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Ontario Repeals Green Energy Act, 2009

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The Ontario Minister of Energy, Northern Development and Mines recently introduced legislation to repeal the *Green Energy Act, 2009* and its regulations. The *Green Energy Act, 2009* was enacted ten years ago to expand renewable energy production, encourage energy conservation and create jobs in the renewable energy sector. In addition to repealing the *Green Energy Act, 2009*, *Bill 34, Green Energy Repeal Act, 2018*, also includes changes to the *Planning Act* and *Environmental Protection Act* that increase the power of the province and municipalities to reject renewable energy projects.

The repeal of the *Green Energy Act, 2009* will eliminate the Renewable Energy Facilitation Office located within the Ministry of Energy to help proponents navigate renewable energy project approvals. Also repealed will be the requirement that government facilities be constructed, acquired, operated and managed in an environmentally-responsible way, including the use of renewable energy sources, energy and water efficient planning and design, and the transparent reporting of energy and water use and GHG emissions.

Bill 34 re-enacts a limited number of provisions of the *Green Energy Act, 2009* in the *Electricity Act, 1998* that permit the government to create regulations in a number of areas. Until such regulations are enacted under the *Electricity Act, 1998*, however, these re-enacted provisions will have little effect. These sections provide for the creation of regulations:

- To allow for the designation of renewable energy projects, sources and testing projects for the purposes of removing barriers to, and to promote opportunities for, the use of renewable energy sources, and to promote access to transmission systems and distribution systems for proponents of renewable energy projects;
- To require an electricity, natural gas or water distributor to make data available with respect to the consumption or use of electricity, gas or water to persons required to report on energy consumption and water use;
- To allow for the use of designated goods, services and technologies in such circumstances, despite any restriction imposed at law (i.e., the “clothesline law”); and
- To require a public agency to prepare and submit an energy conservation and demand management plan and to achieve targets and meet energy and environmental standards, including standards for energy conservation and demand management.

Bill 34 amends several provisions of the *Planning Act* that will empower the province and municipalities to reject renewable energy projects by:

- Adding a new clause that provides that there is no appeal to the Local Planning Appeal Tribunal (LPAT) in respect of a refusal or failure by a municipality or planning board to adopt or approve requested amendments to an official plan that proposes to authorize a renewable energy generation facility, project, testing facility or testing project;
- Adding a new clause that provides that there is no appeal to the LPAT in respect of an application for an amendment to a zoning by-law if the amendment proposes to permit a renewable energy undertaking;
- Ending exemptions from subdivision control and part-lot control for certain transactions entered into for the purposes of renewable energy generation facilities or renewable energy projects; and

- Ending exemptions for renewable energy undertakings from a number of other requirements, including the application of policy statements, provincial plans, official plans, demolition control by-laws and others.

In addition, Bill 34 amends the *Environmental Protection Act* to enable the government to refuse to approve renewable energy projects where demand for the electricity that would be generated by the project has not been demonstrated to the satisfaction of the government.

Bill 34 is currently awaiting second reading in the Ontario legislature.

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