



Roadmap: Reforming Regional District Legislation

ASSOCIATION OF VANCOUVER ISLAND & COASTAL
COMMUNITIES
APRIL 11, 2025

Steps and Key Dates

- February 28 – Joint Area Association Virtual Engagement Session
 - 280 attendees
- March 28 – SurveyMonkey survey results
 - 140 written submissions
- April 11-May 15 – BC Area Association Conventions
 - Presentations of results of engagements to date
- April 23 – UBCM Chair/CAO Forum Engagement
- May 31 – Completion of Roadmap based on all consultation
- June – Sept – Next Steps Deadline to submit resolutions & session proposals to UBCM
- Sept 22-26 – 2025 UBCM AGM & Convention – Victoria, BC

Regional District Reform - Overview

- Background
- Challenges under LGA
- Themes from previous sessions
- 25 years of resolutions
- Roadmap and documents
- Principles governing process
- Executive summary
- Recommendations (options for addressing issues)
- Q & A

Background

- Community Charter replaced Municipal Act 2003
 - FCM rated CC best municipal legislation in Canada
- Regional district legislation created in 1965
 - Not overhauled in early 2000s as announced
- Comprehensive modernization of LGA has not been done
 - Responsibilities and liabilities of RDs continuing to increase
 - RDs lack authority + revenue sources to meet current needs or expanded responsibilities

Background (continued)

- the Province not have bandwidth to address regional district reform in near future
- only way to move forward on regional district reform is with leadership of UBCM
- regional district legislative reform is about a three-year process
- focus on regional district governance, finance, procedures, structure, intergovernmental relations, Indigenous inclusion, bylaw enforcement, AAPs/assent, provincial approvals, and similar things – no review of housing, elections, or planning (except fringe areas and approving officer appointments)
- current process with the five area associations will result in a legislative roadmap identifying issues, options, pros and cons, and best practices, and will be available by July 2025
- as it will take some time to conclude on these directions, it is premature to ask for any resolutions from any of the area associations between now and UBCM

Regional District Challenges

- Limits on powers no longer supported by policy rationale
- Demographics/population growth/increased development
- Regulatory authority severely restricted in rural areas
- Province has not recognized regional districts at level of municipalities
- Revenue generation, models of taxation, funding for services outdated compared to other provinces
- lack of flexibility in current paradigm

Regional District Challenges (continued)

- Establishing services to optimize scale, cost distribution, fair participation
- Urban/rural friction on some Boards
- Social, political, economic values have shifted significantly since legislation was drafted
- Fringe area development – planning/infrastructure
- Ratepayers and participants seeking greater accountability
- Legislation not relevant for large urbane regions, such as Metro

25 Years of Resolutions

- 2003 to 2022: 161 endorsed resolutions re amending Local Government Act, 34% from regional districts, rest from municipalities
- Additional 71 resolutions requesting LGA amendment submitted not endorsed or admitted for debate
- Of 161 endorsed resolutions, 3 called for modernization of LGA and one called for creation of “Regional District Charter”
- Common themes:
 - Governance rules
 - Taxation and other revenue
 - Powers
 - First Nations
 - Processes for providing services

Principles of Regional District Review

- First Nations, Indigenous individuals must be included in reform program without discrimination
- No amendment to regional district legislation will impact bond rating for Municipal Finance Authority
- No regional district, or participant, obligated to make any changes from status quo services, procedures or finances
 - regional districts may in their discretion voluntarily subscribe to new opportunities
- The legislative review shall not result in new downloading from the provincial government to regional districts, without sufficient new funding sources

Principles of Regional District Review (continued)

- Regional districts must have the same level of recognition as municipalities in context of relations with other LGs, Province, crown corporations/ agencies
- Legislation reflect unique character, culture and history of each regional district, noting varied/constructive differences between metropolitan and rural entities - “one size fits all” legislation will not work for BC regional districts
- Interests of municipalities must be balanced when considering rural areas
- Regional districts need to be empowered to respond to rapid change such as emergencies and disasters, not contemplated in 1965

Executive Summary

First Nations

- traditional governments for at least 10,000 years, but not included in regional district governance (except if treaty settlement area or special legislation)
- BC's DRIPA sets out process to align BC laws with UNDRIP
- provincial action plan provides for ending indigenous specific discrimination and promoting economic well-being
- specific action in the BC action plan: support inclusive regional governance by advancing indigenous participation on regional district boards
- supported by UBCM in its July 30th, 2021 submission

Executive Summary (continued)

STATUS

- Regional districts not recognized at same level in LGA as municipalities in CC
- no supporting principles of regional district governance in LGA compared to municipalities
- principles of municipal-provincial relations for municipalities based on UBCM Bill of Rights, but RD principles for relations with Province restricted to five elements, less respectful
- Under LGA, RDs are lesser creatures than municipalities, based on:
 - statutory guiding principles,
 - provisions respecting relations with the province,
 - need to read nearly every section by also reading the relevant municipal legislation,
 - restrictions on regulations in the rural areas, and
 - extraordinary level of provincial approval requirements

Executive Summary (continued)

STATUS (continued)

- CC provisions on “Provincial-Municipal Relations” not apply to regional districts re restrictions on unilateral changes such as forced amalgamations/separations
- Several CC provisions on “Dispute Resolution” not apply to regional districts
- CC provisions on requesting assistance for disputes apply to municipalities, not RDs

Executive Summary (continued)

Natural Person Powers

- Municipalities in most provinces have "natural person powers" (legal capacity, rights, powers, and privileges of natural person of full capacity) to make agreements, acquire/dispose of property, delegate authority, participate in commercial/industrial undertakings, hire/fire and other things natural person can do
- RDs have express corporate powers in s. 263 LGA
- More limited than natural person powers

Executive Summary (continued)

Regulatory Powers

- board may regulate people or things in accordance with limited number of specific service powers under Part 9 LGA
- Given broad, overarching authority of municipality under section 8 CC, regulatory authority of regional board re: building regulation, fire/health, drainage/sewage, waste, animals, nuisances, businesses, or other things, is restricted
- regulatory powers inadequate to address climate change, wildfires, flooding, heat domes, other matters municipalities in BC and Canada address routinely
 - e.g., regulate tree removal on land

Executive Summary (continued)

Regulatory Powers (continued)

- Municipalities - authority (s.8 CC) to impose requirements in relation to their areas of regulatory authority, except in relation to firearms or business
- Municipalities have system of licenses, permits, approvals & take advantage of regulatory standards/controls (s.15 cc) while RD can only do these in bylaw relates RD service like waste management
- Authority to discontinue providing a utility or service to a property not apply to regional districts – section 18 CC

Executive Summary (continued)

Regulatory Powers (continued)

- Restrictive content of regional district building regulation bylaws in rural areas: authority for building regulation in section 298 LGA is word for word same as 1960 *Municipal Act* - very outdated
- For areas with RD building service, 1960 bylaw powers can be exercised per section 297, but inadequate to fulfill application of 2024 Building Code
- Although 2024 Code applies as if bylaw outside RD building service areas, no building bylaws or permits to enforce the Code in those rural areas

Executive Summary (continued)

Interpretation

- Municipalities have useful interpretive tools.
- For example, section 10 CC says: municipal bylaw not inconsistent with another enactment if person who complies with bylaw does not by this contravene other enactment
- Regional district provisions silent in this regard
- Codification of SCC decision in *Spraytech et al v. Hudson*

Executive Summary (continued)

Services in Rural Areas

- Process for initiating a new local area service in a rural area – in addition to the buy-in (assent, alternate approval, or petition) the bylaw requires the approval of the inspector, approval by the board or area director, as applicable, and possible directions from the minister for amendments
- Alternative: local service area so owners in area pay for service not subsidized by owners in rest of RD
- Interface between the LGA and some other provincial statutes causes problems for RD service provision – for example, the *Environmental Management Act*
 - e.g., Sections 315 and 316 LGA do not keep up with modern waste management initiatives

Executive Summary (continued)

Governance – Voting

- Ascertaining who votes on a matter and if their vote is calculated as single or weighted vote – examples:
- Can non-participant move or second a motion regarding a service if it impacts them even if they are not a participant?
- Do all directors vote on OCP amendment, even if it is not their area?
- Can municipal directors vote on Board consent to the municipality providing a service to a rural area?

Executive Summary (continued)

Governance – Voting (continued)

- Is mayor's responsibility to reflect the will of municipal council a consideration that the mayor should consider when making decisions at a regional board table?
- Can municipal directors vote on Bylaw Enforcement service matters in rural areas?
- Who votes to appoint board of variance or APC members?
- What is process for disputing interpretation of voting rules by chair and corporate officer and do we need validating legislation when they are wrong?

Executive Summary (continued)

Governance (continued)

- Size of board a concern in some regions – having more than 20 directors creates logistical problems for getting through agenda or consensus building
- Ultimately, First Nations will also participate on boards
- May not be an issue, in comparison with Toronto or Winnipeg

Executive Summary (continued)

- **Governance (continued)**
- Rural director alternate system can be anti-democratic
- Can subsist for years without elector approbation
- Electronic meetings reduce need for alternates, but alternates needed in large electoral areas to cover for parental leave, work travel, illness

Executive Summary (continued)

Borrowing and Liabilities

- MFABC – highest bond rating in Canada
- Bond rating higher than BC and BC Hydro
- Local governments borrowing through MFA enjoy remarkable long term interest rates
- Unwise to alter this regime that was developed after many cities went bankrupt in Great Depression

Executive Summary (continued)

Borrowing and Liabilities (continued)

- Section 24 MFA Act: regional board must not adopt loan authorization (LAB) or security issuing bylaw on own or member behalf unless financing is undertaken by MFA
 - Shorter-term capital borrowing can proceed without MFA per sections 181 and 182(1) CC
- Municipality must not borrow money under LAB unless financing undertaken by RD through MFA, and RD board consents to undertake financing
- Advantage of long-term borrowing under LAB: liability incurred is debenture debt
- Therefore, RD security issuing bylaw provides regional joint and several security = protection for lenders from default, reducing risks of debentures

Executive Summary (continued)

- **Approving Officers**

- Provincial transportation ministry staff who carry out subdivision approvals in rural areas
- Therefore, the “Highways” employees instead of RD officers apply and enforce RD zoning and subdivision, and should apply RD policies under “public interest” doctrine
- Complaints about delays due to Ministry short-staffing, meeting RD and developer timelines (and MOTI AO offices are far, far away)
- Lesser standard of due diligence when considering RD bylaws and policies
- Different standards than municipal AOs apply when crafting

Draft Recommendations for Discussion

First Nations

- Must be included in regional governance to extent it meets their interests, as expressed by First Nations and not merely as determined by Crown unilaterally
- Although currently mechanism for treaty settlement nations included in regional governance, 203 other nations and members do not have right to be included
- Local government need to help address indigenous discrimination
- Specific action in the BC DRIPA action plan: support inclusive regional governance by advancing indigenous participation on regional district boards

Draft Recommendations for Discussion

Status

- Place municipalities and regional districts on the same level plane in relation to status and recognition
- Current CC recognizes municipalities as order of government within their jurisdiction in accordance with principles based on the Municipal Bill of Rights adopted by UBCM, yet LGA recognizes regional districts with a lesser status
- Villages have greater status and powers than RDs, including for example Metro and Capital RD
- One option: apply CC sections on status, recognition, and dispute provisions to regional districts in LGA
- Another option: include regional districts as “local governments” CC

Draft Recommendations for Discussion

Status (continued)

- Principles of municipal-provincial relations for municipalities based on the UBCM Bill of Rights for municipalities
- However, regional district principles for relations with Province restricted to five elements less respectful of regional district jurisdiction and interests
- One option: apply CC sections on provincial relations to regional districts in LGA
- Another option: include regional districts as “local governments” in the CC provisions regarding provincial relations

Draft Recommendations for Discussion

- **Status (continued)**
- Part 9, Division 3 CC, “Dispute Resolution”: clarify to apply to regional districts in relation to disputes between regional districts and other local governments or the provincial government or provincial corporation
- Dispute assistance, voluntary binding arbitration, mandatory binding arbitration, final proposal arbitration, full arbitration, and other provisions could provide practical solutions for regional districts encountering disputes. On
- One option is to apply Part 9, Division 3 CC to regional districts.
- Another option is to include regional districts in Part 9, Division 3 CC

Draft Recommendations for Discussion

Status (continued)

- Provincial – municipal relations provisions in Part 9 CC should be clarified to apply to regional districts (substitute “local government” for “municipality”)
- in relation to unilateral changes such as forced amalgamations, boundary extensions or reductions, municipalities have protection (assent of electors and/or council requests) more rigorous statutory consultation obligations should be extended to regional districts
- For example, regional district extensions, reductions, amalgamations, divisions or reorganization do not require assent, consent, or consultation, and can happen overnight

Draft Recommendations for Discussion

Natural Person Powers

- Regional districts should have "natural person powers" (legal capacity, rights, powers, and privileges of a natural person of full capacity).
- Local governments in Prairie Provinces and BC have natural person powers

Draft Recommendations for Discussion

Regulatory Powers

- Regional boards should have broad, overarching regulatory authority of a municipality under section 8 CC in the rural areas
 - Authority to regulate, prohibit, or impose requirements in rural areas in relation to regulatory matters, subject to provisions analogous to sections 9 and 10 and Part 3 CC.
 - Regional districts should have the authority such as that under section 8 of the *Community Charter* to impose requirements in relation to their areas of regulatory authority, except in relation to firearms and business.

Draft Recommendations for Discussion

Regulatory Powers

- In all regulatory bylaws, RDs should be able to provide for a system of licences, permits, or approvals and take advantage of the list of regulatory standards and controls under section 15 CC
- Distinctions among regulatory services, specified regulatory authority, and specific statutory regulatory powers, and the extent of any establishment bylaw regime for any of these, has been confusing for RDs and may be unnecessary

Draft Recommendations for Discussion

Entry on Property

- The regional district authority to enter on property should be modernized to be the same as for municipalities in section 16 CC
- This includes service or utility discontinuance, and assess or inspect in relation to tree protection

Draft Recommendations for Discussion

Building Regulation

- To address climate change, adaptation, and resilience, regional districts need the same building regulation authority as municipalities, and not the limited list essentially from the 1960 *Municipal Act*, to deal with building construction in rural areas where regional districts have elected to provide for building inspections and regulation
- To be proactive and take leadership in the context of potential catastrophes, the Province and regional districts need to consider options for application of a regional district building regulation bylaw and permits
 - In areas of wildfire interface, Fire Smart bylaws could be developed with consultation with owners and residents
 - In some cases, without prior establishment of a building bylaw regulatory service

Draft Recommendations for Discussion

Interpretation

- Regional district legislation should be augmented by a provision like section 10 CC to provide that a municipal bylaw is not inconsistent with another enactment if a person who complies with the bylaw does not by this contravene the other enactment

Draft Recommendations for Discussion

Services in Rural Area

- Process for establishing rural area services, paying for them, and getting taxpayer buy-in for services, could be streamlined as local service area regimes, taking advantage of all experience and case law related to such LAS schemes.
- This would also eliminate delay and regional district administrative capacity issues, about which regional districts have complained

Draft Recommendations for Discussion

Cross References

- Option One: cross reference provisions in LGA (for example, referring to CC provisions) should be spelled out in new regional district legislation in lieu of the internal cross references
- Option Two: the regional district and municipal provisions that are identical could be in one statute

Draft Recommendations for Discussion

Vote Calculations

- Vote calculation rules could be rewritten so any citizen or regional district employee can understand and apply them, and so not internally inconsistent and self-contradictory

Draft Recommendations for Discussion

Chair Authority

- Currently, substantial uncertainty, and instances of bullying and harassment, due to confusion about meaning of ‘chief executive officer’ and “chief administrative officer”
- Only one way to fix this – legislative amendment

Draft Recommendations for Discussion

Integrity

- Civility issues deterring recruitment and retention, moving public meetings to electronic forums
- Social tensions infuse and eclipse local government responsibilities
- Code of Conduct and harassment policies not enough – need legislation

Draft Recommendations for Discussion

Electoral Area Alternates

- Electoral area alternate scheme may require a review in the context of best practices
 - Provincial legislation allows alternates for business corporations, societies, but rules are more evolved
- Province may also want to consider consulting on the scope of responsibility for individual electoral area directors in vast geographical areas

Draft Recommendations for Discussion

Borrowing and Liabilities

- Anyone participating in review of regional district legislation must be careful regarding any discussion of the current scheme of LABs, security issuing bylaws, RD approval, inspector approval, and certification timing and process
- Protection of the joint and several MFA scheme is paramount

Draft Recommendations for Discussion

- **Borrowing and Liabilities (continued)**
- That said, over time affected interests could consider:
 - Streamlining provincial approvals aspect of current borrowing approval process
 - Consider effectiveness of 10% AAP, and whether an AAP could involve ratepayers instead of electors, and whether business should participate
 - Consider classes of financial commitments that would not require elector approval
 - Vary AAP thresholds by area population
 - Encourage effective public-private partnerships, and transfer risk to private enterprise

Draft Recommendations for Discussion

Approving Officers

- Many regional districts not ready to appoint approving officers, but many would like to do so to deal with growing areas and fringe-boundary areas
- Consider allowing regional districts to make election to appoint approving officers, instead of having provincial highway officials apply the regional district land use bylaws and public interest policies

Draft Recommendations for Discussion

Revenue

- Municipalities can use fees to regulate behaviour, under section 194(1)(c) and the Supreme Court of Canada decision in relation to the carbon pricing reference - considering challenges in the coming decades, regional districts should have the same authority to impose fees
- Also, fees as a tax (collected in the same way as existing user fees) for services like sewer, water, sewage treatment could encourage water conservation

Draft Recommendations for Discussion

Revenue (continued)

- Additional revenue sources for rural areas, based on precedents in other jurisdictions, include hotel room revenue tax, fuel tax, resort tax, portions of income tax or sales tax, business tax – with RD discretion to impose or not
- The Province needs to deal with financial contributions from crown corporations in a balanced and equitable manner. Current grants in lieu of taxes do not satisfy the requirements for “reasonableness”

Draft Recommendations for Discussion

Land Use

- Land use and development are not part of our review, but Province could consider legislation to address several specific RD issues:
 - Crown corporations should be subject to RD land use bylaws (amend section 14(2) Interpretation Act)
 - Fringe area development (in rural areas contiguous to municipalities) could be the subject of a mandatory joint planning process, not administered by Highways AO staff, considering future boundary extensions
 - Removal of gravel should not escape RD soil bylaws merely due to mining permits

Discussion and Questions