

Proposed legislative amendments to the Ontario Underground Infrastructure Notification System Act, 2012 under the Getting Ontario Connected Act, 2022

Summary of Proposal:

Locating underground infrastructure is vital to the province's construction activities and supports related government priorities such as accelerating access to high-speed internet and increasing housing supply. However, the delivery timelines for locating underground infrastructure are often delayed which can impact excavation projects, resulting in significant delays and cost implications.

On November 30, 2021, the Ministry of Infrastructure issued the Building Broadband Faster Guideline to outline new and best practices, processes, and timelines for rights-of-way, hydro pole attachments and underground infrastructure access (e.g., a recommended service standard of 10 or 15 days for municipalities to respond to permit applications for buried route right of way access). To provide a higher degree of confidence and certainty to participants in the reverse auction (i.e., Internet Service Providers or ISPs), a Statement of Intent was also released as part of the Guideline.

The Statement of Intent signaled the Ministry of Government and Consumer Services would develop a legislative proposal under the Ontario Underground Infrastructure Notification System Act, 2012 to, among other things, address issues with late locates and enhance locate delivery across the province. It was noted in the Statement of Intent that these proposed amendments would include mandating the use of a dedicated locator model where a single locator is pre-identified to better provide the project owner with control over the timing of locates and standardizing locate validity periods to eliminate the frequency of re-locates and improving the remarking process to be more efficient.

If passed, the proposed amendments to the Act would:

A. Address immediate pressure points in the delivery of locates of underground infrastructure by:

- Requiring the use of a dedicated locator model for certain excavation projects, where a single locator is selected by underground infrastructure owners/operators and the project owner, for the duration of a project.
- Requiring information pertaining to the location of underground infrastructure (i.e., locate information) to be valid for a minimum of 60 days.
- Allowing contractors working on the same dig site to share locate information to eliminate duplicative processes.
- Defining types of locates (e.g., emergency locates).
- Eliminating "reasonable attempts" language to establish absolute timelines for underground infrastructure owners/operators to provide locate information.
- Requiring members and dedicated locators to provide updates to Ontario One Call related to the status of providing locate information in the form and manner Ontario One Call requires.

B. Improve compliance tools for Ontario One Call by:

- Enhancing compliance and enforcement by establishing a framework to provide Ontario One Call with the authority to issue administrative penalties against non-compliant members and excavators in the industry.
- Requiring Ontario One Call to publish performance data of members and administrative penalty orders issued on its website.

- Enabling excavators to seek recourse against members through the Ontario Land Tribunal for various matters such as late or inaccurate locates.

C. Enhance governance and oversight of Ontario One Call by:

- Establishing a mandatory Memorandum of Understanding between Ontario One Call and MGCS and recourse tools that the Minister may exercise in the event the organization does not comply with the legislative framework.
- Providing the Minister with authority to change the composition and size of Ontario One Call's board of directors and the authority to appoint directors to the board as long as the appointed members do not constitute a majority of the board, consistent with administrative authorities overseen by the ministry.

If the bill is passed, most of the changes to the Act would come into force upon Royal Assent, with the exception of the administrative monetary penalty framework, which requires a regulation to be developed in order to be implemented and select aspects of the excavator recourse provisions related to the use of the Ontario Land Tribunal, which would both come into force on a later date to be proclaimed by the Lieutenant Governor.

The Ministry of Government and Consumer Services welcomes feedback on the proposed legislative amendments.

Privacy Statement Please note that unless requested and agreed otherwise by the Ministry of Government and Consumer Services, all materials or comments received from organizations in response to this consultation will be considered public information and may be used and disclosed by the ministry to assist the ministry in evaluating and revising the proposed regulatory amendments. This may involve disclosing materials or comments, or summaries of them, to other interested parties during and after the request for public comment process.

An individual who provides materials or comments and who indicates an affiliation with an organization will be considered to have submitted those comments or materials on behalf of the organization so identified. Materials or comments received from individuals who do not indicate an affiliation with an organization will not be considered public information unless expressly stated otherwise by the individual. However, materials or comments by individuals may be used and disclosed by the ministry to assist in evaluating and revising the proposed regulatory amendments.

Personal information of those who do not specify an organizational affiliation, such as an individual's name and contact details, will not be disclosed by the ministry without the individual's consent unless required by law. If you have any questions about the collection of this information, please contact Sharmila Uruthiranandasivam at sharmila.uruthiranandasivam@ontario.ca