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Fall Legislative Sitting Ends

There have been 19 new bills introduced in the fall session since the Legislature resumed sitting on October 4, 2004 and adjourned on October 26th – three weeks earlier than originally scheduled.

Most of these bills do not have a direct impact on local government. However, one bill that will impact on local government activities is Bill 73 which amends the *Freedom of Information and Protection of Privacy Act* (FOIPPA). The amendments respond in part to the USA *Patriot Act* by including enhanced privacy protections in the legislation, particularly with respect to rules around exchange of sensitive electronic data, such as health, personal or financial information.

Amendments of note for local governments are:

- new restrictions placed on public bodies and service providers storing, accessing or disclosing personal information outside Canada.
- extending the restrictions that already apply to public bodies to public employees, service providers and employees and associates of service providers.
- requiring public bodies and service providers to report and foreign demand for disclosure of personal information not covered by the FOIPPA .

Bill 73 also has important transitional provisions for existing contracts:

- with respect to public bodies (including municipalities and hospitals), the new privacy protection provisions will not apply to contracts and research agreements they enter into, or become obliged to enter into, before October 21, 2004 (the date this Bill received Royal Assent).
- transitional provisions apply only to the end of the current term of the contract and only where a public body cannot reasonably bring their pre-existing contracts and agreements into compliance with the new provisions. Wherever possible, a public body must make all reasonable efforts to bring the contract or arrangement into compliance but until that is possible, the new provisions will not take effect.

A complete summary of the amendments is available on the Ministry of Management Services website at: www.mser.gov.bc.ca/FOI_POP/main/FOIPPAmendBrief.pdf. In

addition, the Ministry of Community, Aboriginal and Women's Services will be updating their guide to the FOIPPA for local governments shortly, and this will be available on the Ministry's website.

Traffic Fine Revenues Transferred

The Premier announced at the UBCM Convention that 100% of net traffic fine revenue will be distributed this year – up from 75% and accelerated from the previous 2005 and 2006 implementation phasing.

This is a long-standing issue that has been finally addressed. Resolutions on the issue date back to 1990.

In 1999 a traffic fine revenue sharing system was introduced that originally returned \$13 million. The revenues were distributed on the basis of a municipality's share of policing costs. Due to declining fine revenues, that amount declined to \$10 million in 2001 and remained at that level until this year.

The New Era document promised to return 75% traffic fine revenues. The 2004 provincial budget indicated that this would begin in 2005 and the remaining amount would be paid in 2006.

The Premier's announcement has accelerated the payments to 2004 and increased the transfer to 100%.

Eligible municipalities have received their full 100% share this month. That amount should be about four times what those municipalities received in 2003. The distribution formula remains the same – an eligible municipality's percentage of total municipal policing costs.

UBCM and MCAWS have discussed ways to ensure there is transparency and clarity in the accounting for fine revenue transfers. An agreement is expected that would annually account for funds transferred from ICBC, net of their administrative costs, and funds made available to municipalities, net of provincial court costs attributed to traffic tickets, and the hold back for the share of fines in rural and small communities that do not now pay for policing. The annual report could also comment on future revenue projections.

The fall sitting of the Legislature opened October 4 and adjourned the morning of October 26. During that time there were 19 bills introduced into the legislature, all have received Royal Assent but not all bills or parts of bills have been proclaimed into effect.

The following are brief highlights of the bills introduced at the fall session.

Bill #57 - Range Act

When proclaimed, this bill will repeal and replace the current *Range Act*. The Act will cover disposition of rights over crown range by the government; set out the requirements respecting licenses and permits and compliance and enforcement of rights under the licenses and permits.

Bill #58 - BC Rail Benefits (First Nations) Trust Act

When proclaimed, this Act will allow for the creation of the BC Rail Benefits (First Nations) Trust and authorizes the corporation to receive \$15 million from the proceeds of the sale of BC Railway Co. The corporation is to create a trust where that money will be deposited and the funds will be available for First Nations projects to advance economic development, educational advancement and cultural renewal.

Bill #59 - Northern Development Initiatives Trust Act

When proclaimed, this Act will allow for the creation of the Northern Development Initiative Trust and authorize the government to provide to the trust out of proceeds from the sale of BC Railway Co. the sum of \$135 million. The Act will also establish regional advisory committees for the purposes of electing directors for, and providing direction to, the Corporation.

The Corporation is to create specified trust accounts into which the allocated money can be deposited, and the funds in that account are then available for specified purposes in the area as defined as the legacy area in the Act.

Bill #60 - University Amendment Act, 2004

The amendments made by this Act will allow UBC to establish a second senate for UBC Okanagan. Currently under the Act each university is allowed only one senate.

A second amendment made by this Bill would guarantee representation from UBC Okanagan on the overall UBC Board of Governors. Under the Act, this body sets the operational direction for the university and will oversee both the Vancouver and Okanagan campuses.

Bill #62 - Attorney General Statutes Amendment Act – 2004

Some of the statutes amended by this bill are:

Administrative Tribunals Act – repeals and replaces section 4, which will provide for the temporary appointment of an acting chair and sets the time and conditions around these temporary appointments. It makes a number of minor changes to improve clarity.

Estate Administration Act – increases the value of an estate administered without a court order from \$10,000 to \$25,000 dollars. It also amends the *Motor Vehicle Act* in a similar way by increasing the value of an estate for which a license may be transferred from \$10,000 to \$25,000 dollars.

Forest and Range Practices Act – amendments will allow the board when conducting an audit, special investigation, or complaint investigation under the to make an order requiring a person to attend an oral or electronic hearing to give evidence, or to produce a document in their possession. The board may apply to the court for an order directing a person or directors and officers of a person to comply with an order.

Offence Act – adds a section to allow the Lieutenant Governor in Council to prescribe regulations for bilingual forms, instructions, and other documents to implement an agreement under the federal *Contravention's Act*.

Bill #63 - Charitable Purposes Preservation Act

This bill when enacted will supplement the law of trusts. The Act will provide protection for the charitable purpose behind gifts, if those gifts are given and dealt with in accordance with the Act, without affecting the law of trusts as it relates to those gifts of any other gifts, charitable or otherwise.

Bill #64 - Justice Modernization Statutes Amendment Act, 2004

This Bill amends a number of statutes in the Attorney General's ministry. Some of these are:

Class Proceeding Act - adds a new section 38.1, "Limitation period for a cause of action not included in a class proceeding", which will suspend the running of a limitation period applicable to an action if it could have been dealt with in a proceeding and that proceeding could have been but was not certified as class proceeding.

Crown Proceeding Act – allows a proceeding to be brought against the government in provincial court in accordance with *Small Claims Act* and rules but excludes constitutional and Charter of Rights and Freedoms proceedings.

Court Rules Act – amended to allow the Lieutenant Governor in Council to make rules for the expeditious and efficient conduct of proceedings where the amount claimed is \$100,000 or less exclusive of the interest or of interest under *the Court Order Interest Act*.

Evidence Act – adds new sections regarding admissibility in court of electronic court documents and sets standards for these electronic court documents and signatures.

Small Claims Act – amendments will allow the Lieutenant Governor in Council to make regulations to allow the maximum amount of \$50,000 to be dealt with in small claims court.

Bill #65 - Forest Statutes Amendment Act (No.2), 2004

This bill amends a number of the forest statutes. Of interest:

Forest Act – adds a new section 14.1 “Mountain Pine Beetle Salvage Area”. This new section will allow the Lieutenant Governor in Council to designate crown land infested by mountain pine beetle as a mountain pine beetle salvage area for a prescribed period and allows them to amend or repeal that regulation. It also adds Section 105.3 “Small scale salvage costs portion to be paid into special account” which directs the small scale salvage amount of stumpage to be paid into the Small Scale Salvage Sub-account of the Forest Stand Management Fund special account.

Bill #66 - Motor Vehicle Amendment Act, 2004

The amendments to this bill will strengthen the laws on impaired driving as well as increase the penalties. Some of the provisions are:

- adds a new section “Remedial Courses and Programs for drivers” which if in the opinion of the superintendent, a person has an unsatisfactory driving record and a person’s driving skills, fitness or ability to drive and operate a motor vehicle are unsatisfactory the superintendent may have a person do one or more of:
 - take a driver training course
 - participate in an ignition interlock program
 - participate in a remedial program or a component of one
- for suspended drivers increases the minimum fine from \$300 to \$500 dollars, increases the vehicle impoundment period for a 1st offence from 30 to 60 days and from 60 to 90 days for subsequent infractions.

- will allow the use of a roadside screening device for 24 hour suspension

Bill #67 - Expropriation Amendment Act, 2004

When enacted this bill will:

- provide the Supreme Court with authority for expropriation matters currently held by the Expropriation Compensation Board
- provide for the minister to appoint an inquiry officer and authorizes the inquiry officer to not hold an inquiry in certain specified circumstances
- provides that Lieutenant Governor in Council may by regulation make rules governing the court’s practice and procedure in a proceeding under this Act and if there is any inconsistency or conflict between these rules and a rule made under the *Court Rules Act* these rules prevail.

A transitional provision will continue the Expropriation Compensation Board for the purpose of completing any proceedings before it. There are consequential amendments to Sections 33 and 50 of the *Community Charter* and to Sections 312 and 749 of the *Local Government Act*.

Bill #68 - Land Title and Survey Authority Act

This bill when proclaimed will establish the Land Title and Survey Authority of British Columbia as a corporation without share capital with a Board of Directors consisting of 11 members appointed as specified in the Act. The corporation is not organized and must not be operated for profit. The purposes of the authority are:

- to manage, operate, and maintain the land title and survey systems of British Columbia
- to facilitate the execution of Crown grants
- to carry on other necessary or advisable activities related to land title or survey systems.

Under the Act UBCM will be a stakeholder entity submitting names of nominees for the position of director of the corporation.

Bill #69 - Finance Statutes Amendment Act, 2004

This bill amends some statutes administered by the Ministry of Finance, the one of interest to local government is:

Pension Benefits Standards Act – removes the need for a Pension plan’s audited financial statements under the Act to be made in accordance with generally accepted accounting principles and allows the Lieutenant Governor in Council to prescribe standards that are to apply. The Lieutenant Governor in Council may adopt some or all of a standard, code or rule of a recognized body.

Other acts amended by this bill are: *Business Corporations Act*, *Financial Institutions Statutes Amendment Act, 2004* and the *Society Act*.

Bill #70 - Property Transfer Tax Amendment Act, 2004

This bill will amend the Act by adding a new provision so that all purchasers of pre-sold strata lots will know how much the fair market value is that the tax will be assessed on and payable when they register their purchase at the Land Title Office. The bill will be retroactive to January 2001.

Bill #71 - Safe Streets Act

This bill and bill #72 *Trespass Amendment Act, 2004* are in response to UBCM resolution A4, 2004 entitled Support for Safe Street Act and Urban Trespass Act which was endorsed at our recent Convention in Kelowna.

The *Safe Street Act* makes it an offence to solicit in an aggressive manner or to a captive audience. It also amends the *Motor Vehicle Act* to make it an offence to walk on a roadway if the roadway has a sidewalk, walk on the right side of the roadway if it has no sidewalk, stop or approach a motor vehicle for the purposes of offering, selling or providing a commodity or service.

Bill #72- Trespass Amendment Act, 2004

Amendments to this bill will prohibit someone from remaining on private property after they have been asked to leave. It will also allow the prohibiting of unwanted activities.

It goes beyond what has in past been called enclosed land and deals in a more modern context with premises such as structures and buildings and ships and vessels not in motion.

Bill #73 - Freedom of Information and Protection of Privacy Amendment Act, 2004

The amendments in this bill will place restrictions on public bodies and service providers from storing, accessing or disclosing personal information outside of Canada. They will extend the restrictions that already apply to public bodies to public employees, service providers and employees and associates of service providers. It will require the public bodies and service providers to report any foreign demand for disclosure not covered by the Act. It protects whistle blowers and creates offences for the violation of these new privacy provisions.

Bill #74 - Miscellaneous Statutes Amendment Act (No.3), 2004

This bill amends a number of acts. Those of interest to local government are:

Community Charter—amends Section 224 to ensure continuity of permissive tax eligibility for Community Care Facilities and registered assisted living residences licensed under the *Community Care and Assisted Living Act*. An amendment to the *Vancouver Charter* adds a provision to clarify the definition from the *Community Charter* and *Local Government Act* are valid for the application of those Acts to the City of Vancouver.

Gaming Control Act – amends Section 80, Background Investigations, to make it explicit that background investigations may be made on a person's individual suitability as well of financial integrity. The bill also amends Section 79, Inspection Powers, to allow an inspector to make inquiries for the purpose of compliance of licenses, eligible organizations and registrants.

Police Act – adds two subsections to Section 68.1, *Requirement to use Information Management System*, giving legal immunity protection to the corporation that oversees BC's public communication and records management system. Protected persons are defined as a designated service provider, a current or former member of a service provider, a current or former director or employee of a designated service provider.

Bill #75 - Transportation Statutes Amendment Act, 2004

The amendments to this bill will give the Greater Vancouver Transit Authority the authority to carry out the RAV and Fraser River crossing projects. Some amendments of interest to local government are:

- it provides GVTA with the clarity it needs to expropriate land for use and benefits of specific projects.
- it will allow for the setting of tolls for the Fraser River crossing project.
- by adding a section it allows them to enter into an agreement with the assessment Commissioner under which they delegate to the commissioner some or all of the authority, power and duty in relation to a parking site roll.

The bill also amends the *Municipalities Enabling and Validating Act* to allow the GVTA to enter into agreements with municipalities regarding the RAV and Fraser River Crossing projects.

Other transportation statutes amended by the Act are: *Motor Vehicle Act*, *Transportation Act*, and *Transportation Investment Act*.

Bill #76 - Social Service Tax Amendment Act (No.2), 2004

This bill will lower the sales tax by 1/2%. The 7% became effective October 21, 2004. It also decreases the tax rate in respect of vehicles licensed for interjurisdictional commercial purposes in line with the decrease in the general sales tax rate to 7%.