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Monday 24 November 2008

**Journal
des débats
(Hansard)**

Lundi 24 novembre 2008

**Standing Committee on
General Government**

Lake Simcoe Protection Act, 2008

**Comité permanent des
affaires gouvernementales**

Loi de 2008 sur la protection
du lac Simcoe

Chair: Linda Jeffrey
Clerk: Trevor Day

Présidente : Linda Jeffrey
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**

Monday 24 November 2008

Lundi 24 novembre 2008

The committee met at 1404 in room 151.

**LAKE SIMCOE PROTECTION ACT, 2008
LOI DE 2008 SUR LA PROTECTION
DU LAC SIMCOE**

Consideration of Bill 99, An Act to protect and restore the ecological health of the Lake Simcoe watershed and to amend the Ontario Water Resources Act in respect of water quality trading / Projet de loi 99, Loi visant à protéger et à rétablir la santé écologique du bassin hydrographique du lac Simcoe et à modifier la Loi sur les ressources en eau de l'Ontario en ce qui concerne un système d'échange axé sur la qualité de l'eau.

The Chair (Mrs. Linda Jeffrey): Bringing the committee to order, this is the Standing Committee on General Government. We're here to consider Bill 99, An Act to protect and restore the ecological health of the Lake Simcoe watershed and to amend the Ontario Water Resources Act in respect of water quality trading. We're beginning clause-by-clause consideration.

Section 1: are there any comments or questions on this section? Seeing none, all those in favour of section 1? Thank you; that's carried.

Section 2: The first amendment is an NDP amendment. I understand Mr. Tabuns has laryngitis, so I have agreed to read his motions into the record and then he can whisper any comments he might have after that.

Mr. Peter Tabuns: I'll whisper into your ear.

The Chair (Mrs. Linda Jeffrey): I move that the definition of "designated policy" in section 2 of the bill be struck out and the following substituted:

"designated policy" means a policy set out in the Lake Simcoe protection plan under paragraph 5 of subsection 5(1), other than a policy that is not relevant to the purpose of this act and the objectives of the plan; ('politique désignée')."

Mr. Peter Tabuns: Very simply, Madam Chair and colleagues, the plan provides strong protection by giving legal effect to designated policies but doesn't afford protection to other policies. This is out of line with what has been done with the Oak Ridges Moraine Act and the Greenbelt Act. So I urge you to support my amendment.

The Chair (Mrs. Linda Jeffrey): Comments or questions?

Mr. Bill Mauro: What did he say?

Mr. Peter Tabuns: What did I say? Oh, no.

Mr. Bill Mauro: Can you repeat that?

Mr. Peter Tabuns: You're a brutal man, Mr. Mauro.

Mr. Bill Mauro: I feel like I should whisper back.

The Chair (Mrs. Linda Jeffrey): Can I stop the banter back and forth. My guess is that this is going to be really challenging for Hansard to capture.

Mr. Bill Mauro: It is.

The Chair (Mrs. Linda Jeffrey): Any of the dialogue going back and forth afterwards needs to be pretty clear.

Mr. Flynn, you have the floor.

Mr. Kevin Daniel Flynn: We won't be supporting this motion, unfortunately. Our point here is that all policies in the plan would be relevant to the purpose of the act and the objectives of the plan. If this motion were accepted, it would remove the flexibility to decide which policies should be designated. So we would not support this.

The Chair (Mrs. Linda Jeffrey): Any further comments or questions?

Mr. Peter Tabuns: Recorded vote.

Ayes

Tabuns.

Nays

Flynn, Kular, Mauro, Mitchell, Oraziotti.

The Chair (Mrs. Linda Jeffrey): That motion is lost.

In case any of you have arrived late, I am reading the NDP motions into the record to save Mr. Tabuns's voice. He is struggling with laryngitis today.

I move that clause (a) of the definition of "Lake Simcoe watershed" in section 2 of the bill be amended by striking out "Lake Simcoe" at the beginning and substituting "Lake Couchiching, Lake Simcoe".

Mr. Peter Tabuns: I would simply argue that they're all part of one watershed and that it was an unfortunate omission that Lake Couchiching wasn't included in the first place.

Mr. Kevin Daniel Flynn: Our point would be contrary to that. We believe that Lake Simcoe is ecologically distinct and should be treated as such.

The Chair (Mrs. Linda Jeffrey): Further comments or questions?

Mr. Peter Tabuns: Recorded vote.

Ayes

Tabuns.

Nays

Flynn, Kular, Mauro, Mitchell, Orazietti.

The Chair (Mrs. Linda Jeffrey): That's lost.

Shall section 2 carry? All those in favour? All those opposed? That's carried.

Section 3 has no amendments. Shall section 3 carry? All those in favour? All those opposed? That's carried.

Section 4: a PC motion. Ms. Savoline.

Mrs. Joyce Savoline: I would ask if you could stand this down. Our critic, MPP Barrett, is on University Avenue in a parking lot because of the paving that is going on there, but he will be here very soon, and Ms. Munro is on her way. They've been subbed in.

The Chair (Mrs. Linda Jeffrey): I understand that if the committee agrees, you can move amendments.

Interjection.

The Chair (Mrs. Linda Jeffrey): You can stand it down.

Mrs. Joyce Savoline: Okay.

The Chair (Mrs. Linda Jeffrey): We'll stand it down.

Mrs. Joyce Savoline: Thank you.

The Chair (Mrs. Linda Jeffrey): We'll deal with the other amendments in this section and come back to it when Mr. Barrett is here.

Government motion: Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that subclause 4(j)(ii) of the bill be amended by striking out "the Clean Water Act, 2006" and substituting "the Clean Water Act, 2006, the Conservation Authorities Act".

The reason for this is that it would respond to a concern that was raised by Conservation Ontario, and makes it clear that the amendment is designed with one of the objectives in mind to build on the protections that are already in place in the current Conservation Authorities Act.

The Chair (Mrs. Linda Jeffrey): Comments or questions?

Seeing none, all those in favour of the amendment? All those opposed? That's carried.

Government motion: Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that clause 4(k) of the bill be amended by striking out "prescribed by regulations" and substituting "set out in the Lake Simcoe protection plan".

By passing this amendment, we remove the need for another regulation, and it's subject to the plan, and the plan amendment to add objectives is subject to approval by cabinet. It would also be subject to the notice and the public consultation requirements that are specified in the bill.

1410

The Chair (Mrs. Linda Jeffrey): Comments or questions? Seeing none, all those in favour of the amendment? All those opposed? That's carried.

We'll move on to section 5; it's an NDP motion. Mr. Tabuns, I'll read this out for you.

I move that paragraph 3 of subsection 5(1) of the bill be amended by striking out "existing significant threats and potential significant threats" and substituting "existing threats and potential threats."

Mr. Peter Tabuns: The wording, as currently set forth in the bill, I think, unnecessarily restricts the act. There may well be threats that could be dismissed simply because they were not defined as significant. I think, to ensure the bill is strong enough, the word "significant" has to be taken out.

The Chair (Mrs. Linda Jeffrey): Comments or questions?

Mr. Kevin Daniel Flynn: We will not be supporting this amendment. Our point is that it would be impractical to include all threats in the plan, but what we would like to do is keep "significant threats," which would allow the higher-priority threats to be addressed; in the same way of thinking as my friend, that rather than bog the system down with insignificant threats, you actually deal with the significant and the higher-priority threats.

The Chair (Mrs. Linda Jeffrey): Comments or questions?

Mr. Peter Tabuns: Recorded vote.

Ayes

Tabuns.

Nays

Flynn, Kular, Mauro, Mitchell, Orazietti.

The Chair (Mrs. Linda Jeffrey): That's lost.

Next, a government motion.

Mr. Kevin Daniel Flynn: I move that paragraph 6 of subsection 5(1) of the bill be amended by striking out "priorities" and substituting "principles and priorities".

This is a suggestion that we heard from our stakeholder advisory committee. The bill already requires that the plan specify the priorities that guided the development of the plan, and it responds to those stakeholders who came forward and would like to see the principles specified. For example, the Lake Watch Society and the North East Sutton Ratepayers Association also recommended including the precautionary "principle."

The Chair (Mrs. Linda Jeffrey): Comments or questions? Seeing none, all those in favour of the amendment? All those opposed? That's carried.

The next motion is Mr. Tabuns's.

I move that paragraph 11 of the subsection 5(1) of the bill be amended by striking out "financing" and substituting "ensuring adequate and sustainable financing for."

Mr. Peter Tabuns: We heard repeatedly from deputies that there was inadequate enforcement of the existing legislation, and I think we have to specify in this legislation that there be the resources put in place to actually enforce this act.

The Chair (Mrs. Linda Jeffrey): Comments or questions?

Mr. Kevin Daniel Flynn: We would not be supportive of this amendment. Our point is that by definition, a strategy for financing a plan should be adequate and sustainable whether specifically stated or not and that public consultation on the draft plan should provide for further input as to whether the financial strategy required is indeed adequate.

The Chair (Mrs. Linda Jeffrey): Further comments or questions?

Mr. Peter Tabuns: Recorded vote.

Ayes

Tabuns.

Nays

Flynn, Kular, Mauro, Mitchell, Orazietti.

The Chair (Mrs. Linda Jeffrey): That's lost.

We have a PC motion, 7.1. Mr. Barrett.

Would you like me to go to the next amendment while you sort this one out? Would that be easier?

We'll come back to you, Mr. Barrett? Or are you ready to do this one? Do you want me to go to the next amendment and then I can come back to you?

Mr. Toby Barrett: Yes, that would be fine.

The Chair (Mrs. Linda Jeffrey): The next amendment is an NDP amendment. I'll read it in for Mr. Tabuns.

I move that subsection 5(1) of the bill be amended by adding the following paragraph:

"11.1 A practical scheme to enforce the plan."

Mr. Tabuns.

Mr. Peter Tabuns: I think it speaks for itself.

The Chair (Mrs. Linda Jeffrey): Mr. Flynn.

Mr. Kevin Daniel Flynn: We won't be supporting it, although we do understand it. We believe that the plan is already enforced through other legislation: the Conservation Authorities Act, the Planning Act, and the Ontario Water Resources Act. We feel that a description in the plan is unnecessary. It's simply going to rehash the enforcement provisions associated with the other legislative regimes.

The Chair (Mrs. Linda Jeffrey): Further comments or questions?

Mr. Peter Tabuns: Recorded vote, please.

Ayes

Tabuns.

Nays

Flynn, Kular, Mauro, Mitchell, Orazietti.

The Chair (Mrs. Linda Jeffrey): That's lost.

Going back to Mr. Barrett: Are you ready to do 7.1?

Mr. Toby Barrett: Yes. Thank you, Chair, for standing that down for a few minutes.

I move that paragraph 11 of subsection 5(1) of the bill be struck out and the following substituted:

"11. A strategy for financing the implementation of the plan that seeks to avoid reckless and unrestrained spending."

We feel it's important to have a clear and appropriate budget to pass this legislation. To do otherwise, we feel, is inappropriate and would perhaps set a precedent for further unrestrained spending.

The Chair (Mrs. Linda Jeffrey): Any comments or questions?

Mr. Kevin Daniel Flynn: We will not be supporting this. We already feel that the bill is broadly written to allow the flexibility that you need when drafting the contents of the plan. Paragraph 11 of subsection 5(1) already requires that the plan include a strategy for financing. When the time comes for the strategy for financing, we will be consulting with the public and with stakeholders, and one of the things we'll be consulting on is whether the financing strategy that's proposed is appropriate for the goals of the plan and the protection of the watershed itself.

The Chair (Mrs. Linda Jeffrey): Further comments or questions? Seeing none, all those in favour of the motion? All those opposed? That's lost.

The next motion is a government motion. Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that paragraph 2 of subsection 5(2) of the bill be amended by striking out "among municipalities and local boards" at the end and substituting "among municipalities, conservation authorities and other local boards".

This is fairly self-explanatory. This amendment would respond to a concern that has been raised by York region and the Lake Simcoe Region Conservation Authority. It helps to address those concerns we heard about overlap and duplication.

The Chair (Mrs. Linda Jeffrey): Comments or questions? Seeing none, all those in favour of the amendment? All those opposed? That's carried.

The next motion is an NDP motion. I'll read it into the record.

I move that paragraph 5 of subsection 5(2) of the bill be struck out.

Mr. Tabuns.

Mr. Peter Tabuns: Very simply, local authorities should be allowed to exceed the standard set by the province, because, as I've argued on other bills, often the municipalities are willing to take the lead and break new ground politically in this province. If we prevent them from doing so, it's to our disadvantage.

The Chair (Mrs. Linda Jeffrey): Comments or questions?

Mr. Kevin Daniel Flynn: We will not be supporting this either. It's a discretionary authority that's in the plan. The plan does not have to include such restrictive

policies. Consultation on the draft plan is going to allow stakeholders to comment on any proposed use of this provision. The greenbelt and the Oak Ridges moraine legislation currently include such a provision and the related plans use it quite narrowly. Retaining this provision, we believe, allows for flexibility. We're not supportive of the amendment.

The Chair (Mrs. Linda Jeffrey): Comments or questions?

Mr. Peter Tabuns: Recorded vote.

Ayes

Tabuns.

Nays

Flynn, Kular, Mauro, Mitchell, Orazietti.

The Chair (Mrs. Linda Jeffrey): That's lost.

1420

Next, NDP motion. I'll read it into the record.

I move that section 5 of the bill be amended by adding the following subsection:

"Same

"(2.1) A policy referred to in paragraph 5 of subsection (1) that regulates or prohibits an activity may apply to any activity other than an activity for which all necessary permits, approvals and other instruments were obtained before December 6, 2007."

Mr. Peter Tabuns: Members of the committee, we heard from deputants. We heard from people talking about the large number of projects that is going to come forward which, if they come forward, will undermine the whole intent of this act. I urge you to support this amendment because if, in fact, you're going to save Lake Simcoe, you do have to go back to that December 2007 date. If you don't change the act as written, your intentions will be not be satisfied. You will not have the protection for the lake that you need and that this lake absolutely must have.

The Chair (Mrs. Linda Jeffrey): Comments or questions?

Mr. Kevin Daniel Flynn: I understand what Mr. Tabuns is trying to get at and I think in a conceptual way we agree. We are not going to support the motion that's on the floor right now. However, we are bringing in a motion subsequent to this, 11.1, that I think will address the concerns that Mr. Tabuns has raised. We simply believe that the amendment that's on the floor is far too narrow.

The Chair (Mrs. Linda Jeffrey): Further comments or questions?

Mr. Peter Tabuns: Recorded vote.

Ayes

Tabuns.

Nays

Flynn, Kular, Mauro, Mitchell, Munro, Orazietti.

The Chair (Mrs. Linda Jeffrey): That's lost.

Next motion, a government motion.

Mr. Kevin Daniel Flynn: I move that section 5 of the bill be amended by adding the following subsection:

"Same

"(2.1) For greater certainty, a policy referred to in paragraph 5 of subsection (1) that applies to an activity may apply even if some or all permits, approvals and other instruments necessary to engage in the activity were obtained before the policy took effect."

The bill, we believe, has already provided the plan with the authority to apply in an activity regardless of the date when the approvals for the activity had been obtained. For instance, if an activity had some of its planning approvals, but not all of its approvals, subsection 6(1) of the bill provides that after the plan comes into effect, subsequent decisions that are made under the Planning Act would be required to conform with the designated policies of the plan. We believe it was in there already; however, for the purposes of clarity, we wanted to make it extremely clear, and that's why we're proposing this amendment.

The Chair (Mrs. Linda Jeffrey): Further comments or questions? Seeing none, all those in favour of the amendment? All those opposed? That's carried.

Next motion, I'll read into the record for Mr. Tabuns.

Mr. Peter Tabuns: Withdrawn, because the initial was defeated.

The Chair (Mrs. Linda Jeffrey): It's being withdrawn. Item 12 has been withdrawn.

The next motion is a government motion.

Mr. Kevin Daniel Flynn: I move that subsection 5(4) of the bill be amended by striking out "may designate" and substituting "may identify".

It's a technical amendment, Madam Chair. The amendment does not change the meaning of the provision at all. The reason for the amendment is to confuse—is to avoid confusion—

Interjections.

Mr. Kevin Daniel Flynn: It's all this whispering—to avoid confusion with the use of the word "designated" as it is used in referring to designated policies—under line "designated" in section 6 of the bill. It just makes it clear.

The Chair (Mrs. Linda Jeffrey): Any comments or questions? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Next motion, Mr. Tabuns, I'll read into the record for you.

I move that section 5 of the bill be amended by adding the following subsection:

"Lake Simcoe science advisory committee recommendations

"(5) The Lake Simcoe protection plan shall conform to the recommendations contained in the report of the Lake Simcoe science advisory committee dated July 7, 2008

and entitled 'Lake Simcoe and its Watershed: Report to the Minister of the Environment'".

Mr. Peter Tabuns: It's fairly straightforward from the people who came and spoke to us that if you don't follow the scientific evidence and the scientific recommendations, you won't protect the lake. This amendment should be in there to make sure that the lake is in fact protected.

The Chair (Mrs. Linda Jeffrey): Comments or questions?

Mr. Kevin Daniel Flynn: We won't be supporting this, although I do understand the reasons for it. Our rationale is that it's already in there. The minister is preparing a draft Lake Simcoe protection plan for public consultation. This draft plan is being informed by the recommendations that are being made by the Lake Simcoe science advisory committee itself. The plan, as drafted and before you today, is based on science. The reports of the Lake Simcoe science advisory committee are available to the public on the Ministry of the Environment website as we speak. In addition, we plan to post this draft plan for broad public input.

Mr. Toby Barrett: I go along with the NDP on this one. I think if we're serious about cleaning up Lake Simcoe, we must heed the recommendations of the scientific community and look to them for guidance and expertise. We'll vote in favour of this one.

The Chair (Mrs. Linda Jeffrey): Any further comments or questions?

Mr. Kevin Daniel Flynn: Only that we agree with the thought that's being expressed, but we don't believe that this is the way of doing it. This is unnecessary.

The Chair (Mrs. Linda Jeffrey): Any further comments or questions?

Mr. Peter Tabuns: Recorded vote.

Ayes

Barrett, Munro, Tabuns.

Nays

Flynn, Kular, Mauro, Mitchell, Orazietti.

The Chair (Mrs. Linda Jeffrey): That's lost.

Shall section 5, as amended, carry? All those in favour? All those opposed? That's carried.

We're going to return to the motion in section 4. Mr. Barrett, it's 2.1. You held this one off—

Mr. Toby Barrett: Yes, thank you for that.

I move that section 4 of the bill be amended by adding the following clause:

"(a.1) to promote environmentally sustainable development in the Lake Simcoe watershed;"

The goal here is to try to enshrine in this legislation a situation where we can promote sustainable development, allow for growth—we know that growth is coming anyway to this area, an area that we're told is going to

double in population in the next 25 years or so—and at the same time protect the environment.

The Chair (Mrs. Linda Jeffrey): Further comments or questions?

Mr. Kevin Daniel Flynn: As with previous comments, we support the idea behind the amendment but believe that it's unnecessary. The proposed Lake Simcoe Protection Act is designed to build on frameworks already established by other provincial plans, and when you combine the Lake Simcoe Protection Act with those others, it's going to establish the conditions for sustainable development. That, we believe, negates the need to reference sustainable development as an objective of the plan itself. For example, if you look to the greenbelt, Places to Grow, the Planning Act or the provincial policy statement, these all address the issues of environmentally sustainable development. The proposed Lake Simcoe plan would complement and build on these.

The Chair (Mrs. Linda Jeffrey): Any further comments or questions? All those in favour of the motion? All those opposed? That's lost.

Shall section 4, as amended, carry? All those in favour? All those opposed? That's carried.

Section 6 has no amendments. Shall section 6 carry? All those in favour? All those opposed? That's carried.

Section 7 has an NDP motion; I'll read that into the record.

Mr. Peter Tabuns: Withdrawn.

The Chair (Mrs. Linda Jeffrey): Thank you.

Shall section 7 carry? All those in favour? All those opposed? That's carried.

Sections 8, 9, and 10 have no changes to them. Shall those sections carry? All in favour? All opposed? They're carried.

Section 11 has a government motion. Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that section 11 of the bill be amended by striking out "designated" and substituting "identified".

This is a technical amendment very similar to one I spoke to a few amendments ago. It doesn't change the intent of the bill at all.

The Chair (Mrs. Linda Jeffrey): Comments or questions? Seeing none, shall it carry? All those in favour? All those opposed? That's carried.

Shall section 11, as amended, carry? All those in favour? All those opposed? That's carried.

New section. Mr. Barrett—sorry, is there some confusion?

1430

Mr. Kevin Daniel Flynn: We've still got one to deal with on section 11.

The Chair (Mrs. Linda Jeffrey): The 11.1 is a PC motion. Mr. Barrett.

Mr. Toby Barrett: What page is that on, please?

The Chair (Mrs. Linda Jeffrey): Page 16.1.

Mr. Toby Barrett: We move that the bill be amended by adding the following section:

"Annual financial reports

“11.1 The minister shall annually prepare and make available to the public a report on the costs of implementing the Lake Simcoe protection plan.”

Give me a moment to see if I have any notes on that. We attempted to do this on Sunday and I have no notes on that.

The Chair (Mrs. Linda Jeffrey): Any further comments or questions on this item?

Mr. Kevin Daniel Flynn: Yes. We understand the intent behind this, but we aren't supportive. We believe that it's already included in the bill.

The Chair (Mrs. Linda Jeffrey): Mr. Barrett, do you have any further comments or questions on this item?

Mr. Toby Barrett: No, other than I think it would be very important to find out what these various measures cost and, even more importantly, to let people know about it.

Mr. Kevin Daniel Flynn: Just so that we're clear, that will take place. All these costs will be available to the public and will be issued in report form. All the costs will be available to the public.

The Chair (Mrs. Linda Jeffrey): Further comments or questions? Seeing none, shall the amendment carry? All those in favour? All those opposed? That's lost.

The next motion is in section 12 and it is item 17. I'll read it into record for you, Mr. Tabuns.

I move that subsection 12(2) of the bill be amended by striking out “from time to time” in the portion before clause (a) and substituting “by the fifth anniversary of the date the plan takes effect and at least once every three years after that anniversary”.

Mr. Peter Tabuns: I just think you have to set regular periods within which the reporting is carried out.

The Chair (Mrs. Linda Jeffrey): Comments or questions?

Mr. Kevin Daniel Flynn: We would not be supportive of this because we believe that we've brought an amendment that's quite similar two amendments further on, I think, as motion 19 of our agenda, and would be quite happy at the time—were Mr. Tabuns prepared to move that amendment, we would be supportive of that. But we would not be supportive of the current amendment. We think ours deals more in scientific trends which can be determined over a period of five years, but I think we're on the same track here.

The Chair (Mrs. Linda Jeffrey): Mr. Tabuns, what would you like to do?

Mr. Peter Tabuns: Vote on it, then go from there.

The Chair (Mrs. Linda Jeffrey): Okay, so we're going to proceed with this motion and vote on it.

Mr. Peter Tabuns: Which I suspect will be voted down.

The Chair (Mrs. Linda Jeffrey): Okay. You're prepared to have it voted down.

Mr. Toby Barrett: Our view on this as well is that it better enables one to monitor what's going on and evaluate and by the same token ensure transparency.

The Chair (Mrs. Linda Jeffrey): Further comments or questions? Seeing none, all those in favour of the motion? All those opposed? That's lost.

The next motion is a PC motion. I understand from leg counsel that it is virtually the same, so I'm going to rule it out of order. But I can let you read it into the record.

Mr. Toby Barrett: Thank you for that. This motion is found on page 18 and this would explain why we voted in favour of the NDP motion previously. Again, for the same reasons and based on the premise that it would help establish transparency in the implementation of this bill and—

The Chair (Mrs. Linda Jeffrey): Mr. Barrett, I believe you have to read it in and then give the explanation.

Mr. Toby Barrett: Sorry about that.

The Chair (Mrs. Linda Jeffrey): I sort of cut you off before, I did the wrong thing and then—

Mr. Toby Barrett: Page 18.

I move that subsection 12(2) of the bill be amended by striking out “from time to time” in the portion before clause (a) and substituting “not later than the fifth anniversary of the date the Lake Simcoe protection plan takes effect and at least once every three years after that anniversary”.

The Chair (Mrs. Linda Jeffrey): I'm going to rule that out of order.

The next motion is a government motion. Mr. Flynn.

Mr. Kevin Daniel Flynn: Mr. Tabuns might want to move this—but you can read it in his voice.

Mr. Peter Tabuns: You have a great voice.

The Chair (Mrs. Linda Jeffrey): It's sort of like “Who's on first?” here.

I move that subsection 12(2) of the bill be amended by striking out “from time to time” in the portion before clause (a) and substituting “at least once every five years”.

Mr. Tabuns is moving this motion. Any comments or questions?

Mr. Kevin Daniel Flynn: We would support that. We think it may put us all on the same page, finally, on at least one amendment. We heard from Campaign Lake Simcoe, we heard from our stakeholders, the science advisory committee and others that the current language in the bill, “from time to time,” was simply too vague. This is much more specific, much more scientific. The current wording in the bill, as I said, is “from time to time.” The minister is required to prepare annual reports, in any event, but this is very, very clear, and I think it's more on track with the recommendations that are coming from the science community.

The Chair (Mrs. Linda Jeffrey): Further comments or questions?

Mr. Toby Barrett: Would this government motion not then essentially allow for longer intervals between reporting?

Mr. Kevin Daniel Flynn: The current bill says “from time to time.” What we're saying is that at a bare

minimum it would be every five years—that you could not go more than five years without reporting.

The Chair (Mrs. Linda Jeffrey): Any further comments or questions? Seeing none, all those in favour of the amendment? All those opposed? That's carried.

Shall section 12, as amended, carry? All those in favour? All those opposed? That's carried.

Section 13, motion 20: I'll read it into the record for Mr. Tabuns.

I move that subsection 13(1) of the bill be amended by striking out “sections 14, 15 and 16” at the end and substituting “sections 15 and 16”.

Mr. Tabuns.

Mr. Peter Tabuns: Very simply, the decision to amend the plan should not be given over to an unelected hearing officer. It should remain in the hands of the Minister of the Environment. I think the direction that's being taken in this part of the act is very, very problematic.

The Chair (Mrs. Linda Jeffrey): Further comments or questions?

Mr. Kevin Daniel Flynn: We would not support this. Our understanding is that, currently, if a hearing were to be held, a hearing officer would provide the recommendations to the minister regarding proposed amendments to the Lake Simcoe protection plan, but it's very clear that the hearing officer himself or herself would not have the authority to amend the plan.

The Chair (Mrs. Linda Jeffrey): Further comments or questions?

Mr. Peter Tabuns: Recorded vote.

Ayes

Tabuns.

Nays

Barrett, Flynn, Kular, Mauro, Mitchell, Munro, Oraziatti.

The Chair (Mrs. Linda Jeffrey): That's lost.

The next motion is a PC motion: Mr. Barrett, 20.1.

Mr. Toby Barrett: I move that section 13 of the bill be amended by adding the following subsection:

“Public consultation

“(4.1) The notice required by clause (4)(c) shall provide members of the public with an adequate opportunity to be consulted on the proposed amendment.”

The Chair (Mrs. Linda Jeffrey): Comments or questions? Sorry, Mr. Barrett, did I cut you off? Did you want to make comments?

Mr. Toby Barrett: This whole process to protect Lake Simcoe, we feel, has not received proper consultation. I felt the hearings were rushed; I felt this weekend was rushed, personally. We're concerned that the government has not done sufficient research to have the impact with this legislation, if it was passed.

The Chair (Mrs. Linda Jeffrey): Comments or questions?

1440

Mr. Kevin Daniel Flynn: Quite to the contrary, we believe this has been an excellent exercise in consultation with the public—perhaps an example for others.

The amendment, we believe, is unnecessary as the bill, as it is before us, stipulates that proposed amendments to the plan must be posted on the Environmental Registry, for a duration to be specified by the minister. It's a normal practice for the ministries anyway, to consult with the public and solicit comments on proposals during those postings on the EBR.

The Chair (Mrs. Linda Jeffrey): Any further comments? Mr. Barrett.

Mr. Toby Barrett: Just further to what I was saying earlier, the deadline for amendments was something like 22 hours after the last presenter testified in this room. The Hansard had not been published for that day before the deadline passed, as I understand. This was problematic. I know it was problematic for staff working on this. I know you used the term “excellent,” but this process has been rushed.

The Chair (Mrs. Linda Jeffrey): Further comments or questions? Mr. Flynn.

Mr. Kevin Daniel Flynn: I don't sit on the subcommittee. There's a member from each party on the subcommittee that establishes these rules. I can only imagine there was somebody there from the Conservative Party when this decision was made.

Mr. Toby Barrett: There would have been somebody on the subcommittee from the—

The Chair (Mrs. Linda Jeffrey): Committee, can I just ask before you get this debate going, if you want to speak, at least look at me. Then I can identify you and then broadcast will turn you on; otherwise you have no microphone.

Mr. Barrett, you still have the floor.

Mr. Toby Barrett: Yes, the government member is correct, there was somebody from the opposition on that subcommittee.

The Chair (Mrs. Linda Jeffrey): Mrs. Mitchell?

Mrs. Carol Mitchell: As a member on the subcommittee, I do want to reinforce that all parties were present when we agreed upon the dates of hearings and the time frames that each target would have to be met. It was an agreement that was reached by the committee, and then the recommendations came forward, which were read into the record. This has been something that has been very public.

I would add as well that there were three days set aside for public hearings and only two of those days were required.

The Chair (Mrs. Linda Jeffrey): Any further comments or questions on the amendment? Seeing none, all those in favour of the amendment? All those opposed? That's lost.

Next government motion. Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that section 13 of the bill be amended by adding the following subsection:

“Typographical errors, etc.

“(6) Subsection (4) does not apply to an amendment that is made to correct a clerical, grammatical or typographical error.”

It’s just a technical amendment that I think is self-explanatory.

The Chair (Mrs. Linda Jeffrey): Further comments or questions? Mr. Barrett.

Mr. Toby Barrett: Obviously, it does make sense to have reports and amendments—to avoid going through dealing with these grammatical, typographical or any clerical errors and cut down on the costs. So that makes sense at this end.

The Chair (Mrs. Linda Jeffrey): Any further comments or questions? Seeing none, all those in favour of the amendment? All those opposed? That’s carried.

Shall section 13, as amended, carry? All those in favour? All those opposed? That’s carried.

Section 14: We have a notice in here. Mr. Tabuns, would you like me to read it into the record? Then I’m going to rule on it.

Mr. Peter Tabuns: Yes, please.

The Chair (Mrs. Linda Jeffrey): The NDP recommends voting against section 14 of the bill.

I’m going to rule this out of order.

Shall section 14 carry?

Mr. Peter Tabuns: Recorded vote.

Ayes

Flynn, Kular, Mauro, Mitchell, Orazietti.

Nays

Tabuns.

The Chair (Mrs. Linda Jeffrey): Section 14 is carried.

Section 15 has an NDP motion. I’ll read it into the record—

Mr. Peter Tabuns: Withdrawn.

The Chair (Mrs. Linda Jeffrey): Withdrawn.

Shall section 15 carry? All those in favour? All those opposed? That’s carried.

Section 16, which is motion 24. Is it withdrawn?

Mr. Peter Tabuns: Withdrawn.

The Chair (Mrs. Linda Jeffrey): Amendment 24 has been withdrawn. Shall section 16 carry? All those in favour? All those opposed? That’s carried.

Section 17 has no amendments. Shall it carry? All those in favour? All those opposed? It’s carried.

Section 18—

Mr. Peter Tabuns: Withdrawn.

The Chair (Mrs. Linda Jeffrey): —has been withdrawn.

Mr. Peter Tabuns: Withdrawn.

The Chair (Mrs. Linda Jeffrey): Number 25 has been withdrawn. How about number 26, Mr. Tabuns? Do you want me to read it in?

Mr. Peter Tabuns: Yes, please.

The Chair (Mrs. Linda Jeffrey): This is motion 26, if you’re following along.

I move that subsection 18(2) of the bill be amended by adding the following paragraphs:

“1.1 Publish reports on the environmental conditions of the Lake Simcoe watershed on the Environmental Registry established under section 5 of the Environmental Bill of Rights, 1993.

“1.2 Publish all advice provided to the minister under paragraph 1 on the Environmental Registry established under section 5 of the Environmental Bill of Rights, 1993.”

Mr. Tabuns.

Mr. Peter Tabuns: I think it’s a question of transparency, of public accountability. I think this would advance the purpose of the act.

The Chair (Mrs. Linda Jeffrey): Comments or questions? Mr. Flynn.

Mr. Kevin Daniel Flynn: We agree with transparency and with public accountability, and we believe that we already have it covered off in section 12 of the bill. The minister has to prepare annual reports, among other things. These annual reports must include a summary of the advice that the minister has already obtained from the Lake Simcoe science committee in that year. The minister’s also required to prepare reports once every five years, as a result of what we did with our—or Mr. Tabuns’s motion 19.

The Chair (Mrs. Linda Jeffrey): Comments or questions?

Mr. Peter Tabuns: Recorded vote.

Ayes

Tabuns.

Nays

Flynn, Kular, Mauro, Mitchell, Orazietti.

The Chair (Mrs. Linda Jeffrey): That’s lost. Government motion. Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that paragraph 2 of subsection 18(2) of the bill be amended by adding the following subparagraphs:

“iii. proposed amendments to the Lake Simcoe protection plan,

“iv. proposed regulations under this act,

“v. proposed regulations under subsection 75(1.7) of the Ontario Water Resources Act.”

This amendment speaks specifically to a suggestion that was made by the stakeholder and science advisory committee. It emphasizes clearly that scientific advice should be a key consideration in developing the regulations and policies and leaves no doubt, I hope, in

anybody's mind after this is hopefully successful that this function is a function that's expected of the science committee and they would be asked to undertake it.

The Chair (Mrs. Linda Jeffrey): Comments or questions? Seeing none, all those in favour of the motion?

Mr. Kevin Daniel Flynn: I like it.

The Chair (Mrs. Linda Jeffrey): I was just waiting; I didn't see any hands. All those opposed? That's carried.

Shall section 18, as amended, carry? All those in favour? All those opposed? That's carried.

Section 19. Are you moving the motion, Mr. Tabuns?

Mr. Peter Tabuns: Yes.

The Chair (Mrs. Linda Jeffrey): I'll read it into the record for you.

I move that section 19 of the bill be amended by adding the following subsection:

"Composition of committee

"(4.1) The members of the Lake Simcoe coordinating committee shall be appointed in accordance with the following rules:

"1. One third of the members must be persons recommended under subsection (4) who represent interests described in paragraphs 1, 2 and 3 of that subsection.

"2. One third of the members must be persons recommended under subsection (4) who represent interests described in paragraph 4 of that subsection.

"3. One third of the members must be persons recommended under subsection (4) who represent interests described in paragraphs 5 and 6 of that subsection."

Mr. Tabuns.

Mr. Peter Tabuns: The intent is simply to make sure there's balanced representation of interests on the committee.

The Chair (Mrs. Linda Jeffrey): Comments or questions? Mr. Flynn.

Mr. Kevin Daniel Flynn: Certainly it'll be the intent of the minister that we do end up with a balanced committee, that's for sure, but right now the bill, as drafted, already requires the minister to recommend persons who represent the following interests: municipalities in the watersheds, the prescribed areas; somebody from the Lake Simcoe Region Conservation Authority; the government of Ontario; public bodies; the agricultural sector; commercial-industrial sectors of the Lake Simcoe watershed, including small business interests; aboriginal communities that have a historic relationship with the Lake Simcoe watershed; other interests, in particular including environmental and other interests of the general public. We believe that the flexibility of the minister and the plan would be limited by passing this and are not supportive.

The Chair (Mrs. Linda Jeffrey): Further comments or questions?

Mr. Peter Tabuns: Recorded vote, please.

Ayes

Tabuns.

Nays

Barrett, Flynn, Kular, Mauro, Mitchell, Munro, Orazietti.

The Chair (Mrs. Linda Jeffrey): That's lost.

Shall section 19 carry? All those in favour? All those opposed. That's carried.

Section 20, government motion. Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that section 20 of the bill be struck out and the following substituted:

"Delegation by minister

"20(1) The minister may delegate in writing any of his or her powers or duties under this act to one or more public servants employed under part III of the Public Service of Ontario Act, 2006.

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"Exception

"(2) Subsection (1) does not apply to the minister's powers under subsection 15(1), except to the extent that those powers may be exercised to approve an amendment to the Lake Simcoe protection plan that is made to correct a clerical, grammatical or typographical error."

This is a technical amendment and would not change any policy intent.

The Chair (Mrs. Linda Jeffrey): Any further comments or questions? Seeing none, all those in favour of the amendment? All those opposed? That's carried.

Shall section 20, as amended, carry? All those in favour? All those opposed? That's carried.

Sections 21 through 25 have no amendments. Shall they carry? All those in favour? All those opposed? That's carried.

Section 26, motion 30. Mr. Tabuns, do you want me to read this into the record?

Mr. Peter Tabuns: Yes, please.

The Chair (Mrs. Linda Jeffrey): On behalf of Mr. Tabuns:

I move that section 26 of the bill be amended by adding the following subsection:

"Same

"(1.1) Without limiting the generality of clauses (1)(a) and (b), regulations may be made under those clauses with respect to residential redevelopments, resort developments, marinas, and sewers, watermains and other utilities, and regulations under clause (1)(b) may require persons to prepare and implement shoreline restoration plans."

Mr. Tabuns.

Mr. Peter Tabuns: Given all that's going on on the Lake Simcoe watershed, I think it's necessary to explicitly identify these projects so that they're more visible in the process of protecting of the lake.

The Chair (Mrs. Linda Jeffrey): Comments or questions? Mr. Flynn.

Mr. Kevin Daniel Flynn: As before, I understand the intent. We'll be bringing in a motion, 30.1, which I think speaks to very similar issues. We think it accomplishes the same aim and intent and will help to clarify the

government's intent in this regard. Currently, we believe this amendment, as it's written, is unnecessary.

The Chair (Mrs. Linda Jeffrey): Further comments or questions?

Mr. Peter Tabuns: Recorded vote.

Ayes

Tabuns.

Nays

Flynn, Kular, Mauro, Mitchell, Orazietti.

The Chair (Mrs. Linda Jeffrey): That's lost.

The next government motion. Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that section 26 of the bill be amended by adding the following subsection:

"Application, cl. (1)(a)

"(1.1) For greater certainty, a regulation under clause (1)(a) may regulate or prohibit an activity even if some or all permits, approvals and other instruments necessary to engage in the activity were obtained before the regulation came into force."

As with my previous comments, we believe that the bill already provided the regulations with authority to apply to that activity. The intent of this amendment is to clarify that intent.

The Chair (Mrs. Linda Jeffrey): Any further comments or questions? Seeing none, all those in favour of the motion? All those opposed? That's carried.

NDP motion 31. Mr. Tabuns, do you want me to read that into the record?

Mr. Peter Tabuns: Yes, please.

The Chair (Mrs. Linda Jeffrey): I move that section 26 of the bill be amended by adding the following subsection:

"Same

"(1.2) A regulation under clause (1)(a) may regulate or prohibit any activity other than an activity for which all necessary permits, approvals and other instruments were obtained before December 6, 2007."

Mr. Tabuns.

Mr. Peter Tabuns: I've made the arguments previously.

The Chair (Mrs. Linda Jeffrey): Any further comments or questions? Mr. Flynn.

Mr. Kevin Daniel Flynn: We won't be supporting this. In fact, we think that this would actually limit the authority as opposed to expanding it, and that's not what we want to see.

The Chair (Mrs. Linda Jeffrey): Further comments or questions? Seeing none—

Mr. Peter Tabuns: Recorded vote.

Ayes

Tabuns.

Nays

Flynn, Kular, Mauro, Mitchell, Orazietti.

The Chair (Mrs. Linda Jeffrey): That's lost.

The next motion. Mr. Tabuns, would you like me to read it into the record?

Mr. Peter Tabuns: Yes, please.

The Chair (Mrs. Linda Jeffrey): I move that subsection 26(2) of the bill be amended by,

(a) striking out "adjacent or close to" in clause (a) and substituting "within 100 metres of";

(b) striking out "within, adjacent or close to" in clause (b) and substituting "within or within 100 metres of"; and

(c) striking out "within, adjacent or close to" in clause (c) and substituting "within or within 100 metres of".

Mr. Tabuns.

Mr. Peter Tabuns: We heard a large volume of evidence calling for the 100-metre riparian zone. I think the arguments are compelling and I think if you're going to protect the lake, you have to have this kind of buffer. I would ask the government to support the amendment.

The Chair (Mrs. Linda Jeffrey): Comments or questions? Mr. Flynn.

Mr. Kevin Daniel Flynn: I think during all of the delegations we heard about the buffers—and I think that there was general agreement in their value. We believe that the current wording that exists right now in the subsection, "adjacent or close to," does not preclude a regulation applying to an area within 100 metres of the shoreline or an even greater distance if necessary. The current wording of this subsection allows greater flexibility, we believe, in the development of good shoreline regulations.

The Chair (Mrs. Linda Jeffrey): Mrs. Munro.

Mrs. Julia Munro: I would just like to add that I will not support this motion simply because of the restrictive nature of it. I think that there are places where it would be appropriate to have it considerably larger and others where it's not practical. Giving the bill the flexibility of "within, adjacent or close to" I think will allow for the people who are on-site to be able to look at what is best in the particular part of the shoreline.

The Chair (Mrs. Linda Jeffrey): Further comments or questions? Seeing none, all those in favour of the amendment? All those opposed? That's lost.

Government motion. Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that section 26 of the bill be amended by adding the following subsection:

"Permits

"(3.1) A regulation under clause (1)(a) that prohibits an activity may provide that the prohibition does not apply if the activity is engaged in in accordance"—I'm assuming that's good grammar, is it?

The Chair (Mrs. Linda Jeffrey): Yes. It's legal.

Mr. Kevin Daniel Flynn: Okay.

The Chair (Mrs. Linda Jeffrey): The lawyer's nodding, so it's legal.

Mr. Kevin Daniel Flynn: When you're smart, you can do anything, right?—"with a permit issued by a person or body specified by the regulations, and the regulations under that clause may,

“(a) govern the issuance, renewal, suspension and revocation of permits, including requiring payment of fees set by the person or body;

“(b) govern the contents of permits;

“(c) provide for and govern appeals from decisions to refuse to issue, refuse to renew, suspend or revoke permits;

“(d) for the purpose of the Conservation Authorities Act, deem a permit under this section to be permission required under section 28 of that act.”

The reason for that is that the current authority allows a regulation to regulate or prohibit activities in the shoreline areas within, adjacent or close to the tributaries and the wetlands, and require a person to do something to protect or restore the health of that lake. It's conceivable, however, that a regulation around an activity such as removal of a buffer adjacent to the lake would have straightforward rules, subject to limited exemptions that would be specified in the regulations to follow. There may be circumstances, however, where an activity that requires regulation is better suited to a permit system.

The Chair (Mrs. Linda Jeffrey): Further comments or questions? Seeing none, all those in favour of the amendment? All those opposed? That's carried.

The next government motion. Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that subsection 26(37) of the bill be amended by striking out “a provision of a regulation or instrument” and substituting “a provision of a regulation, bylaw or instrument”.

This relates specifically to subsection 26(37), which states that where there is a conflict between a shoreline protection regulation and an instrument, the provision that provides the greatest protection to the ecological health of the Lake Simcoe watershed is the one that prevails.

The Chair (Mrs. Linda Jeffrey): Any further comments or questions? Mr. Barrett.

Mr. Toby Barrett: I guess our concern, by adding the word “bylaw,” is, is this limiting the freedom of municipalities? Does this refer to a municipal bylaw?

Mr. Kevin Daniel Flynn: The only bylaws I know that exist—I'm trying to think who else might have bylaws. I guess corporations have bylaws, but that's not what we're speaking about here. The only bylaws, I think—

The Chair (Mrs. Linda Jeffrey): Mr. Flynn, would you like anybody from the ministry to assist you with this answer? You can.

Mr. Kevin Daniel Flynn: Yes, if somebody might want to come forward.

The Chair (Mrs. Linda Jeffrey): Could you identify yourself for Hansard, please, before you speak.

Mr. James Flagal: My name is James Flagal, and I'm a lawyer with the Ministry of the Environment, legal services branch. There's a conflict provision in section 26 of the bill and it simply provides that in cases of a conflict, whatever provision is most protective of the ecological health of Lake Simcoe prevails. The one instrument that was not mentioned there was bylaw, so this is just adding the reference to bylaw. So if there is a

conflict, if the bylaw provision is more protective, then the bylaw provision would prevail. However, if the shoreline regulation is more protective, then the shoreline regulation would prevail. It's whatever's more protective.

The Chair (Mrs. Linda Jeffrey): Any further questions or comments? Seeing none, thank you very much.

All those in favour of the amendment? All those opposed? That's carried.

Shall section 26, as amended, carry? All those in favour? All those opposed? That's carried.

Sections 27 through 29 have no amendments. Shall they carry? All in favour? All opposed? That's carried.

Section 30. Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that section 30 of the bill be amended by adding the following subsection to section 75 of the Ontario Water Resources Act:

“Same, application to persons

“(1.7.1) Persons prescribed by a regulation made under clause (1.7)(c) need not be located in an area prescribed under clause (1.7)(a).”

This amendment would give greater flexibility to the regulations that govern the water quality trading. It would allow the area to which trading applies to be described on a watershed basis, such as the Lake Simcoe watershed in this case, but also authorize credits or offsets to be created by persons who are located outside of that area or watershed. For example, a feasibility report on water quality trading in the Lake Simcoe watershed may find that persons to the west of the watershed boundary proper should be encouraged to create credits or offsets by taking actions to reduce the atmospheric loadings of phosphorus to the lake. This authority would allow the system to be designed with the flexibility so that they can give recognition to such beneficial projects that are occurring outside the watershed but are actually impacting in a positive way on the watershed.

The Chair (Mrs. Linda Jeffrey): Further comments or questions? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Mr. Barrett, did you want to comment on section 30?

Mr. Toby Barrett: No, we withdraw.

The Chair (Mrs. Linda Jeffrey): Thank you.

Shall section 30 as amended carry? All those in favour? All those opposed? That's carried.

Sections 31 and 32 have no amendments. Shall they carry? All in favour? All opposed? That's carried.

Shall the preamble of the bill carry? All in favour? All opposed? That's carried.

Shall the title of the bill carry? All those in favour? All those opposed? That's carried.

Shall Bill 99, as amended, carry? All those in favour? All those opposed? That's carried.

Shall I report the bill, as amended, to the House? All in favour? All opposed? That's carried.

Thank you, committee. This concludes our consideration of Bill 99, An Act to protect and restore the ecological health of the Lake Simcoe watershed. We're adjourned.

The committee adjourned at 1504.

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