. Chair, the logic, the reasoning behind this clause simply lays out the duties of members of Ontario One Call which would be created by this bill if it was to pass: the requirement to call before you dig and the responsibility for those same excavators not to dig until the underground infrastructure is identified. I think the one clause in there more properly explained what I was referring to as paint to paper, where it says there’s an onus on the excavator to see that what the permit says actually matches the physical location in the field.

The Chair (Mr. David Oraziotti): Thank you. Further comment or debate on this motion? Ms. Mangat?

Mrs. Amrit Mangat: Chair, I have a question. In amendment 13, you are pulling out that “erases a mark.” In 11, you are saying that mark should be there; right? “It makes a mark on the ground indicating the location of”—why? It’s not clear. In 11, you are supportive of it; in 13 you are pulling it out. It’s not clear. I want to know why.

Mr. Robert Bailey: In 11, I think the onus is on—what it said there under 6.1(2), it says, “if locates are properly provided”—that’s the paperwork—then it’s the onus on the excavator who’s actually in the field doing the work. He needs to ensure that the locate markings on the ground, whether it’s paint or whether it’s flagged or a

combination of those, do not conflict with the written information on the permit. There’s a written permit. We handed some of those out, I think last week, in that book.

If he does see a discrepancy, the onus would be on the excavator, as far as I’m concerned, to not go any further until he has it rectified. He wouldn’t blindly go ahead if there’s some obvious discrepancy between what the paperwork says and the drawings on the ground. He matches those up. Then the onus would be on that excavator or anybody—a supervisor in the field—to say, “Wait a minute; we need to bring these people back and do a little more groundwork to make sure they do match.” I’m not sure if that answers Ms. Mangat’s question.

The Chair (Mr. David Oraziotti): Mr. Miller wants to comment on this issue as well. Go ahead, Mr. Miller.

Mr. Paul Miller: This is basically a failsafe system. It’s a second check to make sure that the coordination between the locate person and the paperwork provided to the locate person is on the mark. So, really, it’s probably better. It’s beneficial, rather than just relying on just one direction. So that’s all that is.

The Chair (Mr. David Oraziotti): Thanks, Ms. Mangat. Mr. McDonell, go ahead.

Mr. Jim McDonell: I was going to say that if you work with excavators at all, even though they may know something is there, especially if it’s a utility that may not actually hurt them, like Bell or Rogers, the idea will be, “If it’s not right and the markings aren’t right, I don’t care.” I think this gives them the responsibility, if they know it’s wrong, to actually get it clarified, or if they’re not clear.

Mr. Robert Bailey: Yes, and I think when we do get to 13 it does go into greater detail, Mr. Chair, when we get there. It talks about where markings may be erased accidentally during construction work, because they know they’re working there in the field and they’re not as concerned. But there would still be an obligation on the excavator to make sure he complied originally with the obligations, and that the locate markings and paper documentation do not conflict, and that the excavation is conducted in accordance with the original locate.

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The Chair (Mr. David Oraziotti): Okay. Any further comment? Yes, go ahead.

Mr. Paul Miller: Further to that—being from construction—when you’re on a site, a lot of times the paint markings get removed by excavators or accidentally by graders. Things happen, so you have to have a backup system to be able to relocate when necessary, when the paperwork coincides with the actual markings. Sometimes you’ll lose the paint markings. It could be rain; it could be mud. Things happen. That’s all that is.

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. David Oraziotti): Any further comment on this motion? Okay, a recorded vote has been called for Conservative motion number 11, creating a new section, 6.1.

Ayes

Bailey, Campbell, McDonell, Paul Miller, Yurek.

Nays

Coteau, Dickson, Mangat.

The Chair (Mr. David Orazietti): It's carried.

Conservative motion number 12, section 7: Mr. McDonell, go ahead.

Mr. Jim McDonell: I move that subsection 7(1) of the bill be amended by striking out "section 5 or 6" and substituting "section 5, 6 or 6.1".

This amendment has been added to make it an offence not to comply with section 6.1.

The Chair (Mr. David Orazietti): Further comment on that?

Mr. Robert Bailey: I think it's self-explanatory.

The Chair (Mr. David Orazietti): Any comments, questions? Mrs. Mangat.

Mrs. Amrit Mangat: This amendment imposes penalties. It does impose penalties relating to new duties imposed on excavators. There is no enforcement mechanism for these new duties. Is there any enforcement mechanism for the new duties?

Mr. Robert Bailey: Mr. Chair?

The Chair (Mr. David Orazietti): Go ahead.

Mr. Robert Bailey: There's a number of penalties already. I don't have it in front of me, but I think there are at least three acts. Under the construction safety act, there are three different pieces of legislation that already obligate excavators and utility owners to do certain things. I don't have the paperwork right in front of me, but I know there are penalties that are already enforced. I think I'm going to get a copy of it here in a second—

The Chair (Mr. David Orazietti): It may be coming.

Mr. Robert Bailey: —right in my hot little hand here. Yes, in my hot little hand, I have, Mr. Chair, if I could read it into the record, (1) under the Occupational Health and Safety Act and regulations, Ontario regulation 213/91, Construction Projects; (2) the Technical Standards and Safety Act, 2000, and regulations, including Ontario regulation 210/01, Oil and Gas Pipeline Systems; and (3) the Electricity Act, 1998, and regulations, including Ontario regulation 22/04, Electrical Distribution Safety.

There are a number of regulations out there now, and legislation is already in force to enforce penalties on excavators and utility owners to do the right thing. This bill, Bill 8, should it pass, is only to make it mandatory for people to call before they dig, to try and eliminate any near-misses, any injuries to people and infrastructure, especially individuals—humans—in the first case, but of course, infrastructure as well, because of the costs to society and to the economy.

The Chair (Mr. David Orazietti): Mrs. Mangat.

Mrs. Amrit Mangat: But do you think it creates legal uncertainty?

Mr. Robert Bailey: Sorry, ma'am?

Mrs. Amrit Mangat: Does it create legal uncertainty?

Mr. Robert Bailey: Legal uncertainty?

Mrs. Amrit Mangat: Yes.

Mr. Robert Bailey: Not in my opinion. We might have to ask the legislative counsel to comment on that. She has reviewed these. Mr. Chair, with your permission?

Ms. Catherine Oh: If you'd just like to look at section 8, clause (g), it says that regulations can be made specifying the fines to be paid. So, clearly, the enforcement mechanism set out here is that if you don't comply with section 6.1, you could be subject to a fine, the amount of which is still to be established by regulation.

Mrs. Amrit Mangat: Okay, thank you.

The Chair (Mr. David Orazietti): Okay. Any further comment?

A recorded vote has been called for.

Ayes

Bailey, Campbell, Coteau, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Orazietti): The motion is carried.

Conservative motion number 13: Mr. Yurek, go ahead.

Mr. Jeff Yurek: I move that subsection 7(2) of the bill be struck out.

This concept was moved to subsection 5(2). It was changed to an obligation to ensure that locate markings and paper documentation do not conflict. Markings may be erased incidentally during construction work without a safety concern so long as the excavator complies with the new section 5 and confirms that the locate markings and paper documentation do not conflict, and that the excavation is conducted in accordance with the locate.

The Chair (Mr. David Orazietti): Okay. Thank you. Any further comment on motion 13? A recorded vote has been called for.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Orazietti): Carried. Shall section 7, as amended, carry?

Ayes

Bailey, Campbell, Coteau, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Orazietti): Thank you. That's carried.

Next motion, Conservative motion 14, section 8: Mr. Bailey.

Mr. Robert Bailey: Yes. I move that clause 8(b) of the bill be amended by striking out "call centre" and substituting "call system".

Again, this amendment is to change the wording “call centre” to “call system,” clarifying the language. It’s intended to clarify that the bill requires a single province-wide phone number and a system to call before you dig. However, this bill would allow for multiple call systems under the Ontario One Call umbrella. The industry might decide that they need one in the north—they already have one, I think, located in Guelph—they might decide, as time goes on, that they might need something in Toronto or somewhere else. So this would allow that, but there’d still be one number you’d call called One Call system, but more than one operation.

The Chair (Mr. David Oraziotti): Okay. Any further comment on 14? Seeing none, recorded vote.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): It’s carried. Thank you.

Conservative motion 15: Mr. McDonell.

Mr. Jim McDonell: I move that section 8 of the bill be amended by adding the following clauses:

“(c.1) specifying times when a member must provide information under subsection 5(2);

“(c.2) governing fees to be paid by members of the corporation;”

This amendment gives the minister oversight of how quickly mapping information must be provided to One Call system after a member joins and the payment structure of the Ontario One Call system.

The Chair (Mr. David Oraziotti): Thank you. Any further comment? Go ahead, Ms. Mangat.

Mrs. Amrit Mangat: I have a question. Who would set the fee? Who would set fees?

Mr. Robert Bailey: Oh, fee?

Mrs. Amrit Mangat: Yes.

Mr. Robert Bailey: The fees would—

Interjection: All the members.

Mr. Robert Bailey: All the members. It’s a new corporation that’s going to be set up. This is a non-profit corporation. There would be members represented there from all across the spectrum, whether it’s industry, utilities or excavators. Those are the people—I think they give testimony where their costs have gone from \$2.80 or \$2.60 a call down to \$1.60, whatever the numbers were. So they would intend to, as I understand it, drive those costs down, and it would be incumbent on those members who are part of that corporation and who provide those memberships to make sure that those costs are kept reasonable as they bring more members on board. And—

Mrs. Amrit Mangat: And—sorry, go ahead.

Mr. Robert Bailey: And I said that the minister, obviously, would have oversight over that through the ministry as well. It says in there—you know.

Mrs. Amrit Mangat: And who would collect that fee?

Mr. Robert Bailey: The non-profit corporation would collect the fee, and that would help pay for the operation of the call systems.

Mrs. Amrit Mangat: Okay. And what would the government have the power to do? Would the government have any role to play in that?

Mr. Robert Bailey: The government?

Mrs. Amrit Mangat: Yeah.

Mr. Robert Bailey: Yeah. I think that, through the Chair, Ms. Mangat, the government, through the minister, would provide oversight through that ministry, because the One Call system would certainly be under the purview of the minister because he would have input as to the mapping—and I’m sure that TSSA, all of those people who operate through that ministry would have input and oversight of this new non-profit corporation.

1500

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. David Oraziotti): Okay. Mr. Coteau?

Mr. Michael Coteau: A quick question. It was my understanding that the members of the organization, or the people who use the organization, would pay a fee per call, and that money that was collected would pay for the corporate fees. Correct?

Mr. Robert Bailey: Yes.

Mr. Michael Coteau: But here it sounds like the 16 members—is it 12 or 16 members of the corporation that sit on the board?

Mr. Paul Miller: Twelve.

Mr. Michael Coteau: So the 12 members would be paying for the actual operation of the organization, period.

Mr. Robert Bailey: All of the members—is it \$1.60 a call? I’m not sure.

Mr. Jim McDonell: Averaged out.

Mr. Robert Bailey: Jim, do you want to—

Mr. Jim McDonell: I think everybody in the province who has an underground structure will pay, based on their locates. The excavators would not be charged; it would be a free service to them. But anybody that has an underground structure would pay to locate it.

Mr. Michael Coteau: So, all organizations and municipalities that are required or mandated to use the One Call system—are they all considered members?

Mr. Robert Bailey: I can answer that one. Yes, they’re all considered members. I just was reminded that those 12 members—or 16, whatever it is—that are on the corporation: They’re only elected by the bodies. They’re not the only people paying. Everyone that uses that system—the utilities, the pipeline owners and municipalities—aren’t charged to date. I checked with some of the municipalities the other day, and they received the information, but they haven’t been charged.

Mr. Michael Coteau: Just so I’m clear, all people who use the service are members of the corporation.

Mr. Jim McDonell: What do you mean by “use”?

Mr. Michael Coteau: It says, “governing fees to be paid for by members of the corporation.”

Mr. Robert Bailey: Everybody that's a member of the—it wouldn't be the general public, but it would be—

Mr. Michael Coteau: No, I mean anyone who is mandated to use the service as a member.

Mr. Robert Bailey: Yes, they're all members, and those members—I don't remember the structure—

Mr. Jim McDonell: The members would be anybody that has underground structure.

Mr. Michael Coteau: Pardon?

Mr. Robert Bailey: Infrastructure.

Mr. Jim McDonell: Anybody that has underground infrastructure.

Mr. Michael Coteau: Anyone who uses this service—

Mr. Jim McDonell: If you mean people who call in for locates, they aren't users, under this bill. It would just be the people—the propane companies, your communication companies, gas companies, hydro—

Mr. Michael Coteau: Maybe I'm missing something. It says, "governing fees to be paid for by members of the corporation." So the 12 members are paying the governing fees, or all the required users are paying the governing fees?

Mr. Robert Bailey: All of the users.

Mr. Michael Coteau: So those users are members of the corporation.

Mr. Robert Bailey: Yes.

Mr. Michael Coteau: Yes. Okay, so it's clear. Thank you.

Mr. Robert Bailey: It's on page—if you have the bill—

Mr. Jim McDonell: Unclear about the word "user."

Interjections.

Mr. Robert Bailey: Yes, I can read into the record.

Mr. Paul Miller: No, he's right. They're all members, once it's mandated.

Mr. Robert Bailey: I'll just take a moment here. It says here: "Within 12 months after the day this act comes into force, the following persons and entities shall become members of the corporation."

Mr. Michael Coteau: Perfect. Clear enough.

Mr. Robert Bailey: Do you want me to—

Mr. Michael Coteau: No, that's clear enough.

Mrs. Amrit Mangat: So it means all the service providers will be paying the fee.

Mr. Robert Bailey: Yes. It says here, "every municipality in Ontario ... Hydro One ... Ontario Power Generation ... every gas distributor ... every gas transmitter ... every operator of a distribution system"—

Mr. Paul Miller: It doesn't fall on one set of shoulders. Everybody shares the cost.

Mr. Robert Bailey: Yes. Thank you, Mr. Chair.

The Chair (Mr. David Oraziotti): Okay, I think that's clear. Good.

Conservative motion 15 in section 8: Recorded vote.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Okay. On the same section—that's all of the amendments—shall section 8, as amended, carry? Recorded vote.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Okay. We'll go right to section 9. There are no amendments proposed in section 9.

Shall section 9 carry? Recorded vote.

Ayes

Bailey, Campbell, Coteau, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Okay. Now, section 10, NDP motion number 16: Mr. Miller, go ahead.

Mr. Paul Miller: Mr. Chairman, I'll just give a slight explanation on this one, 16. If number 16 passes with unanimous consent, then it will go through. If someone has a problem with it, then we go to 17, but I don't think it should be. I'll read it to you.

I move that section 10 of the bill be amended by striking out "Ontario One Call Act, 2011" and substituting "Ontario Underground Infrastructure Notification System Act, 2012."

This amendment changes the short title of the bill. It was requested by DigNORTH to give a generic name to the bill that does not name a specific corporation in the bill's name.

A further explanation, Mr. Chairman, is that we're changing the name of the original bill because it was named after a company, and you can't do a bill named after a company. That's all that is; it's just a change of the name. Everyone in the organizations were okay with it; everyone we've talked to is okay with it; DigNORTH is happy with it. So it's basically just to change the name, because we didn't realize at the time when we named the bill that you can't name it after a company.

Mrs. Amrit Mangat: So which name do you prefer? Which one are you choosing?

Mr. Paul Miller: We want the "Ontario Underground Infrastructure Notification System Act, 2012," instead of the other one. If everyone is okay with that, then we can strike 17. But everyone has to agree to this. Sorry; short title and long title—we have to do it.

Mr. Robert Bailey: Mr. Chair, I'd like to speak.

The Chair (Mr. David Oraziotti): Go ahead, Mr. Bailey.

Mr. Robert Bailey: As well as having drafted the bill and sponsored it with Mr. Miller from Hamilton East–Stoney Creek, I'd like to support the name change as well—when it was pointed out to us. I certainly support the NDP motion. At the end of the day, it's about getting the bill, as a whole, passed. What we call it is not an issue with me, so I want to indicate that the Progressive Conservative Party certainly supports the NDP motion.

The Chair (Mr. David Oraziotti): Okay. Any further comment on 16? Seeing none, a recorded vote is called for. All those in favour of NDP motion number 16 on section 10?

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Okay, that's carried.

Shall section 10, as amended, carry? All in favour?

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Okay, that's carried, section 10. Thank you.

Section 17: Mr. Miller.

Mr. Paul Miller: I move that the long title—we were doing short; now we're doing long—of the bill be changed to “An Act respecting an underground infrastructure notification system for Ontario.”

If the clerk is not comfortable with that and calls it out of order, we can move to 18, but I think it should be all right. We believe that the committee—if they do unanimous consent on this, it's all right.

The Chair (Mr. David Oraziotti): Okay, let's hear the thoughts on that. Any concern around motion 17?

Mr. Michael Coteau: That's normal practice—short and long?

The Chair (Mr. David Oraziotti): Yeah.

Mr. Michael Coteau: Okay; that's fine.

Mr. Robert Bailey: I have no objection to it, Mr. Chair.

The Chair (Mr. David Oraziotti): Okay, all those in favour? Recorded vote.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Okay, that's carried. Mr. Miller on 18?

Mr. Paul Miller: We can strike 18, Mr. Chairman.

The Chair (Mr. David Oraziotti): Withdrawn?

Mr. Paul Miller: Withdrawn.

The Chair (Mr. David Oraziotti): Okay.

Okay, folks, a couple more items to vote on here. Shall the title of the bill, as amended, carry? Recorded vote; all in favour?

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Okay, that's carried.

Shall Bill 8, as amended, carry? All those in favour? Recorded vote.

This is, to be clear—if you didn't hear what I was saying: Shall Bill 8, as amended, carry? This is voting on the bill, as amended. Shall it carry? All in favour?

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Okay, that's carried.

Last question: Shall I report the bill, as amended, to the House? All those in favour? Recorded vote.

Ayes

Bailey, Campbell, Coteau, Dickson, Mangat, McDonell, Paul Miller, Yurek.

The Chair (Mr. David Oraziotti): Okay, thank you. That's it. Bill is carried.

Mr. Paul Miller: Thanks, folks.

Mr. Robert Bailey: Thank you to all members of the general government committee—the government members, the members of the NDP third party and, of course, my caucus members—and to the legislative counsel and staff. I appreciate it, Mr. Chair. Thank you very much.

The Chair (Mr. David Oraziotti): Thank you, members of the committee; that's it on Bill 8.

We'll have an email sent out around notification for a subcommittee meeting to deal with the committee's next order of business.

So that's it for today. Thank you very much.

The committee adjourned at 1510.

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