

# IN THE HOUSE

UNION OF  
BRITISH  
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MUNICIPALITIES



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## *Session Ends - Wrap-up Circular*

The Spring legislative session wrapped up on May 30, 2003. During the Session 69 Bills were introduced and 43 passed. This circular summarizes the "progress of bills" and outlines the Community Charter transition and consequential amendments.

### **Community Charter Transitional Provisions, Consequential and Other Amendments Act**

This *Community Charter Transitional Provisions, Consequential and Other Amendments Act* is a very lengthy Bill and is divided into four sections that will:

- manage the transition from the Local Government Act (LGA) to the Community Charter (CC);
- make the changes to the LGA as a consequence of the CC;
- amend other Acts as a consequence of the Charter; and
- make "housekeeping" changes to the Charter.

#### **Part 1 – Transitional Provisions**

This part deals with a variety of matters such as:

- allows interim regulations to deal with any transition difficulties;
- bylaws adopted under LGA deemed adopted under equivalent Charter authority;
- continuation of bylaws adopted under a repealed or amended legislation (e.g., bylaws – adopted under old parts of the LGA);
- if notice of counter petition has been given the process continues under the LGA rules;
- the obligation to report on progress on prior year's objectives does not apply to the first annual report;
- provides that council members must make reasonable efforts to disclose gifts and personal benefits that are received after the Charter receives Royal Assent;
- allows 120 days to adopt required provisions of procedure bylaws;
- bylaws or resolutions voted on before the new rules on Mayor's reconsideration are in force can only be reconsidered under the current LGA rules;
- existing sinking funds are continued until the debt is paid

and deems certain other funds to now be funds under the Charter;

- allows parcel taxes on properties that are not able to be connected to a system to be continued for a period of time;
- deems specified areas and BIAs to be local service areas under the Charter;
- existing rules under LGA for heritage, riparian, cemetery and golf course exemptions and valuations already provided; and
- existing reservations against title apply to municipal title to subdivision parklands.
- enables early application of Charter authority for tax exemptions in P3 agreements so that tax exemptions that could be provided under the Charter when it comes into effect can be provided before that date.

#### **Part 2 – Local Government Act Consequential Amendments**

These are extensive amendments to remove the LGA sections now replaced by the Charter. They also make amendments to apply remaining sections to regional districts and cross reference to the Charter for regional districts and other sections.

A summary of the amendments from a municipal and regional district perspective are contained on page 2. Key element is that some Charter "accountability" rules apply to regional districts.

#### **Part 3 & 4 - Other Consequential Amendments**

Part 3 amends 96 other Acts. The main changes are titles (LGA to CC) or other Charter references. These are not policy related amendments. Part 4 makes some purely technical corrections to sections of the Charter.

***Please make copies of this circular and distribute to Council/Board Members /Staff***

## Discussion

There are very few policy issues involved as the changes, while lengthy, are truly consequential. There were some choices to be made however, such as the effective date for reporting gifts. This provision is tempered by the use of the words "reasonable efforts", rather than a statutory requirement to disclose. Another example of a choice to be made was the period of 120 days to adopt the required elements in a procedure bylaw.

It is still foreseen that the effective date for most of the Charter will be January 1, 2004.

### Community Charter & Regional Districts: Transition & Consequential Amendments

The *Local Government Act (LGA)* remains the core legislation for regional districts, since the *Community Charter* does not deal with the fundamentals of the regional district system, which will be dealt with in a future phase.

The introduction of the Community Charter for municipalities has necessitated re-writing of many parts of the LGA to apply to regional districts only. The Ministry of Community, Aboriginal and Women's Services consulted with a Local Government Management Association (LGMA) technical committee on the changes to the LGA, and UBCM had a seat at this table.

In making these consequential amendments, the goal was to allow regional districts to continue to function efficiently and to ensure that there is no loss of current powers. No new powers were added for regional districts, but efforts were made to streamline and consolidate the LGA as it was re-written. Some parts of the LGA remain untouched and will continue to apply to all local governments, including Part 3 on elections and Part 26 on planning and land use management.

While the LGA is the primary legislation for regional districts, it was decided early on with input from the UBCM membership that it made most sense for all local elected officials to follow the same accountability and meeting rules. It was felt that this will minimize confusion for regional district and municipal directors, as well as the public, as to which rules apply.

Re-writing many parts of the LGA to apply to regional districts only was a very complex and technical exercise. While Part 24 is the most important to regional districts, this part contains many cross references to other parts of the Act. It also contains references to the Community Charter in relation to:

- Open meeting rules
- Conflict of Interest and ethical conduct
- Disqualification from office
- Approval of the electors (and Alternate approval process)
- Public notice and access to records
- Duty to respect confidentiality

## Local Government Act Amendments for Municipalities

### What's left in the LGA for municipalities?

Five remaining "big" parts:

- elections (3 & 4)<sup>1</sup>
- regional districts (24)
- regional growth strategies (25)
- planning and land use management (26)
- heritage conservation (27)

Five remaining "smaller" parts:

- incorporation of municipalities (2)
- improvement districts (23)
- replotting (28)
- Inspector of Municipalities (29)
- Administrative Commissioner (30)

Remaining Provisions in Nine other Parts  
(Today's version of Part/Division References)

Part 1.1 - Definitions

- some definitions apply as required for LGA

Part 5.1/Div. 3 - Certification of Senior Officials: Board of Examiners

Part 6 - Enforcement of Bylaws / Division 2 – Challenge of bylaws

Part 7 - Legal Proceedings

Div. 2 – Proceedings against municipality (most remains: immunities, limitations)

Div. 3 – Enforcement of order against municipality

Div. 4 – self-insurance

Part 8/Div. 2 – Municipal Forest Reserves

Part 10/Div 3- Special Cases (Municipal Taxation)

- forest land
- taxation of certain utility property

Part 11/Div. 8 – Tax Sales

Part 15 - Special Municipal Power

- irrigation services
- district municipality drainage works

Part 20/Div 1 - Requisition of Carriers  
Part 20/Div.3 - Licensing of Commercial Vehicles

Part 21 – Building Regulations  
• provincial building code  
• building code appeal board

<sup>1</sup> Part 4/Div. 5 – Counter Petition (this division is repealed and replaced by new provisions in the Charter

**Legislation Introduced before the May 20 Break Week**

**Bill 42 – Provincial Revenue Statutes Amendment Act (No. 2), 2003**

This Bill amends two Acts, these are:  
“Motor Fuel Act” – Adds a new section 14.1 “Authority to sell coloured fuel” which establishes that the director may in writing authorize a person to sell coloured fuel subject to the terms and conditions the director considers appropriate. A person must not sell coloured fuel unless authorized nor delegate or transfer the authority. Repeals and replaces Section 36 (1) so the minister may provide allowances prescribed in the regulations to collectors for collecting and remitting the tax, prescribed collectors to account for fuel evaporation in the normal course of operation and for persons authorized to colour fuel under Section 14 for their services in colouring fuel.

“Social Services Tax Act” – adds a new Division to Part 2 of the Act, which requires that fuel subject to tax under the act be coloured as required under the “Motor Fuel Tax Act” otherwise it is subject to tax established for motive fuel under the “Motor Fuel Tax Act”. It also adds a new section 93.1 (Tax Payment Agreements) which will allow the commissioner may, in the circumstances established by the regulations enter into an agreement with a person liable to pay a tax imposed by this Act.

**Bill 61 – Community Services Labour Relations Act**

This Act creates the “Community Social Services Employers’ Association” (CSSEA) which has 3 bargaining units; one that

primarily provides community living services; one that primarily provides services to aboriginal persons; those others not in the first two categories. The Act also creates an association of trade unions which a union certified to represent one of the Community Service Agencies must belong to the Association of Unions composed of all unions representing employees in that bargaining unit. The Act also prevents an agreement having a provision that prevents an agency from using volunteers, if the use of volunteers does not result in the layoff of an employee.

**Bill 62 – Health Professions Amendment Act, 2003**

The amendment to this Bill will, when enacted, repeal and replace the “Chiropractors Act”, “Dentists Act”, “Medical Practitioners Act”, “Nurses (Registered) Act”, Supplement to the “Nurses (Registered) Act”, “Optometrists Act”, “Podiatrists Act”. This will give the colleges regulating these health professions the same rules for regulation and accountability to the public. Amendments to this Act will allow for the registration of Nurse Practitioners by the Registered Nurses Association of B.C. This is a new program being launched by the province. They will have more knowledge and decision making skills in the assessment and diagnosis of patients.

**Bill 64 – Transportation Statutes Amendment Act, 2003**

Acts amended by this Bill of interest to local government are:  
“Highway Act” – adds to section 4(3) the Act does not apply to “a snowmobile trail established and maintained by a recreational organization, whether or not public money is spent on the trail before or after the coming into force of this subsection.

“Greater Vancouver Transportation Authority Act” – allows the GVTA, by resolution of the board to amend the strategic transportation plan to incorporate the Richmond-Airport-Vancouver rapid transit Authority.

“Ministry of Transportation and Highways Act” – repeals Part 3 regarding of the Act Coquihalla Highway Administration.

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• **Bills currently in the Legislature,** •  
• *as well as older bills and Hansard transcripts can be viewed on the Legislative Assembly web site at:* •  
• [www.legis.gov.bc.ca](http://www.legis.gov.bc.ca) •  
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"Railway Act" – repeals many outdated provisions of an Act originally drafted in the early 1900's. It also updates a number of Parts and sections such as Part 2, Incorporation of Railway Companies and Part 11, Bonds, Mortgages and Borrowing Powers.

"Riverbank Protection Act" – is repealed as the responsibility is with the "Dike Management Act" and the "Drainage, Ditch and Dike Act".

"Transportation Investment Act" – adds a subsection to Section 19 that will allow a person to dispute a toll if that person was allowed to travel without charge under a program offered by the operator.

"Weed Control Act" – for the purpose of this Act, "if a highway is a concession highway, the concessionaire for that highway is the sole occupier of it."

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### **Bill 66 – Miscellaneous Statutes Amendment Act (No.2), 2003**

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This Bill amends a number of Acts. Those which are of interest to local government are:

"Cemetery and Funeral Services Act" – repeals and replaces Sec. 51(1)(h) to limit the obligation of the official administrator to control the disposition of the deceased's remains to where they are administering the estate.

"Commercial Transport Act" – incorporates into the Act from the *Motor Vehicle Act* the ability of:

- ICBC to refuse to issue permits or licences to a commercial vehicle that has not been inspected as requested
- ICBC to refuse to issue licences or licence plates to commercial motor vehicles irreparable or salvage
- peace officers to impound a commercial motor vehicle for street racing
- ensures that an exemption given under Section 16 of the MVA (New Vehicle Identification Numbers) to travelers with a licensed weight of under 1400kg does not apply to commercial trailer (new section to MVA added by this bill).

"Election Act" – repeals from section 30 (Individuals disqualified from voting) subsection (d) "an individual who

is imprisoned in a penal institution serving a sentence of 2 years or more".

"Expropriation Act" – adds a new subsection 6.1 to Section 26 (Jurisdiction and decision) which will allow the Chair or Vice Chair to designate a member to hear and deal with a matter instead of the board.

- adds a new subsection 1.1 to section 27 "Powers and Duties of Board" to provide rules for prehearing conference.
- adds a new section 27.1 "Mediation discussions confidential" provides confidentiality for mediation or other alternative dispute resolution process.

"Freedom of Information and Protection of Privacy Act" - Section 49 (Delegating by Commissioner) added subsections 1.2 and 1.3 which provide that besides the head of a police force only the Attorney General, Deputy Attorney General, and Assistant Deputy Attorney General, Criminal Justice branch may make a request under Section 49(1.)(b) that the commissioner not delegate the power to examine information that has not been disclosed because it would harm law enforcement.

"Lobbyist Registration Act" – added sub section 4(1)(g.1) and replaces 4(1)(g) to focus responsibility on listing MLAs and ministers if they or their staff have or are likely to be lobbied during the period the return was filed.

"Offence Act" – Adds a new subsection 5.1 to Section 14 that clarifies that a violation ticket sent to ICBC is not invalid only because the instructions prescribed for the ticket are not sent with the ticket. Also adds a regulation power to prescribe instructions on how to dispute a ticket.

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[www.civicnet.bc.ca](http://www.civicnet.bc.ca)

Recent circulars of interest:

- In the House (March 21) Recent Legislation, other Activities and Announcements
- In the House (March 28) Legislation and Other Breaking News
- In the House (April 11) Provincial Policy Update
- In the House (April 30) House back in Session
- In the House (May 14) Flood of Legislation as House moves to final week

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## Legislation Not Introduced

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Despite the sizable legislative agenda, some legislation that was expected, but was not introduced related to Bylaw Tribunals.

## Ten More Bills Introduced in the Final Week

In addition to Bill 67, *Community Charter Transitional Provisions, Consequential and Other Amendments Act* there were nine other Bills introduced during this last week of the Spring Session

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### Bill 59 – Financial Administration Amendment Act, 2003

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This bill makes a number of amendments to the Act:

- update the debt management provisions of the Act to bring them in line with current financial market practices.
- it clarifies the minister's authority to borrow for the government and government bodies and manage the provincial debt.

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### Bill 60 – Business Corporation Amendment Act, 2003

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This Bill makes amendments to the *Business Corporation Act* which was passed in 2002 but has not yet been brought into force. The Act will replace the *Company Act* when it is brought into force.

The amendments correct errors, clarify language and address issues identified by both the public and during development of the corporate registry's automated filing systems. The Amendment Act also makes consequential amendments to over 100 statutes that reference the current *Company Act*.

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### Bill 68 – Administrative Tribunals Appointment and Administrative Act

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This Bill will provide for greater uniformity in the appointment and reappointment of individuals to the administrative tribunals in the Acts amended by the Bill. It provides for a merit based process leading to appointments and for consultations with chairs of tribunals before the appointment of other members. Standard provisions are enacted for the following and are applied to most Acts:

- absence or incapacitation of the chair and other members
- temporary, non-renewable appointments
- powers of members after resignation or expiry of these terms of appointment
- termination for cause
- responsibilities of the chair for management and operation of the tribunals
- remuneration and benefits for members under general directives of the Treasury Board

Some Acts amended by the Bill of interest to municipalities are:

*Agricultural Land Commission Act, Assessment Act, Community Care and Assisted Living Act, Employment Standards Act, Environmental Management Act, Expropriation Act, Fire Services Act, Human Rights Code, Labour Relations Code, Local Government Act Sect. 693 (Building Appeal Board), Motor Carrier Act, Safety Standards Act, and Workers Compensation Act.*

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### Bill 70 – Commercial Appeals Commission Appeal Act

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This Bill repeals the Act, dissolves the commission and makes necessary consequential amendments to all statutes that refer to the *Commercial Appeals Commission Act*. Some of the Acts affected are *Community Care Facility Act, Freedom of Information and Protection of Privacy Act, Homeowner Protection Act, and Society Act*.

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### Bill 46 - Land Amendment Act, 2003

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This Bill amends the Act by adding a new Part, Part 7.1 "Land Designation and Establishment of Objectives". The Lieutenant Governor in Council order may designate areas of Crown land for one or more of the following purposes:

- conserving or managing natural resources
- implementing a plan for a specified use of Crown land
- resolving land use conflicts
- use for specified economic development opportunities
- balancing multiple natural resource uses

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### Bill 47 – Supply Act, 2003 – 2004

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This bill makes provision to defray certain expenses of the public service of the Province and for other purposes connected with the public service, for the fiscal year ending March 31, 2004.

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**Bill 69 – Forest and Range Practices Amendment Act, 2003**

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This Bill is being introduced for debate in the coming fall session. The amendments reflect the results of pilot testing that has taken place and comments that have been received over the winter months. It adds clarity to the designations and objectives for maintaining environmental standards such as wildlife habitat areas, community watersheds and water quality objectives. It will also provide licencees with the means to prepare forest health strategies.

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**Bill 71 – Public Service Amendment Act, 2003**

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This Bill amends the Act by replacing the Public Service Employee Relations Commission with the BC Public Service agency. It also eliminates the Public Services Appeal Board and provides for deputy ministers to conduct enquiries in to staffing decisions if requested by an employee as to why they were not successful. It provides for a merit commissioner to review decisions of an employee in a bargaining unit under the "Public Service Labour Relations Act" if they disagree with the Deputy Ministers decision, the merit commissioner has the powers, privileges and protection of a commissioner under Section 12, 15 and 16 of the "Inquiry Act".

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**Bill 72 – Manufactured Home Act**

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This Bill repeals and replaces the current Act. It will allow for mandatory electronic filing of mobile home information in the registry and will reduce the oversight role of the registrar.




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**Drinking Water Protection Regulation**

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The Ministry of Health Services has introduced a new Drinking Water Protection Regulation. The regulations will require:

- Treatment (disinfection) of surface water and groundwater used in a water supply system;
- Provide authority for a drinking water officer to issue construction permits and operating permits for a water supply system;

- Water supplier to monitor for – total coliform bacteria and fecal coliform bacteria in the water system, drinking water officer may require that other pathogens be tested for in the water supply system where there are perceived concerns;
- Laboratory is required to immediately report to the Provincial Health Officer and the operator if the water system does not meet the health standards established;
- Public notification must provided by the owner of a public premises if the water system is under a boil water order (i.e. notices at every sink or water fountain accessible to the public etc.);
- Persons operating a water supply system must be certified to manage that type of system – level 1 or level 2 system operators must be certified by January 1, 2005 and level 3 by January 1, 2006;
- An emergency response plan and contingency plan must be developed for the water supply system;
- A well used to supply drinking water and identified in an assessment as being at risk of flooding must floodproofed to preclude the entry of flood water into the well and protect the well against damage from flood debris, ice, erosion and scour;
- Increased frequency of monitoring in some cases – communities less than 5,000 population will require 4 samples per month; communities between 5,000 and 90,000 population will require 1 sample per 1,000 population per month; communities over 90,000 population will require 90 samples + an additional sample per 10,000 of population in excess of 90,000 per month.

**Joint Task Force on Liability Makes Presentation to Government**

The UBCM/MIA Joint Task Force on Liability made a presentation to the Government Caucus on its recommendations related to the Civil Liability Review. Mayor Frank Leonard represented UBCM and MIA was represented by Councillor Janis Elkerton, MIA Chair.

The presentation was aimed at maintaining momentum of the Attorney General's Civil Liability Review and pressing the caucus for its support. The Task Force also wished to dispell some misinformation that was circulating about the scope of the reforms proposed.

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## Progress of Government Bills

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The following 43 Bills received Third Reading and Royal Assent by the end of the spring legislative session. The effective dates may vary depending on their proclamation. The bills shown in bold are of particular interest to local government.

Bill 2: Museum Act  
 Bill 3: Small Business Venture Capital Amendment Act, 2003  
 Bill 4: Agrologists Act  
 Bill 5: Foresters Act  
 Bill 6: Budget Measures Implementation Act, 2003  
 Bill 7: Income Tax Amendment Act, 2003  
 Bill 8: Employee Investment Amendment Act, 2003  
 Bill 9: Auditor General Act  
 Bill 10: Energy and Mines Statutes Amendment Act, 2003  
 Bill 11: Miscellaneous Statutes Amendment Act, 2003  
 Bill 12: Police Amendment Act, 2003  
 Bill 13: Freedom of Information and Protection of Privacy Amendment Act, 2003  
 Bill 14: Community Charter  
 Bill 15: Unclaimed Property Amendment Act, 2003  
 Bill 16: Coalbed Gas Act  
 Bill 17: Motor Vehicle Amendment Act, 2003  
 Bill 18: Coastal Ferry Act  
 Bill 19: Safety Standards Act  
 Bill 20: Safety Authority Act  
 Bill 21: University of British Columbia Services Continuation Act  
 Bill 22: Community, Aboriginal and Women's Services Statutes Amendment Act, 2003  
 Bill 23: Procurement Services Act  
 Bill 24: Securities Amendment Act, 2003  
 Bill 25: Hospital District Amendment Act, 2003  
 Bill 26: Supply Act (No. 1), 2003  
 Bill 27: Forest Statutes Amendment Act, 2003  
 Bill 28: Forestry Revitalization Act  
 Bill 29: Forest (Revitalization) Amendment Act, 2003  
 Bill 30: Provincial Revenue Statutes Amendment Act, 2003  
 Bill 31: Court Jurisdiction and Proceedings Transfer Act  
 Bill 32: Enforcement of Canadian Judgments and Decrees Act  
 Bill 33: Health Services Statutes Amendment Act, 2003  
 Bill 34: Industry Training Authority Act  
 Bill 39: Transmission Corporation Act  
 Bill 40: Utilities Commission Amendment Act, 2003  
 Bill 45: Forest (Revitalization) Amendment Act (No. 2), 2003  
 Bill 47: Supply Act 2003 - 2004

Bill 50: School Amendment Act, 2003  
 Bill 51: Teaching Profession Amendment Act, 2003  
 Bill 58: Insurance Corporation Amendment Act, 2003  
 Bill 61: Community Services Labour Relations Act  
 Bill 64: Transportation Statutes Amendment Act, 2003  
 Bill 66: Miscellaneous Statutes Amendment Act (No. 2), 2003

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## Bills Not Passed

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26 bills were not passed Third Reading and remain on the order paper for the fall session. Again, those of particular interest to local government are shown in bold. UBCM will be using the time before the fall session to examine several of these bills in greater detail.

Bill 1: An Act to Ensure The Supremacy of Parliament  
 Bill 35: Advanced Education Statutes Amendment Act, 2003  
 Bill 36: Business Number Act  
 Bill 37: Skills Development and Labour Statutes Amendment Act, 2003  
 Bill 38: Personal Information Protection Act  
 Bill 41: Judicial Compensation Act  
 Bill 42: Provincial Revenue Statutes Amendment Act (No. 2), 2003  
 Bill 44: Forests Statutes Amendment Act (No. 2), 2003  
 Bill 46: Land Amendment Act, 2003  
 Bill 48: Agriculture, Food and Fisheries Statutes Amendment Act, 2003  
 Bill 49: Pension Statutes Amendment Act, 2003  
 Bill 52: Private Career Training Institutions Act  
 Bill 53: Integrated Pest Management Act  
 Bill 54: Pharmacists, Pharmacy Operations and Drug Scheduling Amendment Act, 2003  
 Bill 55: Water, Land and Air Protection Statutes Amendment Act, 2003  
 Bill 56: Flood Hazard Statutes Amendment Act, 2003  
 Bill 57: Environmental Management Act  
 Bill 59: Financial Administration Amendment Act, 2003  
 Bill 60: Business Corporations Amendment Act, 2003  
 Bill 62: Health Professions Amendment Act, 2003  
 Bill 67: Community Charter Transitional Provisions, Consequential and Other Amendments Act, 2003  
 Bill 68: Administrative Tribunals Appointment and Administration Act  
 Bill 69: Forest and Range Practices Amendment Act, 2003  
 Bill 70: Commercial Appeals Commission Repeal Act  
 Bill 71: Public Service Amendment Act, 2003  
 Bill 72: Manufactured Home Act