

## Tsawwassen First Nation Final Agreement Legislation Introduced

The provincial government introduced on October 15th, legislation to bring into effect the Tsawwassen First Nation Final Agreement on between the Tsawwassen First Nation, BC and Canada. This is the first treaty under the BC Treaty Commission process.

What local governments may find of particular interest are the amendments to local government legislation. The most significant is an amendment to Part 24 (Regional Districts) with the creation of a new Division (3.1) called, "Treaty First Nations and Regional Districts".

While this legislation allows Tsawwassen First Nation to participate in the GVRD, the general model put forth by the Province provides for treaty first nations participation in regional districts (RDs). This means the legislation could apply to other First Nations who have provisions in their final agreements that provide for RD membership. The model in the legislation is that a First Nation would participate much like a municipal member.

The legislation is quite clear that if a final agreement provides for membership of the treaty first nation in a RD the Local Government Act (LGA) (and the Community Charter to the extent it applies to RDs) applies to that treaty first nation as if it were a municipality and the treaty first

nation regional board director has the same functions, powers, duties and obligations as a municipal director (except as modified – see below) [S.795.11]. This includes:

- The treaty first nation using the same process to determine the number of directors and votes.
- The governing body of a treaty first nation must appoint a director to the regional board from among the elected members of its governing body.
- The director must be qualified to hold office as would be a local government director
- If the final agreement specifies that the treaty first nation will participate in specified RD services on becoming a member, the supplementary letters patent or bylaws are deemed amended to include the treaty first nation.

The new provisions that allow for the participation of a First Nation in a RD [s.795.1] reinforce the municipal/First Nation parallels as follows:

| <b>A REFERENCE TO:</b>                 | <b>INCLUDES:</b>  |
|--|---|
| A municipality under Community Charter | Treaty First Nation   |
| Council                                | Government body of Treaty First Nation                                    |
| Municipal Director                     | Treaty First Nation Director  |
| Municipal participating area           | Treaty First Nation participating area                                    |
| Mayor                                  | Head of the Treaty First Nation   |
| Bylaw                                  | Law of the Treaty First Nation  |
| Official Community Plan                | Land use plan of the Treaty First Nation                                  |
| Municipal Corporate Officer            | Offices designated by Treaty First Nation to receive notices from the RD. |

The legislation recognizes that a First Nation has its own elections and internal processes. Nevertheless the legislation specifies a number of LGA provisions that would apply to a treaty first nation participating in a RD [s.795.1(2)].

Again, the legislation provides some modification to accommodate First Nations governance arrangements such as:

- term of office;
- appointment of alternative directors; and
- the collection of RD requisitions.

However, a treaty first nation will not:

- be provided the opportunity to borrow directly through the RDs (hence not through Municipal Finance Authority);
- vote on financing bylaws for municipal undertakings; and
- be liable for municipal borrowing.

An exception to the model of following municipal like practices is in the definition of electors as it applies to RD participating area approval and RD assent provisions. Under

these instances the definition of “elector” will be determined under the laws established by the treaty first nation. For instance, those individuals qualified to participate in an alternative approval process would follow laws prescribed by the treaty first nation [s.795.3].

### Other Provisions

**T**he Tsawwassen First Nation Final Agreement also provides:

1. A provision for the Tsawwassen First Nation to participate in the Greater Vancouver Water District to receive water from the GVRD.
2. A transition provision that deems the Tsawwassen First Nation land use plan, on the effective date of the treaty, to conform to the GVRD Regional Growth Strategy unless the First Nation amends or replaces the plan.
3. The BC Building Code applies to treaty lands of the Tsawwassen First Nation. (However, the LGA amendments include provisions for other final agreements

that may allow a First Nation and BC to establish standards that are different from the building code.)

4. The Community Charter is amended to allow a municipality to provide a service within treaty lands. The amendment requires that an agreement between the municipality and First Nation set out the terms and conditions including limits on services and a process for termination. Under such an agreement, subject to the terms and conditions of that agreement and to the final agreement, a municipality may exercise its service powers on treaty lands.

Community Charter: <http://www.leg.bc.ca/38th3rd/votes/progress-of-bills.htm>

- Tsawwassen Final Agreement: [www.treaties.gov.bc.ca](http://www.treaties.gov.bc.ca)
- UBCM Comparative Analysis of 2006 Final Treaty Agreements (initialled) and Local Government Interests: [www.civicnet.bc.ca](http://www.civicnet.bc.ca) (under Featured Policy Topics/First Nation Relations/Treaty-related Policy Papers)
- Comparative Analysis of LMTAC Interests with the Tsawwassen Final Agreement: [www.lmtac.bc.ca](http://www.lmtac.bc.ca)

### Information Links:

- Tsawwassen Final Agreement Act (Bill 40) and Final Agreements Consequential Amendments Act (Bill 41) which includes amendments to Local Government Act and

### Companion Legislation

The Treaty First Nation Taxation Act was introduced with the Tsawwassen Final Agreement Act. This statute enables the Real Property Tax Coordination side-agreement to the Tsawwassen Final Agreement.

## FEDERAL SPEECH FROM THE THRONE

On October 16th, the Governor General of Canada, Right Honourable Michaëlle Jean delivered the Speech from the Throne. The following are key highlights of importance to local governments.

### Community Safety

- Commitment of resources to recruit 2500 more police officers
- Expansion of the Safer Communities Strategy to deal with drug, youth and property crime
- Measures for tackling violent crime that will address the age of protection, impaired driving, dangerous offenders and stricter bail and mandatory prison sentences for those who commit gun crimes

### Infrastructure Funding

- Reconfirmation of support for ongoing funding for infrastructure through the Building Canada Plan

### Environment

- Shift away from the Kyoto Protocol towards the pursuit of a new international agreement on greenhouse gas emissions that cuts global emissions in half by 2050
- Implementation of a national strategy to reduce Canada's total greenhouse gas emissions 60 to 70 percent by 2050
- Introduction of national regulations on greenhouse gas emissions across all major industrial sectors and the development of national air pollution regulations