



CANADIAN ENVIRONMENTAL LAW ASSOCIATION
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

ecojustice

Submission to the Standing Committee on General Government:

Recommendations Regarding Bill 72

October 12, 2010 (Updated version of EBR Submission dated July 17, 2010)

Submission by:

Canadian Environmental Law Association
130 Spadina Avenue, Suite 301,
Toronto, ON M5V 2L4
Tel: 416-960-2284, Fax: 416-960-9392

Ecojustice Canada
30 St. Patrick Street, Suite 900
Toronto, ON M5T 3A3
Tel: 416-368-7533, Fax: 416-363-2746

Table of Contents

Recommendations Regarding the proposed Water Opportunities and Water Conservation Act (Bill 72)...	2
INTRODUCTION	2
1) Set Targets and Measure Performance	4
2) Require Conservation Plans, Establish Standards, and Support Green Infrastructure.....	6
3) Foster Market Transformation and a Culture of Conservation.....	10
4) Other Matters	12
4.1) Oversight and Coordination.....	12
4.2) Climate Change	12
4.3) Approvals of Innovative Water Technologies, Services, and Practices	12
4.4) Complementary Measures	13
4.4.1) 'Blue Strings'	13
i) Infrastructure Grants.....	13
ii) Ontario Water Resources Act (OWRA)	13
4.4.2) <i>Intra-basin Transfers Regulation</i>	14
4.4.3) <i>Growth Management</i>	14
4.4.4) <i>Support for Farmers</i>	15
4.5) Support for First Nations	16
CONCLUSION.....	19
Comparison Table (Alliance Platform to Bill 72).....	20
Strikeover of Bill 72 (Updated October 13, 2010).....	23

Recommendations Regarding the proposed Water Opportunities and Water Conservation Act (Bill 72)

October 12, 2010 (Updated version of EBR Submission dated July 17, 2010)

INTRODUCTION

The Canadian Environmental Law Association (CELA) and Ecojustice Canada write to provide updated comments with respect to Bill 72. Our preliminary comments were submitted pursuant to the *Environmental Bill of Rights* Registry notice (Number 010-9940) on July 17, 2010. This initial submission was endorsed by Ontario Centre for Engineering and Public Policy, POLIS Project on Ecological Governance, Alliance for Water Efficiency, Canadian Institute for Environmental Law and Policy, Citizens Environment Alliance, Environmental Defence, Federation of Ontario Cottager's Association, Friends of the Earth Canada, Georgian Bay Forever, Grand River Environmental Network, Great Lakes United, Healthy House Systems, International Institute for Concern for Public Health, LEAF (Local Enhancement and Appreciation of Forests), Ontario Headwaters Institute, Ontario Parks Association, Ottawa Riverkeepers, Protect Our Water and Environmental Resources, Provincial Council of Women of Ontario, Reforest London, WaterPlan, and Wellington Water Watchers.

We welcomed the introduction of the proposed Water Opportunities and Water Conservation Act (Bill 72) and are pleased to provide these comments to even further strengthen the provisions of Bill 72.

The undersigned are some of the members of the recently organized Ontario Water Conservation Alliance which consists of 47 member organizations to date, and growing, who have endorsed our Platform. The Alliance is a coalition of citizens, organizations and businesses who believe an environmentally sustainable and economically secure province requires a comprehensive water conservation and efficiency strategy. They represent diverse sectors including water, energy, environmental and conservation organizations, women's organizations, parks organizations, environmental accounting and environmental labelling organizations, environmental training and environmental building organizations, municipalities, manufacturers of low-flow appliances, environmental industry and landscape organizations.

We also agree that Bill 72 should stimulate green jobs and new markets in conservation and efficiency to capitalize on water opportunities both locally and globally, including jobs in the implementation of new technologies for water reuse and recycling; in service sectors such as plumbing, landscaping, engineering, construction and design; and in manufacturing sectors involved in supplying everything from cisterns and rain barrels to dishwashers.

At the same time, municipal water services must remain public and we strongly encourage the government to reinforce the principle that ownership and decision making remain public for drinking water and wastewater systems.

In addition we agree along with Alliance members, that Bill 72 should keep water affordable by promoting more efficient use of our water infrastructure investments and reduce our infrastructure deficit which will continue to grow if we rely on expanding traditional forms of water infrastructure. Integrated water systems, innovatively re-designed, can rein in infrastructure costs, save taxpayer money, and help ensure water needs are kept within the carrying capacity of our watersheds. An important element in reducing the costs of necessary infrastructure re-designs is the use of green infrastructure: managed or constructed natural elements which manage waterflows in the same way as traditional ‘grey’ infrastructure (see full suggested definition at section 2.1, Bill 72). Green Infrastructure is a cost-effective means of improving water, stormwater, and wastewater management via infrastructure, addressing existing infrastructure deficits, and in addition provides significant benefits in the forms of improved community space and more resilient urban spaces.

And we agree that Bill 72 should drive energy and GreenHouseGas emission reductions. Saving water saves energy by reducing pumping, treatment, and heating requirements, reducing carbon dioxide emissions and ultimately saving money. Climate change is impacting the hydrologic cycle, making our ecosystems, communities, businesses, and farmers vulnerable. Implementing water efficiency measures now makes ecosystems and communities more resilient to long-term risks and reduces vulnerability to the impacts of a changing climate.

These submissions have benefitted therefore not only from review by CELA, Ecojustice, and the Alliance for Water Efficiency, but also from discussions among Alliance members. Later this summer the Alliance will be providing additional input to government over and above this submission, as well as preparing and distributing additional substantive information by way of Fact Sheets and otherwise. Alliance members will also be very engaged in outreach and discussions across Ontario both in response to specific consultation initiatives of government and to the legislative process, and by way of pro-active outreach initiated by Alliance members with communities.

We also include for your assistance and reference a “strikeover” version of Bill 72, with our preliminary suggested revisions to improve Bill 72. We reserve the right to make additional suggestions leading up to and during opportunities for public input into the legislative process which will consider Bill 72.

In the wake of the Throne Speech this past spring, the members of the Alliance collaborated in preparing an initial Platform at www.conserveourwater.ca which called for the following main principles to be included in the government’s then-anticipated legislation. We have prepared this submission by way of comparison of Bill 72 to that Platform document.

The Ontario Water Conservation Alliance Platform document called for the anticipated Bill to:

1. Set Targets and Measure Performance
2. Require Conservation Plans, Establish Standards and Support Green Infrastructure

3. Foster Market Transformation and a Culture of Conservation

We will deal with each of these in turn in our review of the proposed Bill 72.

1) Set Targets and Measure Performance

The Alliance recommendations on this topic were:

- **Conservation Targets** - *create and promote conservation targets for individuals, businesses, communities, and watersheds that are ambitious, achievable and based on meeting human and ecological needs.*
- **Continuous Improvement** - *establish good mechanisms for measuring and reporting on performance, and for continuous improvement including evaluating and re-visiting key elements of the strategy at regular and prescribed intervals.*
- **Water Conservation Officer** - *appoint an independent Water Conservation Officer, reporting directly to the Legislature, with responsibility for monitoring and advising on Ontario's water conservation efforts.*
- **Advisory Committee** - *create an expert advisory committee to advise the Water Conservation Officer and key ministries on the implementation and performance of the Act.*
- **Inter-Ministerial Coordination** - *designate shared responsibility amongst all relevant ministries and ensure inter-ministerial coordination.*

Bill 72 in comparison includes a strong preamble that refers to conservation, stewardship, leadership, and innovation, among other things, and of sustaining Ontario's water for present and future generations, as well as new ways of thinking about water. However, in the normal course of legislative process, this Preamble is specific to this Bill and will not become part of the subsequent pieces of new or amended legislation once the Bill is passed. We recommend that its philosophy and as much of its language as possible be reflected in language of the Act. We have not yet provided specific suggestions in this regard in our "strikeover" version of Bill 72 but will be doing so in coming months leading up to further consideration of the Bill in the legislature and its committees. We stress that the Ontario government and the Ministry of the Environment must lead public outreach and social marketing to educate the public about water conservation issues in Ontario, and dispel the "Myth of Abundance" of water resources.

While the Bill would establish a new stand alone piece of legislation with a focus on promoting innovation and technology in Ontario's water sector, as well as conserving and sustaining Ontario's water for present and future generations, it also includes amendments to the *Ontario Building Code Act*, *Green Energy Act*, *Capital Investments Plan Act* and *Ontario Water Resources Act*. Some of the suggestions we make below and in our "strikeover" version of Bill 72 are intended to increase the co-ordination and consistency of approach and to assist with integration across these statutes in line with the vision outlined in our Alliance Platform and that outlined in the Bill's preamble as introduced.

We also note that the Act is enabling legislation with many of the details to be determined in regulations that will follow. In some cases we have made suggestions in the “strikeover” version to include additional details in the Bill itself, and we also have made suggestions to the relevant regulation making powers to better ensure that the Bill meets the intent we advocate.

We recommend that the Purpose Statement of Bill 72 be more strongly worded to include ecosystem protection (“without compromising the needs of the ecosystem”), watershed based conservation, and promotion of a culture of conservation.

In terms of targets, the Act creates a broad power for the Minister of the Environment to set targets. The targets established in section 2(1) of the Bill are referred to as “aspirational” targets. We recommend that this term be amended to read “provincial” targets. We have further suggestions regarding other targets referenced and enabled in the Bill which we will mention in these submissions and have included in the “strikeover” version of Bill 72.

The Bill establishes a new planning document, Municipal Water Sustainability Plans. The Minister may require performance targets (section 29, Bill 72) based on performance indicators to be established (section 28). The Minister may further require amendments to Water Sustainability Plans to better achieve targets. We recommend that the word “may” be changed to “shall” in these sections, and that the range of issues to which targets should be addressed should be broadened and strengthened to include not only financing, operation or maintenance of a municipal service, but also performance indicators and targets relating to:

- conservation of water,
- utilization of innovative and demonstrated technologies, services, and practices to more sustainably use and manage water,
- reduction of energy use associated with the use of water in the community,
- maintenance of watershed and aquifer protection and health in accordance with watershed and aquifer protection plans, and
- implementation of conservation and demand management of water resources including for watershed and aquifer protection health, ecosystem protection, soft path approaches to water stewardship and utilization of green infrastructure methods of maintaining and improving water flows on the landscape.

For clarity, we include the following definitions of "soft path" and "green infrastructure":

"Soft path" means examining service needs and questioning first whether water is necessary for effective service delivery, and second, if so, what quality of water is needed, with the overall aim of ensuring current and future water needs do not overstrain or degrade they quality of water flows, systems, or overburden infrastructure.

"Green infrastructure" means ecological processes or structures, whether natural or engineered, that process, capture, and direct water, stormwater, and wastewater in a similar manner to grey

infrastructure, yet have multiple ancillary societal benefits. Green Infrastructure functions on a site specific scale (servicing specific areas), and on a regional scale as an interconnected network of spaces. Green infrastructure includes: urban forests, natural areas, greenways, streams and riparian zones, meadows and agricultural lands; green roofs and green walls; parks, gardens and landscaped areas, community gardens, and other green open spaces; rain gardens, bioswales, engineered wetlands and storm water ponds. Green infrastructure also includes soil, in volumes and qualities adequate to sustain leafy green infrastructure and absorb water, as well as technologies like porous paving, rain barrels, cisterns and structural soils

We also recommend that performance measures and targets be established on a watershed and aquifer protection basis.

As targets are key to the effectiveness of the new, innovative, and conservation based approaches to water that the proposed Bill would enable, we strongly encourage the government to move quickly to set targets, and certainly within six months of the passage of legislation. The time frames pertaining to the targets should include near term, medium term, and long term targets across the range of parameters that will be addressed as targets. We also strongly encourage government to consult widely as to targets, and to consider the particular watershed conditions, including water budgets, of various parts of the province and to establish specific targets that are relevant to the stresses, challenges and opportunities of each region, including the degree of growth in each region.

The Bill provides that public agencies may also be required to establish performance targets, which provides a new tool of conservation planning for the public sector. We recommend amendments providing that public agencies' water conservation plans be explicitly based on principles of water sustainability in relation to water, stormwater and wastewater.

2) Require Conservation Plans, Establish Standards, and Support Green Infrastructure

The Alliance recommendations under this heading were:

- ***Permit Conditions*** - require applicants to submit demonstrable water conservation plans in order to obtain permits to take water from ground or surface water sources. Establish criteria for plans and identify sectoral best management practices for water conservation.
- ***Infrastructure Grant Conditions*** - link water conservation requirements explicitly to infrastructure grants by requiring demonstrable water conservation plans in order to receive a grant.
- ***Water Efficiency Standards*** - implement standards for various sectors, including point-of-sale, and all new infrastructure, building development, and retrofits.
- ***Green Infrastructure Incentives*** - define conservation and efficiency, and green infrastructure as infrastructure. Provide infrastructure funding for implementing water conservation plans and support at different levels based on the quality of the plan (ie.

platinum, gold, silver). Require audits to verify implementation of plans as a condition of funding support.

- ***Land Use Planning and Development*** - *require land use planning and building decisions to incorporate innovative water conservation, green infrastructure and low impact development approaches.*

As noted earlier, the proposed Bill provides for Municipal Water Sustainability Plans. They are proposed in Bill 72 to include a number of elements: a mechanism for setting targets; a new requirement over and above drinking water financial plans to encompass stormwater and wastewater; and a requirement to prepare asset management plans for physical infrastructure, including green infrastructure. The plans must also demonstrate a sustainable water supply for future use.

Bill 72 also includes amendments to the *Ontario Building Code Act* to more explicitly recognize water conservation and amends the *Green Energy Act* to put water standards into the *Ontario Water Resources Act* and to recognize both water and energy conservation imperatives. We strongly support these initiatives and highlight that reviewing existing legislation to ensure that it at least does not limit, and ideally that it amplifies and supports the initiatives of Bill 72 is a necessary step to effectively manage Ontario's water resources.

Bill 72 also supports labelling and efficiency standards through amendment of the *Ontario Water Resources Act*. We strongly recommend that Ontario support the adoption of the U.S. Environmental Protection Agency's *WaterSense*® program to complement its desire to build a culture of conservation.

While Bill 72 does not address other sectors' water conservation plan requirements, such as industrial sectors, since these are already enabled under the *Ontario Water Resources Act*, we strongly urge government to communicate its plans and timelines for development of those sector based conservation plan requirements and their integration with Municipal Water Sustainability Plans.

Action at the local level is key to addressing our society's conservation goals; and the negative results of failing to conserve fall most directly on the local community by way of increased infrastructure costs, treatment costs, and water energy costs, among others. The proposed Bill should explicitly allow municipalities to exceed any minimum water conservation standards provided in the Building Code (and the same should pertain for energy conservation standards) so as to clarify municipal authority in this regard. Where necessary, the Building Code should also enable stormwater conservation systems and, again, allow municipalities to exceed minimum standards for stormwater conservation, and to utilize green infrastructure approaches to accomodating stormwater flows and other infrastructure needs. The province should also provide enabling language for stormwater management rates and other techniques to support low-impact development techniques, such as tree preservation and planting, rainwater

harvesting, green roofs (that are not irrigated with potable water), permeable surface requirements, and others. These technologies and practices provide efficient, cost-effective means of not only addressing water infrastructure needs, but of providing green space for community health and addressing climate change effects, among other benefits. The province should not merely allow municipalities to approve and implement these measures individually, but should actively encourage these approaches to water conservation and infrastructure management.

We are strongly supportive of new approaches to standards and labelling, and welcome new powers for appliance standards and labelling. We would recommend that building labelling should be included as well and we provide recommendations in the “strikeover” version of the Bill in this respect. We also note that water users in the municipality may be facilities such as sports fields and therefore recommend that the labelling be extended to both buildings and facilities, and that the labelling may include not only historic or seasonal water use information, but also labelling to demonstrate innovations or practices that are being undertaken to reduce water use, reuse water, and otherwise better steward the water resources of the community. With respect to water appliance standards and labelling, we encourage Ontario to continue to work toward a national standard with other provincial and federal jurisdictions in Canada, (such as WaterSense®), but would urge Ontario to retain the ability to implement standards and labelling on its own, or to exceed the standards to which the other jurisdictions may ultimately agree.

A weakness in Bill 72 is that the Municipal Water Sustainability Plans have little apparent enforcement nor incentives to ensure that plans are followed and targets are met. The Bill provides that, in the event of failure to achieve a target, the Minister may require the entity to provide reasons for failure to meet a target, report on proposed strategies, and may require steps towards achieving the target. We would recommend an explicit link to infrastructure planning and financing, and urge the government to develop and communicate those links and new future requirements such as the Premier’s recent statement that the province will develop “Blue Strings” for municipal water infrastructure financing. In addition, we reinforce the proposal in the Bill that Municipal Water Sustainability Plans be made public and approved by municipal councils; we recommend that the public consultation and communication requirements before approval be mandated in the regulations so as to ensure wide-spread knowledge and understanding of the water sustainability issues and financing requirements by the residents of the municipality. In addition, performance and results from the water provider’s water conservation plan should affect the approval process for the municipality to expand or otherwise change its water and sewer infrastructure under the *Ontario Water Resources Act*.

In general, we support full cost planning and cost recovery (eg. conservation-based pricing and increasing-tiered rates structures) by municipalities for their water systems, inclusive of source water protection and conservation costs. We note that large and medium communities should be able to meet these financial needs with effective financial plans and water sustainability plans,

while moving to even more sustainable water systems. For example, in their planning municipalities and their residents should recognize that avoided new treatment and distribution costs would help municipalities recoup costs from implementing the plans.

However we do have a concern that smaller, remote, and northern municipalities may not be able to fully meet these financial and sustainability needs and may require additional assistance from senior governments. At the same time it is critical that these systems provide safe and sustainable water services to their communities. We urge the government to renew and continue its small systems water operating fund, and to take into account the special needs of small, remote and northern communities in applications to capital water infrastructure financing programs. Furthermore, those small, remote and northern communities may need specific financial support to prepare the Municipal Water Sustainability Plans and obtain the expertise they would wish to obtain to assist them in applying the opportunities for greater sustainability to the development and implementation of their Plans.

We also recommend an additional requirement for municipal water services to inventory opportunities for soft path approaches to water conservation and demand management, utilization of green infrastructure (for which we provide a suggested definition), and ecosystem based water conservation, to ensure that water sustainability plans are not prepared only in reference to physical water infrastructure. For example, targets should aim to retain urban forest canopy (the collection of trees and other woody vegetation that grow within a city, town or a suburb) which has a key impact on absorbing and utilizing natural water flows and stormwater, and in reducing urban heat islands. In addition to retaining existing urban forest canopy, additional green infrastructure opportunities should be identified and implemented, as they are both cost-effective and broadly beneficial means of managing water infrastructure needs.

It is important to separate the traditional concept of “wastewater” from stormwater, in particular to promote new thinking and innovation in regard to utilization of rain and stormwater flows in the community. Throughout the “strikeover” version of Bill 72 we have recommended that “water, stormwater, and wastewater” be the phrase used rather than defining wastewater to include stormwater. Otherwise the implication is that the main methods of managing and dealing with stormwater are in waste streams and in piped flows, rather than utilizing it as a resource and maintaining natural flows while reducing the need for treated water applications. Changed approaches to stormwater management are an integral part of preserving our clean water resources, and the incorporation of green infrastructure techniques is one of the most cost effective, efficient, and maintainable methods of effecting these necessary changes.

It is also key that the range of activities and approaches to water be considered more broadly than as piped and pumped infrastructure and flows through hardened surfaces that need treatment before use or after use. Alternate planning approaches, land use, site design, plumbing approaches, and other techniques can better conserve water, use and re-use water and reduce treatment and pumping costs and associated energy use. Therefore we recommend that the term

“practices” be added to the phrase “technologies and services” throughout the Bill, so as to read, “technologies, services, and practices.”

Watersheds are the key scale for managing water, both as to quality because of the hydrological flows of water in the area, and as to quantity. Stewarding our water at the community scale is not simply a municipal matter. What is needed is further integration of the roles of municipal water professionals and others with the roles of watershed scale water managers, such as Conservation Authorities. We have made recommendations in the proposed Bill to better reflect the importance of watersheds as the fundamental water management scale which must underlie all water decisions and activities in the community.

We have included a recommendation that water for growth be found by conserving existing water utilization. For example, there may be consideration of the carrying capacity of the aquifer or watershed, and where this is exceeded, limiting growth so as to stop exceeding the sustainable capacity of the watershed. This would be most relevant in the high growth areas of the province for the post 2031 time frame, following the current growth planning period.

We have also recommended in our “strikeover” version of the Act, institution of a new Municipal Water Conservation Innovation Fund (the Fund) to assist Municipalities with testing and piloting technologies, services, and practices in the areas of innovative water conservation, sustainable water use, green infrastructure, alternative building standards that promote conservation, water demand reduction, rain and grey water reuse, alternative approaches to stormwater management including retention on the landscape and in support of maintaining natural hydrological flows.

3) Foster Market Transformation and a Culture of Conservation

The Alliance recommendations under this topic were:

- ***Green Procurement*** - ensure that public sector buildings, operations, and facilities (provincial and municipal) lead by example with conservation plans and water efficient procurement policies to establish test markets for innovative Ontario-developed conservation methods, technology, services and expertise.
- ***Social Marketing and WaterSense®*** - Implement a social marketing strategy with the goal of instilling an “ethic of water stewardship” in Ontario’s citizens and businesses. As an essential element of this strategy, collaborate with industry and other government stakeholders to create a labelling program for water fixtures and services – an Ontario version of EPA’s WaterSense®.
- ***Financial Instruments*** - in order to ensure appropriate water pricing, implement water charges for major water takers not already subject to Ontario’s water charge regulations and finish implementing the new financial plans requirements for municipal drinking water systems; expand these to explicitly include sewer water systems, stormwater systems and water conservation and efficiency plans.

- ***Pilot Projects and Streamlining*** - support early adopters and demonstration projects to foster learning and encourage market acceptance of innovative technologies and approaches. Expedite approvals for green infrastructure and low impact development.
- ***Training and Expertise*** - support development of new water professional accreditation, certification and training programs as new water technologies, expertise, and service opportunities are developed.

Bill 72 establishes the “Water Technology Acceleration Project” (TAP) as a new stand-alone corporation for testing, demonstrating, and commercializing innovative water technologies. It is also empowered to develop certification, labelling, and verification programs, if requested, and to promote Ontario water innovation internationally.

We agree with the need to further build Ontario's water sector and to promote economic opportunities for Ontario businesses. The TAP would help facilitate pilot projects, bring different sectors together and be a commercial vehicle for building Ontario into a world power in water technology and innovation. We also agree that validation is essential for Canadian technology development and certification. It is ironic when Ontario developed water technology or practices must be certified with US testing institutions in the absence of an Ontario or Canadian equivalent, or when Ontario developed technology is being utilized elsewhere in other countries but has not been approved for Ontario use.

We have included recommendations in our “strikeover” version of Bill 72 to broaden TAP’s objects to better reflect the opportunities that also exist in advancing conservation approaches, and including practices and services; and similarly in taking innovative soft path and green infrastructure approaches which have many opportunities for Ontario leadership and economic advancement. We also recommend adding protection of human health, environment, and encouragement of conservation to TAP’s objects, and suggest a public review every 3 years instead of merely an internal review.

We have made recommendations in our “strikeover” version of the Act to have a broadly representative Board of TAP; and to include a public process for review and recommendations as to its ongoing activities. The Bill provides that the Minister of Resource and Innovation may issue directives to the corporation and the Lieutenant Governor in Council may direct the winding up of the corporation.

Additional recommendations that we provide to Bill 72 in the “strikeover” version include that MOE should lead a public education campaign on conservation; in particular by enabling existing institutions and organizations who can reach the public across Ontario; that water and energy planning linkages need to be further empowered; that the Act in general add further tracking, monitoring, reporting, and continuous improvement requirements and that the linkage to provincial priorities regarding employment training, for a broad suite of occupations and professions be better enabled.

We note that in order to foster innovation and new approaches, research is a fundamental requirement. This is true both for technology, but also for services and practices. Research can include natural and biological sciences as well as social sciences and engineering. We recommend a greater emphasis in the proposed Bill on research that enables the objects of the Bill and have made suggestions in our “strikeover” version of the Bill.

4) Other Matters

4.1) Oversight and Coordination

There is great potential for water sustainability improvement, better conservation, and advancement of Ontario water practice as a result of Bill 72. However, we recommend increased methods of oversight and assurance that its potential is met. We suggest therefore additional provisions to further support inter-ministerial coordination within government. We also recommend the establishment of a multi-sectoral expert advisory committee which we have styled as the Water Conservation Advisory Council, separate from TAP to advise government with respect to matters pertaining to water conservation, sustainable water use, water efficiency and demand management, innovative technologies, services, and practices, opportunities for improvement to Ontario’s water conservation and water sustainability approaches, soft path water utilization and green infrastructure, among other matters.

4.2) Climate Change

We also note that there is a strong linkage between water conservation and treatment and climate change issues – both as to water quantity and availability of water and potential changes in that regard; as well as in regard to the adequacy of infrastructure to cope with changing conditions, both over the long term and sudden events, as well as to water quality and the concentration of pollutants in cases of water shortages; or by way of increased vectors and pathogen transmission pathways. Research opportunities exist in all of these respects, and innovative technologies, services, and pathways can develop solutions which will need to be tested, demonstrated and implemented. Similarly, Municipal Water Sustainability Plans will have to plan for the vagaries of climate change, and the range of impacts shown in the various climate change models may dictate future water conditions and issues that must be taken into account in those Plans. Green infrastructure practices and technologies (urban forests, green roofs, etc) offer efficient and cost effective ways of mitigating the effects of climate change through reduced stormwater runoff, reduced energy use and reduced heat island effect.

4.3) Approvals of Innovative Water Technologies, Services, and Practices

We also note the need for MOE, municipal, and other government approvals processes to allow for demonstration and implementation of new technology, and for those approvals processes to be appropriately expedited when they are in aid of more sustainable, safer outcomes.

4.4) Complementary Measures

As part of this proposed new approach to water management reflected in the Preamble of the Bill, there are a number of additional, complementary measures that we consider essential elements of an effective water opportunities and conservation strategy. We recommend these measures be communicated and moved forward as a coherent package that provides clear direction to all Ontarians and demonstrates the necessary leadership to move Ontario ahead of the pack in North America.

4.4.1) 'Blue Strings'

At a recent event, the Premier of Ontario stated that “Our government will also pursue a “Blue Strings” approach to funding infrastructure that promotes better water management. What we are saying is if you want us the provincial government to help you fund your water infrastructure you are going to have to show us that you are being smart by taking advantage of new technologies and conservation practices.” We commend this approach, and encourage the government to develop a blue strings policy immediately and in tandem with the new Bill. In its platform, the Ontario Water Conservation Alliance recommended two key types of blue strings in the form of water conservation based conditions for both infrastructure grants and permits.

i) Infrastructure Grants

With respect to infrastructure grants, in particular programs offered by the Ministry of Energy and Infrastructure, applicants should be required to provide a water sustainability plan, including a water conservation plan which has achieved demonstrable water use reductions, in order to receive a grant. For example, British Columbia requires a water conservation and efficiency plan for provincial water infrastructure funding and California requires implementation of cost-effective BMPs for all urban systems. In addition, mechanisms should be found to provide funding for green infrastructure solutions directly.

ii) Ontario Water Resources Act (OWRA)

As mentioned earlier in this document, we strongly urge the government to develop sector-based water conservation plan requirements through the *Ontario Water Resources Act*. These plans should then be made a requirement for permits to take water issued through the *OWRA*.

To support the sectors in developing effective plans, the government should establish sector specific templates to ensure permit applicants document existing and planned use of approved best management practices (BMPs). The templates should be sufficiently simple to be completed by individuals without hiring a professional. We recommend that the government establish flexible criteria to guide approvals of new permits or requests for increased takings. Depending on the sector, criteria could be based on the adoption of documented best management practices or requiring new water withdrawals to be offset by reducing water use in other areas within the watershed. Examples of best management practices for municipalities could include evidence of volume-based conservation pricing, outdoor water audits, and updating existing buildings to incorporate water efficient fixtures (for example, as defined by the California Urban Water Conservation Council which has a well developed list of BMPs that are adaptable to Ontario).

4.4.2) Intra-basin Transfers Regulation

The regulatory framework for intra-basin transfers is a critical component in this new way of thinking about water and is essential for demonstrating leadership in the region and on the continent. A weak framework will undermine the goals of Bill 72 by encouraging a status quo approach to water supply management based on ever-larger, more expensive and more energy-intensive pipes and pumps that criss-cross the southern part of the province, dislocating watersheds and causing environmental harm. It will also set an unfortunate precedent for other jurisdictions in the Great Lakes basin seeking to undertake inter-basin and intra-basin transfers. A strong regulatory framework will set a positive precedent and will be a key driver for this new approach to water, one that emphasizes efficient practices, and supports innovation in water, stormwater, and wastewater management.

The government should therefore ensure it follows through on its commitment to strictly regulate intra-basin transfers by:

- i) Applying a scientifically sound and hydrologically accurate definition of watersheds in determining what constitutes an intra-basin transfer;
- ii) Requiring return flow to the same watershed from which flows were taken, as close as possible to the withdrawal/removal point. If there are existing municipal systems that cannot meet such criteria they can be grandfathered but any increase to these existing systems must be captured;
- iii) Ensuring intra-basin transfers are addressed and integrated early in the planning process such as in the *Places to Grow Act*, infrastructure decisions, source water protection planning and other key planning processes;
- iv) Requiring proponents to show they are meeting detailed criteria for water conservation and efficiency that goes beyond the requirements of the proposed *Water Opportunities and Water Conservation Act*.

In the meantime, no new intra-basin transfer proposals should be considered until this new regulation has been developed.

4.4.3) Growth Management

Gains made in water conservation and efficiency through the proposed Act and complementary measures may be significantly undermined if the Province does not ensure that the management of growth and land use planning is more effectively connected to the protection of the Province's fresh water resources and watershed needs. Allocating and distributing growth to areas that are approaching or have reached the carrying capacity of their local watersheds will only serve to further dislocate watersheds, encourage larger pipes and pumps that are expensive, energy-intensive, environmentally damaging and which further deepen the Province's infrastructure deficit. It is essential that provincial growth management and land-use planning tools more

effectively consider watershed needs and support the goals of the *Water Opportunities and Water Conservation Act*. In addition, existing legislation and tools for directing development should be reviewed soon after the adoption of Bill 72 and adjusted to encourage the adoption of low-impact development and preservation and improvement of green infrastructure wherever possible, and in a coherent manner.

4.4.4) Support for Farmers

We encourage the government to support farmers in improving their water efficiency by investing in the Environmental Cost-Sharing programs of the Environmental Farm Plan and increasing the funding caps and percentage of cost-share from 30% to more than 50% for water conserving practices.

Water is one of the inputs that farmers use to raise animals and to grow crops, and they must balance its use against other inputs, among them soil structure and quality, weather conditions, purchased inputs, and market opportunities by farming practices, crop choice, timing of planting and of harvest, etc. Agricultural scientists can provide figures about “optimal” water use for a particular crop or animal, but those figures are only indicators that may or may not reflect the conditions a specific farmer faces and the decisions he or she must make.

Despite these generalities, in most countries of the world, irrigation is the largest use of water, in some cases taking as much as 90% of the total. (Use of water for raising animals usually falls well below use for irrigation.) Canada as a whole is a striking exception, with less than 10% of total water use attributed to irrigation, and most of that found in southern Alberta and Saskatchewan. However, with urbanization and the increasing volume of food delivered to consumers by large, integrated marketing firms, the use of irrigation to meet delivery schedules is growing in Ontario. Perhaps surprisingly, agriculture is the second largest economic sector in Ontario, and the third largest sector in use of water mainly during June, July and August when approximately 54% of total annual water withdrawn is used for irrigation.

Water use in agriculture has not been regularly reported, but between 1991 and 2001, estimated use grew from about 160 to 175 million cubic metres per year, of which about 30% went to livestock and the rest to irrigation. (These figures exclude aquaculture, golf courses and of course non-commercial gardens and lawns.) The volume could easily exceed 200 million cubic metres at the present time, and could, if no changes in costs or farming practices were made, to keep growing year by year. Ontario data will now be available with recent requirements to report actual volumes of water taken by water taking permit holders. The major irrigated crops included tobacco, fruits (apples, strawberries, and peaches), field crops (potatoes, carrots, and cabbages), specialty crops (including sod), and nursery stock. Irrigation of non-food crops takes about as much water as does livestock, but, whereas the latter is nearly stable from year to year, sod and nursery stock has been growing.

The Ontario Water Opportunities and Conservation Act should explicitly incorporate and provide opportunities for agricultural innovation in water use and conservation.

Given growing demands for water across southern Ontario, and growing recognition of the volume of water needed to maintain ecological sustainability, many opportunities, based on new and innovative research as well as building on existing technologies may moderate the trend toward ever more water withdrawn for crops and livestock, while maintaining an economically viable agriculture sector.

Among the technological opportunities are more efficient irrigation equipment and efforts to recover water delivered to, but not used by, livestock, as well as more careful maintenance of pumps, valves and hoses or pipes that are an inherent part of irrigation and stock watering systems. It is not unreasonable for these efforts alone to reduce water use by one-quarter. However, with the ongoing trend to larger and more heavily capitalized farms, it is also reasonable to expect that water saved from more efficient irrigation and stock watering is likely to be used to increase the area under irrigation. Accordingly, additional techniques for water conservation in agriculture will be a necessary and growing field of inquiry, with many research questions and opportunities for commercialization of those technologies in Ontario and beyond.

Additional measures with research, innovation, commercialization, and implementation opportunities include micro-irrigation (mainly drip systems) along with better irrigation scheduling and measuring devices that turn off systems automatically when soil moisture reaches a prescribed level. As well, use of grey water or even partially reclaimed sewage water where it is available (primarily in peri-urban areas) could replace a large volume of fresh water currently used in irrigation. These sources have the further advantage that they provide a significant share of the nutrients needed for plant growth. So too could the construction of retention ponds to gather storm water and spring freshets, which should be enough to ensure irrigation water during the critical germination phase of plant growth. These alternative sources must of course be used carefully with attention to the health of farm workers and of consumers. For example, they may not be appropriate for growing salad vegetables that are eaten raw.

One estimate of savings of water in Ontario agriculture suggests that, with some investment in capital and somewhat more energy use, water use some 20 in agriculture for the next 20 years or so would not need to grow by more than about 10%, and even this increase would all but be eliminated if tobacco growing, which is a notably thirsty crop, falls off as expected. An even larger saving would occur if, as expected, much of expected population growth moves to multiple family dwellings, which eliminates a large share of the need for sod and nursery stock.

4.5) Support for First Nations

First Nations face unique challenges with respect to water management and frequently fall into a jurisdictional gap whereby neither provincial or federal governments appear willing to provide adequate support to address these challenges. It is important that the Province of Ontario enter

into a dialogue with First Nations to identify how the proposed legislation and new strategic approach can support their needs.

There is likely to be significant potential for opportunities for First Nations arising from the currently proposed Ontario Water Opportunities and Water Conservation Act *if a concerted effort is made to ensure that those opportunities are created and pursued.*

First Nations communities in Ontario are geographically diverse, ranging from locations in large urban southern Ontario areas to small far North areas without year-round road access. Many systems remain at risk and there are a range of unresolved issues regarding resources, standards and governance. As of 2009, there were still 48 First Nations communities whose systems remain classified as high risk. However, this number has steadily declined from 218 in 2003¹. As of April 30th, 2010, there were 116 First Nations communities across Canada under a Drinking Water Advisory with a mean average duration of 343 days. Despite the policy outlined in the 2006 *Protocol for Safe Drinking Water for First Nations Communities*, thirty-six per cent of these communities still do not have any level of certification for water systems operators.

As a result, opportunities specific and unique to First Nations communities arise for research, technology development, and implementation of drinking water treatment, delivery and supply options. Training and green jobs opportunities in the water sector arising from innovative solutions that apply in small, remote and far North communities should be pursued. The proposed *Ontario Water Conservation and Opportunities Act* should explicitly encourage and enable those opportunities for First Nations communities and their members.

Examples of specific First Nations related opportunities and needs which could be expedited by the Technology Acceleration Project proposed in the *Act*, include the following:

- Development of Tool kits to operate and manage multiple systems, centralised, and decentralised.
- Preparation of Guidelines for Source Water Protection
- Preparation of Water and Wastewater Systems plant operators training manuals.
- Development of local management models specifically designed for both centralised and decentralised systems.
- Preparation of Standard Operational Procedures (SOPs) for water and wastewater treatment devices and packaged plants.
- Development of tool kits to select Certified Water and Wastewater treatment devices for point-of use, point of entry and decentralised small systems.
- Development of Risk Assessment tools.
- Preparation of educational and promotion material which are user friendly.
- Water treatment solutions for many First Nations communities must be effective for remote, northern, communities with small populations, climate extremes over the course of the year, and in the geology of the near and far north. In many cases this requires new or expanded research to apply or modify water technologies that were developed in more populated or southern communities and with different geological realities. This may include exploring technologies from a point of use or small system perspective rather

than from a large central system perspective. In some cases, there are very specific contaminants of concern for the First Nations community and their drinking water, but research is needed to obtain solutions which can be readily implemented. (It should be noted that such research will also benefit non-First Nation communities with similar challenges to obtaining safe drinking water.)

- Related relevant research opportunities include water sampling and on-site testing approaches that work for communities at a distance from regular labs, and other monitoring issues relevant to the communities.
- In addition to envisaging and designed research projects which are responsive to these existing and practical needs of communities, there is the opportunity to ensure that these projects are designed so as to provide additional research and training opportunities directly for First Nations youth and young professionals.
- Similarly, water conservation solutions will be of interest to many First Nations communities just as they are elsewhere in that it may be very expensive, both in financial and energy consumption terms, to treat and distribute water. Water conservation assists in reducing these demands on the community. Furthermore, the types of green infrastructure solutions that the Water Conservation Alliance advocates generally will also be of interest to First Nations communities who may wish to explore, pilot, demonstrate and install those innovative water conservation solutions. Examples which have been mentioned elsewhere include innovative uses of alternative water sources (other than treated) for appropriate uses, grey water re-use; alternative approaches to household plumbing to separate treated and non-treated water, and similar approaches.
- In addition to envisaging and designing related water conservation research projects, and including assessment of needed modifications for the geographic and geologic locations of systems, there is again the opportunity to ensure that these research projects and water conservation installation projects include training and jobs opportunities for First Nations youth and young professionals.

There is a significant opportunity for inclusion of specific research regarding innovative solutions for First Nations communities. There is also a need and an opportunity to include First Nations youth, students and young professionals in this research, in related training, and in related implementation of those innovative solutions.

A more formal assessment of these opportunities, together with more specific assessment and recommendation of specific community based First Nations water research projects, specific First Nations youth interests and needs for related involvement in research and training, and assessment of the potential for implementation of the results of innovative research through demonstration on-site projects should be undertaken as an early project of the Technology Acceleration Project together with relevant First Nations partners.

A proportion of research and demonstration projects should be specifically set aside for this research and the Ministry of Training, Colleges and Universities should be included in discussions as to how best to involve Ontario First Nations youth, students and young professionals in these opportunities ranging from post-secondary academic to trades. These

opportunities should be where possible made available in conjunction with specific First Nations community water system research needs.

CONCLUSION

We are very pleased with the introduction of Bill 72 and its potential in the area of water innovation and sustainability. We hope that this analysis, and these comments and recommendations are of assistance, and we would be pleased to meet with you to discuss these suggestions further. We look forward to further dialogue and the opportunity to provide further suggestions with respect to Bill 72, its implementation, and related matters.

Yours very truly,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

ECOJUSTICE CANADA

Comparison Table (Alliance Platform to Bill 72)

Ontario Water Conservation Alliance Platform	Bill 72 (proposed Water Opportunities and Water Conservation Act)
1) Set Targets and Measure Performance	<i>Satisfactory: There is a strong basis here; some core additions will ensure an Excellent new framework</i>
<p>Conservation Targets – create and promote conservation targets for individuals, businesses, communities, and watersheds that are ambitious, achievable and based on meeting human and ecological needs.</p>	<p>Minister's "aspirational targets" and notice on EBR for same (s.2, proposed Water Opportunities Act ("WOA")) – related to purpose, need to strengthen purpose</p> <p>Minister may establish performance targets in relation to performance indicators (ss. 28, 29, WOA)</p> <p>Lieutenant Governor in Council may set public sector targets (per s.37(3), WOA)</p> <p>Private sector targets are enabled under the Ontario Water Resources Act (OWRA); not yet implemented</p> <p>No watershed based targets explicitly enabled in Bill 72</p>
<p>Continuous Improvement – establish good mechanisms for measuring and reporting on performance, and for continuous improvement including evaluating and re-visiting key elements of the strategy at regular and prescribed intervals.</p>	<p>Minister may require amendments to municipal sustainability plan to achieve performance targets and environmental standards for achieving the same (per s.25(3), WOA)</p> <p>Municipalities are mandated to review and report (as prescribed) regarding municipal sustainability plans (per s.25(4), WOA)</p> <p>Municipalities may be required to review and evaluate performance (s.30, WOA) and Minister can require information regarding effort to achieve and/or report on strategies and steps to achieve target if fail to meet targets (s.31, WOA)</p> <p>Minister to report at least once every three years on progress regarding achieving targets, as well as the Water Technology Acceleration Project (TAP) and OCWA (s.42, WOA)</p> <p>Green Energy Act (GEA) reporting to include water use</p>
<p>Water Conservation Officer – appoint an independent Water Conservation Officer, reporting directly to the Legislature, with responsibility for monitoring and advising on</p>	Not in Bill 72

Ontario Water Conservation Alliance Platform	Bill 72 (proposed Water Opportunities and Water Conservation Act)
Ontario's water conservation efforts.	
Advisory Committee – create an expert advisory committee to advise the Water Conservation Officer and key ministries on the implementation and performance of the Act.	Water TAP may advise (s.5, WOA)
Inter-Ministerial Coordination – designate shared responsibility amongst all relevant ministries and ensure inter-ministerial coordination.	Not in Bill 72 Minister of the Environment and Minister of Research and Innovation have explicit responsibilities (in particular for TAP); other Ministries are working on complementary initiatives
2) Require Conservation Plans, Establish Standards, and Support Green Infrastructure	<i>Incomplete: Without information about complementary initiatives, it is not possible to assess progress</i>
Permit Conditions – require applicants to submit demonstrable water conservation plans in order to obtain permits to take water from ground or surface water sources. Establish criteria for plans and identify sector- best management practices for water conservation.	Not in Bill 72 Already enabled under OWRA amendments (not implemented) 'Regulated entities' will be subject to new requirement for municipal water sustainability plan Refers only to "physical infrastructure" (s.26(1)1, WOA)
Infrastructure Grant Conditions – link water conservation requirements explicitly to infrastructure grants by requiring demonstrable water conservation plans in order to receive a grant.	Not in Bill 72
Water Efficiency Standards – implement standards for various sectors, including point-of-sale, and all new infrastructure, building development, and retrofits.	Minister to initiate review under Building Code Act with reference to water conservation standards within 6 months and then once every five years New section to be added to OWRA to require water efficiency standards (s.34.12)
Green Infrastructure Incentives – define conservation and efficiency and green infrastructure as infrastructure. Provide infrastructure funding for implementing water conservation plans and support at different levels based on the quality of the plan (ie. platinum, gold, silver). Require audits to verify implementation of plans as a condition of funding support.	Not in Bill 72
Land Use Planning and Development – require land use planning, landscape design and building decisions to incorporate innovative water conservation, leafy green infrastructure and low impact development approaches.	Some amendments to Building Code Act (as noted above), otherwise not in Bill 72

Ontario Water Conservation Alliance Platform	Bill 72 (proposed Water Opportunities and Water Conservation Act)
3) Foster Market Transformation and a Culture of Conservation	<i>Needs Improvement: Additional communication regarding complementary initiatives required to assess progress</i>
Green Procurement – ensure that public sector buildings, operations, and facilities (provincial and municipal) lead by example with conservation plans and water efficient procurement policies to establish test markets for innovative Ontario-developed conservation methods, technology, services and expertise.	Water conservation plans (s.37, WOA) Imposes duty to consider water when acquiring goods/services, making capital investments (s.39, WOA) Amendments to GEA (see, in particular, amendments to clauses 10(2)(a), (b) and (c))
Social Marketing and WaterSense – Implement a social marketing strategy with the goal of instilling an “ethic of water stewardship” in Ontario’s citizens and businesses. As an essential element of this strategy, collaborate with industry and other government stakeholders to be the stewards of EPA’s WaterSense.	Language of Preamble, that won't survive enactment of the Water Opportunities and Water Conservation Act and amendments to the various statutes, suggests transformation that is not consistently expressed throughout the various parts of Bill 72 WaterSense type programs not enabled by Bill 72
Financial Instruments – in order to ensure appropriate water pricing, implement water charges for major water takers not already subject to Ontario’s water charge regulations and finish implementing the new financial plan requirements for municipal drinking water systems; expand these to explicitly include sewer water systems, stormwater systems and water conservation and efficiency plans.	No pricing in Bill 72 PTTW volumetric charges already enabled under OWRA – proposal for "phase two" was also proposed last year in <i>Stewardship-Leadership-Accountability: Safeguarding and Sustaining Ontario’s Water Resources for Future Generations</i> Municipal sustainability plans to include financial plan (s.26, WOA – though in same section referred to "physical infrastructure" only)
Pilot Projects and Streamlining – support early adopters and demonstration projects to foster learning and encourage market acceptance of innovative technologies and approaches. Expedite approvals for green infrastructure and low impact development.	TAP
Training and Expertise – support development of new water professional accreditation, certification and training programs as new water technologies, expertise, and service opportunities are developed.	TAP

Strikeover of Bill 72 (Updated October 13, 2010)

Below are our recommended **deletions** and **insertions** for amending Bill 72, the proposed *Water Opportunities and Water Conservation Act, 2010*

Bill 72

2010

An Act to enact the Water Opportunities Act, 2010 and to amend other Acts in respect of water conservation and other matters

Preamble

Water sustains life. Wise stewardship and conservation of water, for both the present generation and for future generations, are of great importance to all Ontarians. The name of Ontario has its roots in the words of a number of aboriginal languages that describe a "beautiful lake".

Ontario has already shown leadership by banning bulk transfers of water out of Ontario's water basins and in safeguarding public water supplies from source to tap. A new way of thinking about conserving our water resources is needed in Ontario, one that builds on the critical linkages between economic prosperity and long-term environmental sustainability.

The creation of a new organization for water excellence will be a catalyst for the development and sale of innovative water technologies, **services, and practices** ~~and services~~ for domestic and international markets. Through this initiative and a strengthened focus on water conservation, Ontario has the opportunity to become a North American leader in driving innovation and creating new economic opportunities in the water, **stormwater**, and wastewater sectors.

All sectors of Ontario have a role to play in creating this opportunity. Individuals can change their behaviour by using less water and can choose water conserving technologies, **services, and practices** when they consider ~~the their purchases of new appliances and products~~. Industry, governments and academia can work together to develop innovative water solutions. Municipalities are responsible for providing municipal water, **stormwater, and** wastewater ~~and stormwater~~ services and can benefit from the use of innovative technologies, **services, and practices** ~~and services~~.

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

Contents of Act

1. This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2. (1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

Schedules

(2) The Schedules to this Act come into force as provided in each Schedule.

Different dates for same Schedule

(3) If a Schedule to this Act or any portion of a Schedule to this Act provides that it is to come into force on a day to be named by proclamation of the Lieutenant Governor, the proclamation may apply to the whole or any portion of the Schedule, and proclamations may be issued at different times as to any portion of the Schedule.

Short title

3. The short title of this Act is the *Water Opportunities and Water Conservation Act, 2010*.

SCHEDULE 1
WATER OPPORTUNITIES ACT, 2010

CONTENTS
PART I
PURPOSES AND TARGETS

1. Purposes
2. Targets
- 2.1 Definitions

PART II
WATER TECHNOLOGY ACCELERATION PROJECT

3. Definitions
4. Corporation established
5. Objects
6. Members
7. Board of directors
8. By-laws
9. Powers
10. Business planning
11. Employees and other assistance
12. Directives of the Minister
13. Application of the *Corporations Act*, *Corporations Information Act*
14. No personal liability
15. Not Crown agents
16. No Crown liability
17. Fiscal year
18. Audit
19. Annual report
- 19.1 Public Review
20. Other reports
21. Winding up the Corporation
22. Grants
23. Regulations

PART III
MUNICIPAL WATER SUSTAINABILITY PLANS AND PERFORMANCE INDICATORS AND TARGETS

24. Definitions
25. Municipal water sustainability plan
26. Contents of plan
27. Joint plans
- 27.1 Municipality may exceed conservation requirements
- 27.2 Municipality may establish incentive programs
28. Performance indicators
29. Performance targets
30. Review and evaluation of performance
- 30.1 Revolving Fund
31. Failure to achieve a target
32. *Legislation Act, 2006*
33. Delegation of authority
34. Forms
35. Regulations

PART IV
PUBLIC SECTOR REQUIREMENTS

- 36. Definitions
- 37. Water conservation plans
- 38. Joint plans, public agencies
- 39. Duty to consider water
- 40. Regulations

PART VI.I
PUBLIC ENGAGEMENT

- 40.1 Province-wide campaign

PART VI.I
COORDINATION

- 40.2 Oversight and coordination
- 40.3 Water conservation advisory council

PART V
MUNICIPAL WATER BILLS

- 41. Municipal water bills

PART VI
~~TRIENNIAL~~ ANNUAL REPORTS

- 42. ~~Triennial~~ Annual reports

PART VII
COMMENCEMENT AND SHORT TITLE

- 43. Commencement
 - 44. Short title
-

PART I PURPOSES AND TARGETS

Purposes

1. The purposes of this Act are,

(a) to foster innovative water, stormwater, and wastewater ~~and stormwater~~ technologies, services, and practices ~~and services~~ in the private and public sectors;

(b) to create opportunities for economic development and clean-technology jobs in Ontario; ~~and~~

(c) to protect, conserve, and sustain water resources in an ecosystem context and on a watershed and aquifer protection basis for present and future generations- ~~and in accordance with the precautionary principle;~~

(d) to foster a culture of water conservation in Ontario; and

(e) to provide for sustainable water use in Ontario.

Targets

2. (1) The Minister of the Environment ~~may shall~~, to further the purposes of this Act, establish ~~aspirational~~ provincial targets in respect of the conservation of water and any other matter the Minister considers advisable.

Publication

(2) The Minister shall publish targets established under this ~~section~~ Act on the environmental registry established under section 5 of the *Environmental Bill of Rights, 1993*, together with a summary of the information the Minister relied on to establish each target.

Other targets

(3) The authority to establish targets under this section is in addition to any other authority to establish targets under this Act.

Definitions

2.1 In this Act,

"Green infrastructure" means ecological processes or structures, whether natural or engineered, that process, capture, and direct water, stormwater, and wastewater in a similar manner to grey infrastructure, yet have multiple ancillary societal benefits. Green Infrastructure functions on a site specific scale (servicing specific areas), and on a regional scale as an interconnected network of spaces. Green infrastructure includes: urban forests, natural areas, greenways, streams and riparian zones, meadows and agricultural lands; green roofs and green walls; parks, gardens and landscaped areas, community gardens, and other green open spaces; rain gardens, bioswales, engineered wetlands and storm water ponds. Green

infrastructure also includes soil, in volumes and qualities adequate to sustain leafy green infrastructure and absorb water, as well as technologies like porous paving, rain barrels, cisterns and structural soils;

"Low input sustainable agriculture" means those approaches to profitable agriculture that seek to optimize the management and use of internal production inputs and to minimize the use of production inputs;

"Precautionary principle" means that where an activity raises threats of harm to the environment or human health, precautionary measures should be taken even if some cause and effect relationships are not fully established scientifically. In this context the proponent of an activity, rather than the public bears the burden of proof. ("principe de précaution");

"Soft path" means examining service needs and questioning first whether water is necessary for effective service delivery, and second, if so, what quality of water is needed, with the overall aim of ensuring current and future water needs do not overstrain or degrade they quality of water flows, systems, or overburden infrastructure;

"technologies, services, and practices" includes traditional water, stormwater, and wastewater technologies and services, and in particular includes soft path approaches to water utilization, focussing on water services for ecosystem and human needs, low impact development ideas, innovative water practices, and promotion of green infrastructure.

PART II WATER TECHNOLOGY ACCELERATION PROJECT

Definitions

3. In this Part,

"board" means the board of directors of the Corporation; ("conseil d'administration")

"Corporation" means the corporation established in section 4; ("société")

"Minister" means the Minister of Research and Innovation or any other member of the Executive Council to whom responsibility for the administration of this Part is assigned or transferred under the *Executive Council Act*; ("ministre")

"regulations" means the regulations made under this Part; ("règlements")

~~"wastewater" includes stormwater. ("eaux usées")~~

Corporation established

4. A corporation without share capital is hereby established under the name the Water Technology Acceleration Project in English and Projet de développement accéléré des technologies de l'eau in French.

Objects

5. The objects of the Corporation are,

- (a) to assist in promoting the development of Ontario's water, stormwater, and wastewater sectors;
- (b) to assist Ontario's water, stormwater, and wastewater sectors by increasing their capacity to,
 - (i) research, develop, test, demonstrate and commercialize and continuously improve innovative technologies, services, and practices for the treatment and management of water, stormwater, and wastewater, and
 - (ii) expand their business opportunities nationally and internationally;
- (c) to provide a forum for governments, the private sector, municipalities, First Nations, and academic institutions to exchange information and ideas on how to make Ontario a leading jurisdiction in the development and commercialization of innovative technologies, services, and practices for the treatment and management of water, stormwater, and wastewater;
- (d) to encourage collaboration and co-operation in Ontario's water, stormwater, and wastewater sectors;
- (e) if requested by the Minister, assist in the development of certification, labelling and verification programs for water, stormwater, and wastewater technologies, services, and practices that promote conservation of water, protection of human health, and protection of the environment;
- (f) to provide the Minister with advice on what actions the Government of Ontario and public agencies should take to assist in fostering the development of Ontario's water, stormwater, and wastewater sectors;
~~and~~
 - (f.1) to provide opportunities for First Nations communities, their members, and their water professionals to pursue research, innovation and commercialization of water, stormwater, and wastewater technologies, services and practices that provide for the treatment and conservation of water, protection of human health and protection of the environment; and the application of those technologies, services and practices in other communities;
 - (f.2) to assist in development of training programs in Ontario post-secondary institutions, trade schools, apprenticeship programs and other post-secondary institutions with respect to innovative technologies, services, and practices pertaining to water, stormwater, and wastewater; and
- (g) to carry out the other objects that may be prescribed by the regulations.

Members

6. The members of the Corporation shall consist of the members of its board of directors.

Board of directors

7. The Corporation shall have a board of directors which is representative of First Nations, water industries and professions, academia, municipal, environmental, agricultural and public perspectives that shall manage or supervise the management of the affairs of the Corporation.

By-laws

8. The board may make by-laws governing the management of the Corporation and the conduct and administration of the Corporation's affairs.

Powers

9. The Corporation has the capacity and the rights, powers and privileges of a natural person, subject to the limitations set out in this Part or prescribed by the regulations.

Business planning

10. (1) At least 90 days before the beginning of each fiscal year, the board shall adopt a business plan for the fiscal year.

Contents

(2) The business plan must include the following information:

1. A description of the major activities and the objectives of the Corporation for the year and for following years.
2. A description of the policies and strategies of the Corporation to achieve those objectives.
3. A description of the budget of the Corporation for achieving those objectives.
4. Such other information as may be required by the Minister.

Employees and other assistance

11. (1) The Corporation may enter into agreements with any Minister of a Ministry or the head of any Crown agency to have employees of the Crown employed in that Ministry or employees of that Crown agency, as the case may be, provide services to the Corporation.

Professional assistance

(2) The Corporation may,

- (a) engage persons, other than those mentioned in subsection (1), to provide professional, technical or other assistance to or on behalf of the Corporation; and
- (b) establish the terms of engagement and provide for the payment of the remuneration and expenses of the persons engaged under clause (a).

Directives of the Minister

12. (1) The Minister may issue directives in writing to the Corporation on matters relating to the exercise of its objects, powers or duties.

Implementation

(2) The board shall ensure that the directives issued to the Corporation are implemented promptly and efficiently.

Organization of conferences and programs

(3) Without limiting the generality of subsection (1), the Minister may direct the Corporation to assist ministries of the Government of Ontario or Crown agencies in organizing conferences and other programs relating to Ontario's water, stormwater, and wastewater sectors.

Application of the *Corporations Act*, *Corporations Information Act*

13. The *Corporations Act* and the *Corporations Information Act* do not apply to the Corporation, except as prescribed by the regulations.

No personal liability

14. (1) No action or other proceeding shall be instituted against a member of the board or an officer, employee or agent of the Corporation for any act done in good faith in the execution or intended execution of any duty imposed or power conferred by this Part or the regulations, the by-laws of the Corporation or under a directive issued under section 12 or for any alleged omission in the execution in good faith of that duty or power.

Liability of the Corporation

(2) Subsection (1) does not relieve the Corporation of any liability to which it would otherwise be subject in respect of an act or omission of a person mentioned in that subsection.

Not Crown agents

15. The Corporation and its members, officers, employees and agents are not agents of the Crown in Right of Ontario and shall not hold themselves out as agents of the Crown.

No Crown liability

16. No action or other proceeding shall be instituted against the Minister, the Crown in Right of Ontario, or any employee of the Crown for any act or omission of the Corporation or a member, officer, employee or agent of the Corporation.

Fiscal year

17. The Corporation's fiscal year commences April 1 in each year and ends on March 31 in the following year.

Audit

18. The board shall appoint one or more licensed public accountants to audit the accounts and financial transactions of the Corporation for each fiscal year.

Annual report

19. (1) The board shall submit an annual report on its affairs to the Minister and make it available to the public within 90 days after the end of each fiscal year.

Annual report available in environmental registry

(1.1) The Minister shall publish notice of the annual report in the environmental registry established under section 5 of the *Environmental Bill of Rights, 1993*.

Contents

(2) The report shall include,

- (a) the audited financial statements of the Corporation;
- (b) a description of the Corporation's activities and achievements during the fiscal year; and
- (c) any other information that the Minister directs to be included in the annual report.

Recommendations to the Minister

(3) The board shall, in every third year, make such recommendations to change this Part and the regulations as it considers advisable, including changes to the objects of the Corporation under section 5.

Public review

19.1 The Minister shall, in every third year to coincide with the recommendations in 19(3), facilitate a public review to seek input as to recommendations to change this Part and the regulations, including changes to the objects of the Corporation under section 5.

Other reports

20. (1) The Corporation shall promptly prepare and submit to the Minister any other report that the Minister requires.

Other reports publicly available

(2) The Minister shall publish notice of any report required under this section in the environmental registry established under section 5 of the *Environmental Bill of Rights, 1993*.

Winding up the Corporation

21. (1) The Lieutenant Governor in Council may by order require the board to wind up the affairs of the Corporation.

Preparation of plan

(2) If the Lieutenant Governor in Council makes an order under subsection (1), the board shall prepare a proposed plan for winding up the Corporation and transferring its assets and liabilities and shall give the proposed plan to the Lieutenant Governor in Council for approval.

Restriction

(3) The plan for winding up the Corporation may provide for,

(a) liquidating assets and transferring the proceeds to the Consolidated Revenue Fund or to an agency of the Crown; and

(b) transferring assets and liabilities to the Crown in right of Ontario or to an agency of the Crown.

Implementation

(4) If the Lieutenant Governor in Council approves the proposed plan, the board shall wind up the affairs of the Corporation and transfer its assets and liabilities, including transferring the proceeds from the liquidation of assets, in accordance with the plan.

Notice

(5) The board shall notify the Minister in writing when it has finished complying with subsection (4).

Dissolution

(6) After the Minister receives the notice under subsection (5), the Lieutenant Governor in Council may by order dissolve the Corporation.

Grants

22. The Minister may provide grants to the Corporation for the purpose of defraying its operating costs, on such conditions as the Minister considers advisable, out of money appropriated for that purpose by the Legislature.

Regulations

23. The Lieutenant Governor in Council may make regulations,

(a) governing the composition of the board, the appointment or election of board members, the remuneration of and reimbursement of expenses of board members, and the quorum of the board;

(b) prescribing provisions of the *Corporations Act* and the *Corporations Information Act* that apply to the Corporation, and prescribing any modifications, if necessary;

(c) prescribing provisions of the *Business Corporations Act* that apply to the Corporation or to the members of the board, and prescribing any modifications, if necessary;

(d) prescribing anything that this Part refers to as prescribed by the regulations.

PART III MUNICIPAL WATER SUSTAINABILITY PLANS AND PERFORMANCE INDICATORS AND TARGETS

Definitions

24. In this Part,

"Minister" means the Minister of the Environment or any other member of the Executive Council to whom responsibility for the administration of this Part is assigned or transferred under the *Executive Council Act*; ("ministre")

"municipal service" means, subject to the regulations, municipal water services, municipal wastewater services or municipal stormwater services; ("service municipal")

"municipal service provider" means a municipality, person or entity having jurisdiction over one or more municipal services; ("fournisseur de services municipaux")

"plan" means a municipal water sustainability plan required under section 25; ("plan")

"prescribed" means prescribed by the regulations; ("prescrit")

"regulations" means the regulations made under this Part. ("règlements")

Municipal water sustainability plan

25. (1) ~~On becoming a regulated entity under the regulations, a~~ A municipal service provider shall, in accordance with such requirements as may be prescribed, prepare, approve and submit to the Minister a municipal water sustainability plan for all municipal services,

(a) that are under the municipal service provider's jurisdiction; and

(b) to which, under the regulations, the ~~regulated entity's~~ municipal service provider's initial plan is to apply.

Amendments to plans

(2) A ~~regulated entity~~ municipal service provider shall, in accordance with such requirements as may be prescribed, amend its plan if the regulations subsequently require the ~~regulated entity's~~ municipal service provider's plan to include,

(a) a municipal service under its jurisdiction that was not previously required to be included in its plan; or

(b) information not previously required to be included in its plan with respect to a municipal service included in the plan.

Amendments to achieve targets

(3) The Minister may, by direction, require a ~~regulated entity~~ municipal service provider to amend its plan in such manner and at such time as the Minister may direct in order to assist the ~~regulated entity~~ municipal service provider to achieve performance targets established by the Minister under section 29.

Review of plans

(4) A ~~regulated entity~~ municipal service provider shall ensure that such review of its plan as may be required by the regulations is undertaken and completed and the report of the review submitted to the Minister in accordance with such requirements as may be prescribed.

Approval by municipality

(5) In such circumstances as may be prescribed, a plan, each amendment to it and the proposed report of any required review of the plan must be approved, before the plan, amendment or report is submitted to the Minister, by ~~each~~ the municipal council of the upper-tier municipality or single-tier municipality in which a municipal service is provided to which the plan, amendment or report relates.

Contents of plan

26. (1) A plan must satisfy the requirements prescribed by the regulations and include the following, prepared in accordance with such requirements as may be prescribed, with respect to each municipal service to which the plan applies:

1. A ~~an~~ sustainable asset management plan for ~~the physical~~ all infrastructure, including green infrastructure.
2. A financial plan.
3. If the municipal service is a municipal water service, a water conservation plan in accordance with the requirements of this Act and its regulations as well as the requirements of the Ontario Water Resources Act and its regulations and which demonstrates the deployment of proven water conservation Best Management Practices that best suit their municipal characteristics and demographics.
4. An assessment of risks that may interfere with the future delivery of the municipal service, including, if required by the regulations, the risks posed by climate change and a plan to deal with those risks.
5. Strategies for maintaining and improving the municipal service, including strategies to,
 - ~~i. ensure the municipal service can satisfy future demand;~~
 - i. meet future water needs of the community, including growth needs, through conservation of current water use in the community;
 - i.i on a watershed and aquifer protection basis, promote the efficient and sustainable use of water and reduce negative impacts on Ontario's water resources, by way of effective technologies, services, and practices without compromising the ecosystem needs for the water;
 - ~~ii. consider technologies and services that promote the efficient use of water and reduce negative impacts on Ontario's water resources, and~~
 - ii. demonstrate a sustainable water supply to support future demand;
 - ii.i meet future water needs of the community based on the precautionary principle; and
 - iii. increase co-operation with other municipal service providers.

5.1 Inventory of opportunities for innovative and demonstrated soft path water use, green infrastructure construction, low input sustainable agriculture, and ecosystem based water conservation and management approaches that maximize the maintenance of natural hydrological flows in the municipality and report on removal of barriers to same.

5.2 The utilization of conservation-based pricing and demand management tools to reduce water use in the municipality, and the utilization of stormwater management rates to reduce impermeable surfaces and encourage alternative stormwater flows in the municipality.

5.3 A report of the extent to which the plan reduces use of energy related to water use in the municipality.

5.4 An assessment of the extent to which the plan is consistent with the municipality's integrated community energy plan where same has been adopted by the municipality.

6. Such other information or things as may be prescribed relating to the municipal service.

May include additional information

(2) A ~~regulated entity~~ municipal service provider may include in a plan such additional information or things as it considers advisable.

Requirement to assist

(3) When, for the purpose of preparing, amending or reviewing a plan, a ~~regulated entity~~ municipal service provider requires information from a municipality, person or entity relating to a municipal service, the municipality, person or entity shall co-operate with the ~~regulated entity~~ municipal service provider and, on request, shall,

(a) provide the ~~regulated entity~~ municipal service provider with a copy of any record or other document in its possession or under its control that relates to matters to be considered in the preparation, amendment or review of the plan; and

(b) assist the ~~regulated entity~~ municipal service provider in obtaining such other information and things as the ~~regulated entity~~ municipal service provider may require to prepare, amend or review the plan.

Joint plans

27. (1) ~~Two~~ On a watershed and aquifer protection basis, two or more ~~regulated entities~~ municipal service providers may prepare a joint plan or a joint part of their plans and, if directed to do so by the Minister, shall prepare a joint plan or joint part of their plans.

Deemed to be plan of each ~~regulated entity~~ municipal service provider

(2) If two or more ~~regulated entities~~ municipal service providers prepare a joint plan, or a joint part of a plan, that satisfies the requirements of section 26, the joint plan or joint part of the plan is deemed to be the plan or a part of the plan, as applicable, of each of them.

Amendments

(3) Unless otherwise directed by the Minister, any amendments to a joint plan or joint part of a plan must be made by the ~~regulated entities~~ municipal service providers that originally prepared the joint plan or part or by their successors.

Municipality may exceed conservation requirements

27.1 A municipality may prescribe water conservation requirements for buildings, infrastructure, and facilities that exceed or are more stringent than the provisions of the Ontario Building Code relating to water conservation.

Municipality may establish incentive programs

27.2 A municipality may establish an incentive program in accordance with such regulations as are prescribed, to encourage implementation of innovative or other technologies, services, and practices that reduce water use and promote efficient sustainable water use in buildings or facilities or on properties in the municipality, including on a watershed and aquifer protection basis, and including for the purpose of promoting low input sustainable agriculture for the protection of water resources, human health and ecosystem health.

Performance indicators

28. (1) The Minister ~~may~~ shall, by direction, establish performance indicators for any type of municipal service.

Same

(2) Performance indicators established under subsection (1),

(a) ~~may~~ shall relate to

i. the financing, operation or maintenance of a municipal service,

ii. conservation of water,

iii. utilization of innovative or demonstrated technologies, services, and practices to more sustainably use and manage water and to reduce energy use associated with the use of water in the community,

iv. the maintenance of watershed and aquifer health in accordance with watershed and aquifer protection plans,

v. implementation of conservation and demand management of water resources including for watershed and aquifer protection, ecosystem protection, soft path approaches to water stewardship, and utilization of green infrastructure methods of maintaining and improving water flows on the landscape, and

vi. to any other matter in respect of which information may be required to be included in a plan; and

(b) may be different for different municipal service providers or for municipal services in different areas of the Province.

Performance targets

29. (1) In relation to a performance indicator established under subsection 28 (1), the Minister may establish, by direction, one or more performance targets for one or more types of municipal services under the jurisdiction of a ~~regulated entity~~ municipal service provider or a class of ~~regulated entities~~ municipal service providers, on a watershed and aquifer protection basis or otherwise, and a target may be different for different municipal service providers or for municipal services in different areas of the Province.

Mandatory performance targets for some municipalities

(2) The Minister shall, by direction, establish performance targets for municipalities with projected population growth including but not limited to a residential target of 150 litres per person per day and a minimum twenty percent reduction for industrial, commercial and institutional water customers.

Targets to be more stringent over time

(3) The Minister shall establish more stringent targets and reductions over time.

Review and evaluation of performance

30. (1) A ~~regulated entity~~ municipal service provider shall, when directed to do so by the Minister, review and evaluate in accordance with the Minister's directions and such requirements as may be prescribed, the performance of a municipal service under its jurisdiction with reference to the applicable performance indicators and shall,

(a) report the results of its review and evaluation to the Minister in such manner and at such time as the Minister directs and, if a target has been established under section 29, include in the report information on the extent to which the target is being achieved; and

(b) make available, on its website, in its municipal offices, and in such further and other manner and at such time as the Minister directs, the results of its review and evaluation to the public in the geographic area in which the ~~regulated entity~~ municipal service provider provides a municipal service.

Public disclosure

(2) The Minister ~~may~~ shall publicly disclose of the information provided by ~~regulated entities~~ municipal service providers under subsection (1) through notice published in the environmental registry established under section 5 of the Environmental Bill of Rights, 1993 and in such other manner and format as the Minister considers appropriate.

Revolving Fund

30.1 (1) The Minister shall establish a revolving fund named the Municipal Water Conservation Innovation Fund (the Fund) to assist Municipalities with developing water conservation Best Management Practices (BMPs), testing and piloting BMPs and technologies, services, and practices in the areas of innovative water conservation, sustainable water use, green infrastructure use, alternative building standards that promote conservation, water demand reduction, rain water harvesting, grey water reuse, alternative approaches to stormwater management including retention on the landscape and in support of natural hydrological flows.

Same

(2) The Fund shall be established on such terms as provided by regulation, including provisions for repayment to the Fund and such other terms as are necessary for the proper administration of the Fund.

Failure to achieve a target

31. If a ~~regulated entity~~ municipal service provider fails to achieve a target established by the Minister under section 29, the Minister may do one or both of the following:

1. Require the ~~regulated entity~~ municipal service provider to provide such additional information as the Minister specifies relating to the ~~regulated entity's~~ municipal service provider's efforts to achieve the target and the reasons for its failure to do so.

2. Invite the ~~regulated entity~~ municipal service provider to prepare and submit to the Minister a report describing,

i. proposed strategies to be included in the ~~regulated entity's~~ municipal service provider's plan to assist it in achieving the target, or

ii. proposed steps to be taken by the ~~regulated entity~~ municipal service provider to assist it in achieving the target.

Legislation Act, 2006

32. Directions made under this Part are not subject to Part III (Regulations) of the *Legislation Act, 2006*.

Delegation of authority

33. (1) The Minister may in writing delegate any of his or her powers or duties under this Part to one or more public servants employed under Part III of the *Public Service of Ontario Act, 2006*.

Same

(2) A reference in this Part or the regulations to the Minister is deemed, for the purpose of a delegation under subsection (1), to be a reference to the delegate.

Forms

34. The Minister may approve forms for any purpose of this Part or the regulations, specify the procedure for the use of the forms and require their use for any purpose of this Part or the regulations.

Regulations

35. The Lieutenant Governor in Council may make regulations for the purposes of this Part,

(a) prescribing the date on which the municipal service provider becomes subject to the Act and its regulations ~~municipality, person or entity to be a regulated entity and the date on which the municipality,~~

~~person or entity becomes a regulated entity with respect to one or more municipal services under their jurisdiction;~~

(b) deeming one or more components of any municipal water services, municipal wastewater services, or municipal stormwater services under the jurisdiction of a ~~regulated entity~~ municipal service provider to be a municipal service and prescribing any time limits relating to when those components are deemed to be a municipal service with respect to the ~~regulated entity~~ municipal service provider;

(c) governing the preparation, approval, amendment and review of plans by ~~regulated entities~~ municipal service providers , including,

(i) governing the content of plans, including the requirements for each part of a plan relating to a type of municipal service,

(ii) requiring that prescribed parts of the plan be certified in the prescribed manner by persons with prescribed qualifications,

(iii) requiring public consultation before a plan, an amendment to a plan or the report of a review under this Part is submitted to the Minister and prescribing the manner for carrying out the public consultation in each case,

(iv) requiring that plans or a class of plans be reviewed within the period prescribed by the regulations and the process to be followed in reviewing the plans;

(d) prescribing circumstances in which a plan, an amendment to a plan or the proposed report of any required review of a plan must be approved by each municipality in which a municipal service is provided to which the plan, amendment or report relates;

(e) prescribing any time periods or time limits for doing anything required to be done under this Part or the regulations;

(e.1) describing any aspect in which a plan or an amendment to a plan deviates from any guideline issued by the Minister or a Director in respect of the plans or class of plans;

(e.2) prescribing the terms upon which the Municipal Revolving Water Conservation Innovation Fund is established, terms upon which repayment is to be made to the Fund, and such other matters as are required for the proper administration of the Fund;

(f) defining any word or expression used in this Part that is not defined in this Part;

(g) prescribing anything that this Part describes as being prescribed by the regulations.

PART IV PUBLIC SECTOR REQUIREMENTS

Definitions

36. In this Part,

"prescribed" means prescribed by the regulations; ("prescrit")

"public agency" means a ministry of the Government of Ontario or an entity, including a municipality, or class of entities that is prescribed as a public agency; ("organisme public")

"regulations" means the regulations made under this Part. ("règlements")

Water conservation plans

Public agencies

37. (1) The Lieutenant Governor in Council may, by regulation, require public agencies to prepare water conservation plans based on principles of water sustainability in relation to water, stormwater, or wastewater.

Same, regulations

(2) The regulations may provide that a plan required under subsection (1) cover such period as is prescribed and may be required at such intervals as are prescribed and may require that the plan be filed with the Ministry of the Environment.

Specified targets and standards, public agencies

(3) The Lieutenant Governor in Council may, by regulation, require a public agency to achieve prescribed water conservation targets and, in achieving those targets, to comply with prescribed environmental standards and other prescribed requirements.

Contents, public agencies

(4) For the purposes of subsection (1), the plan must be prepared in accordance with the requirements, as may be prescribed, and must include the following information:

1. A summary of annual water use for each of the public agency's operations.
2. A description and a forecast of the expected results of current and proposed activities and measures being taken or proposed to be taken by the public agency to conserve water, including prescribed measures.
3. A summary of the progress and achievements in water conservation since the previous plan, including,
 - i. progress and achievements relating to targets established by the public agency in the plan, and
 - ii. progress and achievements relating to targets prescribed under subsection (3).
4. Such additional information as may be prescribed.

Publication

(5) The public agency shall publish the plan in the environmental registry established under section 5 of the *Environmental Bill of Rights, 1993* and in accordance with such other requirements as may be prescribed.

Implementation

(6) The public agency shall implement the plan and shall do so in accordance with such requirements as may be prescribed.

Same, regulations

(7) The regulations may require a public agency to co-ordinate, in the prescribed manner, the preparation and implementation of its water conservation plan under this section with the preparation and implementation of the agency's energy conservation and demand management plan under section 6 of the *Green Energy Act, 2009*.

Innovation

(8) Public agencies may enter into arrangements in order to demonstrate innovative water treatment and conservation technology, services, and practices.

Joint plans, public agencies

38. (1) Two or more public agencies may prepare a joint water conservation plan and may publish and implement it jointly.

Effect

(2) If the joint plan satisfies the requirements established under section 37, the public agencies are not required to prepare, publish and implement separate water conservation plans for the same period.

Duty to consider water

When acquiring goods and services

39. (1) The Lieutenant Governor in Council may, by regulation, require public agencies, in their acquisition of goods and services, to consider technologies, services, and practices ~~and services~~ that promote the protection of and efficient use of water and reduce negative impacts on Ontario's water resources, or on human health or ecosystem health and to comply with such requirements as may be prescribed for those purposes.

When making capital investments

(2) The Lieutenant Governor in Council may, by regulation, require public agencies, when making capital investments, to consider technologies, services, and practices ~~and services~~ that promote the protection of and efficient use of water and reduce negative impacts on Ontario's water resources, or on human health or ecosystem health and to comply with such requirements as may be prescribed for those purposes.

Regulations

40. The Lieutenant Governor in Council may make regulations prescribing anything that this Part refers to as prescribed.

PART IV.I PUBLIC ENGAGEMENT

Province-wide campaign

40.1 The Minister shall develop and implement a province-wide public awareness program, that is easily accessible in both form and content, promoting the efficacy of conservation and green infrastructure and educating the Ontario public as to the need to achieve sustainable use to protect our water resources.

PART IV.II COORDINATION

Oversight and coordination

40.2 The Lieutenant Governor in Council may appoint a Minister of the Crown or other official to oversee the implementation of the provisions of the *Water Opportunities and Water Conservation Act*, and to coordinate the actions and programs of government in respect of same.

Water conservation advisory council

40.3 (1) The Lieutenant Governor in Council may, after consultation with representatives of diverse sectors of Ontario society, establish terms of reference and appoint a Water Conservation Advisory Council, with representation from the perspectives and expertise of First Nations, agriculture, the general public, environmental non-governmental organizations, health organizations and officials, water industry professionals, water planners, economic sectoral interests, academic and training institutions, research professionals, and municipalities.

Same

(2) The Water Conservation Advisory Council shall advise government with respect to matters pertaining to water conservation, sustainable water use, water efficiency and demand management, innovative technologies, services, and practices, opportunities for improvement to Ontario's water conservation and water sustainability approaches, soft path approaches to water use, green infrastructure use, and any other matter relating to the implementation of the *Water Opportunities and Water Conservation Act* and its associated programs.

Secretariat

(3) The Water Conservation Advisory Council shall be provided with secretariat support and resources funded by the government of Ontario in accordance with a budget to be established annually by the Lieutenant Governor in Council.

Chair

(4) The Water Conservation Advisory Council shall have a part-time Chair person who shall be entitled to a stipend to be established by the Lieutenant Governor in Council.

Members

(5) The other appointed members of the Water Conservation Advisory Council shall be entitled to such reimbursement of expenses and stipends as established by the Lieutenant Governor in Council.

PART V MUNICIPAL WATER BILLS

Municipal water bills

Definitions

41. (1) In this section,

"municipal water bill" means a bill for,

(a) fees or charges imposed under the *Municipal Act, 2001* or the *City of Toronto Act, 2006* in respect of a water public utility, or

(b) fees or charges imposed by a corporation established under section 203 of the *Municipal Act, 2001* in respect of a water public utility; ("facture municipale d'eau")

"water public utility" means a public utility as defined in section 1 of the *Municipal Act, 2001* that is used to provide water for the public. ("service public d'approvisionnement en eau")

Regulations

(2) The Minister of the Environment may make regulations prescribing the frequency of and the information that a person who issues a municipal water bill must or may include on or with the bill including but not limited to historical water use by month or season for that water user, and information relating to the average consumption of the community or neighbourhood in which the water user is located.

PART VI ~~TRIENNIAL~~ ANNUAL REPORTS

~~Triennial~~ Annual reports

42. (1) The Minister of the Environment shall, ~~at least once every three years~~ annually, prepare a report that,

(a) describes the extent to which each target established under section 2 is being achieved;

(b) summarizes the activities and achievements of the Water Technology Acceleration Project during the reporting period;

(c) summarizes the activities and achievements of the Ontario Clean Water Agency during the reporting period relating to financing and promoting the development, testing, demonstration and

commercialization of technologies, services, and practices for the treatment and management of water, stormwater, and wastewater ~~and stormwater~~;

(d) describes actions taken and outcomes achieved during the reporting period by municipalities, persons and entities prescribed as ~~regulated entities~~ municipal service providers for the purposes of Part III in respect of their municipal water, stormwater, and wastewater ~~and stormwater~~ services, including in respect of actions taken to conserve water and to use technologies, services, and practices that promote the protection of and efficient use of water and reduce negative impacts of water use on human health or ecosystem health or on Ontario's water resources;

(e) describes actions taken and outcomes achieved during the reporting period by public agencies as defined in Part IV to conserve water and to use technologies, services, and practices that promote the protection of and efficient use of water and reduce negative impacts of water use on human health or ecosystem health on Ontario's water resources; and

(f) includes any other information that the Minister considers advisable.

Report under *Safe Drinking Water Act, 2002*

(2) The Minister ~~may~~ shall include a report under this section in a report prepared under subsection 3 (4) of the *Safe Drinking Water Act, 2002*.

Publication

(3) ~~If a report under this section is not included in a report prepared under subsection 3 (4) of the *Safe Drinking Water Act, 2002*,~~ The Minister shall publish the report under this section on the environmental registry established under section 5 of the *Environmental Bill of Rights, 1993* in addition to publishing and communicating the report in such other manner as the Minister considers advisable.

Environmental Commissioner

(4) The Environmental Commissioner shall review and comment on the report published under this section and on the extent to which targets established under this Act are being achieved, and shall provide recommendations as to any improvements as to same.

PART VII COMMENCEMENT AND SHORT TITLE

Commencement

43. The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

44. The short title of the Act set out in this Schedule is the *Water Opportunities Act, 2010*.

SCHEDULE 2
AMENDMENTS TO THE BUILDING CODE ACT, 1992

1. Section 34 of the *Building Code Act, 1992* is amended by adding the following subsection:

Review, standards for water conservation

(7) The Minister shall initiate a review of the building code with reference to standards for water conservation on or before the day that is six months after the day section 1 of Schedule 2 to the *Water Opportunities and Water Conservation Act, 2010* comes into force and thereafter within five years of the end of the previous review.

2. (1) Subsection 34.1 (1) of the Act is repealed and the following substituted:

Building Code Conservation Advisory Council

(1) The Building Code Energy Advisory Council is continued under the name Building Code Conservation Advisory Council in English and Conseil consultatif des questions de conservation liées au code du bâtiment in French.

(2) Clause 34.1 (3) (a) of the Act is repealed and the following substituted:

(a) advise the Minister on the building code with reference to standards for energy and water conservation; and

Municipal council may establish stricter standards

2.1 Section 35(1) is repealed and the following substituted:

35(1) Subject to subsection (2), this Act and the building code supersede all municipal by-laws respecting the construction or demolition of buildings.

Same

(2) A Municipal Council may by resolution prescribe a standard for buildings or facilities in all or part of the Municipality establishing water efficiency, demand management and conservation standards, which may exceed the minimum water conservation standards established otherwise at law, and for greater certainty, may exceed any minimum water conservation standards prescribed by the Ontario Building Code.

Commencement

3. This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

SCHEDULE 3
AMENDMENTS TO THE CAPITAL INVESTMENT PLAN ACT, 1993

1. Section 14 of the *Capital Investment Plan Act, 1993* is amended by adding the following subsection:

Ontario Clean Water Agency

(1.1) Despite subsection (1), the annual report of the Ontario Clean Water Agency shall be submitted within such period of time after the end of its fiscal year as the Minister of Finance may direct.

2. Section 27 of the Act is amended by striking out "before the 1st day of April, 1994 shall be paid out of the Consolidated Revenue Fund and thereafter".

3. Subsection 49 (1) of the Act is repealed and the following substituted:

Objects

(1) Without limiting the powers or capacities of the Agency, its objects include,

(a) assisting municipalities, the Government of Ontario and other persons or bodies to provide water and sewage works and other related services by financing, planning, developing, building and operating those works and providing those services;

(b) financing and promoting the development, testing, demonstration and commercialization of technologies, services, and practices for the treatment and management of water, stormwater, and wastewater ~~and stormwater~~;

(c) carrying out the activities described in clauses (a) and (b) in Ontario and elsewhere in a manner that protects human health and the environment and ~~encourages the conservation of water resources~~ meets targets and provisions under the *Water Opportunities Act*, including but not limited to provincial targets, other targets applicable to the municipality, and meets the provisions of the municipality's water sustainability plan including ensuring that growth plans of the municipality are fulfilled with water from conservation; and

(d) with respect to activities described in clauses (a) and (b) that are carried out in Ontario, carrying them out in a manner that supports provincial policies for land use and settlement while ensuring that growth plans are fulfilled with water from conservation.

4. (1) Section 52 of the Act is amended by adding the following clause:

(c) make agreements for the purpose of financing and promoting the development, testing, demonstration, and commercialization of technologies, services, and practices for the treatment and management of water, stormwater, and wastewater ~~and stormwater~~, including entering into joint ventures and other business arrangements.

(2) Section 52 of the Act is amended by adding the following subsection:

Capacity to act outside Ontario

(2) Section 16 of the *Business Corporations Act* applies with necessary modifications to the Agency.

5. Part IV of the Act is amended by adding the following section:

Regulations - subsidiary corporations

57.1 (1) Subject to subsections (2) and (4), the Lieutenant Governor in Council may by regulation constitute subsidiary corporations of the Agency with the objects, purposes, powers and duties set out in the regulation and may provide for the constitution and management of the subsidiary corporations.

Objects

(2) The objects of a subsidiary corporation of the Agency shall fall within the scope of one or more of the objects of the Agency that are specified in clauses 49 (1) (a) to (d).

Included powers

(3) Without limiting the generality of subsection (1), but subject to subsection (4), the Lieutenant Governor in Council may, under that subsection,

(a) give a subsidiary corporation constituted under subsection (1) the capacity, rights, powers and privileges of a natural person for carrying out its objects, subject to any limitations that the Lieutenant Governor in Council considers appropriate;

(b) provide that a subsidiary corporation constituted under subsection (1) is an agent of the Crown in right of Ontario, or provide that a subsidiary corporation constituted under subsection (1) is not an agent of the Crown in right of Ontario;

(c) prescribe provisions of the *Business Corporations Act*, the *Corporations Act* or the *Corporations Information Act* that apply or do not apply to a subsidiary corporation constituted under subsection (1) and prescribe any modifications, if necessary;

(d) provide that employees of a subsidiary corporation constituted under subsection (1) may be appointed under Part III of the *Public Service of Ontario Act, 2006*;

(e) govern the liability of the Agency or the Crown in right of Ontario for any act or omission of,

(i) a subsidiary corporation constituted under subsection (1),

(ii) a member of the board of directors of a subsidiary corporation constituted under subsection (1), or

(iii) an officer, employee or agent of a subsidiary corporation constituted under subsection (1);

(f) govern the liability of a member of the board of directors of a subsidiary corporation constituted under subsection (1), or of an officer, employee or agent of a subsidiary corporation constituted under subsection (1), for any act or omission of the member, officer, employee or agent;

(g) provide that a provision in Part I that applies to subsidiary corporations does not apply to a subsidiary corporation constituted under subsection (1) that is not an agent of the Crown in right of Ontario, or provide that the provision applies with such modifications as may be prescribed;

(h) provide that a provision in Part I that would not otherwise apply to subsidiary corporations does apply to a subsidiary corporation constituted under subsection (1), subject to such modifications as may be prescribed;

(i) prescribe any other matter that the Lieutenant Governor in Council considers necessary or advisable to ensure that a subsidiary corporation constituted under subsection (1) may effectively carry out its powers and duties.

Subsidiaries that are Crown agents

(4) Subsection 2 (4) and sections 4, 17, 18, 24 and 25 apply, with necessary modifications, to a subsidiary corporation constituted under subsection (1) that is an agent of the Crown in right of Ontario.

Commencement

6. This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

SCHEDULE 4
AMENDMENTS TO THE GREEN ENERGY ACT, 2009

1. (1) Paragraphs 1 and 2 of subsection 10 (1) of the *Green Energy Act, 2009* are repealed and the following substituted:

1. Clear and transparent reporting of,

i. energy use associated with government facilities,

ii. the amount of greenhouse gas emissions associated with government facilities, and

iii. water use associated with government facilities.

2. Planning and designing government facilities to ensure the efficient use of energy and water.

(2) Subsection 10 (1) of the Act is amended by adding the following paragraphs:

5. Using technologies, services, and practices ~~and services~~ that promote the efficient use of water and reduce negative impacts on Ontario's water resources.

(3) Clauses 10 (2) (a), (b) and (c) of the Act are repealed and the following substituted:

(a) requiring the ministries responsible for the government facilities that the Minister specifies in the directive to report to the Minister, at such time and in such manner as may be provided for in the directive, on energy consumption, greenhouse gas emissions and water use associated with the facilities;

(b) establishing energy, water conservation, and environmental standards which must be met as minimum standards for new construction or major renovations for government facilities; and

(c) specifying such other requirements as the Minister considers appropriate relating to energy conservation, energy efficiency, water conservation, the adoption of renewable energy technologies, services, and practices, and the adoption of technologies, services, and practices ~~and services~~ that promote the efficient use of water and reduce negative impacts on Ontario's water resources.

(4) Clause 10 (3) (b) of the Act is repealed and the following substituted:

(b) specify the content of a report required under clause (2) (a); and

2. The heading to Part III of the Act is repealed and the following substituted:

PART III
ENERGY EFFICIENCY

3. Clause 16 (2) (d) of the Act is amended by striking out "or water efficiency standards or requirements".

4. This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

SCHEDULE 5
AMENDMENTS TO THE ONTARIO WATER RESOURCES ACT

1. The *Ontario Water Resources Act* is amended by adding the following sections:

Efficient Use of Water

Application

34.12 (1) This section applies to appliances and products prescribed by the regulations.

Appliances, fixtures, and products, efficiency standards

(2) No person shall offer for sale, sell or lease an appliance, fixture, or product to which this section applies unless,

(a) the appliance, fixture, or product meets the efficiency standard or requirement prescribed by the regulations with respect to the appliance, fixture, or product; and

(b) a label or other marking prescribed by the regulations that confirms compliance with the efficiency standards or requirements prescribed by the regulations in respect of the appliance, fixture, or product is affixed to the appliance, fixture, or product or provided with the appliance, fixture, or product in the manner and under the circumstances prescribed by the regulations.

Labels

(3) No person shall affix to or provide with an appliance, fixture, or product to which this section applies a label or other marking prescribed by the regulations unless the appliance, fixture, or product meets the efficiency standard or requirement prescribed by the regulations with respect to the appliance, fixture, or product.

Application of subs. (2)

(4) Subsection (2) does not apply to,

(a) an appliance, fixture, or product that is manufactured on or before a date prescribed by the regulations and that is sold or leased on or before a date prescribed by the regulations; or

(b) a person who is not in the business of offering for sale, selling or leasing appliances, fixtures, or products to which this section applies.

Water Use Labelling of Buildings and Facilities

34.13 (1) This section applies to buildings and facilities prescribed by the regulations.

Same

(2) No person shall offer for sale, sell or lease a building or facility to which this section applies, unless a label or other marking prescribed by the regulations is affixed to the building or facility in a manner prescribed, which describes the water use over a specified time in accordance with the regulations.

Regulation, voluntary labelling

(3) The Minister may by regulation, program or otherwise, enable a program of voluntary labelling of buildings and facilities as to their water use, technologies, and practices, innovative or otherwise.

2. Section 75 of the Act is amended by adding the following subsection:

Regulations, efficient use of water

(1.4.1) The Lieutenant Governor in Council may make regulations relating to section 34.12,

- (a) prescribing appliances, fixtures, and products to which section 34.12 applies;
- (b) prescribing water efficiency standards or requirements for the appliances, fixtures, or products prescribed under clause (a);
- (c) regulating the installation, testing, maintenance and repair of appliances, fixtures, and products to which section 34.12 applies;
- (d) designating persons or organizations to test appliances, fixtures, and products to which section 34.12 applies;
- (e) providing for the placing of a label or mark prescribed by the regulations on or with appliances, fixtures, and products that conform to the prescribed standards;
- (f) prescribing the contents of labels or marks that may be placed on or with appliances, fixtures, and products to which section 34.12 applies;
- (g) prescribing fees that may be charged by designated persons or organizations for the testing and labelling of appliances, fixtures, and products to which section 34.12 applies;
- (h) providing for information to be reported by persons who manufacture, offer for sale, sell or lease appliances, fixtures, or products to which section 34.12 applies, including the frequency, time and manner for reporting;
- (i) governing the keeping of information, records and documents by persons who manufacture, offer for sale, sell or lease appliances, fixtures, or products to which section 34.12 applies;
- (j) prescribing dates for the purposes of clause 34.12 (4) (a);
- (k) prescribing the buildings and facilities to which section 34.13 applies;
- (l) prescribing the information to be reported by occupants, owners or those with control of the buildings or facilities to which section 34.13 applies;

(m) prescribing the time frames in relation to which the specified information to which section 34.13 applies must be provided.

3. This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.
