

November 8, 2016

The Honourable Naomi Yamamoto
Minister of State for Emergency Preparedness
Room 227, Parliament Buildings
Victoria, British Columbia V8V 1X4

RE: Emergency Program Act Review

Dear Minister Yamamoto,

I would like to formally submit to you an analysis of local government input towards the provincial discussion paper, *Prepared and Resilient: A Discussion Paper on the Legislative Framework for Emergency Management in British Columbia*.

As part of UBCM's submission, you will find a summary of input provided by local governments, trends that have emerged through analysis of local government feedback, and several broad recommendations for consideration. We request that you review the issues and concerns brought forward by local governments, including the overarching recommendations.

UBCM and local governments would like to continue to be engaged as the process to renew the *Emergency Program Act* moves into its next stage. Should you wish to discuss the items brought forward by UBCM and its members in the attached submission, please be advised that Bhar Sihota, UBCM Policy Analyst, may be reached at (604) 270-8226 Ext. 114 or bsihota@ubcm.ca to arrange a meeting.

We look forward to continued local government engagement throughout the process to renew the *Emergency Program Act*.

Sincerely,

A handwritten signature in black ink, appearing to read "Murry Krause".

Murry Krause
President, Union of BC Municipalities

Union of BC Municipalities

Submission to Emergency Management BC

Re: Local Government Feedback to *Prepared and Resilient: A Discussion Paper on the Legislative Framework for Emergency Management in British Columbia*

Submitted October 31, 2016

1. Introduction

The Union of British Columbia Municipalities (UBCM) represents 100% of the local governments in British Columbia (BC), as well as seven post-treaty First Nations members, and has advocated for policy and programs that support its membership's needs since 1905. Our membership has a strong interest in the *Emergency Program Act* review, as demonstrated by the high number of responses received by the Province and UBCM. Additionally, UBCM's Community Safety Committee met with Minister of State for Emergency Preparedness, the Honourable Naomi Yamamoto, in April 2016 to discuss a number of issues, including the review of this Act.

The following submission examines the *Emergency Program Act*, and in particular local authority feedback to the provincial discussion paper, *Prepared and Resilient: A Discussion Paper on the Legislative Framework for Emergency Management in British Columbia*. While a range of opinions were provided during the review, local governments agreed on the following going forward:

- The process to renew the *Emergency Program Act* should include further consultation, including an ability to see draft legislation;
- It would be difficult for local governments to assume greater responsibility, and in some cases even if corresponding funding were to be provided;
- The current level of local government authority (legislative or otherwise) should be maintained, and proposals that infringe on that authority should be avoided.

2. Submission

UBCM would like to thank Emergency Management BC (EMBC) for providing an opportunity to submit this analysis of local government feedback. UBCM has reviewed the discussion paper, UBCM resolutions, and other related materials, in addition to thoroughly evaluating the feedback of each responding local government/authority. This submission is generally reflective of our membership's feedback, although more details can be obtained by examining each local authority submission individually.

This review takes on additional importance given that the *Emergency Program Act* has not undergone a fulsome review since its introduction in 1993. The Ministry of Justice, who sought collaboration in reviewing the Act, first approached UBCM in July 2015. Originally, the Province wished to establish an advisory committee made up of local government senior staff members and elected officials who would be consulted on policy ideas and options, and provide input. Following the July 2015 Cabinet changes, and under a new Ministry, the review process also changed, taking the form of a discussion paper. During the

Community Safety Committee's April 2016 meeting with Minister Yamamoto, the Minister described the discussion paper as a preliminary discussion. As such, UBCM hopes this discussion paper serves as a starting point for analysis and collaboration, and that EMBC remains open to the idea of an advisory committee, as the process to update the Act continues.

3. UBCM Background Information

The UBCM Executive Board is comprised of 21 elected officials from all regions of the Province, who represent diverse communities of all sizes, from rural areas to urban centres. Our organization includes a number of issue-specific committees including the Community Safety Committee, which oversees policy development on community safety issues facing local governments, including policing, crime prevention, liquor policy, marijuana policy and emergency services and management. The Committee performs three basic functions:

- Advocates changes in federal and provincial policy to the service and delivery of measures needed by local government to assist in the protection of the public at the local level;
- Represents local government in the development of public policy at the federal and provincial level to protect the public locally; and
- Promotes and shares information on solutions implemented by local government to protect the public.

The UBCM Executive has endorsed multiple resolutions related to the *Emergency Program Act* and emergency management in general, including a recent request that Section 20 of the Act be amended to expand eligibility for disaster relief funding.¹ UBCM's membership has also emphasized the need to restore core funding for emergency management, and requested that the Province supply all local governments with emergency response supplies and materials for Emergency Management Centres.² At the 2016 UBCM Convention, a resolution was endorsed (2016-B56) that calls on the provincial government to "work collaboratively with local governments to provide physical and human resources to support emergency response and disaster events".³

¹ See UBCM resolution 2015-B78: *Disaster Relief*, available here:

http://www.ubcm.ca/assets/Resolutions~and~Policy/Resolutions/2015-ResolutionsBook-for-web_lowres.pdf

² See UBCM resolution 2009-B61: *Restoration of Emergency Management Training Funding*, available here:

<http://www.ubcm.ca/resolutions/ResolutionDetail.aspx?id=3820&index=1&year=&no=B61&resTitle=&spons=&res=&prov=&fed=&other=&conv=&exec=&comm=&sortCol=year&sortDir=asc>; and UBCM resolution 2006-B65: *Provincial Assistance with Local Government Emergency Planning*, available here:
<http://www.ubcm.ca/resolutions/ResolutionDetail.aspx?id=2747&index=0&year=&no=B65&resTitle=&spons=&res=&prov=&fed=&other=&conv=&exec=&comm=&sortCol=year&sortDir=asc>

³ See UBCM resolution 2016-B56: *Emergency Program Act*, available here:

http://www.ubcm.ca/assets/Resolutions~and~Policy/Resolutions/2016_UBCM_Resolutions.pdf

4. Respondents

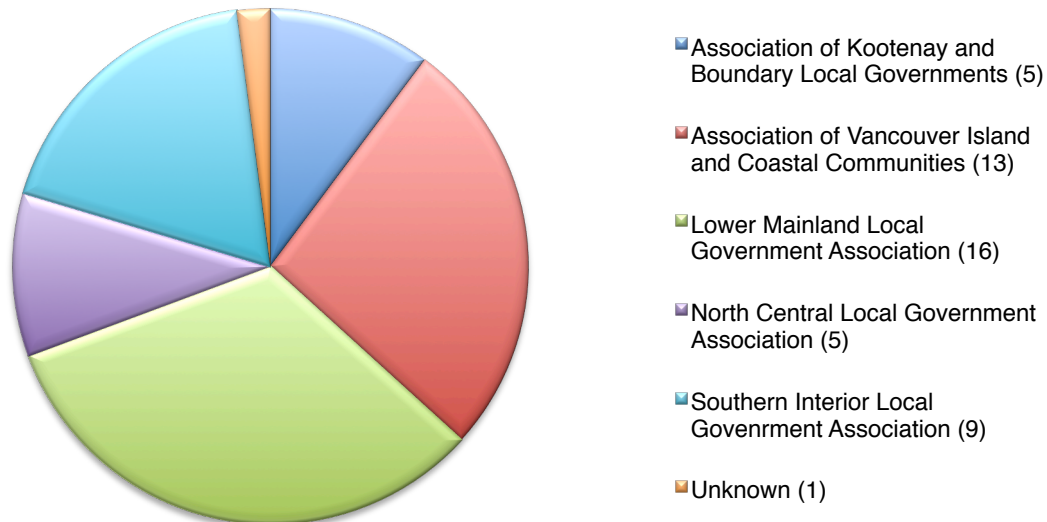
During the review period, UBCM and the Province received a total of 49 responses from local authorities:

Local Government	Authority
Anmore	Village Government
Belcarra	Village Government
Bulkley-Nechako	Regional District Government
Burnaby	City Government
Capital	Regional District Government
Central Kootenay	Regional District Government
Central Okanagan	Regional District Government
Chetwynd	District Government
Clearwater	District Government
Clinton	Village Government
Columbia Shuswap	Regional District Government
Comox Valley	Regional District Government
Coquitlam	City Government
Cowichan Valley	Regional District Government
Delta	District Government
East Kootenay	Regional District Government
Esquimalt	District Government
Fraser-Fort George	Regional District Government
Galiano Island	Islands Trust Regional District Gov
Town of Golden, Columbia Shuswap Regional District Area A	Golden and Area Emergency Management Program
Kamloops	City Government
Kent (with Village of Harrison Hot Springs)	District Government
Kitimat	Fire Department
Kootenay Boundary	Regional District Government
Maple Ridge	City Government
Metro Vancouver	Regional District Government
Mount Waddington	Regional District Government
Nanaimo	City Government
Nelson	City Government
New Westminster	Fire and Rescue Services
North Okanagan Regional District, Village of Lumby, District of Coldstream, City of Vernon, Township of Spallumcheen, City of Armstrong, City of Enderby	Inter-Municipal Emergency Program
City of North Vancouver, District of North Vancouver, City of West Vancouver	North Shore Emergency Management
Oak Bay	Fire Department
Osoyoos	Town Government
Port Coquitlam	City Government
Powell River Regional District (with City of Powell River and Tla'amin First Nation)	Regional Emergency Service
Saanich	Police Department
Saanich	Fire Department
Spallumcheen	District Government
Squamish	District Government
Squamish-Lillooet	Regional District Government
Surrey	Fire Service
Terrace	City Government
Thompson-Nicola	Regional District Government
Ucluelet	District Government
Unknown (Multiple Regional Districts) ⁴	Unknown
Victoria	Fire Department
Whistler	Resort Municipal Government
White Rock	Fire Department

⁴ No information could be found to identify the respondent.

Respondents can also be separated by Area Association⁵ to show input by region.

Respondents by Area Association



The nature and depth of responses varied considerably, from respondents who wished to focus on 1-2 issues within the document, to those who provided a thorough review. This report includes a general overview of all local government feedback as it pertains to each of the 11 discussion areas. The input noted does not necessary reflect the views of each responding local authority, but reflects an overall trend or majority when examining a particular discussion area.

5. Local Government Feedback

In addition to feedback pertaining specifically to the discussion areas, there were several broad themes that emerged, which warrant careful consideration throughout the process to amend the *Emergency Program Act*.

Arguably the most cited overarching concern was the potential for a transfer of responsibilities to local governments, without accompanying funding from the Province. Some respondents noted that many local governments would not have the capacity to take on additional responsibilities even if corresponding funding was provided.

Where the potential for new costs was recognized, respondents were steadfast in pointing out financial implications, both direct and indirect. Regional districts, in

⁵ The Union of British Columbia Municipalities has five sub-associations, called Area Associations.

particular, described their unique challenges (e.g. smaller public works staff, larger geographical area) in meeting new costs.

Proposals that could potentially infringe on local government authority were also identified, and oftentimes rejected by respondents. Respondents believe that local authorities know their jurisdictions best, and should not have their decision making power eroded.

Many also identified the desire to comment on further draft versions of the Act, prior to legislation being tabled. This would include further engagement on key proposals, and more overall engagement.

a) Discussion Area 1: The Phases of Emergency Management

Proposals contained within this Discussion Area:

1. *Renaming it (the EPA) the Emergency Management Act.*
2. *Restructuring the Act so that it contains parts reflecting the phases of emergency management (i.e. a part dedicated to preparedness, a part dedicated to response etc.).*
3. *Removing the term “emergency program” and references to “program” or “programs” throughout.*
4. *Defining an “emergency plan” as a plan under the Act to prepare for, prevent, mitigate against, respond to and recover from an emergency and its effects.*

35 of the 49 respondents explicitly agreed with all or parts related to updating the Act with currently used terms and the phases of emergency management.⁶ Consistent with the broad themes listed above, several respondents wanted clarification around the phrase “duties for local authorities” as it pertained to restructuring the Act in a way to set out powers and duties for local authorities and the provincial government in each part. Respondents were concerned whether a restructuring of the Act would lead to a transfer of responsibilities and/or costs to local authorities. Regional district respondents did not want a situation where a regional district would be responsible for identifying and planning for the prevention or mitigation of a known hazard.

Although there was a general acceptance of incorporating the four phases of emergency management (prevention/mitigation, preparedness, response and recovery), respondents preferred more detail and consultation when it came to identified roles, responsibilities, and financial implications for local authorities (including a potential funding stream for mitigation activities). Some preferred that the phases align more closely with the BC Emergency Management System

⁶ Others may have implicitly agreed. 8 respondents did not provide comment for this section.

(BCEMS). Several respondents also felt that the mitigation section should include provisions for the sustainable management of hazards.

Respondents also requested consistent definitions for important terms (e.g. Emergency Plan, Emergency Management, recovery, welfare, hazard, preparedness, hazard, damage to the environment, etc.), in part to ensure they do not create additional costs for local authorities. They also offered a variety of potential sources that could be used to clarify definitions (e.g. Canadian Standards Association, BCEMS).

Many local authorities were in favour of re-naming the Act. Those who were not were concerned that a new name (and potentially the inclusion of mitigation/prevention) would impact local government bylaws and some available funding mechanisms, or felt that the term “emergency program” more accurately described the contents of the Act.

b) Discussion Area 2: Definition of “Emergency”

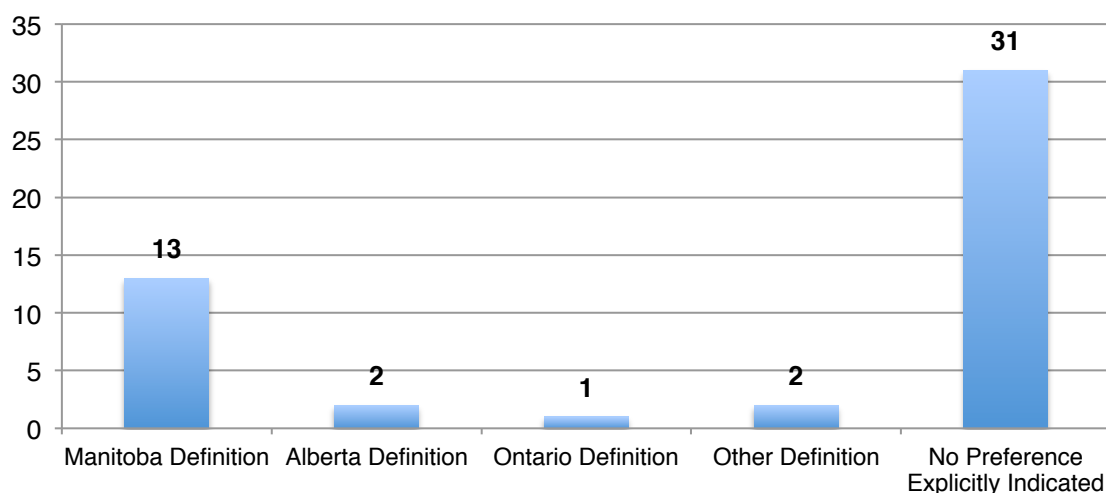
Proposals contained within this Discussion Area:

1. *Consider removing the potential causes in the definition of ‘emergency’ and clarify that an emergency includes a disaster. The following definitions from other Canadian jurisdictions may be a helpful guide in revising the definition of ‘emergency’ in BC:*
 - *Manitoba’s Emergency Measures Act defines ‘emergency’ as follows: “a present or imminent situation or condition that requires prompt action to prevent or limit (a) the loss of life; or (b) harm or damage to the safety, health or welfare of people; or (c) damage to property or the environment”.*
 - *Alberta’s Emergency Management Act defines ‘emergency’ as follows: “an event that requires prompt co-ordination of action or special regulation of persons or property to protect the safety, health or welfare of people or to limit damage to property”.*
 - *Ontario’s Emergency Management and Civil Protection Act defines emergency as follows: “a situation or an impending situation that constitutes a danger of major proportions that could result in serious harm to persons or substantial damage to property and that is caused by the forces of nature, a disease or other health risk, an accident or an act whether intentional or otherwise”*
2. *Consider including damage to the environment in the definition of emergency.*

The majority of respondents were in favour of the two proposals: amendments to the definition of “emergency”, and including damage to the environment in its

definition. When examining other Canadian jurisdictions' definition of "emergency", 13 respondents preferred Manitoba's definition, 2 preferred the Alberta definition, and 1 preferred Ontario's definition. Within the suggested options, terms such as "imminent" and "impending" need further clarification, especially as they impact local authorities receiving response funding. Some respondents wished to include "damage to the economy" in the definition of "emergency", while another suggested the definition should reflect "the association of human life, safety and welfare".

Local Authority Preference for Definition of 'Emergency'



**Numbers based on interpretation of local authority responses.*

Some respondents focussed on defining the word "disaster" in the amended definition of "emergency". Several specifically wanted it defined to include large events with widespread impacts, events that are regional in nature, and those that impact multiple jurisdictions.

Many respondents were also in favour of including "damage to the environment" in the definition of "emergency", although a clearer definition of what encompasses the "environment" has been requested. There is concern among local authorities as to the impacts of including "damage to the environment" in the definition of "emergency", as it may mean more responsibilities are transferred to local governments who may not have the capacity or funding necessary to take on these duties. One respondent suggested that the addition of this term requires further engagement with local governments. It was also suggested by several respondents that appropriate reimbursement for remediation accompany this potential change.

It was requested that any legislation include language that defines responsibilities for provincial and local governments, and industry and land owners, among others. In keeping with one of the major themes of this report, local authorities are concerned about cost implications of new initiatives.

c) Discussion Area 3: Definition of “Local Authority”

Proposal contained within this Discussion Area:

1. *Consider changing the definition of ‘local authority’ to include Treaty First Nations, including the Nisga’a Lisims Government.*
 - *Consider the impact of this proposal in relation to all provisions in the Act that are applied to local authorities.*
 - *This proposal is subject to provincial government consultation with the Treaty First Nations and the Nisga’a Lisims Government in accordance with treaty obligations.*

Local authorities were overwhelmingly in favour of changing the definition of “local authority” to include treaty First Nations (including the Nisga’a Lisims Government). Although not all respondents explicitly supported the change, none rejected it. It was also suggested that the definition of “local authority” be consistent with treaty provisions.

Many respondents wished to also include non-treaty First Nations in this definition, and subsequently clarify the relationship between local authorities and non-treaty First Nations as it pertains to emergency management. Some felt non-treaty First Nations should be given the opportunity to opt-in to the provincial emergency management provisions through a band council resolution.

Several respondents also felt that other prescribed public and private bodies could be included, including school districts, post-secondary institutions, Crown corporations, health authorities, private sector organizations and non-government agencies.

It may also be appropriate to review potential changes with affected First Nations.

d) Discussion Area 4: Clarifying Roles and Responsibilities

Proposals contained within this Discussion Area:

1. *Establish Emergency Management BC in legislation and remove references to the Provincial Emergency Program.*
2. *Clarify the responsibilities of the director of EMBC to include the following:*

- *Lead the coordination of all provincial government emergency management activities.*
- *Provide advice and assistance to other authorities—provincial and local authorities—in their emergency management responsibilities.*
- *Establish and maintain a provincial emergency management system to standardize provincial emergency response activities.*
- *Reduce risk by promoting and supporting emergency preparedness, prevention and mitigation, response and recovery initiatives.*

Most respondents supported the two proposals contained within this discussion area. If establishing Emergency Management BC (EMBC) in legislation, it is requested that the Act clearly define the mandate of EMBC, in addition to its duties and responsibilities.

In examining the responsibilities of the Director of EMBC, several respondents requested further information and clarification of duties listed in the discussion paper, while others felt that duties should be added, including but not limited to:

- Business continuity management;
- Leading coordination of all emergency management activities; and,
- Providing advice to other authorities.

More specifically, several local authorities requested clarification around the meaning of “promoting and supporting emergency preparedness, prevention and mitigation, response and recovery initiatives”, as there is some worry regarding the Ministry’s potential role in directing local governments on what prevention and mitigation work must be completed and how these activities will be funded.

Other requests for EMBC include providing leadership through training and exercise programs, creating a single point of contact for provincial ministries in all aspects of emergency management, regularly initiating and leading exercises (with participation from local authorities), and clarifying a local authority’s legal authority pertaining to all phases of emergency management within its jurisdiction.

Several respondents felt that the *Emergency Program Act* should identify roles and responsibilities for all parties under the Act (under each phase), not just the Director of EMBC.⁷ This would help clarify implications for local authorities that interact with other ministry representatives, especially during response and recovery. It was suggested that a schedule be added to the Act that defines the roles and responsibilities for each ministry, its relation to EMBC, and legislated responsibilities in the mandate of each ministry.

⁷ Additionally, the District of Oak Bay has requested a change to the duties of the Minister under Section 4(2) of the Act, available here: <http://engage.gov.bc.ca/emergencyprogramact/files/2016/03/Corporation-of-the-District-of-Oak-Bay.pdf>

Several regional district respondents were concerned about specific and costly prevention and mitigation activities being transferred by the provincial government to local authorities without appropriate support and funding.

Lastly, some wondered whether EMBC has the capacity to take on this role within its current state and structure.

e) Discussion Area 5: Assigning Provincial Emergency Planning, Response, and Recovery Responsibilities

Proposals contained within this Discussion Area:

1. *Consider removing the current scheme from the Act whereby the Lieutenant Governor in Council (LGIC) assigns emergency planning, response and recovery duties by regulation and provide for the following in the Act:*
 - *An authority for the minister responsible for the Act to require other ministers, after consulting with them, to prepare emergency plans in relation to specified hazards.*
 - *An authority for the Minister responsible for the Act to require, after consultation, that a minister, government corporation, or other prescribed public bodies prepare emergency plans in relation to carrying out specific emergency response and recovery duties.*
2. *In order to support the proposed changes outlined above, other amendments would be required, including the following:*
 - *Define ‘hazard’ as something that may cause, or contribute substantially to the cause of, an emergency.*
 - *Move the existing requirements in section 3 of the Emergency Program Management Regulation respecting emergency planning to the Act.*
 - *Provide an LGIC regulation creating the authority to prescribe public bodies for the purposes of the Act.*

Although the majority of respondents generally supported this discussion area, there were also suggestions to improve this potential change, including but not limited to:

- Developing standard terminology for all provincial legislation related to emergency management. Currently, different pieces of legislation use different terms for ‘emergency plan’, including “emergency preparedness plan” and “emergency response and contingency plan”.
- Ensuring that emergency management plans are prepared on an all-hazards basis;
- Identifying essential services that will be provided in a disaster or emergency, as well as the risks, resources and funding associated with

- the provision of these services, and a plan to provide these services if a disaster or emergency occurred;
- Adopting clear and transparent parameters and criteria;
 - Having ministries, government corporations and other public bodies use an all-hazards approach to prepare plans; and,
 - Requiring ministries to provide emergency plan templates for their organizations to ensure consistency of planning and implementation at the provincial and local levels.

It was also requested that implementation and consultation for these new responsibilities be clearly defined in the Act.

Although many were in favour of the new definition of “hazard”, one respondent felt the definition should not specify the type of hazard, while several others felt the definition needed clarification with regards to jurisdiction and level of responsibility. Further information was requested around definitions of “emergency” and “disaster”.

There was some concern regarding how this change in authority would work with other public organizations (e.g. school boards, health authorities) and what funding mechanisms would be put in place. Further consultation with local authorities may be necessary in order to examine these issues, especially as they pertain to funding sources and an expansion of the Minister’s authority.

One of the concerns from those who did not support one or both of the proposals was that the new scheme to give authority to the Minister responsible for the Act (as opposed to the Lieutenant Governor in Council) would allow provincial ministries to “decide how, when, or if they will respond to a local emergency”. Another felt that a decentralized approach might be best, where each ministry retains authority for its own program. Others felt the Minister responsible for the Act should be responsible for all emergency planning, so as to ensure all plans are completed at a high, operational standard, and that there are no gaps in planning from too many ministries participating.

Lastly, several respondents were looking for more information regarding the meaning of “provide an LGIC regulation creating the authority to prescribe public bodies for the purposes of the Act”.

f) Discussion Area 6: Ministerial Authority to Direct Emergency Planning

Proposal contained within this Discussion Area:

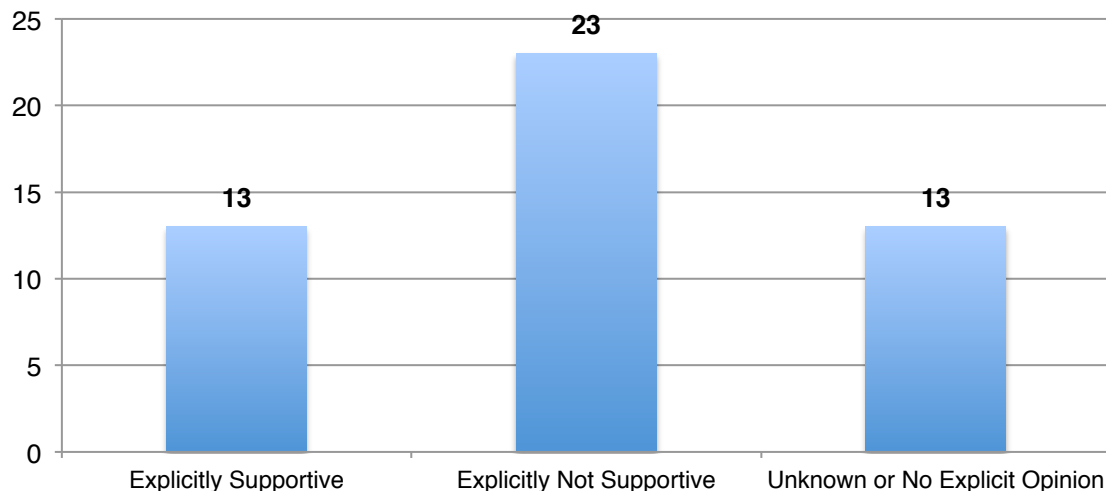
1. *Consider the addition of authority to provide that the Minister responsible for the Act may make an order requiring a local authority to change its*

local emergency plan where the minister has reviewed the plan and recommended modifications.

- The authority should only be available to the Minister after the Minister has recommended modifications to an emergency plan and this authority should parallel the authority of the Minister to require revisions/changes to provincial emergency plans established by other ministries, government corporations and other agencies.*

As displayed in the graph below, local authorities were predominantly in opposition of the proposal to provide authority to the Minister responsible for the Act to review and subsequently require a local authority to change its local emergency plan.

Local Authority Responses to Discussion Area 6



**Numbers based on interpretation of local authority responses.*

Arguably the most cited issue with this proposed change was that it would increase provincial authority over local authorities, and erode local autonomy.

Many also felt that there should not be a common standard for emergency management, as all jurisdictions throughout British Columbia are different. Many respondents felt that local authorities would know best about local needs, and as such this “audit function” would not be necessary.

Without checks and balances, local authorities were worried about the potential transfer of responsibilities and subsequent costs. Smaller local authorities may not have the capacity or financial means to handle new standards. If local emergency plans needed to be reviewed and approved by the provincial government, this could potentially add a layer of ‘red tape’. No clearly outlined

parameters or benchmarks have been included in the proposal, nor are there funding streams outlined.

It was unclear whether there would be penalties or other disciplinary action against local authorities that fail to meet requirements set by EMBC. Many were wary of the potential for extensive regulation of local authorities, especially given how costly and time consuming changes could be for many local authorities. One respondent questioned EMBC's capacity to take on this responsibility.

Alternatives proposed by respondents included but were not limited to:

- EMBC providing “guidance” as opposed to requiring a local government to amend its emergency management plan;
- Providing local authorities with standardized emergency plan templates, developed collaboratively, to ensure consistent and unified planning;
- The Province mandating the use of the BCEMS as a common system, by all provincially regulated agencies and local authorities; and,
- A clearly documented and understood set of minimum standards that would be agreed upon by all local authorities, as well as resources for local authorities to meet new standards.

Those in support of this proposal also offered amendments, including but not limited to:

- Expanding the Minister's authority to all emergency plans under provincial responsibility, not just local authority plans;
- Providing a standard/template emergency management plan for local authorities; and,
- Making grant money and other support available to local authorities who were required to make changes to their emergency management plans.

Given the level of resistance to this policy change, and level of uncertainty around the details of the policy, further consultation with local authorities is recommended.

g) Discussion Area 7: Private Sector and Non-Government Agencies

Proposals contained within this Discussion Area:

1. *Consider changes to the Emergency Program Act similar to Manitoba's to define “critical services” and require providers of these services to undertake business continuity planning as prescribed by regulation.*

- *Manitoba's Act requires that critical service providers submit business continuity plans to the co-ordinator of the province's Emergency Measures Organization for review and approval.*
- 2. *Consider an authority to require owners of critical infrastructure assets to provide information about these assets as prescribed by regulation for the purposes of supporting efficient and effective emergency planning, prevention/mitigation, response and recovery.*
 - *Any change to the legislation in this regard would need to be supported by a definition of "critical infrastructure assets"; outline how such information would be provided; and provide for the confidentiality of the information.*
 - *Henry Renteria referred to "critical infrastructure" as "those physical and information technology facilities, networks, services and assets, which, if disrupted or destroyed, would have a serious impact on the health, safety, security, or economic well-being of Canadians or the effective functioning of governments in Canada" (p. 26).*

Responding local authorities nearly unanimously supported the two proposals under this discussion area.

Despite the support, there were many questions and proposed amendments. Several respondents requested clarification around the meaning of "critical services", while others wished to replace "critical services" with "critical infrastructure". One respondent questioned whether the two terms were the same. Others wished for two different categories: critical infrastructure asset owners and service providers (e.g. utility companies), and critical service providers (e.g. gas stations). For some smaller communities, a gas station or a grocery store could be labelled a critical service provider. As the owners of critical infrastructure, local authorities requested assistance to complete business continuity plans to adhere to this potential change.

Should information be provided, there are questions pertaining to the collection, security, and dissemination (to local authorities) of critical infrastructure information.

Cost implications were also a key consideration, as local authorities indicated they might require funding for critical infrastructure upgrades, training first responders for applicable hazards, and providing communities with necessary equipment to address hazards.

A respondent that supported Discussion Area 6 wished for the Minister to have similar authority to change business continuity plans.

Of the few who did not support these proposals, the main argument was that business continuity planning could have negative financial implications on businesses deemed “critical”, and place excessive burden on small businesses, potentially leading to negative economic repercussions. There were also questions around who would be required to review this information, and ensure all business continuity plans were sufficiently up to standard.

As with most proposals, respondents were cautious to support anything that would potentially levy responsibilities, costs and/or regulatory processes on to local authorities.

h) Discussion Area 8: Shared Responsibility for Emergency Response

Proposals contained within this Discussion Area:

1. *Consider the addition of provisions in the Act that set out the following in respect of local authorities:*
 - *Establish that a local authority is responsible for:*
 - > *Assessing the threat to health, safety, or welfare of people or damage to property and the environment posed by an emergency;*
 - > *Assessing the resources required to respond to and recover from the emergency; and,*
 - > *Implementing its local emergency plan and using local authority resources to respond to and recover from the emergency.*
 - *Provide that a local authority may implement one or more provisions of its local emergency plan in relation to responding to and recovering from an emergency if:*
 - > *If the local authority is of the opinion that an emergency exists or is imminent in the local authority’s jurisdictional area; the local authority has declared a state of emergency; or a provincial state of emergency has been declared.*
2. *Consider the addition of provisions in the Act that set out the following in respect of the provincial government:*
 - *A Minister (or designate) is responsible for implementing one or more provisions of the Minister’s provincial emergency plan to provide provincial assistance and support to a local authority’s response to and recovery from an emergency if the following occur:*
 - > *The scale of the emergency exceeds the response and recovery resources of the local authority and/or*
 - > *The Minister is required under provincial law to provide provincial resources for emergency response and recovery.*
 - *Emergency Management BC is responsible for:*

- > *Communicating with a local authority in relation to an emergency within the jurisdictional area of the local authority, which includes:*
 - *Monitoring the needs of a local authority in responding to and recovering from emergencies;*
 - *Providing advice when necessary to local authorities responding to and recovering from emergencies; and*
 - *Communicating and providing advice when necessary to a Minister in relation to an emergency in the jurisdictional area of a local authority.*

Although there was some support, many respondents were neither clearly in favour or against these proposals, largely due to lack of clarity. This left local authorities asking for more details about the proposals, including but not limited to:

- Cost implications for local authorities (may inhibit response and recovery);
- Definitions of “assessing” and “resources” as they pertain to resources required to address response and recover (e.g. does this include financial resources?);
- Clarification around the meaning of “health, safety, or welfare”, “damage to the environment” and “imminent”;
- Means to address differences between local authorities (e.g. benchmarks, or minimum standards);
- A proper means to provide resources to local authorities, especially given that each local authority is in a different financial situation;
- Guideline of parameters used for local governments to assess resources required to respond to and recover from an emergency;
- Addressing capacity issues potentially faced by local authorities;
- Clarifying responsibilities, standards and expectations for all orders of government and other authorities, including the meaning of ‘shared responsibility’;
- Information or criteria for how it is determined if “the scale of the emergency exceeds the response and recovery resources of the local authority”;
- Clauses for coordination and collaboration;
- Clarification on whether these proposed changes provide a local authority with the right to enter private property to prevent or mitigate a pending emergency;
- Inclusion of a review period;
- Establishment of a single point of contact; and,
- Financial impacts on mutual aid agreements.

One of the most cited concerns was that local authorities might have to assess the “threat to health, safety, or welfare of people or damage to property and the environment posed by an emergency”. Many respondents felt local authorities should not be responsible for this, as this assessment of health is not typically a local responsibility.

Additionally, there was some contention with parts of the proposals, including the clause establishing local authority support for “implementing its local emergency plan and using local authority resources to respond to and recover from the emergency”. One respondent felt this would put the onus on local authorities to respond alone, even if an emergency took place on Crown land or in another jurisdiction. Another thought it would be difficult to find a threshold for when local resources are exceeded.

Funding was also a major concern. One respondent suggested the need for tax credits and other incentives for volunteers to engage in emergency training initiatives, while another was unsure whether provincial support would be withdrawn if EMBC determined a local authority had the resources to respond on its own.

Some regional district respondents were concerned with the difficulty in covering a geographically large jurisdiction, travel time to an emergency, a lack of staff expertise, a lack of financial and physical resources, and a potential lack of provincial response to emergencies in remote areas of regional districts where structures are leased from or owned by the Province.

As with most discussion areas, local authorities were again worried about potential transferring of costs or responsibilities. Given the significant uncertainty surrounding these two proposals, further consultation and clarification is recommended.

i) Discussion Area 9: State of Emergency

Proposals contained within this Discussion Area:

1. *Consider the addition of criteria or a test to guide local authorities or the provincial government in the declaration of a state of emergency and the making of orders during a declared emergency.*
 - *For example, criteria could include that a head of a local authority or the Minister responsible for the Act must believe that the declaration of a state of emergency is required because the use of one or more emergency powers under the Act is necessary and essential to protect the health, safety or welfare of persons or to limit damage to property.*

2. *Consider the addition of emergency powers not currently provided under section 10 of the Emergency Program Act. Some additional emergency powers that should be considered are as follows:*
 - *Authority to collect, use or disclose information during a state of emergency that could not otherwise be collected, used or disclosed under any enactment.*
 - > *Consideration must be given to including limits on any additional power respecting the collection, use and disclosure of information during an emergency. For example, in Ontario the information must only be collected, used or disclosed for the purpose of preventing, responding to or alleviating the effects of an emergency and for no other purpose.*
 - *Authority to fast track the accreditation of medical or other essential personnel from other Canadian jurisdictions who may arrive to provide assistance during a state of emergency.*
 - *A further potential emergency power to be considered is the authority for a local authority or the province to vary a licence, permit or other authorization the local authority or province, as applicable, has issued under an enactment.*

For the most part, local authorities were supportive of these two proposals. Those who supported adding criteria or a test to guide the declaration of a state of emergency offered additional steps to help the process, including working with local authorities to understand all repercussions, collaboratively developing a guide for declaring a state of emergency, providing reimbursement for additional local costs incurred due to these potential changes, and putting the proposal through legal review.

Several respondents hoped that all nine emergency powers would be maintained, or that there were better outlined impacts for local government as a result of these changes. Several regional district respondents wanted the ability to alter the size (or area) under a declaration of emergency during an event.

Many of those who did not support the additional powers felt adding additional steps to the process of declaring a state of emergency would slow down the process, especially since local officials may be in a better position to make this decision. Some preferred to develop educational material with criteria examples.

With regard to proposal two, several respondents were cautious about protecting sensitive or personal data/information (as well as FOIPPA implications), and determining limits on the “addition of emergency powers”. Some thought fast tracking accreditation was beyond the capabilities of many local authorities or that it should remain the responsibility of the Province or federal government,

while others wanted a clearer understanding of the parameters and limitations to additional powers.

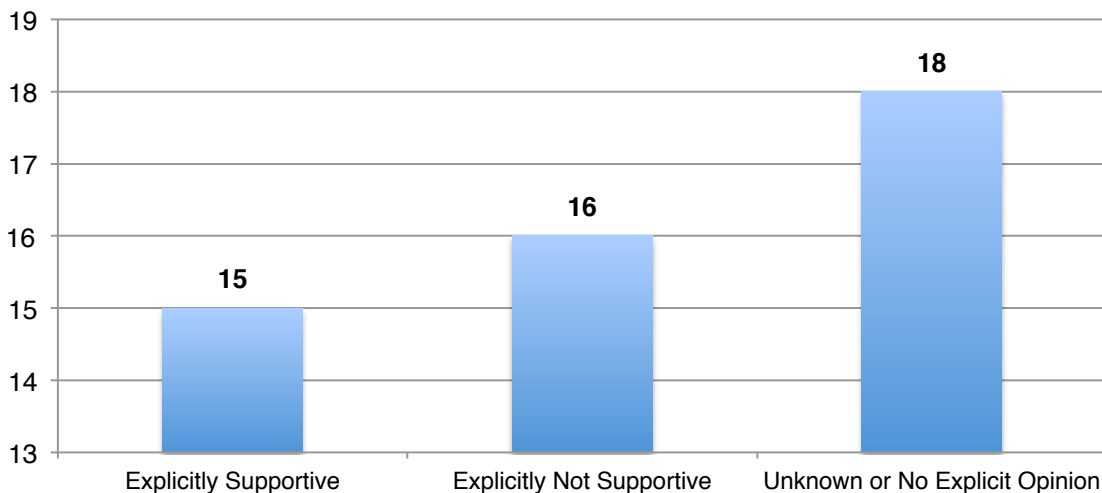
j) Discussion Area 10: Evacuation Orders

Proposal contained within this Discussion Area:

1. *Consider adding authority for police to apprehend any person who refuses to comply with an evacuation order issued under a declared state of emergency for the purpose of taking the person to a place of safety similar to sections 18.1 to 18.3 of the Manitoba Emergency Measures Act.*
 - *As part of this proposal, also consider the following supporting provisions:*
 - > *Providing police with a right of entry and use of reasonable force to enforce an evacuation order;*
 - > *Limiting the period of apprehension to be no longer than reasonably required to take a person to a place of safety; and*
 - > *Authority for the province (in a state of provincial emergency) or a local authority (in a state of local emergency) to order a person who was apprehended to pay the costs incurred by police in taking the action to enforce the evacuation order.*

Local authority respondents were split on this issue; even those who supported the proposal offered suggestions for improvement or wished for further clarification.

Local Authority Responses to Discussion Area 10



**Numbers based on interpretation of local authority responses.*

Those who supported the idea wanted specific guidelines for police action (including right of entry, reasonableness of force, adherence to Criminal Code), details regarding the cost recovery clause in the proposal, and consideration of resources in smaller communities. One respondent felt that first responders should not be responsible for those who elect to remain in their homes, while another felt that “peace officers” should be included to incorporate other law enforcement agencies (e.g. Conservation Officer Service, BC Sherriff Service).

Others wanted to understand the full range of effects this proposal would have on emergency services, including the possibility that scarce police resources would be allocated towards removing individuals, and the rights of citizens to protect their homes/properties.

Those who were sceptical or did not support this proposal were concerned with many aspects, including but not limited to:

- Police officer safety;
- Civilian safety (especially for those who try to return to their properties);
- Limited police resources;
- Potential for local authorities to have to reimburse the police;
- Potential restriction of residents’ choices;
- Placing new responsibilities on a local authority to recover costs;
- Those who wish to stay near their homes (e.g. farmers);
- Local authority liability, in the case of a security breach;
- The manner in which costs will be collected;
- Whether individuals should be charged for being apprehended or forcibly removed;
- How to manage people who suffer from mental health issues;
- *Charter of Rights* infringements; and,
- Where to house those who are forcibly evacuated.

They also preferred alternatives to this proposal, including conducting educational campaigns, amending police legislation (as opposed to the *Emergency Program Act*), allowing qualified first responders to assess landowners to determine if they are able to protect themselves, using less strict police tactics (e.g. negotiation, collaborative support), and adding new legislation to provide for the ability to issue fines after an emergency has concluded.

Several rural respondents were concerned with rural property owners not being able to tend to their farms and livestock, despite having a better understanding of the area than those who may enforce this policy.

Overall, there is the need for more information on the proposal, although a large number of respondents were not in favour in principle.

k) Discussion Area 11: Employment Protection

Proposals contained within this Discussion Area:

1. *Consider whether employment protection should be limited only to the duration of a state of emergency or whether the protection should extend to cover, for example, travel to and from the emergency or a time period after an emergency if the person is still required to provide assistance.*
 - *A further consideration here could include situations where a person is recovering from illness or injury as a result of providing assistance during an emergency.*
 - *Consideration should also be given to whether volunteers or other persons who assist in responding to and recovering from an emergency or disaster are entitled to employment protection in circumstances where they have not been ordered to provide assistance.*
2. *Consider expanding the protection against loss of employment in section 25 of the Act to include the same protections as those provided for a person on jury duty under section 56 of the Employment Standards Act.*
 - *This would add protection for employment benefits and benefits based on seniority, as well as provide that a person who is providing assistance is deemed to be on leave and must not be terminated as a result of being required to provide assistance or because the person is absent or unable to perform employment duties while on deemed leave.*

There was general support for both proposals, although not all respondents supported extending employment protection to volunteers. One respondent felt that providing employment protection to volunteers could have a negative effect on the economy, as employers pay wages for volunteers on duty. The same respondent suggested provincial compensation to employers as a way to compensate for this possible scenario. Several respondents felt a clause requiring mutual agreement between the employee and employer would ensure businesses are not overly burdened by absent employees. One local authority suggested a system be put in place for volunteers to register for coverage.

Several respondents suggested further provisions to protect emergency workers in areas such as liability, equipment damage, and WorkSafeBC provisions. Another respondent argued that protection be extended for early recovery phases, as well as a reasonable period of time for personal rest and recovery. Yet another suggested looking at further coverage for citizens who provide assistance, through the *Good Samaritan Act*. Several wanted employers, in addition to employees, to have protection under new legislation.

Others looked for clarification around the following:

- Whether employers could seek compensation for lost revenue;
- Who would be responsible for ensuring persons called to duty are treated fairly by their employers; and,
- Who would pay costs associated with disputes arising from this policy.

Overall, while respondents differed in opinion regarding coverage for volunteers, the majority showed support for extending coverage during an emergency, and expanding protection against loss of employment.

6. Conclusion / Recommendations

As indicated by the Minister of State for Emergency Preparedness during her meeting with UBCM's Community Safety Committee, this discussion paper serves as a preliminary discussion. In addition to posing a number of questions and requesting clarification around many issues, respondents have also indicated that they view this document as a precursor to further engagement and discussion.

The *Emergency Program Act* has not undergone a thorough review since its inception in 1993. Given the significant impact many of these proposals could have on local authorities, and the need for clarification around many details, it is strongly recommended that further consultation take place with local authorities.

Additionally, it is recommended that EMBC and the Province keep in mind the additional themes noted in the local authority responses:

- The need for further consultation in the process to renew the *Emergency Program Act* (including an ability to see draft legislation);
- Local authority difficulty in assuming greater responsibility, in some cases even if corresponding funding were to be provided; and,
- A desire to maintain the current level of local government authority (legislative or otherwise), and caution regarding proposals that infringe on that authority.

Lastly, the local government responses clearly demonstrated the level of knowledge each local authority possesses regarding its area of the Province. It is requested that EMBC keep in mind the level of expertise that rests at the local level, and ensure that given the differences throughout the Province, the unique features of each region are accounted for in any potential change to the Act.

UBCM, on behalf of BC local governments, thanks EMBC for the opportunity to comment on the discussion paper, *Prepared and Resilient: A Discussion Paper*

on the Legislative Framework for Emergency Management in British Columbia. We appreciate your consideration of local government concerns related to the discussion paper, and look forward to future consultation and engagement with EMBC as the process to amend the *Emergency Program Act* continues.