

Regional Districts &
THE NEW

Making the

LOCAL

most of

GOVERNMENT

Municipal Act Reform

ACT



BRITISH
COLUMBIA

Ministry of Municipal Affairs

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Table of Contents

A New Act	1
A New Name	2
Regional District Directors and the New Act	2
Change Through Consultation	2
Key Milestones	3
A Principled Foundation	3
What's New for Regional Districts?	4
Broad Corporate and Service Powers	4
Service Delivery Choices	5
Land Use Planning	8
Official Community Plans	8
Joint Planning: Working with Municipalities	9
Rural Planning	9
Parkland	9
Governance: The New Act and Electoral Areas	10
Administration and Finance	10
Committees and Local Community Commissions	10
Governance: The New Act and Municipalities	11
Municipal Appointments to Regional Boards	11
Open Government: The New Act and the Public	11
Reducing Provincial Oversight: A Staged Reduction	13
Putting the <i>Local Government Act</i> into Action	13
Appendix: Background Documents	14

A NEW ACT

Since 1965, regional districts in British Columbia have delivered regional services, provided a political and administrative framework for service delivery partnerships, and served as the local government for rural areas.

Over time, the regional district system has evolved and matured. Regional districts recognize they must adapt to new issues and challenges by gaining greater powers and developing effective, creative tools to deliver services and meet the needs of their citizens.

The Ministry of Municipal Affairs and the Union of B.C. Municipalities (UBCM) have been working together since 1996 to update the *Municipal Act* that governs both regional districts and municipalities. Since then, the legislation has been modernized in all of its core elements to give local governments the greater flexibility they need to respond effectively to their unique needs and goals. This has resulted in a new *Act*, not just another piecemeal update to legislation that has outlived its usefulness.

The new legislation recognizes local government “is an independent, responsible and accountable order of government.” This sets the stage for legislative provisions that enhance the autonomy of local governments. The new *Act* provides for broad corporate powers, broad service powers and enhanced planning powers while ensuring strong accountability to citizens.

The legislation establishes the basic purposes of local government:

- providing good government for the community;
- providing the works, services, facilities and other items local government considers necessary for all or part of its community;
- providing stewardship of the public assets of the community; and
- fostering the current and future economic, social and environmental well-being of its community.

The legislation balances the independence of local government with the provincial government’s responsibility to consider the interests of the citizens of British Columbia generally. It sets out principles that will guide the relationships between local government and the province.

These include:

- Provincial and local governments are to foster a cooperative working relationship.
- Local governments need to have the powers that allow them to fulfill their responsibilities.
- The province must give notice and consult with local governments when planning provincial actions that directly affect local government interests.
- Communities have different needs and circumstances that require different approaches.

A NEW NAME

The changes made to the *Municipal Act* over the past four years have been so sweeping that it has become the *Local Government Act*. As the name suggests, the new *Local Government Act* recognizes the important role played by *all* local governments – including both municipalities and regional districts. The new name also recognizes that a clean break has been made in the legislative strategy applying to the local government system.

REGIONAL DISTRICT DIRECTORS AND THE NEW ACT

The new *Local Government Act* has important implications for regional district directors, their constituents and for the region as a whole. The *Act* will help regional district directors do their job better. It will encourage regional districts to develop a clear sense of direction and a long-term view of the region and its needs.

Now, regional districts no longer have to squeeze their unique needs into the limitations of “one size fits all” legislation. The new *Act* provides regional districts with new independence, responsibilities, flexibility and accountability to design unique solutions that customize regional decisions and services to fit regional needs.

CHANGE THROUGH CONSULTATION

The regional district provisions of the *Local Government Act* are based on an extensive consultation process with the UBCM, individual local governments, other stakeholders and the public through specially convened meetings, symposiums and workshops. Local governments have worked closely with the Ministry of Municipal Affairs over the last several years to develop the new regional district provisions in the *Act*.

KEY MILESTONES

- 1996 Protocol of Recognition
- 1997 *Sub-Agreement on a New Legislative Foundation for Local Government*
- 1997 *Local Government Statutes Amendment Act No.2 (Bill 46)*
- 1998 Symposium on New Local Government Legislation
- 1998 *Local Government Statutes Amendment Act (Bill 31)*
- 1998 Regional Accountability Workshops
- 1999 Symposium on New Local Government Legislation
- 1999 *Local Government Statutes Amendment Act (Bill 88)*
- 1999 Regional District Legislation: Issues and Priorities discussion paper
- 1999 Six regional meetings throughout the province
- 2000 Symposium on New Local Government Legislation
- 2000 *Local Government Statutes Amendment Act (Bill 14)*

A PRINCIPLED FOUNDATION

The framework of the new *Local Government Act* is based on the following key principles – principles that are central to understanding the intent of the new *Act* and the role and responsibilities of elected officials:

BALANCE between the interests of citizens, local governments and the provincial government

CLEAR, SIMPLE, AND UNDERSTANDABLE legislation and related administrative procedures

FLEXIBILITY to respond practically to specific local needs and circumstances

ACCOUNTABILITY in fair and open decision processes, with local government accessible and answerable to citizens

BROAD POWERS to do business in new, innovative and more effective ways

MATCHING RESOURCES TO RESPONSIBILITIES to provide the expected level of services

RESOLVING INTER-LOCAL GOVERNMENTAL ISSUES through consultation, collaboration and closure on issues

CONSULTATION with local government on matters directly affecting local government decisions and activities as they relate to the *Act*

PROVINCIAL INVOLVEMENT IN LOCAL AFFAIRS LIMITED to areas where the government has a clear purpose, responsibility or interest.

WHAT'S NEW FOR REGIONAL DISTRICTS?

Highlights of the *Local Government Act* for regional districts include:

- broad corporate powers,
- broad service powers,
- more tools for designing service partnership arrangements,
- new service dispute resolution tools,
- more financial planning ability,
- improved planning tools,
- more flexible governance provisions,
- more accountability and consultation, and
- less provincial oversight.

DISTRICT OF LAKE COUNTRY

The District of Lake Country has used the new broad powers to enter into an agreement with Washington State. The district will undertake building inspection on behalf of the state for manufactured homes built in Lake Country and exported to Washington. The district receives a fee, the manufacturer reduces red tape and Washington gets assurance that the homes meet state standards.

REGIONAL DISTRICT OF NORTH OKANAGAN

The Regional District of North Okanagan proposes to use the new regional district legislation to restructure how park and recreation services are delivered in Greater Vernon, which includes the City of Vernon, the District of Coldstream and two electoral areas. The new powers will allow the regional district to delegate operation of the service to a standing committee, have custom appointments to the committee, and design custom voting rules to encourage all decisions to be made by consensus.

BROAD CORPORATE AND SERVICE POWERS

The new *Local Government Act* gives regional districts a broad authority allowing them to do business more effectively in new and innovative ways. The outdated, overly specific and narrow authorities have been removed. These broad powers give regional directors the opportunity to fundamentally rethink what services to provide and how to deliver those services now that more – and more flexible – service delivery options are available.

Regional districts across B.C. are already looking at how they can adapt and integrate their existing mix of services. They may want to deliver services within traditional areas like water and recreation in new ways, as well as consider new service initiatives in areas like economic development and safety. It is up to regional district boards to decide what services a region or its member communities need and how they will be provided.

SERVICE DELIVERY CHOICES

Regional districts may:

- establish and operate any service the board decides is necessary or desirable for all or part of the region;
- make agreements with other public authorities, or with private partners to provide or undertake services, works or facilities;
- acquire, manage and dispose of land and any other type of property, enhancing the ability to provide services in new and innovative ways;
- grant assistance to benefit the region, perhaps to exempt a local group from a user fee, or assist a non-profit housing society by guaranteeing repayment of borrowing or providing land at below market value;
- delegate to fellow board members, staff, committees or other local government bodies. This should streamline procedures and save time and money for board directors, staff, and the public.

SOME EXAMPLES OF DELEGATION:

- allowing staff to negotiate and sign contracts
- establishing a management committee to oversee the water distribution service
- delegating minor development permit approvals to staff
- creating a recreation committee and making it responsible for managing an arena, including all hiring and contract management
- delegating all public hearings within an electoral area to a single electoral area director

SERVICE DELIVERY SHARED BETWEEN JURISDICTIONS

Service delivery is a key regional district function. Because many services provided by regional districts cross jurisdictional boundaries, regional districts need flexible service delivery alternatives. Regional districts now have the option of delivering services under regional district service arrangements, through regional district service powers via an agreement with a public body, or delivering services jointly with other jurisdictions outside regional district boundaries.

New powers facilitate negotiations for new and restructured service arrangements between municipalities and electoral areas as well as between different electoral areas. These new powers provide flexibility to vary statutory provisions relating to voting on the administration and operation of services, appointing commissions or committees to

manage services, and reviewing services. All of these changes are designed to make it easier for local governments to reach agreements on fair and durable service arrangements.

NEW TOOLS FOR PARTNERSHIPS

In an era of fiscal restraint, regional districts can develop new partnerships to provide services and facilities in new ways. The *Act's* broad corporate powers can be used to facilitate these new partnerships. There is much more flexibility in the types of agreements that local governments can make. Agreements can be undertaken to provide, construct and operate local government services, enforce local government regulations, or manage local government properties.

To assist local governments in establishing new partnerships, the Ministry of Municipal Affairs has produced a best practices guide. This document describes the characteristics of partnerships and guides the local government through the process from inception through to implementation. Copies of *Public Private Partnerships: A Guide to Local Government* can be obtained by contacting Crown Publications or from the Ministry's website, www.marh.gov.bc.ca/LGPOLICY/MAR/PPP/ on the Internet.

DISPUTE RESOLUTION: SERVICE REVIEW AND WITHDRAWAL

The world does not stand still. Population growth, demographic shifts, economic pressures or development and changes to public attitudes may change how regional services are best delivered. Rethinking relationships can sometimes lead to disputes, particularly if costs shift from one partner to another.

The new *Act* encourages partners in a service arrangement to work cooperatively and find mutual solutions to resolve outstanding issues. The new legislation provides for and encourages local governments to develop custom solutions. However, if this cannot be done, the *Act* sets out a dispute resolution process, intended only as a last resort. The process has two distinct phases:

SERVICE REVIEW: All services can be reviewed to reach an agreement on the terms and conditions of participating in a service. Through facilitated negotiation, the regional board and service participants try to agree on service arrangement changes that satisfy all participants.

SERVICE WITHDRAWAL: Participants can withdraw from many services, but only after a service review has been done. The negotiation, mediation, and arbitration process has been designed to establish the terms and conditions under which a dissatisfied participant may withdraw from a service. However, the process has also been designed to encourage the parties to reach agreement at any point in the process.

The Ministry of Municipal Affairs expects these provisions will come into effect January 1, 2001. The Ministry will be working with local governments on a best practices guide to support regional districts needing to make use of these provisions.

FINANCIAL PLANNING, COST RECOVERY AND ACCOUNTABILITY

Financial provisions in the new *Act* provide regional districts with greater flexibility for managing their finances. *The Act* also emphasizes long-term planning and accountability by requiring five-year financial planning that combines both operating and capital budgeting in one document. Financial planning will not be a requirement for regional districts until this section of the *Act* is proclaimed (expected January 2003). However, regional districts will be encouraged to begin long-term financial planning now.

Regional districts now have more flexibility to recover the costs of any service through fees, charges and taxes. However, fees and charges must bear a relationship to the actual cost of providing the service, and parcel taxes may not be used to recover the cost of regulatory services.

The Act strengthens financial accountability. Regional districts will be obligated to consult with the public when developing a five-year financial plan. For other financial activities, such as annual financial reporting, the *Act* requires that the regional district inform the public. In some circumstances, regional districts must

receive public input and approval before taking action. For example, the public must approve most longer-term financial liabilities either by a counter petition process or through a vote.

VOTING & COUNTER PETITIONS

When the *Local Government Act* requires elector approval for local government actions, the two most common forms of approval are vote and counter petition. In some cases — like the disposal of water utilities — a vote requiring majority approval is mandatory; in others, approval may be gained through the opportunity to counter petition. In many cases, the legislation gives local governments the option of choosing to hold a vote or to provide a counter petition opportunity.

Counter petitions are generally used in less controversial matters as a litmus test of public opinion. Under a counter petition, the local government may proceed with an action unless five per cent of the electors petition against it within a set deadline. If more than five per cent petition against, the local government cannot proceed with the action until it has received elector approval through a vote.

Counter petitions are typically used for:

- exchange of parkland;
- long-term agreements;
- long-term capital borrowing; or
- long-term property tax exemptions.

LAND USE PLANNING

Since 1995, the *Growth Strategies Act* has enabled local governments to develop a regional growth strategy that lays out a regional vision to meet social, economic and environmental goals. Regional growth strategies should work toward a number of goals that include avoiding urban sprawl, protecting environmentally sensitive areas and building adequate inventories of land and resources for future population growth. They are also intended to create a practical working relationship between municipalities, electoral areas and the regional districts and to commit these partners to a planned course of action. The new *Local Government Act* builds on this foundation.

The *Local Government Act* supports regional districts as they develop a clear, long-term sense of direction. It encourages regional districts to consider using regional growth strategies broadly to manage growth effectively and provide a forum to discuss overall regional development and other regional issues.

While not mandated in legislation, local governments are also encouraged to use regional growth strategies as a tool to identify municipal interests in electoral area planning and electoral area interests in municipal planning. They are also asked to consider joint planning where jurisdictions share a strong mutual interest, as in servicing and fringe area planning.

OFFICIAL COMMUNITY PLANS

The *Local Government Act* requires local governments to work toward promoting socially, economically and environmentally healthy human settlements that make efficient use of public facilities, services, land and other resources.

However, it recognizes the need for greater flexibility, broader scope and early, on-going consultation at the local government level prior to developing an OCP. The *Act*:

- Allows regional district to determine how simple or complex an OCP needs to be. There is no longer any limit on the subjects or topics that may be discussed.
- Allows regional districts to combine elements of an OCP and regulatory tools in one bylaw, tailoring them to community needs.
- Requires regional districts to work towards the regional growth strategy goals in the *Act* and consider provincial policy guidelines when developing an OCP.
- Requires regional districts to consult with those people the board considers will be affected by the OCP when preparing, amending or repealing it. Consultations with adjacent local governments, provincial and federal agencies, First Nations and other public authorities must be considered and boards must also consider the timing and frequency of their consultations.

Note that the legislation provides for the elimination of the mandatory content requirements of an OCP. However, this will only be brought into effect once provincial policy guidelines have been established and experience with the new consultation requirements has been gained.

JOINT PLANNING: WORKING WITH MUNICIPALITIES

The *Act* encourages electoral areas and municipalities to consider joint planning where their interests are shared. To support longer term and more stable relationships, the provisions for municipal contributions to electoral area planning have been changed. Agreements can now be made at any time and can extend over any agreed upon period. While the opportunity for a municipality to opt out still exists, longer term, broader agreements are encouraged. Only municipalities that are fully sharing planning costs can vote on other municipal/regional district agreements.

RURAL PLANNING

Regional districts can combine any elements of OCP, zoning and subdivision servicing into one bylaw even though the *Act* has deleted the ability to adopt rural land use bylaws. This gives regional districts a full set of tools to custom design bylaws to fit the character of an area, whether it be rural or urban.

PARKLAND

Under the *Municipal Act*, regional districts had the authority to require subdivision applicants to provide up to five per cent of their land for parks. Ownership resided with the Crown although regional districts had possession and control of the land.

Under the *Local Government Act*, the title to parkland dedicated at subdivision can be vested in the name of the regional district if it has a community parks service. Where the regional district does not have a community parks service, land will continue to be dedicated in the name of the Crown. Proceeds from the sale of dedicated parkland will continue to go into a reserve fund for future parkland acquisition.

With the new *Act*, developers will no longer be exempted from the requirement to dedicate five per cent of land being subdivided as parkland when the subdivision consists of three or fewer lots if this is part of a phased development.

GOVERNANCE: THE NEW ACT AND ELECTORAL AREAS

Regional districts were created to provide local government in rural areas and to deliver services on a regional basis. The creation of regional districts recognized that municipal and electoral boundaries do not always make for efficient service provision or fit the actual use made of services.

The *Local Government Act* gives more recognition and self-reliance to electoral areas. At the same time, it encourages more cooperation between municipalities and electoral areas. The new *Act* provides new tools and authorities, along with new responsibilities.

ADMINISTRATION AND FINANCE

Under the new *Act*, electoral areas now have more authority and flexibility in financial and administrative matters. The limits on electoral area administration service costs and feasibility reserve fund requisitions are gone. Regional districts now have greater flexibility to share administration costs on a region-wide or electoral-area-only basis. Electoral-area-only feasibility study funds are now possible.

In addition to cost sharing, the *Act* also promotes full cost recovery by requiring electoral areas to “pay for what you ask for or receive”. As a result, electoral areas that benefit from specific administrative services that are not delivered across the entire regional district will bear the costs of providing and administering those services — not the regional government as a whole.

For example, this could include a satellite office, a staff person or a newsletter. These provisions should reduce tensions between municipalities and electoral areas.

COMMITTEES AND LOCAL COMMUNITY COMMISSIONS

The *Local Government Act* gives regional districts authority to establish whatever commissions they wish, instead of restricting them to specific commissions. As well, the *Act* clarifies the membership of standing and select committees. In regional districts, select committees will be appointed by the regional district board. Standing committees will be appointed by the chair. The *Act* makes it clear that at least one regional district director must sit on each committee.

Local Community Commissions provide opportunities for electoral areas to benefit from the local expertise and interests of residents who wish to participate in most decision-making processes. To provide more flexibility for electoral areas, the new *Act* no longer requires a 2/3 majority on the regional district board to adopt a local community commission bylaw. As well, the number of commissioners can be increased to six from four.

GOVERNANCE: THE NEW ACT AND MUNICIPALITIES

MUNICIPAL APPOINTMENTS TO REGIONAL BOARDS

Frequent changes to the make-up of regional districts between elections results in a lack of continuity, a loss of experience and instability on regional boards. Besides, it takes time for new directors to learn about their powers and responsibilities. Now, municipal directors can be appointed by their councils for up to three years to increase the effectiveness of these boards.

The appointment of municipal alternates has also changed. While an alternate may only act in place of one director at any one time, municipal councils may now choose between either assigning one alternate for each director or appointing a number of alternates and then deciding which alternate will act in the place of any absent municipal director. This will give more flexibility to individual alternates so they can fit their extra duties into their busy schedules. It will also address situations when the majority of municipal council members are also regional directors, leaving too few potential alternates to assign directly to individual directors.

OPEN GOVERNMENT: THE NEW ACT AND THE PUBLIC

The *Local Government Act* emphasizes open government by balancing the interests of citizens and local governments, making sure local governments are accessible and accountable to their citizens, and requiring consultation with those citizens. The *Act* recognizes that citizens want to be involved and express their views about what happens in and to their region. When making decisions, local governments need to know how their citizens feel and what their needs and desires are.

The *Act* provides the public with enhanced opportunities to gain access to information and provide input on a wide range of local government activities using clear rules and procedures. These provisions will affect the way regional districts do business at meetings, use corporate powers, plan land use and make financial decisions.

For example:

- Most board and committee meetings must be open to the public. The only exceptions are discussions relating to issues where the need for confidentiality outweighs the need for openness.
- The public must be informed of the intended use of some of the new corporate powers. For example: notice must be given prior to the disposal of land or improvements; counter petition opportunities must be provided before granting assistance such as long-term property tax exemptions; and, elector assent is required through a vote for matters such as the disposal of water or sewer works.

- When establishing fees or charges for services, information must be provided to the public, upon request, on how the fee or charge was determined.
- The requirements for the use of counter petitions have been clarified, and the *Act* makes it an offense to knowingly provide misleading information.
- Local government must consider consultation with citizens, adjacent local governments, provincial and federal government agencies, and First Nations – on an early and ongoing basis – when developing, amending or repealing an OCP. This will assist local government in developing the consultation processes best suited to the issue, rather than relying solely on public hearings.

- The chair of a public hearing may set procedural rules for public hearings, addressing such matters as time, order and types of presentations.
- Under certain circumstances, boards must provide an opportunity for citizens to appeal decisions to make sure there is fairness and accountability. For example, citizens must be able to appeal staff decisions on development permits to the board.
- New election provisions require more detailed recording and reporting of campaign contributions and have clarified the rules for filing campaign financing disclosure statements to ensure openness in the process.

CONSULTATION SUGGESTIONS

- Surveys
- Open houses
- Newspaper clip outs
- Public meetings
- Mail outs
- Forums

REDUCING PROVINCIAL OVERSIGHT: A STAGED REDUCTION

Since the passage of the first reforms to the *Municipal Act* through Bill 46 in 1997, the number of provincial approvals required of local government actions has been reduced significantly – and the process is expected to continue. Increasingly, direct provincial involvement is being limited to areas where there is a clear, identifiable provincial objective or a third party interest in a matter, like public health, transportation, environment, and long term financial commitments. Over time, the reduction in approvals should result in significant savings in staff time for both provincial and local governments and streamlined approvals at the local level.

PUTTING THE *LOCAL GOVERNMENT ACT* INTO ACTION

Most of the *Local Government Act* has been put in place over the last few years and regional districts have already begun to work with it. The process of legislative reform has taken time, but new opportunities have emerged. Regional districts now have the ability to conduct business with more authority, flexibility, independence, and accountability. The new *Local Government Act* empowers regional districts and residents to work together to build unique regions that meet local needs and expectations.

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APPENDIX: BACKGROUND DOCUMENTS

A number of background papers have been prepared outlining the issues considered by the *Local Government Act* and highlighting the most important aspects of the legislation. Many of these have been posted on the Municipal Affairs web site at www.marh.gov.bc.ca on the Internet. The website is updated frequently as new information becomes available. Examples of background papers on the website are:

- *Protocol of Recognition*
- *Sub-Agreement on a New Legislative Foundation for Local Government*
- *Regional District Legislation: Issues and Priorities Discussion Paper*
- *Highlights of Municipal Act Reform – Legislative Changes – 1998, 1999, and 2000*

As the *Local Government Act* has come into effect, technical documents have been prepared to assist local government staff and elected officials. To obtain copies, check the Municipal Affairs website (www.marh.gov.bc.ca) or ask our staff to provide you with copies. Examples of technical documents on the website are:

- *Using the New Local Government Act –* a resource book available at www.marh.gov.bc.ca/LGPOLICY/MAR/URMA. Included are numerous bulletins on topics such as:
 - appointment of municipal directors;
 - broad service powers;
 - service establishment bylaw;
 - financial operations
- *Public Private Partnerships: A Guide to Local Government* - a best practices guide available at www.marh.gov.bc.ca/LGPOLICY/MAR/PPP on the Internet.

