



Bill 66 – *Great Lakes Protection Act, 2015*

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Submitted to: Ministry of the Environment and
Climate Change, Integrated Environmental
Policy Division, Land and Water Policy Branch

Submitted by: The Ontario Bar Association



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Table of Contents

Introduction.....	2
The OBA.....	2
Comments.....	2
Conclusion.....	4



Introduction

The Ontario Bar Association (the “OBA”) appreciates the opportunity to provide a submission to the Ministry of the Environment and Climate Change with respect to Bill 66, *Great Lakes Protection Act*, 2015 (“the Bill” or “Bill 66”).

The OBA

Established in 1907, the OBA is the largest legal advocacy organization in the province, representing more than 16,000 lawyers, judges, law professors and law students in Ontario. OBA members practice law in no fewer than 38 different sectors. In addition to providing legal education for its members, the OBA assists government with many policy initiatives each year - both in the interest of the legal profession and in the interest of the public.

This submission was prepared by the OBA’s Environmental Law, Aboriginal Law, and Municipal Law Sections, which include the leading practitioners in their respective fields. Collectively, these sections have over 800 members, who would count among their clients a wide variety of stakeholders interested in effective and efficient environmental regulation in this province, including developers, municipalities, corporations, residents groups, project proponents, environmental non-governmental organizations (“NGOs”), First Nations, Métis groups and other Aboriginal organizations.

Comments

The OBA supports the principles behind Bill 66, and the important goal of continuing to ensure the long term protection of the Great Lakes.

As previously indicated in connection with Bill 6, *Great Lakes Protection Act*, 2013, which was introduced in the last session of the Legislature, more attention needs to be paid to the protection of the Great Lakes, which contain almost 20% of our planet’s fresh surface water. Bill 66 will be a useful, if small, step in the right direction, as it should help governments and communities to work together on the significant threats facing the Great Lakes. It will also establish a potentially useful mechanism for integrating Great Lakes protection initiatives, such as shoreline protection areas, into land-use planning documents across municipal boundaries.

We continue to support the concept of the Guardians’ Council as a forum for politicians, First Nations and ENGO representatives, and members of the scientific, agriculture and business sectors, to identify priorities and projects and share information. While the Council could be created as an administrative entity, its approval by the Legislature in Bill 66 will give its deliberations more prominence and its recommendations more force.



The formulation of any governance structure intended to facilitate public engagement in decision-making on issues affecting the Great Lakes should recognize the important historic relationship that First Nations and Métis communities have with the Great Lakes Basin. The structure should provide meaningful opportunities for First Nations to share the value of their traditional ecological knowledge, and ensure that this contribution is incorporated into decision-making. First Nations and Métis communities should have formal opportunities for participation, but government should also consider related funding, which recognizes their position of historical and continuing disadvantage, the importance of the Great Lakes to their communities, and the valuable information they can offer.

The OBA also supports the more detailed purposes set out in Bill 66, as well as the more prescriptive monitoring, reporting and other obligations imposed on the Minister of the Environment and Climate Change compared to its predecessor, Bill 6. Such additional details and requirements make it more likely that Bill 66 will, if passed, result in meaningful action.

We support the use of initiatives in appropriate circumstances. However, we note that subsection 19(2) of the Bill generally requires that an initiative must set out certain contents, including:

9. A description of the benefits and costs arising from the implementation of the initiative to the public body or public bodies responsible for implementation of the initiative.

10. A description of how the implementation of the initiative would benefit the ecological health of the Great Lakes-St. Lawrence River Basin.

Contrary to decision-making from a sustainable development perspective, there is no requirement for initiatives to provide a description of benefits and costs related to economic or social considerations that may be affected by the initiative. Providing the ecological, economic and social considerations of an initiative would facilitate more transparent analysis of the positive and negative implications of an initiative and would provide a basis for more transparent decision-making.

As previously indicated in connection with Bill 6, we note that Bill 66 is one of a series of provincial plans that will be implemented in part by municipalities bringing their Official Plans into conformity with designated policies of approved initiatives. There is an increasingly complex layer of provincial plans that municipalities (and therefore landowners) must consider, including those put in place under the *Clean Water Act*, *Lake Simcoe Protection Act*, *Oak Ridges Moraine Conservation Act*, *Greenbelt Act*, *Places to Grow Act*, *Niagara Escarpment Planning and Development Act* and the *Planning Act*. The OBA encourages the province to ensure that there is policy clarity for all stakeholders with respect to multiple plans.



Conclusion

The OBA encourages the province to continue to develop an appropriate regulatory scheme for protection of these irreplaceable water bodies, which are so central to Ontario's environment and economy.

Once again, we appreciate the opportunity to provide comments to the Ministry on this Bill.