

Nov. 21, 2025

Local Government Policy Branch  
777 Bay St., 13th Flr.  
Toronto, ON  
M7A 2J3

**Proposed amendments to the Municipal Act, 2001 to transfer jurisdiction over water and wastewater to the lower-tier municipalities in Peel Region and a stand-alone statute to authorize the establishment of water and wastewater public corporations  
ERO number 025-1098**

**Re: Proposed Water and Wastewater Public Corporations Act, 2025**

CELA writes to provide comments in respect of the above noted ERO posting. Canadian Environmental Law Association (CELA) is a legal aid clinic dedicated to environmental equity, justice, and health.

Founded in 1970, CELA is one of the oldest advocates for environmental protection in the country. With funding from [Legal Aid Ontario](#) (LAO), CELA provides free legal services relating to environmental justice in Ontario, including representing low-income and vulnerable or disadvantaged communities in litigation. CELA also works on environmental legal education and reform initiatives.

CELA has reviewed the above noted proposal. We provide the following comments for your consideration in respect of Bill 60, Schedule 10, the proposed Water and Wastewater Public Corporations Act, 2025:

**1. Keep water public**

CELA notes the high importance of public ownership and governance of drinking water systems in Ontario. Drinking water systems supplying municipal residents must be kept public. CELA notes that the provisions in Bill 60 to establish a Water and Wastewater Public Corporations Act states that the Minister may designate a corporation as a “water and wastewater public corporation to provide water and sewerage services on behalf of the lower tier municipalities that are prescribed by the regulations.” Accordingly, CELA notes that this would be a public corporation.

## 2. Safe Drinking Water Act Duty of Care

A key recommendation from Justice O'Connor following the Walkerton Inquiry was that municipal councilors should have duties of care in respect of safe water in their communities. This is embodied in Section 19 of the *Safe Drinking Water Act*. It provides as follows:

### Standard of care, municipal drinking water system

- 19** (1) Each of the persons listed in subsection (2) shall,
- (a) exercise the level of care, diligence and skill in respect of a municipal drinking water system that a reasonably prudent person would be expected to exercise in a similar situation; and
  - (b) act honestly, competently and with integrity, with a view to ensuring the protection and safety of the users of the municipal drinking water system. 2002, c. 32, s. 19 (1).

This section of the existing *Safe Drinking Water Act* is a critical safeguard. While these persons may rely on professional advice, they are not permitted to avoid exercising due care, seeking reliable information, and ensuring that their residents are the recipients of safe water from their local municipal drinking water system. However, section 18 of the proposed Act provides immunity from liability for current and former directors. It states as follows:

### No personal liability

**18** (1) No cause of action arises against any current or former director, officer or employee of any water and wastewater public corporation for any act done in good faith in the exercise or performance, or intended exercise or performance, of the person's powers, duties or functions under this Act or for any alleged neglect, default or other omission in the exercise or performance in good faith of those powers, duties or functions.

### Water and wastewater public corporation vicariously liable

(2) Subsection (1) does not relieve a water and wastewater public corporation of liability to which it would otherwise be subject as a result of the acts or omissions of a person specified in subsection (1).

In CELA's view, this provision is contrary to section 19 of the *Safe Drinking Water Act*. CELA recommends that the proposed Bill be amended to be consistent with the *Safe Drinking Water Act*.

## 3. Keep governance and appointments of the Water and Wastewater Corporation under purview of the constituent municipalities

CELA recommends that section 8 of the proposed Act should be amended such that the appointment of the Directors of the public corporation is by the lower-tier municipalities on whose behalf the corporation supplies water and wastewater services. At present section 8, as drafted, states that these appointments shall be pursuant to regulations, if any, and it is otherwise not clear that these appointments are by the affected municipalities.

It is important that the accountability and control of drinking water and wastewater services in the municipality remain under the oversight of the elected councilors. Therefore, it is necessary that the Act be amended to provide that regardless of other requirements in terms of qualifications of directors, their appointments must be by the elected representatives of the lower-tier municipalities for whom the corporation is providing the services.

#### **4. Rates must prioritize safety.**

In general, CELA does not support a rate regulation system for drinking water and wastewater services. CELA advocates for the establishment of rates by the elected councilors of the municipality who are accountable to their electorate. If there were any rate oversight as provided for in the proposed Act, CELA submits that it must be set up such that it will prioritize drinking water health and safety over and above any cost factors. There is often an inclination to focus more on cost side in rate regulation systems, but as noted in the Walkerton report, appropriate financing of drinking water systems is essential to providing safe water. This is currently provided by way of the medium to long term financial plans that municipalities must prepare in respect of their drinking water and wastewater systems under the *Safe Drinking Water Act* and other requirements.

#### **5. Planning and Financing**

It is critical to ensure robust long-term planning and financing to maintain the system in a good state of repair, reliability and safety. Regulation 453/07, the Drinking Water Systems Financial Plans regulation provides for certain financial plan requirements in respect of municipal drinking water systems. CELA recommends that in addition to the approval of such plans by the board of the proposed new water and wastewater public corporation, the lower-tier municipalities on whose behalf they are supplying services must also review and approve the plans as a mechanism of accountability to their residents. CELA recommends that Bill 60 schedule 10, section 5 should be amended to provide for review and approval by the relevant lower-tier municipalities.

#### **6. Regional or Upper Tier Water and Wastewater Delivery Fit for Purpose**

Despite CELA's submissions herein, we would add that an upper tier or regional structure probably works better for delivery of water and wastewater systems than lower tier municipalities' doing so. We submit that the exercise to set up a public utility corporation in the context of existing regional utility delivery is an unnecessary duplication of a system already in place at the regional level that is fit for purpose. CELA recommends that a public utility corporation model as established under this Bill not be utilized when such regional delivery already exists. In the latter case, there are

already robust protections in place under the *Safe Drinking Water Act*, including the Financial Plan regulations, the *Clean Water Act*, licensing requirements and municipal oversight.

We trust these submissions are of assistance and would be pleased to answer any questions in respect thereof.

Yours very truly,  
CANADIAN ENVIRONMENTAL LAW ASSOCIATION

A handwritten signature in black ink, appearing to read 'T. McClenaghan', written over a faint rectangular stamp.

Theresa McClenaghan  
Executive Director & Counsel

cc. Environmental Commissioner, Office of the Auditor General Tyler Schultz  
Minister of Municipal Affairs and Housing, Hon. Rob Flack  
Minister of Environment, Conservation and Parks, Hon. Todd J. McCarthy  
Chief Drinking Water Inspector for Ontario, Steven Carrasco