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Bill 40

**An Act to amend various statutes with respect to
energy, the electrical sector and public utilities**

The Hon. S. Lecce
Minister of Energy and Mines

Government Bill

1st Reading June 3, 2025

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

SCHEDULE 1 ELECTRICITY ACT, 1998

The Schedule amends the *Electricity Act, 1998*. The major elements are described below:

1. The purposes of the Act in section 1 are amended to add new purposes related to economic growth and the development of a hydrogen market and economy in Ontario.
2. The objects of the Independent Electricity System Operator in subsection 6 (1) of the Act are amended to add provisions relating to supporting economic growth.
3. Sections 25.33 and 25.34 of the Act are amended to provide that regulations made under the Act may specify amounts paid to generators, the Financial Corporation and distributors that would not be taken into account when adjustments are made to ensure that payments of those amounts be made by specified classes of market participants and consumers. Instead, those amounts would be paid out of money appropriated by the Legislature, if any. Complementary amendments are made to the regulation-making authority in section 114.
4. New section 28.1 is added to the Act. It provides that transmitters or distributors shall not connect or reconnect certain load facilities from its transmission system or distribution system unless connection requirements that are specified in the regulations are met. Complementary amendments are made to the regulation-making authority in section 114.

A related amendment is made to the *Fixing the Hydro Mess Act, 2019*.

SCHEDULE 2 MUNICIPAL FRANCHISES ACT

The Schedule amends the *Municipal Franchises Act*.

Currently, subsection 3 (1) of the Act provides that, before a municipality can grant the right to use or occupy any of the highways of the municipality for a public utility or to construct or operate a public utility in the municipality, the municipal electors of that municipality must assent to a by-law setting out the terms and conditions upon which and the period for which such right is to be granted or acquired. Section 3 is re-enacted to remove the requirement for the municipal electors to assent to such a by-law and instead to require that a municipality pass a by-law setting out the terms and conditions. Various amendments are made to other provisions of the Act to reflect that change.

Currently, subsection 10 (1) of the Act provides that a municipality or a party having a right to operate works for the distribution of gas may apply to the Ontario Energy Board for an order to renew or extend the term of the right if it has expired or will expire within one year. This subsection is amended to expand the authority of the Ontario Energy Board so that a municipality or party may apply to the Board for an order to renew or extend the term of a right not only to operate, but also to construct, extend or add to works for the distribution of gas.

A transitional amendment is made to provide that applications that are made to the Ontario Energy Board for an order under section 9 or 10 of the Act before the Schedule comes into force shall be continued and disposed of in accordance with the Act, as amended by the Schedule.

A consequential amendment is made to the *Public Utilities Act*.

SCHEDULE 3 ONTARIO ENERGY BOARD ACT, 1998

The Schedule amends the *Ontario Energy Board Act, 1998*. The major elements are described below:

1. Subsection 1 (1) of the Act is amended to add a new objective of the Ontario Energy Board respecting economic growth in relation to the regulation of the electricity sector.
2. A new section 13.1 of the Act authorizes the Board's chief executive officer to issue internal policies respecting various procedural matters in relation to hearings and determinations.
3. Amendments are made to reflect the addition of section 28.1 to the *Electricity Act, 1998*. Section 28.1 of the *Electricity Act, 1998* is made an enforceable provision under the *Ontario Energy Board Act, 1998*. Conditions requiring non-discriminatory access in the licence of a transmitter or distributor are made subject to the restrictions in section 28.1 of the *Electricity Act, 1998*. Section 28.1 of the *Electricity Act, 1998* and any regulation made under that Act prevails over an order, code or licence issued by the Board.
4. Section 78.3 is added to the Act. It provides that the Minister may make payments to a transmitter out of money appropriated by the Legislature, if any. If those payments are made to the transmitter, the Ontario Energy Board must take those payments into account when setting rates for the transmitter under section 78 of the Act.
5. Section 96 of the Act is amended in respect of applications under section 92 of the Act (leave to construct, etc., electricity transmission or distribution line). Economic growth is added to the list of matters the Board is permitted to consider

when deciding whether granting leave is in the public interest. As well, the Board is required to consider reports, documents or other information that may be specified by the regulations made under the Act in considering an application under section 92.

6. Various spent transitional provisions are repealed.
7. The Schedule amends sections 43.1 and 73 of the Act respecting deferral and variance accounts connected to costs arising from compliance with those sections and specified interest costs. Sections 43.1 and 73 are added to the Act by Bill 5 (*Protect Ontario by Unleashing our Economy Act, 2025*), introduced on April 17, 2025, and so the amendments to those sections apply only if Bill 5 receives Royal Assent.

**An Act to amend various statutes with respect to
energy, the electrical sector and public utilities**

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Preamble

The Government of Ontario is committed to:

Building an affordable, secure, reliable and clean energy system to power the strongest economy in the G7.

Prioritizing economic growth, job creation and strong governance as objectives of Ontario's energy system.

Supporting the responsible growth of energy-intensive industries like data centres that align with Ontario's economic priorities and benefit local communities.

Keeping our energy supply secure by supporting the sector with the implementation of limitations on foreign participation in Ontario's energy sector.

Delivering affordable and clean energy for generations to power our economy and peoples' lives.

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

Contents of this Act

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

Commencement

2 (1) Except as otherwise provided in this section, this Act comes into force on the day it receives Royal Assent.

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

(3) If a Schedule to this Act provides that any of its provisions are to come into force on a day to be named by order of the Lieutenant Governor in Council, an order may apply to one or more of those provisions, and orders may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Protect Ontario by Securing Affordable Energy for Generations Act, 2025*.

**SCHEDULE 1
ELECTRICITY ACT, 1998**

1 (1) Section 1 of the *Electricity Act, 1998* is amended by adding the following clause:

(a.1.1) to support economic growth in a manner consistent with the policies of the Government of Ontario;

(2) Section 1 of the Act is amended by adding the following clause:

(d.1) to facilitate the development of a hydrogen market and economy in Ontario in order to support potential uses and applications of low-carbon hydrogen, including for purposes directly or indirectly connected to the electricity system or electricity sector, in a manner consistent with the policies of the Government of Ontario;

(3) Clause 1 (e) of the Act is amended by adding “subject to section 28.1” at the beginning.

2 Subsection 6 (1) of the Act is amended by adding the following clause:

(l.1) to support economic growth in a manner that protects the interests of consumers;

3 (1) Clause 25.33 (1) (a) of the Act is amended by adding “other than amounts funded under section 25.34” at the end.

(2) Clause 25.33 (2) (a) of the Act is amended by adding “other than amounts funded under section 25.34” at the end.

4 Subsection 25.34 (2) of the Act is amended by adding the following paragraph:

0.1 Such amounts described in clause 25.33 (1) (a) or (2) (a) as may be prescribed by the regulations.

5 Subsection 26 (1) of the Act is amended by adding “Subject to section 28.1” at the beginning.

6 Section 28 of the Act is amended by adding “Subject to section 28.1” at the beginning.

7 The Act is amended by adding the following section:

Exceptions for specified load facilities

28.1 (1) In this section,

“specified connection requirements” means, in relation to a specified load facility,

- (a) any conditions, requirements or limitations that the regulations specify must be met for the specified load facility to be connected or reconnected to a transmission system or distribution system, as applicable,
- (b) any approvals that the regulations specify must be obtained for the specified load facility to be connected or reconnected to a transmission system or distribution system, as applicable, and
- (c) any conditions, requirements or limitations of an approval described in clause (b); (“exigences précisées en matière de raccordement”)

“specified load facility” means a facility or class of facilities,

- (a) that is a data centre and that meets any criteria that may be set out in the regulations, or
- (b) that,
 - (i) withdraws or would, if it were connected to a transmission system or distribution system, be expected to withdraw electricity from the IESO-controlled grid or from the distribution system of a distributor who is licensed under Part V of the *Ontario Energy Board Act, 1998*,
 - (ii) has or would, if it were connected to a transmission system or distribution system, be expected to have a demand for electricity at the point of connection to the transmission system or distribution system, as applicable, that exceeds the amount prescribed by the regulations, and
 - (iii) meets any other criteria that may be set out in the regulations. (“installation de charge précisée”)

Connection or reconnection of specified load facilities

(2) Unless a transmitter or distributor is satisfied that the specified connection requirements have been complied with, the transmitter or distributor shall not,

- (a) connect a specified load facility to its transmission system or distribution system, as applicable; or
- (b) reconnect a specified load facility to the transmission or distribution system after the specified load facility was disconnected, in accordance with the regulations, as a result of the nonfulfillment or breach of any of the specified connection requirements.

If conditions, requirements or limitations not fulfilled or breached

(3) If, after a specified load facility is connected or reconnected to a transmission or distribution system, the transmitter or distributor to whose system the specified load facility is connected becomes aware that any of the applicable specified

connection or reconnection requirements have not been fulfilled or have been breached, the transmitter or distributor shall follow the processes, and take the actions, that are prescribed by the regulations.

Does not affect other right to impose requirements

(4) For greater certainty, nothing in this section affects any right that a transmitter or distributor may have to impose requirements in respect of the connection, disconnection or reconnection of a specified load facility to the transmission system or distribution system, as applicable, as long as there is no conflict between those requirements and the requirements of this section.

Specified connection requirements may include any necessary or advisable criteria

(5) The regulations specifying conditions, requirements, limitations or approvals for the specified connection requirements may include criteria respecting economic development, job creation, anything provided for in this Act or any other matter the Lieutenant Governor in Council considers necessary or advisable.

Transition

(6) This section does not apply to a specified load facility in respect of which a connection request made in accordance with the Transmission System Code or the Distribution System Code issued under the *Ontario Energy Board Act, 1998* was submitted to a transmitter or distributor, as applicable, before June 3, 2025.

8 (1) Subsection 114 (1) of the Act is amended by adding the following clauses:

- (f.0.1) defining “data centre” for the purposes of section 28.1;
- (f.0.2) prescribing criteria for the purposes of the definition of “specified load facility” in section 28.1, which may include, but are not limited to, criteria related to,
 - (i) the geographic area in which the specified load facility is or may be located,
 - (ii) the maximum volume of electricity that the specified load facility may withdraw at the point of connection to the transmission system or have distributed to it at the point of connection to the distribution system, as applicable, or
 - (iii) the maximum demand for electricity that the specified load facility may have at the point of connection to the transmission system or distribution system, as applicable;
- (f.0.3) prescribing specified connection requirements that must be complied with for a specified load facility to be connected or reconnected to a transmission system or distribution system, as applicable, which may include but are not limited to,
 - (i) conditions, requirements or limitations that must be met for the specified load facility to be connected or reconnected to a transmission system or distribution system,
 - (ii) approvals that must be obtained for the specified load facility to be connected or reconnected to a transmission system or distribution system,
 - (iii) the processes that must be followed to seek any approvals, to satisfy any conditions or requirements or to comply with any limitations in the specified connection requirements,
 - (iv) the persons or classes of persons who may apply for any such approvals on behalf of the specified load facility,
 - (v) any documents or information that must be submitted as part of any such approvals process,
 - (vi) the persons or classes of persons who are authorized to give or withhold any such approvals, and the criteria that such persons or classes of persons must or may consider when determining whether to give or withhold approvals,
 - (vii) any conditions or requirements or limitations that must or may be included as part of any approvals that are given,
 - (viii) any obligations that the persons or classes of persons referred to in subclause (iv) have in relation to,
 - (A) giving written notice of the determination, and
 - (B) setting out in any such notice the reasons for the determination and any conditions, requirements or limitations that form a part of the approval;
- (f.0.4) prescribing the processes that a transmitter or distributor referred to in subsection 28.1 (3) must or may follow and the actions it must or may take if an applicable specified connection requirement has not been fulfilled or has been breached, which may include but are not limited to requirements related to,
 - (i) the giving of notice in respect of the nonfulfillment or breach of the specified connection requirement, including the persons or classes of persons to whom the notice must be given,
 - (ii) the form and content of any such notice,
 - (iii) opportunities for the specified load facility to remedy the breach of the specified connection requirement and to demonstrate that the breach has been remedied,

- (iv) the disconnection of the specified load facility from the transmission or distribution system of the transmitter or distributor, as applicable;

(2) Clause 114 (1.3) (h) of the Act is amended by adding the following subclause:

- (0.i) setting out amounts paid to generators, distributors or the Financial Corporation, as specified by the regulations, for the purposes of paragraph 0.1 of that subsection, or methods of determining those amounts,

(3) Subclause 114 (1.3) (h) (ii) of the Act is repealed.

Fixing the Hydro Mess Act, 2019

9 Subsection 5 (2) of Schedule 1 to the *Fixing the Hydro Mess Act, 2019* is repealed.

Commencement

10 (1) Except as otherwise provided in this section, this Schedule comes into force on the day the *Protect Ontario by Securing Affordable Energy for Generations Act, 2025* receives Royal Assent.

(2) Subsection 8 (3) comes into force on a day to be named by order of the Lieutenant Governor in Council.

SCHEDULE 2 MUNICIPAL FRANCHISES ACT

1 Section 3 of the *Municipal Franchises Act* is repealed and the following substituted:

Restriction

3 A municipality shall not grant to any person nor shall any person acquire the right to use or occupy any of the highways of the municipality for a public utility or to construct or operate any part of a public utility in the municipality unless the municipality has passed a by-law setting out the terms and conditions upon which and the period for which such right is to be granted or acquired.

2 Subsection 4 (1) of the Act is amended by striking out “with the assent of the municipal electors of the local municipality”.

3 (1) Subsection 5 (1) of the Act is repealed and the following substituted:

Extension of certain existing works not to be made without by-law

(1) If a by-law granting a franchise or right in respect of a public utility under section 3 was passed before April 16, 1912, no extension of or addition to the works or services constructed, established or operated under the authority of such by-law as they existed and were in operation at that date shall be made except under the authority of a by-law passed after that date under section 3, but that by-law is expressly limited in its operation to a period not exceeding one year.

(2) Subsection 5 (2) of the Act is amended by striking out “by a municipal corporation except by by-law passed with the assent of the municipal electors as provided in section 3” at the end and substituting “by a municipality except by by-law passed under section 3”.

4 Subsection 7 (1) of the Act is amended by striking out “and no such subsequent by-law has any force or effect unless it is assented to by the municipal electors as provided by subsection 3 (1)” at the end.

5 (1) Subsection 9 (1) of the Act is amended by striking out “shall be submitted to the municipal electors for their assent” in the portion after clause (d) and substituting “shall be passed by a municipality”.

(2) Subsection 9 (4) of the Act is repealed.

6 (1) Subsection 10 (1) of the Act is amended by striking out “to operate works” and substituting “to construct, operate, extend or add to works”.

(2) Subsection 10 (5) of the Act is amended by striking out “assented to by the municipal electors”.

7 The Act is amended by adding the following section:

Transition, application for order under s. 9 or 10

11 Any application to the Ontario Energy Board for an order under section 9 or 10 that is made before the day Schedule 2 to the *Protect Ontario by Securing Affordable Energy for Generations Act, 2025* comes into force shall be continued and disposed of in accordance with this Act, as amended by that Schedule.

Consequential amendment

8 Subsection 58 (1) of the *Public Utilities Act* is amended by striking out “with the assent of the municipal electors where such assent is required” and substituting “as required”.

Commencement

9 This Schedule comes into force on the day the *Protect Ontario by Securing Affordable Energy for Generations Act, 2025* receives Royal Assent.

SCHEDULE 3
ONTARIO ENERGY BOARD ACT, 1998

1 Subsection 1 (1) of the *Ontario Energy Board Act, 1998* is amended by adding the following paragraph:

- 2.1 To regulate the electricity sector in a manner that supports economic growth, consistent with the policies of the Government of Ontario.

2 The definition of “enforceable provision” in subsection 3 (1) of the Act is amended by adding the following clause:

(c.2.1) section 28.1 of the *Electricity Act, 1998* or a provision of a regulation made under that section,

3 Subsection 4.1 (22) of the Act is repealed.

4 Subsections 4.2 (8) and (9) of the Act are repealed.

5 Subsections 4.3 (14) to (18) of the Act are repealed.

6 The Act is amended by adding the following section:

Policies re certain Board processes

13.1 (1) The chief executive officer may issue policies to commissioners and employees of the Board respecting any of the following matters:

1. Timelines for conducting a hearing.
2. Timelines for making a determination, if it is being made by an employee exercising a power or performing a duty delegated to the employee under section 6.
3. Requirements respecting information or documents to be considered in conducting a hearing or making a determination.
4. Any other matter prescribed by the regulations.

Limitation

(2) Nothing in subsection (1) authorizes the chief executive officer to issue a policy that conflicts with this Act, the regulations or any other instrument made under this Act, any other Act or regulation, or the rules made by the Board under section 25.1 of the *Statutory Powers Procedure Act*.

Effect of non-compliance

(3) The failure of a person to comply with a policy issued under subsection (1) does not affect the validity of any action taken by the person.

7 Section 70 of the Act is amended by adding the following subsections:

Exceptions to non-discriminatory access

(12.1) Any condition in the licence of a transmitter or distributor under this Part requiring the provision of non-discriminatory access is subject to the restrictions on connecting and reconnecting specified load facilities in section 28.1 of the *Electricity Act, 1998* and in the regulations made under that Act.

Conflict

(12.2) In the event of a conflict between section 28.1 of the *Electricity Act, 1998* or any regulation made under that Act in relation to a matter specified in that section, as applicable, and an order, code or licence issued by the Board, section 28.1 or the regulation, as applicable, prevails.

8 The Act is amended by adding the following section:

Payments to transmitters from public funds

78.3 (1) The Minister may make payments to a transmitter out of money appropriated for the purposes of this section by the Legislature, if any.

Rate reduction

(2) The Board shall, in approving or fixing just and reasonable rates under section 78 for a transmitter, reduce the rates to reflect amounts paid to the transmitter under subsection (1).

9 (1) Subsection 96 (2) of the Act is amended by adding the following paragraph:

2. Supporting economic growth in a manner consistent with the policies of the Government of Ontario.

(2) Section 96 of the Act is amended by adding the following subsection:

Same

(3) In an application under section 92, the Board shall consider such reports, documents or other information as may be prescribed by the regulations.

10 Subsection 97.1 (2) of the Act is repealed.

11 Subsection 97.2 (4) of the Act is repealed.

Bill 5 (*Protect Ontario by Unleashing our Economy Act, 2025*)

12 (1) This section applies only if Bill 5 (*Protect Ontario by Unleashing our Economy Act, 2025*), introduced on April 17, 2025, receives Royal Assent.

(2) References in this section to provisions of Bill 5 are references to those provisions as they were numbered in the first reading version of the Bill.

(3) Section 43.1 of the *Ontario Energy Board Act, 1998* is amended by adding the following subsections:

Deferral or variance accounts

(5) A gas distributor, gas transmitter or storage company that is prescribed for the purposes of subsection (1) and for which rates are approved or fixed by the Board under section 36 may establish a deferral or variance account that records,

- (a) the costs incurred by the gas distributor, gas transmitter or storage company as a result of complying with the subsection; and
- (b) the interest costs incurred on the principal balance of the account, as the Board may direct.

Same

(6) The Board shall, from time to time or as prescribed by the regulations, make an order under section 36 that determines whether and how amounts recorded in an account referred to in subsection (5) shall be reflected in rates approved or fixed under that section, subject to any requirements prescribed by the regulations.

(4) Section 73 of the *Ontario Energy Board Act, 1998* is amended by adding the following subsections:

Deferral or variance accounts

(6) A licensee that is prescribed for the purposes of subsection (2) and for which rates are approved or fixed by the Board under section 78 may establish a deferral or variance account that records,

- (a) the costs incurred by the licensee as a result of complying with the subsection; and
- (b) the interest costs incurred on the principal balance of the account, as the Board may direct.

Same

(7) The Board shall, from time to time or as prescribed by the regulations, make an order under section 78 that determines whether and how amounts recorded in an account referred to in subsection (6) shall be reflected in rates approved or fixed under that section, subject to any requirements prescribed by the regulations.

Commencement

13 This Schedule comes into force on the day the *Protect Ontario by Securing Affordable Energy for Generations Act, 2025* receives Royal Assent.