

New Local Government Act Is Born

Bill 14, the Local Government Statutes Amendment Act, was introduced in the House yesterday by Municipal Affairs Minister Cathy McGregor. The Bill is historic in that it marks the third year in a sustained program of legislative reform, which has culminated in the name change from the *Municipal Act* to the Local Government Act. The change is symbolic of the recognition being given to municipalities and regional districts as being legitimate forms of local government in this province. Although not news to anyone in the system, it is a timely recognition of the enhanced status of local government.

It is a lengthy Bill of some 126 pages. It makes changes to six major areas of the Act, as well as miscellaneous amendments. An overview of the significant amendments is contained in this circular. This is not a clause by clause summary, but an overview of elements that should be of interest to UBCM members. Members are encouraged to review the entire Bill itself to familiarize themselves with the detailed amendments to all the statutes covered by the Bill (not just the *Municipal Act*).

More detailed information will be available from Municipal Affairs on the various aspects of the new legislation.

Planning and Land Use – Part 26

Scope of Official Community Plan (OCP) Broadened

- Section 875 – clarifies purposes of OCPs and links to purposes of a local government
- existing Sections on content of OCP (877 and 878) remain in effect for now. *Provisions concerning OCP content, to come into effect at a later time: Section 877 – required content will be eliminated and replaced by broad authority. Also states that in developing an OCP, the local government will be required to consider any applicable policy guidelines (when developed, these will set out the provincial interests). Section 878 – will be repealed when new provisions are in place.*
- Division 3 on Rural Land Use bylaws is repealed (with transitional provisions). RDs may adopt OCPs or comprehensive bylaws (sec. 259.1) (OCPs and zoning bylaw combined)
- Section 882 (5) – Improves linkages between OCP and others plans

Enhanced Public Consultation Process

- Section 879 – consultation required during OCP development, similar to that required in development of regional growth strategy
- Section 890 (3.1) – Chair of public hearing may establish procedural rules for conduct of the hearing

Development Permit (DP) Powers Broadened

- Section 919.1(e) – DP areas may be designated to establish objectives for the form and character of “intensive residential development”
- Section 919.1 – DP guidelines permitted in either OCP or zoning bylaw

Potential for Exemption of Provincial Approvals of Local Government bylaws

Minister may make regulations to exempt local government bylaws from approval:

- Section 882(4) – currently in effect - allows minister to exempt RD OCP bylaws from approval
- Section 910 – floodplain approvals (MELP)
- Section 917 – farm practices bylaws approvals (MAFF)
- Sections 924 & 930 – approvals of developments near highways (MoTH)
- Section 882(6) – ALC approvals

For Internet Users:

The First Reading version of this Bill and others introduced this Session may be found on the web site for the Legislative Assembly at:

<http://www.legis.gov.bc.ca/proceedings/bills.htm>

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Changes to Board of Variance provisions

- Section 901(1.1) – adds a requirement that before making an application to the Board of Variance, at least 45 days prior, a person must first have sought a development variance permit from a council or board (where applicable)
- Section 901(7) – establishes a 2 year default period for a variance to be exercised, which is equivalent to the period for development variance permits

Improvements in Park Land Dedication and Title

- Sections 901 and 941 – will allow title to future park land created

Regional Districts (RDs) – Part 24

Broad Services Powers Provided

- Division 4 (sections 796) now provides broad enabling authority for the operation and regulation of services (inside or outside RD boundaries) considered necessary or advisable by a RD board, in keeping with authority provided for municipalities through amendments made in 1999. Section 773 definitions of extended , general and local service are repealed.
- Sections 773 and 797 – definition of “service” has been expanded to include part 15 services (e.g. fire, health waste and recycling, drainage) and “regulatory services” (regulatory authority provided outside part 15).

More Flexible Service Arrangements

- Division 4.1 on establishing bylaws retains required content and section 800.2 adds authority to vary a number of statutory default provisions in the establishing bylaw (method of apportionment of costs with some exceptions; management committees/appointment of members; process for service review; timeframes for requesting service withdrawal) and sets out the procedural and approval requirements in relation to these bylaws (participant voting).
- Section 800 – all services require establishing bylaw except: administration (general, Electoral Area (EA), local community commission); feasibility studies (region-wide and EA); services authorized by another part of the Act; grants to mountain business improvement area; services of an approving officer

Dispute Resolution for Service Arrangements

- Division 4.5 deals with dispute resolution in relation to services and sets out a participant initiated process for service review (sections 813.04-813.07) and service withdrawal (sections 813.08-813.18). This allows municipal councils and EA directors to request that the RD board conduct a review of the terms and conditions of their participation in a RD services and if dissatisfied with the outcome, for most types of services, initiate a process through which their area could ultimately withdraw from the service.
- Section 813.08 – no service withdrawal permitted for those services that do not require an establishing bylaw (see above),

at subdivision and dedicated in lieu of DCC payment to be vested with the municipality rather than the province

- Section 941 – eliminates ability to avoid park land dedication through phased development (less than 3 lots)

Agricultural Lands – Loophole eliminated

- Section 946(5) – clarifies that local government may establish the minimum parcel size of subdivisions for relatives in relation to certain ALR land that is not use for farming or that was less than 2 acres before establishment of ALR

regulatory services and those excluded in future by regulation.

- The stages of the process include facilitation (813.01), mediation (813.12), binding arbitration to ensure closure 813.13-813.17).

Five-Year Financial Planning Provided

- Division 5 established broad financial authority similar to that provided for municipalities through amendments made in 1999
- Section 815 – RDs must annually adopt a five year financial plan

Changes to EA Governance and Administration

- 804 (c) – allows for all EAs admin. service costs be apportioned amongst all EAs; limits on what costs can go into EA administration service are removed
- Sections 800(2)(d) and 804 (d) – allows RDs to choose whether to fund feasibility studies for services from entire region or from EAs only and to apportion EA feasibility study costs amongst all EAs; existing section 827 repealed - removes feasibility fund requisition limit

Changes to Municipal Participation in Electoral Area Planning

- Section 804.1 (4) – municipality that is party to an agreement may give notice to opt out of EA planning but only in the last year of the term of the agreement
- Section 791 (12) – only those municipalities that are fully participating in planning costs (no agreement and no opt-out) can vote on other municipal/RD agreements

Local Community Commissions (LCCs)

- Section 838 currently allows the establishment of local communities within an EA to be administered by a LCCs. Amendments have been made to refine and improve this vehicle.

Appointment of Municipal Directors

- Section 784 (1) and (2) – clarifies the authority of a council to replace its RD director and improves transition following local elections
- Section 786 – provides a system for municipalities to designate alternate municipal director
- Section 786 – changes from annual term to term of any length up to three years

Assent

- clarifies, consolidates and harmonizes existing municipal and regional district counter petition process provisions (new Division 5 of Part 4 - Other Voting)
- adds new provisions prohibiting canvassers from making false statements in relation to counter petitions while collecting signatures and makes applicable other related election offences to the counter petition process
- provides consistent provisions for giving public notice in newspapers (section 6.4 - general notices and section 44 - elections notices)
- clarifies the time limit respecting notice of applications to act as scrutineers in relation to non-election voting (section 170(1))

Governance

- clarifies that the exercise of the powers to suspend and dismiss officers and employees under subsections 218(2)(d) and 218(3), are subject to the terms and conditions of employment (as referenced in sections 200 and 202)
- clarifies that appeals may be made in respect of decisions of the member presiding at a council meeting, when this person is not the mayor (section 229)
- removes the conflicting provisions regarding the establishment of standing committees by repealing the duty imposed on mayors to establish and appoint to standing committees (section 218) but retaining the existing power for the mayor to appoint standing committees (section 239)
- provides for the appointment of non-council members to select committees of councils (section 238) and for the appointment of non-directors to select committees of regional boards (section 795)
- adds non-council members of select and standing committees to the definition of "municipal public officer" for purposes of immunity and indemnification provisions (sections 287 and 287.2)
- removes a reference to minutes books which is no longer applicable following 1999 amendments (section 219)
- removes a requirement to sign each copy of a notice of special meeting (section 223(2))

Municipal Commissions

- provides a new corporate power within section 176 to establish commissions to operate services, to undertake the operation and enforcement of regulatory authority and to manage property. Replaces old sections 615 (parks commission), 616 (civic properties commission), 618 (recreation commission), 619 (joint commission), and 953 (community heritage commission).
- previous authority to establish athletic commissions (old section 617) moved to section 722.1, where it more appropriately relates to other general regulatory powers. Provisions are modernized slightly, including the removal of the restriction for villages to establish athletic commissions, as well as the removal of the prohibition to remunerate commissioners.
- preserves the provision that existing organizations designated to

act as community heritage commissions are considered to be the same as commissions as established under the new section 176 authority

Improvement Districts - Part 23

Following a comprehensive review of Improvement District provisions, this first round of amendments (sections 729-771 inclusive) primarily focus on imposing similar levels of accountability as apply to local governments. The amendments include:

- removes statement that administration and control rests with the Minister of Municipal Affairs (section 730)
- provisions regarding officer positions (sections 738.1-4)
- provisions regarding public access to meetings (sections 739.1 and 741)
- provisions regarding financial reporting and auditing (sections 741.1-2)
- provisions regarding subdivision servicing (section 747.1)
- provisions regarding latecomer payments (section 747.2)

Miscellaneous Amendments

- removes the option of Inspector of Municipalities approval for transfer by Registrar of Land Titles of golf course or cemetery land subject to a valuation agreement, because local government already has sufficient authority with proper documentation (section 351(5))
- similarly, the option for Inspector approval is removed from section 721(3) for transfers of land that were subject to land rehabilitation assistance
- corrects an error from last year's legislation which inadvertently removed municipal authority to tax utility company inter-provincial distribution lines. This amendment is retroactive and validates any taxation for 2000 (section 353)
- changes to rules about owner selection of tax payment scheme (section 368)
- removes the requirement that the application for a Home Owner Grant be printed on the reverse side of the tax notice, and replaces it with a more flexible requirement for the tax notice to include or have enclosed with it a Home Owner Grant application (section 369(3))
- adds a requirement for public notice of permanent road closures and ensures that persons affected have an opportunity to express their views to council (section 527)
- allows approved interest costs to be included as part of the capital costs of a work in relation to which development cost charges may be imposed (section 932). Amends a provision from last year that was not proclaimed.
- provides express authority for using commercial vehicle licence decals rather than licence plates (section 664)
- closes a loophole by which individuals used a fractional interest in property owned by a corporation in order to obtain property elector voting rights (section 51(1))
- provides authority for the Islands Trust Council to provide tax exemptions for natural area land that is protected by covenants