

# Environmental groups take Ford government to court over COVID-19 recovery bill

By [Emma McIntosh](#) | News, Politics | August 10th 2020



Ontario Environment Minister Jeff Yurek at Queens Park in Toronto in 2018. Environmental groups allege Yurek intentionally avoided consulting the public on environmental changes in Bill 197. File photo by Alex Tétreault

A coalition of environmental groups filed a lawsuit against the Ford government Monday, alleging the province's lack of public consultation on environmental changes in its economic recovery bill was "unlawful."

The Ontario legislature passed the omnibus Bill 197 last month over objections from opposition parties, environmental advocates and auditor general Bonnie Lysyk. Lysyk warned the government would be “[not compliant](#)” with Ontario’s Environmental Bill of Rights if it passed the bill without consulting the public. The bill was aimed at jumpstarting economic activity after COVID-19, but critics said it [undermines environmental oversight](#).

“The government does have to consult the public when it makes changes like this,” said Ian Miron, a staff lawyer with the green law charity Ecojustice, which is representing Greenpeace Canada and the Western Canada Wilderness Committee.

“We say (the passage of the bill) broke the law.”

The environmental groups have filed an [application for judicial review](#), asking Ontario’s Divisional Court to rule that the Ontario government’s passage of the bill was “unlawful.” If successful, the law wouldn’t be struck down, but Miron said he hopes clear guidance from the courts could help the government reassess its plans — though Bill 197 has passed, it hasn’t taken effect yet.

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“This government has shown itself willing in the past to reconsider decisions it’s made, for instance, with the [Greenbelt](#),” he said.

“There is a window of opportunity here as well.”

Andrew Buttigieg, a spokesperson for Environment Minister Jeff Yurek, declined to comment as the case is now before the courts.

“We are aware that Ecojustice has commenced a judicial review application,” he said in an email.

“We are reviewing the notice of application and determining our next steps.”

Greenpeace and Ecojustice brought a similar case before the courts in 2018, after the Ford government axed the province’s cap-and-trade program without holding consultations. The court found last year that the government [broke the law](#) in that case, though the judges didn’t compel the government to undo the change.

Ecojustice is also representing a group of young people who filed a suit against the Ford government last year, alleging the province’s lack of climate action is [endangering their charter rights](#).

In the application for judicial review on Bill 197, Ecojustice alleged the Ford government has shown a “pattern of illegal conduct.”

“Here we are again,” Miron said.



Ontario auditor general Bonnie Lysyk speaks to media in 2018. Lysyk has said the government was required to consult the public on environmental changes in Bill 197. File photo by Fatima Syed

## Auditor general flagged concerns about bill

In Ontario, the Environmental Bill of Rights mandates governments to consult the public for 30 days on changes that would impact the environment. Proposals are supposed to be posted online, on the [Environmental Registry](#), for public feedback.

The Ford government did not do so before it passed Bill 197, which included rewrites to 20 pieces of legislation, including several that related to the environment.

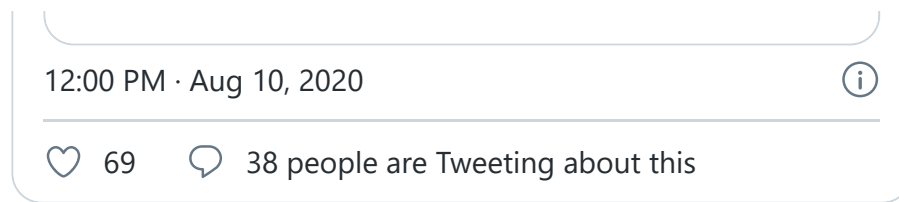
Lysyk previously told *Canada's National Observer* she was concerned about a section of the bill that **overhauled environmental assessments** (environmental advocates said the rewrite weakened environmental protections). She also flagged a portion that expanded the government's power to use **Ministerial Zoning Orders (MZOs)**, a mechanism that allows Municipal Affairs Minister Steve Clark to override the normal land planning process.

The Ecojustice court challenge mentions those sections as well, but also points to four other sections that it says would change laws related to the environment, with measures related to expropriating land, land development and municipal drainage systems. The laws changed fall under four ministries — municipal affairs, agriculture, environment and transportation.

When the government introduced rewrites to several of those laws in the past, Miron said, it posted the changes on the Environmental Registry for consultation. This time, he added, there was a “broad failure to consult.”

“There’s a concerning pattern of conduct here,” he said.





## Ford government tried to exempt itself from environmental rules

The government previously told *Canada's National Observer* it included a measure in Bill 197 to exempt it from the public consultation requirements set by the Environmental Bill of Rights.

In its court application, Ecojustice said the clause amounts to an “intentional refusal” to consult the public.

“The Minister of Environment acted intentionally for an improper purpose,” the filing said.

However, the exemption clause only applied to the rewrites of environmental assessment rules — not the other portions of the bill that Ecojustice says relate to the environment, Miron said.

“We see that as a bit of a shell game,” he added.

The exemption also becomes invalid after 30 days, which Miron said is roughly the same amount of time that anyone opposed to the bill would have to legally oppose it.

“It really looks like an attempt to shield themselves from judicial scrutiny,” he said.

It's not clear how long it could be before the courts deliver a decision. The cap-and-trade case took roughly a year, however, COVID-19 has led to [slowdowns](#) in Ontario's judicial system.



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best thing citizens can do is give money to Ecojustice to fight for true common good against this government put in power by and for corporate exploitation in all spheres of the natural and human world. SEE YOU IN COURT YUREK

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