

Ontario Sewer and Watermain Construction Association



**OSWCA Comments to the Standing Committee on General
Government Regarding *Bill 257, Supporting Broadband and
Infrastructure Expansion Act, 2021***

March 24, 2021



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Submitted via: Legislative Assembly of Ontario written submission portal.

Members of the Standing Committee on General Government
99 Wellesley Street West
Room 1405, Whitney Block
Toronto, ON

**Re: OSWCA Comments to the Standing Committee on General Government
Regarding Bill 257, Supporting Broadband and Infrastructure Expansion Act,
2021**

The Ontario Sewer and Watermain Construction Association (OSWCA) represents over 800 companies across Ontario including contractors, manufacturers, and distributors who build, supply, and service the sewer and watermain construction sector in the province. Our work is almost exclusively in underground infrastructure construction and as such, we are profoundly dependent on a consistent and reliable One Call system to ensure our projects meet our contractual deadlines. Given this need, we are looking for ways to work with One Call and the government to improve service delivery.

The OSWCA supports the principles of the proposed Schedule 1 of the *Building Broadband Faster Act, 2021*. We recognize that Schedule 1 of the Act aims to expedite the delivery of broadband projects of provincial significance, and we support the provisions in the Act which:

- enables the Minister to order a distributor or transmitter to comply with the notice;
- allows for compensation to an excavation proponent from a distributor or transmitter for a loss or expense incurred because the distributor or transmitter failed to comply with a notice under section 4 or an order under section 7; and,
- require a distributor or transmitter who fails to complete the work is also required to compensate the proponent.

While our industry appreciates any provisions that aim to reduce project delays, we do not support provisions which enable the Minister to authorize excavation when transmitters and distributors fail to deliver locate information within 10 days. OSWCA members strive to achieve health and safety excellence therefore are apprehensive to proceed on any project, regardless of perceived risk, without proper locates from transmitters and distributors as defined in the *Ontario Underground Infrastructure Notification System Act, 2012*. While we appreciate the intent of what the Ministerial order is attempting to accomplish, it would require an excavation proponent to violate O.Reg 213/91 (Part 3 – Excavations – “Precaution Concerning Services,” as well as



section 228), which would mean violating embedded Health and Safety standards of the industry.

Background:

Under the *Ontario Underground Infrastructure Notification System Act, 2012* (the “One Call Act”) any project requiring excavation is required to make an underground utility locate request. Under the Act, distributors and transmitters have a five-business-day deadline to deliver the utility locate. However, without any enforceable penalties, these deadlines are rarely respected. Delayed locates needlessly increase the cost of taxpayer funded infrastructure in municipalities across the province.

OSWCA believes that provisions set out in Schedule 1 of Bill 257 will create conditions where utility locate request timelines are more frequently met and lengthy project delays are avoided. Beyond broadband infrastructure projects, OSWCA recommends that:

- Excavation proponents be entitled to seek a Ministers order of compliance in order to ensure transmitters and distributors respect the five-business-day deadline set out in the *Ontario Underground Infrastructure Notification System Act, 2012*.
- Excavation proponents be entitled to seek financial compensation for costs incurred because of the distributor or transmitters failure to comply with *Ontario Underground Infrastructure Notification System Act, 2012*.

Construction contractors remain frustrated by the lack of timely locate responses in Ontario. As an example, OSWCA records show that in 2019 one medium-sized contractor outside of the Greater Toronto Hamilton Area experienced 1,469 working days delayed because of late locates. A delay which represents significant cost over runs for projects.

Recommendations:

OSWCA recognizes the need for better datasets related to delayed locate requests.

- Transmitters and distributors be required to report datasets related to late locates for broadband infrastructure projects to the Ministry of Government and Consumer Affairs. These data sets should be reported to the Minister monthly.

Concluding Notes

OSWCA appreciates having the opportunity to provide input into this consultation process. The proposed legislation makes an important step in the right direction for how late locates are avoided in the province. Moving this process forward is important to managing the costs and long-term environmental sustainability of excavation and earthmoving projects across the province.



Please do not hesitate to contact Steven Crombie in our office (416-618-9839 or steven.crombie@oswca.org) if you have any questions or need information regarding OSWCA and its membership.

Sincerely,

Patrick Mcmanus
Executive Director