



December 9, 2022

Ministry of Public and Business Service Delivery  
6<sup>th</sup> floor, 56 Wellesley St. West.,  
Toronto, Ontario  
M7A 1C1

*Sent via email submission.*

**RE:**

**Proposed Legislative Amendments to the Ontario Underground Infrastructure Notification System Act, 2012, under the More Homes Built Faster Act, 2022;**

On behalf of the Ontario Road Builders' Association (ORBA), we would like to provide the following written comments in response to the proposed legislative amendments to the *Ontario Underground Notification System Act, 2012*, under *Bill 23, More Homes Built Faster Act, 2022*, which has been posted on the Ontario Regulatory Registry for public comment (22-MGCS022).

The Ontario Road Builders' Association is proud to represent the road building sector in Ontario. Our members build and maintain the majority of provincial and municipal roads, bridges, transit and transportation infrastructure across the province. The road building sector directly and indirectly employs approximately 56,000 workers at peak season and impacts all Ontarians.

We were very pleased to see this government make improvements to the delivery of locates under the *Getting Ontario Connected Act, 2022*. This included provisions allowing contractors on the same dig site to share locate information, using the dedicated locator model for certain projects, allowing Ontario One Call to issue administrative penalties against non-compliant utility members, and improving the overall governance structure of Ontario One Call.

ORBA also appreciated the opportunity to provide comments on the proposed administrative penalty regime for Ontario One Call. ORBA strongly supports the implementation of administrative penalties as a tool to improve locate delivery and promote safe digging practices. It is important that these penalties are applied consistently to both members and excavators in strict compliance to the Act.

In response to the newly proposed legislative amendments under *Bill 23, More Homes Built Faster Act, 2022*, ORBA supports provisions that enhance and provide more

impartial oversight to the governance structure of Ontario One Call. Utility companies have been historically over-represented on One Call's board of directors, making accountability and compliance problematic.

### **1. Proposed Amendment to allow the Minister of Public and Business Service Delivery to appoint the Chair of Ontario One Call's Board of Directors.**

The first provision outlined in S.2 (4.4) of the *Ontario Underground Infrastructure Notification System Act, 2012* would allow the Minister of Public and Business Service Delivery to appoint the chair of Ontario One Call's board of directors: "The Minister may appoint a chair of the board of directors from among the members of the board." ORBA remains concerned that allowing the Minister to appoint a chair from the current composition of the board will not improve accountability and oversight, as the board is primarily composed of representatives from underground infrastructure owners.

In order to make meaningful changes to the governance of Ontario One Call, the board must be representative of the entire sector. The board is currently comprised of 16 members, three of which are from the excavation sector. It is essential that the board moves away from being heavily represented by infrastructure owners (municipalities and utility companies) to ensure a balanced and fair approach to compliance with the Act.

Ontario One Call has not historically issued penalties against its infrastructure owners. When the *Ontario Underground Infrastructure Notification System Act, 2012* was first enacted, provisions allowed for penalties to be levied against infrastructure owners for the late deliver of utility locates. As far as we are aware, no penalty was ever levied during the ten-year period that this version of the legislation was in force. The associated penalty for this contravention was a \$10,000 fine.

ORBA strongly suggests that the composition of the board should be reviewed and rebalanced to ensure contractors are fairly represented in One Call board deliberations. Unless the chair is an independent, unbiased individual, this appointment will not increase accountability or oversight.

### **2. Proposed Amendment to allow the Minister of Public and Business Service Delivery to appoint an administrator of Ontario One Call in certain circumstances, which would align with the administrative authority.**

The second provision outlined in s.2.3 of the *Ontario Underground Infrastructure Notification System Act, 2012* would allow the Minister of Public and Business Service Delivery to appoint an administrator: "The Minister may, by order, appoint an individual as an administrator of the Corporation for the purposes of assuming control of it and responsibility for its activities."

ORBA supports this amendment and the associated administrator powers and duties laid out in s.2.3(5) of the Act.

ORBA welcomes the suggestion by our partner association, the National Capital Heavy Civil Association (NCHCA) for an exception or exemption from administrative penalties to be provided for excavators reasonably relying on inaccurate locate information provided by other Ontario One Call members.

Thank you for the opportunity to provide comments and please do not hesitate to contact Brianna Puigmarti, Senior Policy Advisor at [Brianna.puigmarti@orba.org](mailto:Brianna.puigmarti@orba.org) with any questions regarding this submission.