

Chapter Eight

Engineering Services

Engineering services include the water, liquid waste, solid waste, transportation system, and public transit services, as well as other public works. Other activities include surface water drainage and flood control works (ditches, culverts, flood boxes, dikes, dams, storm sewers, etc.), and miscellaneous works such as retaining walls, seawalls, wharves, floats, and public buildings. B.C. municipalities may provide all of these services. Regional districts and improvement districts may provide the same services, except for roads. Public transit services are jointly provided by local governments and BC Transit, a provincial agency, or by the South Coast British Columbia Transportation Authority (TransLink). Special-purpose local government bodies may also be involved in some engineering services, such as the Greater Vancouver Water District (GVWD) and the Greater Vancouver Sewerage and Drainage District.

Public works production activities include planning, design, construction, acquisition, disposition, operation, and maintenance. Planning and design is done by specialists who may be contracted consultants or local government employees. Construction, operation, and maintenance work may be done by contractors or government employees, depending on such variables as municipal size, project size, and regularity of production. Local government staff usually handle acquisition and disposition activities.

With a few exceptions, other engineering services, such as electricity, gas, and telecommunications, are provided by provincial or private agencies, whose uses of roads and other municipal properties for their poles, wires, pipes, conduits, and other installations are regulated by the municipalities. Exceptions include a city-owned telecommunications corporation in Prince Rupert and municipal electric utilities in Grand Forks, Kelowna, Nelson, New Westminster, Penticton, and Summerland.

The cities of North Vancouver and Revelstoke also established district energy utilities in 2004–05 to provide “green” services that enhance economic efficiency, conserve energy, and reduce greenhouse gas emissions. Examples of other initiatives aimed at enhancing sustainability include water conservation, wastewater reclamation and reuse, and energy recovery from waste products.

Some facilities, such as roads, have the characteristics of public goods, while others, such as water and sewer utilities, do not. The services have well-defined, measurable characteristics and are generally easier to measure, evaluate, and manage efficiently than police and fire protection services.

8.1 Water Supply

Nature of water supply services

All people, households, farms, and businesses require water. Of the various functions undertaken by local governments in B.C., water supply is the most frequently provided. Water may be obtained from wells, cisterns, rivers, lakes, and reservoirs, and may be delivered to households, farms, or businesses through pipes or ditches. The quantity of water provided is easily measured, and quality (sanitation, colour, taste, hardness, and the pressure at which it is available) is also measurable. Sanitation is important for domestic supplies, and water may have to be treated to achieve adequate standards. Water pressure is important for firefighting.

Unless a user is geographically isolated, there are likely to be significant cost savings realized from utilizing a common collection and delivery system. An urban water distribution system possesses the characteristics of a natural public utility monopoly—a single continuous set of distribution pipes can serve an area at lower cost than two or more overlapping systems. Other elements of an urban system include intakes, storage facilities, treatment facilities, pump stations, pressure-reducing stations, fire hydrants, connections to individual properties, and water meters. The system is measurable, capital intensive, impersonal, and continuously provided.

Water supply provision

Virtually all B.C. municipalities provide a domestic, commercial, and industrial water supply system. Water supply services in B.C. are also provided by about 100 regional district service area systems, over 200 improvement districts, almost 200 private utilities, over 450 First Nation systems, and about 125 water users' communities, which often serve agricultural users. The variety of local agencies involved in water supply means that the decision-making processes also vary.

All users and suppliers of water in B.C. must comply with provincial legislation. If water is drawn from a river or lake, the *Water Act* requires that a water licence be obtained from the environment ministry and that annual fees be paid for water use. Well drillers and well pump installers must meet the qualification and registration requirements of the *Ground Water Protection Regulation*. Water for domestic use must comply with the *Drinking Water Protection Act* and regulations, administered by the health ministry, and system operators must meet prescribed qualification standards. Where deemed necessary, the environment minister may require preparation of a water management plan. Decision making may also be influenced by bodies that provide grants for water-related facilities and projects, such as the municipal affairs ministry, the agriculture ministry, the Federation of Canadian Municipalities' Green Municipal Fund, and the Canada-B.C. Municipal Rural Infrastructure Program, all of which provide conditional grants to local governments.

Some local governments have extended their water supply systems so that they control the watersheds from which the water is taken. Control over the watershed may be exercised through outright ownership, as in the Capital Regional District (CRD), or through a long-term lease, such as the 999-year lease between the Greater Vancouver Water District (GVWD) and the province. The CRD, the Greater Vancouver Regional District (GVRD), and some other local governments have also adopted conservation or sustainable-use policies and regulations for using water more efficiently so as to delay the need for investing in system expansion and reduce the load on wastewater collection, treatment, and disposal systems.

A municipal or regional water supply system can entail significant capital costs, and money may have to be borrowed or negotiated in a public private partnership (P3) to finance construction. If so, the decision is subject to a referendum or alternate approval process, depending on the circumstances. The ongoing operation and maintenance of the system is usually financed through a combination of special assessments, such as parcel taxes, and user charges for water consumption, service connections, etc.

Water supply production

Water supply systems are usually planned and designed by consulting engineering specialists and constructed by private firms under contract. In some cases, local government staff may do some of the work, especially for smaller projects. It is common for local governments that own and operate their own systems to sell water to adjacent communities or to install and operate systems outside their own boundaries. The GVWD and CRD each functions as a wholesaler of water to local municipalities, which then deliver it through their municipal systems. The CRD is also the local retailer in some parts of its service area.

The operation and maintenance of municipal and regional district systems may be done by contractors or by government employees, supplemented by contracted services on a project basis. Many improvement districts rely on volunteer labour for small construction jobs and system maintenance. Other activities include measuring consumption, billing, and collecting for the service. Because of the ease of measurement and the impersonal nature of service delivery, water supply system activities are easily managed and easily dealt with on a contractual basis.

Water supply service performance

The measures used to assess the performance of a water supply system are concerned primarily with water quality and operational efficiency. Where the system supplies drinking water, its quality is measured by provincial standards based on the biological, chemical, radiological, and aesthetic parameters contained in Health Canada's *Guidelines for Canadian Drinking Water Quality*. For other purposes including aquatic life, wildlife, aesthetic, recreation, irrigation, livestock watering, and industrial activities, various biological, chemical, and physical quality guidelines administered by the environment ministry are used to measure water quality. Where the measured concentration of a substance exceeds the guideline, an overall quality assessment may be conducted.

A water utility uses many operational efficiency measures to monitor its performance over time. These range from general measures, such as total annual operating cost per megalitre, to specific activity measures, such as percentage of hydrants serviced per year, or number of water meters read per week. Sources of information about water utility performance measurement and/or best practices include the British Columbia Water and Waste Association (BCWWA), the Canadian Water and Wastewater Association (CWWA), and the American Water Works Association (AWWA), which conducts a benchmarking program in cooperation with the Water Environment Federation (WEF). More than 200 North American utility organizations participate in the program, including the CRD, the GVWD, and Sun Peaks Utilities Co. Ltd. in British Columbia.

The AWWA benchmarking program involves periodic surveys of the participants in which data are collected for over 300 items related to 22 performance indicators in the areas of organizational development, customer relations, business operations, water operations, and wastewater operations, as shown in Exhibit 8-1. Based on this information, the AWWA publishes statistical reports that a utility can use to compare its own performance with the average for its peer group.

The performance of water conservation initiatives can be measured in various ways. The AWWA recommends water volume per customer account per day, broken down by class of account. Measures used by the CRD in measuring the performance of its demand side management (DSM) program include percentage changes in per capita demand and the number of rebates issued per year under programs for promoting the use of low-flow residential toilet fixtures, low-flow shower heads, high-efficiency washing machines, and more efficient automatic irrigation systems. Some of these measures, such as low-flow residential toilets, are now required in B.C. Measures used by the GVRD with respect to its sustainable-use objective include percentage changes in per capita water consumption by residential customers, by all customers, and by all customers on peak days. The sustainability of water and wastewater services is further discussed in Section 8.2 below.

EXHIBIT 8-1: WATERWORKS UTILITY PERFORMANCE MEASURES

ORGANIZATIONAL DEVELOPMENT

1. Organizational best practices index. Self-assessment of the degree to which a utility implements strategic planning, long-term financial planning, risk management planning, optimized asset management, performance measurement, customer involvement, and continuous improvement practices.
2. Employee health and safety severity rate. Lost workdays per employee per year.
3. Training hours per employee.
4. Employee efficiency. Customer accounts per employee. Million gallons (3.7854 megalitres) of water delivered per employee. Million gallons (3.7854 megalitres) of wastewater processed per employee.

CUSTOMER RELATIONS

5. Customer service complaints and technical quality complaints per 1,000 customer accounts.
6. Number of customers experiencing service disruptions per 1,000 active customer accounts.
7. Residential cost of water and/or sewer service. Monthly bill amount for residential water and/or sewer service for a customer using 7,500 gallons (28,391 litres) per month. Average residential water and/or sewer bill amount per month.
8. Customer service cost per account per year.
9. Billing accuracy. Number of error-driven bill adjustments per 10,000 bills issued during the reporting year.

BUSINESS OPERATIONS

10. Debt ratio.
11. System renewal-replacement rates for the water treatment, water distribution, wastewater collection, and wastewater treatment infrastructure components.
12. Return on assets.

WATER OPERATIONS

13. Drinking water compliance rate. Percentage of days per year in full compliance with mandated maximum contaminant levels and treatment techniques.
14. Distribution system water loss. Percentage of drinking water placed into distribution that does not reach customers or other authorized users.
15. Water distribution system integrity. Number of breaks and leaks requiring repair per 100 miles (161 kilometres) of distribution piping.
16. Cost of operations and maintenance per million gallons (3.7854 megalitres) of water produced. Cost per account.
17. Ratio of planned maintenance to corrective maintenance activities. Proposed ratios compare costs and hours invested in planned and corrective maintenance activities.

WASTEWATER OPERATIONS

18. Sewer overflow rate. Number of overflows per 100 miles of collection piping.
19. Collection system integrity. Frequency of collection system failures per 100 miles (161 kilometres) of piping.
20. Wastewater treatment effectiveness rate. Percentage of time that an individual wastewater treatment facility is in full compliance with applicable effluent quality requirements.
21. Cost of operations and maintenance per million gallons (3.7854 megalitres) of wastewater processed. Cost per account.
22. Ratio of planned maintenance to corrective maintenance activities. Proposed ratios compare costs and hours invested in planned and corrective maintenance activities.

Source: *American Water Works Association website.*

8.2 Liquid Waste Management

Nature of liquid waste management

Liquid wastes include piped wastewater that has been used for household, business, or industrial purposes; surface runoff water that has been polluted by chemicals, oils, or other contaminants; used chemicals; and other unwanted fluids. Some fluids are hazardous and subject to special programs and regulations, such as source control measures. Wastewater disposal is handled by various kinds of septic and sewage systems. In urban areas, these may include separate sanitary sewer and storm sewer systems or, in some older areas, combined sanitary and storm systems. Because combined systems can present hazards to public health if sewers overflow after a heavy rainfall, they are no longer built. Existing ones are gradually being replaced by separate systems.

Common methods for disposing of household liquid wastes in less populated areas include draining them into a holding tank, from which the contents are periodically emptied and transported to a treatment facility, or into a septic tank, where they are broken down biologically and discharged through a porous tile field into the ground. As long as the soil is permeable, the groundwater level is not too high, and sufficient distance is maintained from wells and water bodies, septic tanks are safe and efficient. Where soils are impermeable, or water tables are high, or an area is heavily populated, septic tanks may pose hazards to human health and alternate methods must be used.

Technologies for composting and incinerating human waste, with simple filter treatments of grey water, have been used in other countries for many years. In B.C. the preference has been for waterborne systems that reduce the high biological oxygen demands of organic wastes and eliminate harmful pathogens prior to discharge into rivers, lakes, or saltwater bodies. The main components of these systems are collector pipes through which the sewage flows by gravity, pumping stations that lift it up where required, treatment plants that remove solid contaminants, and outfalls through which the treated effluent is discharged.

Like a water supply system, an urban sanitary sewage system is an example of a capital-intensive utility that functions most efficiently as a single system. It is impersonal in nature and has easily measurable characteristics. While there appear to be few, if any, economies of scale in constructing and operating collection systems, there may be some scale economies within a given system—short, fat pipes are cheaper to install per unit of sewage volume than long, thin ones. On the other hand, significant economies of scale are achievable in treatment plant operations—larger treatment plants can deal with waste at a lower average unit cost than smaller ones. It is not always possible to have large treatment plants, however, because the costs of pipe and pumping increase with distance, offsetting potential savings. Efficient systems will vary in size and configuration, depending on population locations and the terrain over which the sewage must be pumped.

Storm sewer systems are simpler than sanitary systems, draining watersheds entirely by gravity through pipes or open channels, such as ditches or creeks, and eventually discharging stormwater through a relatively short outfall. Stormwater from paved areas drains into catch basins, which collect some of the contaminants in sumps. To reduce the volume of stormwater runoff, techniques such as permeable pavement and retention ponds may be used. Concerns about pollution of the receiving environment by stormwater contaminants have led some jurisdictions to introduce stormwater treatment units that trap the contaminants before the water is discharged.

Liquid waste service provision

The central pieces of provincial legislation regulating the collection, treatment, and disposal of liquid wastes include the *Environmental Management Act*, the *Municipal Sewage Regulation* and, for smaller

systems, the *Sewerage System Regulation of the Health Act*. While it is not mandatory for local governments to provide sanitary sewage systems, it would be virtually impossible for a densely populated area to comply with provincial health and pollution regulations without having one. Subdivision control bylaws in urban areas normally require the installation of sewer systems.

To reduce the use of sewage systems for disposing of paint, solvents, gasoline, pharmaceuticals, domestic pesticides, and other hazardous liquid wastes, the provincial government has introduced programs that require the producers and users of these liquids to take responsibility for controlling the wastes. Special arrangements are also made for disposing biomedical wastes.

Recycling sewage sludge (biosolids) must comply with the *Organic Matter Recycling Regulation*, whose purpose is to address the risks involved in such recycled uses as landfill reclamation, mine reclamation, silviculture applications, composting, the production of dry fertilizer products for retail sales, and spreading liquefied treatment plant sludge on farmland. If the sludge still contains highly concentrated contaminants, they could be transported to plants, animals, birds, groundwater, wells, stockponds, surface waters, and ultimately to the food we eat.

The environment ministry may require a municipality or regional district to prepare a liquid waste management plan (LWMP) for dealing with sewage discharges, combined sewer overflows, urban stormwater runoff, sewage sludge management, pump station overflows, subdivisions with onsite disposal, source control programs, and effluent. The LWMP must be prepared in consultation with a provincially designated waste manager and be consistent with the ministry's long-term waste management objectives. When approved by the minister, it becomes the authority under which the operational arrangements are made for disposing of liquid wastes in the jurisdiction.

Nearly all municipalities, more than half the regional districts and some improvement districts have LWMPs or liquid waste management systems of some kind. New systems or extensions of existing systems are usually planned and designed in cooperation with the municipal affairs and environment ministries, to be sure that all permit and financing requirements are met. System construction and operation are undertaken under permits issued by the environment ministry.

As with water supply, a municipal or regional sewage system entails significant capital costs, and money may have to be borrowed or negotiated in a P3 to finance construction. If so, the decision is normally subject to a referendum or alternative approval process except where the minister has ordered the work, as has happened in the CRD. Conditional grants are usually available to assist with financing. The ongoing operation and maintenance of a sanitary sewage system is usually financed through a combination of special assessments, connection fees, and user charges based on water consumption.

Liquid waste production

Sewage systems are usually planned and designed by consulting engineering specialists. The collection, treatment, and disposal facilities are virtually always constructed by private contractors. Once construction is complete, the local government may operate and maintain the system either with its own employees or by contracting out. Most local governments in B.C. operate their own systems, do their own minor maintenance, and contract out larger maintenance projects. This permits the local government to operate with a small, efficient permanent staff.

While most municipalities operate complete systems, some manage only the local collection of sewage, with the regional district or another municipality handling regional collection, treatment, and disposal of the waste. This division of activities can be just as efficient as having one organization manage the entire operation since there appear to be few, if any, economies of scale in constructing and operating collection systems, as noted above.

Liquid waste service performance

The measures used to monitor the performance of a liquid waste management system are concerned primarily with effluent water quality and operational efficiency. Sewage sludge quality is also measured by such criteria as its suitability for processing and recycling as fertilizer.

Effluent quality measures include flow rate, biological oxygen demand (BOD), total suspended solids (TSS), fecal coliform density and the extent to which other pollutants are present. They must comply with the standards in the environment ministry's the *Municipal Sewage Regulation* and, for small system effluent discharged into the ground, the health ministry's Sewerage System Standard Practice Manual. In general, effluent discharged into a water body that also serves as a source of drinking water must meet stricter quality standards than effluent discharged into a reclaimed grey water system or a saltwater body. More restrictive standards apply in areas such as the Okanagan basin and the Abbotsford-Sumas aquifer, where levels of phosphorus or nitrogen are of critical importance, or areas such as Saanich Inlet and Shuswap Lake, where effluent can only be discharged if an environmental impact assessment demonstrates it would not harm the receiving waters.

The CRD and GVRD discharge systems each provides for a trigger process in which remedial action is taken whenever the level of a contaminant detected in the effluent, water column, sediment, or biota at the end of an outfall is found to exceed prescribed quality standards. Because the strong flushing action of the currents in the Strait of Juan de Fuca were considered to provide a kind of natural treatment effect, the CRD was permitted to discharge screened but otherwise untreated sewage through two outfalls into the strait for many years. In 2006, the B.C. environment minister decided that levels of contamination in sediments near the outfalls were unacceptable and treatment was required, notwithstanding the fact that the trigger standards had not been exceeded.

Like a water utility, a sewer utility can use a variety of operational efficiency measures to monitor its performance, ranging from total annual operating cost per megalitre of effluent to specific measures, such as percentage reduction of mercury attributable to a source control program. Sources of information about sewer utility performance measurement and/or best practices include the BCWWA, the CWWA, and the AWWA, whose benchmarking program uses the performance indicators listed in Exhibit 8-1.

Since 2000, the sustainable performance of local water and wastewater management services in B.C. has been a primary focus of various programs financed by senior governments, several of which were brought together in a Canada-British Columbia Infrastructure Framework Agreement in 2007. These programs have invested hundreds of millions of dollars in projects for improving water supply systems, wastewater systems, water conservation, and water reuse practices. The B.C. government requires the use of a P3 model as a procurement base case if provincial contributions to a project exceed \$20 million.

Initially, the Canada-B.C. Infrastructure Program emphasized investments in water supply system improvements, reflecting public concerns that had been heightened by the widely reported loss of life from the contamination of Walkerton, Ontario's drinking water in 2000. There was justification for the concerns. Of the more than 3,300 water supply systems in B.C., almost 10 percent were under boil-water advisories in 2001 and a 1996 report on the state of Canada's municipal infrastructure had stated that the average age of B.C.'s water supply systems exceeded their expected life spans. The passage of the *Drinking Water Protection Act* in 2001 was a direct response to this situation.

The funding programs have also encouraged the reclamation and reuse of wastewater from sewage treatment plants for agricultural, industrial, or other uses that pose no risk to public health. This can be particularly advantageous where the demand for potable water supplied through a conventional system is significantly reduced by replacing it with grey water and/or where the impact of the treatment plant effluent on the receiving environment is an important consideration. For example, in 1977 the City of Vernon began treating and reusing the wastewater from its sewage treatment plant for irrigating

rangeland, playing fields, golf courses, and tree nurseries. As a result, Vernon virtually eliminated the discharge of effluent from its plant into Lake Okanagan and reduced its estimated water and wastewater capital expenditures by about 50 percent over a 20-year period.

In addition to a focus on recycling waste water, the impacts of the conventional waterborne sewage systems with centralized treatment plants that are common in B.C. have come under scrutiny. While the disposal of sewage sludge can be an issue, there is also evidence that endocrine disruptors and other pharmaceuticals in treatment plant effluent may adversely affect the sexual and other biological characteristics of fish in the receiving waters. This phenomenon has prompted scientific study but the implications are not yet clear.

8.3 Solid Waste Management

Nature of solid waste management

Households, businesses, and industry produce a variety of solid wastes, many with the potential to generate fire, health, and/or nuisance problems. These wastes include domestic refuse, bulky household items such as appliances or furniture, building rubble, tires, batteries, junk automobiles, animal carcasses, septic tank residues, sewage treatment sludge, contaminated soil, biomedical wastes, toxic chemicals, and radioactive wastes from hospitals and laboratories. The wastes must be collected from the waste-generating sites and transported to disposal or recycling facilities for processing.

Local governments are usually heavily involved with residential waste collection and disposal. They may also have programs that promote composting and/or recycling reclaimable waste collected by recycling crews or delivered by individuals to recycling centres. Single-family residential waste collection in urban areas is most efficient when a single truck and crew collect from every house along a street, so local governments normally make exclusive collection arrangements for these areas. Such arrangements, without the expense of individual household billing, are not only efficient but tend to be more popular than other options.

The collection of other kinds of waste often requires specialized equipment and maintaining exclusive area collection becomes less important than using the most efficient equipment. Apartment blocks and business establishments are best served by larger trucks and bins but access problems in older areas may limit them to using small bins and cans. Other wastes, such as construction rubble, biomedical wastes, toxic substances, radioactive materials, animals, junk automobiles, sewage sludge, and contaminated soil require even more specialized arrangements.

As urban areas have grown, the distances between collection areas and disposal sites have increased. Thus it is sometimes more efficient for collection vehicles to dump their loads into larger trucks at transfer stations rather than make the long drive to a disposal site. Special methods are also used for radioactive and toxic materials because not every area has the proper facilities to dispose of them. Local government involvement in these processes is minimal. Collection, hauling, and disposal are organized by provincial and federal agencies.

Local governments also provide landfill sites and incinerators to dispose of solid waste. Because landfill sites may contaminate groundwater supplies and incinerators may cause air pollution, they are subject to provincial regulations. Due to these and other constraints, the number of landfill sites in B.C. declined from 236 in 1988 to 112 in 2005, and all municipal solid waste incinerators were closed except for the GVRD waste-to-energy facility in Burnaby. In most cases, a leachate management system has had to be installed in a landfill to ensure ground and surface water quality. On the other hand, fewer than 10 of the 112 landfills in 2005 had biogas management systems, in which the collected gases are flared to reduce odours and greenhouse gas emissions or recovered for beneficial uses of their energy.

Because British Columbia landfills must satisfy rigorous criteria, large regional landfills have been gradually replacing older facilities. The larger operations can achieve economies of scale that help offset the costs of meeting regulatory criteria. They are typically operated through contracts with specialized firms and can be located far from the areas they serve. For example, some GVRD waste has been shipped to Cache Creek, about 330 kilometres northeast of Vancouver, and it has been proposed to ship it by rail to large landfills as far away as Fort St. John, central Alberta, and Washington State.

Solid waste management differs from many other government services because it is possible to identify precisely who generates the waste and who is responsible for having it collected or recycled. The process can be readily measured, such as the number of households served and the number of tonnes of different kinds of waste collected and disposed of. This permits a comparison of performance with alternative organizational arrangements, management strategies and technologies.

Solid waste management can involve face-to-face interaction when it involves individual delivery to a recycling centre, such as the one on Hornby Island where used goods are also exchanged through a community “free store.” Otherwise, it is an impersonal service whose value is not dependent on face-to-face interaction between the waste collector and the citizen. The ability to quantify and the impersonal nature of production means that local governments may choose from a wider variety of approaches for producing the service than they can with services like policing and fire protection.

Solid waste service provision

As with liquid wastes, the *Environmental Management Act* and regulations are the central pieces of provincial legislation regulating solid waste management. The Act and its *Contaminated Sites Regulation* also deal extensively with the identification and remediation of brownfield sites polluted by industrial or other activities, including the relocation of contaminated soil from the sites. Other relevant provincial legislation includes the fire hazard provisions of the *Fire Services Act*, the public health provisions of the *Public Health Act*, the regional district powers described in the *Local Government Act*, and the municipal powers described in the *Community Charter*. An improvement district may be empowered to arrange for solid waste management by its letters patent.

Since 1982, the provincial government has become increasingly involved in waste management programs that emphasize “the five Rs”—reduction, reuse, recycling, recovery, and residual management. They include industry product stewardship programs for batteries, beverage containers, electronics, filters, flammable liquids, gasoline, lubricating oil, medications, paint, pesticides, solvents, and tires, as well as regulations for composting and applying organic matter on land.

In 1989, the province required all regional districts to prepare solid waste management plans (SWMP) and submit them for approval by 1995. As with liquid wastes, a SWMP must be prepared in consultation with a provincially designated waste manager and must cover the collection, transportation, handling, storage, treatment, recycling, and disposal of municipal and other solid wastes. The province also set a goal of reducing the amount of municipal solid waste²² disposed of in B.C. landfills and incinerators by the year 2000 to 50 percent of the 1990 per capita amount. Stringent criteria were introduced for incinerator emissions in 1991 and for landfills in 1993, including detailed provisions regarding leachate and gas management, prohibited wastes, open-burning restrictions, closure procedures, etc.

All regional districts, most municipalities and some improvement districts are involved in solid waste management to some degree. Municipal involvement can be extensive, with all residential and commercial waste collection and recycling being financed by property taxes or compulsory user charges. While

²² The *Environmental Management Act* defines municipal solid waste (MSW) as: (a) refuse that originates from residential, commercial, institutional, demolition, land-clearing, or construction (DLC) sources, or (b) refuse specified by a director to be included in a waste management plan. It implicitly excludes sewage sludge, agricultural waste, and industrial wood waste. Before 1989, the definition of MSW did not include DLC wastes.

recycling programs would ideally operate on a cost-recovery basis, some subsidization from general tax revenues may be needed. Senior governments may also provide grants to help finance recycling and other programs with environmental sustainability objectives. Regional districts tend to get most involved in managing collection contracts in some rural areas, providing disposal sites and regulating privately owned recycling and disposal facilities.

Solid waste service production

At least four different production arrangements and combinations of them are used by B.C. local governments for residential solid waste collection:

- Own-forces production by municipal employees
- Contracted production by private companies
- Exclusive area franchises, in which a single firm produces the service for a regulated price
- Licensing of private collectors who make independent arrangements with individual customers

The production options for recycling programs are similar.

The operation of transfer stations, transportation from transfer stations to disposal sites, and disposal site management are done either by local government employees or private contractors. Two or more local governments may also enter into a joint arrangement for managing a disposal site. Contractual arrangements with private companies for service delivery are used extensively because performance can be measured and contracts for production can be easily written.

Of the various options available for different kinds of waste collection, it appears that the more uniform the type of service, such as single-family residential waste collection, the more likely it is that the local government will be directly involved in service production, contracting, or franchising. Otherwise, local governments tend to limit their involvement to regulatory activity, and the waste generators and collectors make private arrangements. Even in some suburban residential areas, waste collection may simply be left up to individual residents and competing private companies.

Solid waste service performance

Considerable research has been conducted on the performance of solid waste management services in the United States and Canada. A primary source of information about best practices, standards, and innovations is the Solid Waste Association of North America (SWANA), which has chapters all over the continent and is involved in a variety of educational, certification, advocacy, and other activities.

The primary measures used in assessing the performance of solid waste management operational activities are cost per tonne and, for residential collection and recycling activities, cost per household. There are, however, many service level, quality, and other variables that have to be taken into account, especially when comparing performance among different jurisdictions. For example, the results of a 1996 survey of 327 Canadian local governments indicated that the key variables affecting residential collection costs included the number of households served per truck, tonnes collected per household, time lost to labour disputes, private versus public production, and average crew size (McDavid and Eder 1997; McDavid 2000).

Little is known about the relative efficiencies of nonresidential collection arrangements because they are difficult to ascertain. They all involve potential monopoly situations, whether they are with municipal employees, contracts with private firms, or exclusive franchises, even though competing firms have incentives to be as efficient as possible.

The research on residential waste collection over the years has generally supported the proposition that unit costs tend to be lowest where the service is delivered by a private producer in a competitive bidding environment. For example, the 1996 survey noted above found that collection by municipal crews cost 22.3 percent more on average than collection by private producers. This general proposition was

further supported in an analysis of the 1996 survey results, with some caveats (McDavid 2001). The analysis showed that:

- substantial public-private cost differences occurred only in communities under 10,000 population;
- overall costs were lower than national average costs where communities divided the collection service between public and private producers;
- contracted-producer costs were substantially lower than public-producer costs in the same communities with divided collection services; and
- costs were lower where local governments called for competitive bids than where they simply renewed the contracts with the existing companies.

Some studies have suggested that the degree of competition is a more important variable than the public-private dichotomy. For example, a 1997–98 survey of 132 residential recycling producers in Canada, including 26 in B.C., found the average recycling cost to be virtually identical for private and public producers, but with some unusual variations (McDavid and Laliberté 1999; McDavid 2000). In B.C., the average cost per tonne for private producers was about 65 percent of the average cost for public producers, which was the highest in the country. In Ontario, where the average overall costs were the lowest in the country, the private producers were found to be about 61 percent more costly than the public producers. A possible explanation for the unusual results is that the newness of the service and its linkage to unstable markets for recycled materials created an environment in which public and private operations and unit costs were similar to each other (McDavid 2000).

The 1997–98 survey also found that 75.2 percent of the recycling services were delivered by private contractors only, 15.7 percent by public employees only, and 9.0 percent by a mixed arrangement of private and public producers. The average cost per tonne, net of recoveries from the sale of recycled items, was 158 percent higher than the average cost of residential waste collection found in the 1996 survey. Key variables affecting costs included bin-filling requirements, level of participation, tonnes per vehicle, type of vehicle, and number of materials accepted for recycling.

The residential waste collection and recycling surveys cited above were two of three surveys about solid waste management in Canada conducted in 1996–98. The other, a 1996 survey of 72 landfill managers, found that most landfills were operated by a mix of local government staff and contracted personnel (only seven operated with local government employees entirely), and that the average cost of landfills operated primarily by contracted forces was 67 percent of that of the other landfills (McDavid and Laliberté 1998; McDavid 2000). The key variables affecting costs included tonnes landfilled per vehicle, the degree to which dump trucks were used, restrictions on materials accepted for landfilling (e.g., paper, glass, metal, plastics), and the degree of reliance on compactors.

Most of the research on solid waste management has been concerned with operational efficiency but program effectiveness has also been examined. Since 1990, progress towards achieving the B.C. government's 10-year goal of reducing the per capita amount of municipal solid waste disposed of in landfills and incinerators by 50 percent has been tracked through reports provided by regional districts. By 2000, the 50 percent goal had been exceeded in the Central Kootenay, Cowichan Valley, Powell River and Sunshine Coast regional districts, while reductions between 40 and 50 percent were reported for the Central Okanagan, Columbia-Shuswap, Fraser Valley, Kootenay Boundary, Mount Waddington, Northern Rockies, North Okanagan, and Squamish-Lillooet regional districts.

In the GVRD, which accounted for about 57 percent of all the waste disposed of in B.C. in 2000, the per capita amount had been reduced by about 28 percent but the GVRD had started its reduction program prior to 1990 and its percentage reduction for the decade began from a lower base. In the province as a whole, the per capita amount had been reduced by almost 30 percent, from 0.879 tonnes per capita in

1990 to 0.618 tonnes in 2000, and the total amount had dropped by 13 percent, from 2,890,516 to 2,509,112 tonnes.

While the program fell short of achieving the 50 percent reduction goal that was set in 1990, the results still indicated considerable success in diverting recyclable materials from the solid waste stream and reducing the amount sent to disposal facilities. Analysis of the data up to 2005 indicated that the per capita reduction rate probably reached a plateau of around 30 percent in 1996, and that further reductions could only be achieved through new initiatives.

One initiative aimed at further reducing the amount of solid waste in the disposal stream is a “zero-waste” approach, introduced around 1999 and promoted by the Recycling Council of B.C. It emphasizes the promotion of waste prevention through the avoidance or reduction of wasteful inefficiencies at all stages of a product’s life cycle—resource extraction, processing, manufacturing, distribution, consumption, recycling, and disposal. By 2006, seven regional districts and seven municipalities representing about 63 percent of B.C.’s population had subscribed to the zero-waste approach.²³ A number of major international business firms also support the approach but, given such factors as the various product stewardship programs already in place, it is hard to say how much of an impact the zero-waste initiative may have on future solid waste disposal streams in the province.

Waste reduction and recycling objectives tend to have been most actively pursued in densely populated areas, where programs like curbside recycling are more economically feasible, and/or in areas where local governments have had difficulties in finding new sanitary landfill sites to replace those reaching their capacity. For example, in the Cowichan Valley Regional District, where more than half the municipal solid waste stream is recycled, objections from local residents and First Nations forced the abandonment of plans for a new landfill to replace several disposal facilities that closed in the late 1990s. The CVRD had little choice but to have its residual solid waste shipped to the Greater Vancouver landfill in Cache Creek, which it began to do in 1998.

Observations on solid waste services

The solid waste management industry is a large one and local governments are primarily involved in arranging for residential collection, recycling, and disposal. Disposal is often done through cooperative arrangements between municipal and regional district governments. Because of the measurability of the activities, residential solid waste collection is an area in which contracts with private companies are used extensively, since considerable evidence indicates that the kind of competitive situation associated with contracted service delivery gets more efficient results than the monopoly situation associated with delivery by municipal staff. Most nonresidential collection is simply left to the private market, with individual waste generators and individual collectors working out their own arrangements.

The nature of the industry has changed considerably since the 1980s, when the main activities were simply collection and disposal by incineration or landfilling. Since then, an emphasis on sustainability and the five Rs (reduction, reuse, recycling, recovery, residual management), along with strict regulation of incinerator and landfilling practices, have become dominant themes in solid waste management programs. At the same time, technological advances since the 1980s have enhanced the ability of local governments to comply with the stricter regulations and take advantage of opportunities to recover compost and energy from their solid waste management activities. These trends can be expected to continue in the future, with initiatives such as a zero-waste approach becoming more prominent in local government decision making.

²³ The regional districts were Central Kootenay, Central Okanagan, Cowichan Valley, Greater Vancouver, Kootenay Boundary, Nanaimo, and Sunshine Coast. The municipalities were Fruitvale, Grand Forks, Kelowna, Lake Country, Nelson, Rossland, and Trail.

8.4 Transportation System Management

Nature of the transportation service

A community's transportation system is critical to its economic life. The more efficiently people and goods can move from one place to another, the more the community benefits. Where the ability to move is inhibited by congestion, accidents, or other impediments, transportation costs increase and benefits diminish. Thus, the engineers and others who manage the transportation system seek to ensure that, as far as possible, the system provides quick, convenient, comfortable, safe, and cost-effective access to all parts of the community.

General transportation system management activities include the planning, design, construction, acquisition, disposition, operation, and maintenance of a community's roads, bridges, traffic signs, traffic signals, road painting, curbs, gutters, public parking facilities, bicycle paths, walkways, streetlighting, street signs, street furniture (benches, bus shelters, etc.), street trees, and boulevards. Associated activities include street cleaning, snow removal, and the regulation of traffic, parking, and commercial vehicles. Because public transit is usually organized and operated separately from other transportation services, it is discussed separately below.

Transportation system management generally involves measurable activities in which there is little interaction between the producer and citizens. However, there can be situations, when a question like the location, expansion, or closure of a road becomes a controversial issue. Road maintenance demands, traffic levels, and sign locations on neighbourhood streets can be sensitive issues that require elected officials to make decisions.

Traffic congestion, air pollution, and energy consumption associated with transportation have become a focus of concern for many local governments, especially in larger metropolitan areas. Measures that may be taken to address these problems include the promotion of public transit, car pooling, teleworking, the provision of walkways and bicycle paths, the designation of bus priority lanes, high-occupancy vehicle lanes and/or bicycle lanes on main arteries, the imposition of bridge and/or road tolls, increases in car parking charges, increases in fuel taxes, and the regulation of vehicle exhaust emissions (e.g., the AirCare program administered by TransLink).

Transportation system provision

The longstanding powers of B.C. municipalities to possess local public roads was strengthened in a *Community Charter* provision granting them full title to the roads. Other roads in unincorporated areas and provincial highways within municipalities (called arterial highways) are the responsibility of the transportation ministry. Regional districts are not empowered to possess public roads but a form of regional road system was introduced in 1998, when TransLink was established and empowered to designate a Greater Vancouver regional road network, set regional road standards, finance major road development, and manage transportation systems in cooperation with the municipalities. The municipalities continue to own the roads.

Local road construction is generally required as part of subdivision processes but unless the subdivision is within a strata property (condominium), the roads are owned by the municipality or, in unincorporated territory, by the provincial government. Municipalities are also empowered to regulate traffic within their jurisdictions, subject to the provisions of the *Motor Vehicle Act*, the *Highway Act*, and the *South Coast British Columbia Transportation Authority Act*.

General plans for major municipal roads must be included in official community plans and, "to the extent that these are regional matters," regional growth strategies must include transportation plans. Plans

for reducing greenhouse gases generated by vehicular traffic and other sources are also required in official community plans and regional growth strategies.

Policymaking discussions and consideration of transportation matters can take up considerable council and committee time. Recommendations may come from the traffic engineering staff or the local police. In addition, the frequency with which citizens contact councillors over traffic issues make such matters as traffic lights and left-turn lanes common topics for full council deliberation. The construction or major rehabilitation of streets also comes before the full council and may come before the electorate if the project entails borrowing money and an alternative approval process is required.

Traffic engineers are aware of the political sensitivity of their activities and have developed a set of standards to indicate when improvements, such as stop signs, crosswalks, lights, or multiple traffic lanes are needed. The standards (called warrants) are codified in the *Manual of Uniform Traffic Control Devices* produced by the Transportation Association of Canada. When the warrants call for an improvement, the municipal engineer will request it from the council. When citizens request improvements that do not meet the standards, the engineer may recommend against them. The standards serve a useful purpose, especially in larger cities where decisions may be delegated to the traffic engineering staff, but elected officials in smaller municipalities may give more weight to citizen complaints than to engineering standards.

Provisions for transportation programs and projects are included in municipal five-year capital expenditure programs and annual budgets. These include money for the restoration of roads on a regular cycle, depending on the type of paving surface and the traffic demands, in accordance with an overall maintenance schedule developed by the engineering department.

Transportation system production

The planning and design of municipal transportation systems and works is done by engineering specialists who may be municipal employees, especially in larger municipalities, or contracted consultants. Small municipalities may rely almost exclusively on contracts with private firms for construction and even maintenance of roads, traffic control devices, and other items.

As a municipality increases in size, it is likely that routine engineering and maintenance will be looked after by municipal employees, although major projects, such as road reconstruction or a new bridge, will still be contracted out. A municipality may also be large enough to construct and maintain its own signs, signals, and other elements of the municipal infrastructure.

Transportation system performance

As with other engineering services, the range of measures available for monitoring and evaluating the performance of a community's general transportation services is extensive and their use varies considerably from one jurisdiction to another. The abundant literature on the topic includes documents published by such organizations as the Transportation Association of Canada, the U.S. Federal Highway Administration, the U.S. Transportation Research Board, Austroads (Australia) and the Organisation for Economic Cooperation and Development. A 2001–07 "InfraGuide" program sponsored by the FCM, National Research Council, and Infrastructure Canada provided information about best practices for sustaining roads, sidewalks, transit, and other parts of the urban infrastructure.

Commonly measured attributes of transportation system performance and examples of indicators and measures associated with these attributes are shown in Exhibit 8–2. The attributes include service level, quality (reliability, mobility, accessibility, responsiveness, etc.), safety, system condition, operating cost, and environmental impact. Data sources include operational records (traffic counts, pavement ratings, air quality measures, etc.), police reports, and user surveys. In the United States, the Texas Transportation Institute produces annual data for large- and medium-sized metropolitan areas that includes the number of

hours lost to congestion, the excessive costs of congestion, including extra fuel used. There are no similar annual reports on Canadian urban areas.

Local road maintenance is a primary municipal government activity. Citizens can be quick to complain about potholes, roughness, and other deficiencies. While most B.C. municipalities maintain their roads sustainably, in accordance with an overall schedule, road maintenance may sometimes be postponed when budgets are tight. The usual rationale is that delaying the work for a year would not make much difference but, in fact, it increases the risk of incurring long-run fiscal problems. If scheduled road maintenance is not undertaken when it should be, a municipality can find that increasing numbers of its roads are deteriorating relatively rapidly, possibly to the point that complete reconstruction rather than routine maintenance is required. While there now seems to be a greater awareness than there was in the past of the need to maintain roads and other elements of the urban infrastructure in a sustainable manner, it may still be difficult to get some elected officials to be concerned if the obvious problems do not occur during their terms of office.

EXHIBIT 8-2: TRANSPORTATION SERVICE PERFORMANCE MEASURES

Service level, quality, safety, system condition, and cost indicators and measures

- Origin-destination travel times
- Traffic volume-capacity ratios
- Percentage of vehicle-kilometres travelled in congested conditions
- Average number of hours per motorist spent in congested conditions
- Total hours of unplanned major road closures greater than half an hour
- User satisfaction ratings
- Average time between a deficiency report and remediation (pot-hole, sidewalk trip hazard, obstructed or missing road sign, etc.)
- Percentage of winter events where the response met or exceeded locally determined road maintenance service levels
- Number of accidents (total, per capita, intersection, vehicle-pedestrian, etc.)
- Number of liability claims (pot-holes, sidewalk trips, obstructed or missing road signs, etc.)
- Percentage of paved lane kilometres rated in good to very good condition
- System condition indices (riding comfort, surface distress, structural adequacy, road roughness, pavement condition, pavement quality, bridge condition, etc.)
- Operating cost per lane kilometre by type of road (paved, unpaved, etc.)
- Operating cost for winter maintenance per lane kilometre maintained in winter

Environmental impact indicators and measures

<ul style="list-style-type: none"> Tonnes of greenhouse gas emissions Noise levels Average vehicle occupancy Automobile and bicycle parking activity Modal share (auto driver, auto passenger, transit, bicycling, walking, etc.) Public and business travel behaviours, opinions, attitudes, preferences Public awareness of sustainable transportation issues and options Public transit performance measures 	<ul style="list-style-type: none"> Tonnes of other types of air pollutant Traffic congestion levels Fuel consumption and/or efficiency Cycling and walking travel times Economic efficiency
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The main impediments to the effective performance of transportation services in more heavily populated areas are invariably traffic congestion and related air pollution, especially during peak commuting times. The air pollution problem can be mitigated through regulatory interventions, such as the AirCare program administered by TransLink in the Lower Mainland, and it will be substantially reduced in the longer term

as older cars are replaced with newer ones and as “clean” fuel, hybrid power, and other “green” technologies are used more extensively. Plans for reducing greenhouse gases are also required in official community plans and regional growth strategies. At the same time, the problem of dealing with traffic congestion, with its adverse effects on economic efficiency and competitiveness, is a major challenge.

8.5 Public Transit

Nature of the public transit service

The provision of commercial transportation services in urban areas has a long history. Before the development of motorized vehicles, people travelled in horse-drawn cabs and streetcars on rails. Communal car or bus transport began shortly after the introduction of the automobile. Automobile owners simply put signs in their windows and picked up riders along transit routes, charging a small fare to help pay for their automobiles. Gradually, the owners and operators of the streetcar systems and early bus services were able to have such activities made illegal and local transit came to be dominated by single transit systems supplemented only by heavily regulated taxicabs. Over time, most streetcars were phased out and largely replaced by motor buses, although some cities may also have electric trolley bus, light rail, medium rail, heavy rail and/or local ferry services, such as the trolley bus, SkyTrain, West Coast Express, and SeaBus systems serving Greater Vancouver.

Today, public transit has come to be viewed as a natural monopoly like a public utility in which a single company can best provide transportation for people who lack access to an automobile or for whom public transport is a choice. Public transit is also viewed as a way for people to reduce traffic congestion, air pollution, and parking demands. However, because most people have automobiles and because automobiles are quick and convenient, it is difficult for public transit systems to attract sufficient riders at high enough fares to cover their costs. Most North American cities and all B.C. municipalities, except parts of Vancouver and Victoria, have relatively low population densities, so that origins and destinations for travel are spread throughout large areas. This makes it difficult to fill buses on most routes except for the two or three hours a day in which work and school trips are concentrated. If sufficient buses are provided for peak hours, they will sit idle or be underutilized the rest of the day.

The problem of service to low-density areas becomes aggravated as transit systems spread further and further into the suburbs. In these low-density areas buses do not run very often. The further apart the headways are, the less convenient the service is and the fewer riders it attracts. Combining routes and using transfers leads to the same dilemma because the more time and inconvenience incurred in transferring, the more ridership declines. Transit managers who attempt to improve service often find that the costs exceed the revenues generated by the improvement.

Because the availability of transit is important for some people, such as the elderly, people without automobiles, and families with two employed members, and because the public subsidies involved are large, transit is a politically sensitive issue. At the same time, the productivity of a transit system can be easily measured, even though it is difficult to quantify just what value citizens place on its availability and use.

Public transit provision

Local transit systems in B.C. date back more than 100 years. The first was established in Victoria in 1890 and another began operating in Nelson in 1899. BC Hydro operated the systems in Vancouver and Victoria for many years but when the provincial government began to subsidize them in 1972, many citizens felt that providing subsidies to some areas but not others was unfair. Consequently, the entire public transit policy framework was reorganized in 1978 to make it a joint local-provincial responsibility,

with local governments providing the initiative for new or expanded services and sharing in the burden of subsidizing them. To provide overall coordination and policymaking, the provincial government established the Urban Transit Authority, which later became BC Transit.

Today, public transit services in the province are provided through two central coordinating agencies. In Greater Vancouver, they are provided by TransLink. In the rest of the province they are provided by BC Transit in cooperation with over 50 local governments. Except in Vancouver and Victoria, local governance of transit systems is provided under BC Transit's municipal systems program, which involves partnerships between BC Transit, local governments and transit operators. The local government partner may be a municipality or a regional district and will usually have a committee responsible for transit. The service area may be relatively small or may cover an entire regional district, as in Nanaimo. In Greater Victoria, the local governing agency is the Victoria Regional Transit Commission, whose seven directors are appointed by the provincial government from among the locally elected civic officials in the region.

BC Transit is a Crown corporation governed by a seven-member board of directors appointed by the provincial government in accordance with the *British Columbia Transit Act*. Two directors must be from the Victoria Regional Transit Commission and two others must be mayors or regional district board chairs from the other B.C. communities served by the agency. The board's mandate includes approving the annual capital and operating budgets for each community's transit system, as well as operator selection and the designation of transit service areas in most localities. Each local government partner is responsible for enacting appropriate bylaws, funding its share of transit costs, setting system objectives, and approving plans, routes, schedules, and fares.

BC Transit provides planning, marketing, vehicle fleet, and funding support for three basic types of local transit systems.

- Conventional transit uses mid-sized, large, articulated, or double-deck buses, most fully accessible with low floors, to serve urban areas with fixed routes and schedules.
- Custom transit uses minibuses, vans, and contracted taxicabs to deliver dial-a-ride door-to-door (HandyDART) service for disabled people who cannot use conventional transit.
- Paratransit uses minibuses, vans, and contracted taxicabs to provide flexible routing and schedules for passengers in suburban, small town, and rural areas.

In 2007–08, there were 81 of these systems outside of Greater Vancouver, including 25 conventional, 15 custom and 41 paratransit systems. Within this framework, there were also programs aimed at enhancing services for particular groups, such as reduced fares for seniors, semester passes for university and college students (partly funded from tuition fees), and non-emergency medical transportation services for residents of small towns and rural areas (partly funded by a regional health authority). Similar programs were offered by TransLink in Greater Vancouver.

To initiate transit service in its jurisdiction, a local government must pass a resolution asking BC Transit to conduct a feasibility study, for which the local government pays half the cost. The study is conducted by BC Transit staff in cooperation with the local government and takes into account local objectives, land use patterns, travel demand patterns, transportation networks, and public input. Upon approval of a concept plan and a subsequent implementation plan, the two parties sign a five-year transit service agreement that describes their responsibilities and the area to be served. Unless the system is to be directly operated by the local government, a transit operator is then selected and the three parties sign master and annual operating agreements that describe their responsibilities, the service to be delivered, budget, cost sharing, payment schedule, tariff, and operational requirements.

The provisions for cost sharing are prescribed in the Act and regulations. BC Transit's share is provided by the provincial government while the local government's share comes from property taxes, fares, advertising, miscellaneous sources and, in Victoria, a motor fuel tax. In 2007–08, BC Transit funded

26.68 percent of conventional service costs in the Victoria regional transit service area and 46.69 percent in other areas. For custom and paratransit services, BC Transit funded 63.0 percent of the cost in Victoria and 66.69 percent in other areas.

The share of total expenditures funded by property taxes varies substantially from system to system, as does the share funded by fares and other revenues. A flexible funding option permits a local government to increase its share of the funding if it wishes to enhance the service in its area. Additional funding for transit improvements was made available to all transit providers under a 2006 federal-provincial gas tax program and a 2007 provincial program, both administered by the Union of British Columbia Municipalities, and the 2008 provincial transit plan.

In 2007–08, BC Transit had operating expenditures of about \$169.3 million, including interest on long-term debt and amortization of capital expenditures. About 35 percent of this was financed by operating revenue, 27.6 percent by local taxes and 37.3 percent by provincial grants. Services in Greater Victoria accounted for approximately 41 percent of this budget. In the same year, TransLink spent some \$593 million on its transit operations, of which about 55 percent was financed by transit fares and advertising.

Public transit production

With only a few exceptions, the arrangements for delivering the transit services provided by BC Transit and its local government partners involve contracts with private operators. In 2007–08, the exceptions included:

- Conventional and custom systems operated directly by BC Transit in Greater Victoria
- Conventional and custom systems operated by the Regional District of Nanaimo
- Conventional and paratransit systems operated by the Sunshine Coast Regional District
- Conventional systems operated by the municipalities of Nelson and Powell River

In other areas, conventional service is normally delivered by a commercial firm while the custom or paratransit service may be delivered by either a commercial firm or a nonprofit organization, such as the Summerland Transit Society. In 2007–08, the contracted operators included 24 commercial firms and 14 nonprofit organizations.

Contracted operators are selected through a competitive process on a five-year cycle, except in a few cases where the operator is a nonprofit society with a small budget. The contracts are signed annually and specify in detail the responsibilities and performance expected of the operator, the local government and BC Transit. The operator is generally responsible for managing, operating, maintaining, and providing statistics on various aspects of the service. The local government is responsible for fare setting, bus stops, security, local financial management, and marketing in cooperation with BC Transit.

In 2007–08, BC Transit reported that it had a fleet of 850 buses, minibuses, and vans. Its systems served more than 1.4 million B.C. residents and carried 44.7 million passengers, including 22.4 million in Victoria's conventional system, 20.4 million in other conventional systems, and 1.9 million in custom and paratransit systems. The agency's staff included over 600 employees, of whom more than 400 were Victoria bus drivers.

Public transit services in Greater Vancouver are delivered by TransLink, which includes:

- TransLink subsidiaries operating the bus, SeaBus, SkyTrain, and West Coast Express systems
- West Vancouver's bus system
- Private organizations that operate community shuttle and custom systems

In 2007, TransLink reported that its fleet of approximately 2,025 vehicles included 1,448 buses, 210 SkyTrain cars, 328 custom vehicles, 37 West Coast Express train coaches, and 2 SeaBus craft. The systems carried some 172 million revenue passengers. Coast Mountain Bus Company, TransLink's

largest operating subsidiary, employed over 5,200 people, including 3,350 transit drivers, 830 maintenance employees, and 75 SeaBus staff.

Public transit performance

The measurement of public transit system performance in British Columbia is based on cost, revenue, ridership, and other data that are commonly used throughout North America. Agencies such as the Canadian Urban Transit Association (CUTA), American Public Transportation Association, U.S. Federal Transit Administration, and U.S. Transportation Research Board (TRB) provide information that local transit agencies can use in assessing their performance.

Transit system performance in B.C. is continuously measured. BC Transit regularly reports how its performance compares to other Canadian systems using the CUTA benchmark data shown in Exhibit 8–3, which Statistics Canada also uses for its reports. BC Transit has reported that its performance compares favourably to the CUTA benchmarks, with a few exceptions. In Victoria, the operating cost per hour for conventional transit was found to have been slightly above average in 2003, which the agency attributed to relatively high wage, benefits, and work rule costs. In other parts of B.C., the six most heavily used conventional transit systems had a slightly lower-than-average operating cost recovery, which was attributed to lower average fares set by the local government partners. The six systems also had a slightly higher average operating cost per hour but the agency observed that BC Transit's costs were all inclusive, whereas many of the CUTA peer systems were line departments of municipalities whose corporate service costs were not fully allocated to their transit operations.

Based on guidelines adopted in 2004, TransLink measures the comprehensiveness, frequency, convenience, comfort, reliability, and efficiency of the various transit service modes for which it is responsible, using the other transit performance measures and indicators shown in Exhibit 8–3. TransLink also makes extensive use of quarterly customer-satisfaction surveys conducted by evaluation specialists. The detailed surveys measure customer perceptions of service quality and value for money, including such variables as adequacy of transit information, wait time for connections between modes, convenience of hours of operation, adequacy of bus shelters, ease of using the telephone information service, and ease of navigating the website. The results are analyzed with a TRB impact score methodology and are used to identify service improvement priorities.

Observations on public transit services

Transit services that people can use instead of private vehicles are generally considered to play an important role in providing the long-term sustainability of urban transportation systems, especially in highly populated areas. The more people who can be persuaded to travel by transit, the more urban traffic congestion may be reduced.

When TransLink was established in 1998–99, it took over responsibility for services in Greater Vancouver that had accounted for about 86 percent of BC Transit's budget. The change enabled BC Transit to focus more strongly on services in Victoria and the communities in its municipal systems program. In these communities, the institutional arrangements appear to provide a good framework for transit policymaking. Since public transit more than just a local responsibility and is supported by provincial funding, it is appropriate that the provincial government has a voice in transit policy decisions, and this is accomplished through joint decision making between BC Transit and the local governments that want transit services. At the same time, the desire of local politicians to expand public transit is conditioned by the need to provide a share of the subsidies, and having the provincial share specified in advance is better for decision making than having it negotiated each year. The initiative for new or expanded services, or the modification of existing services, appropriately comes from the local government, which best understands local needs.

It is not clear whether the operational arrangements for some of the services provided by BC Transit in Victoria and other communities will yield the most efficient service in the long run. Where there is open bidding for private operation, it can be expected that the local government will seek out efficient operators, but local governments that operate their own transit systems are monopoly producers whose market is guaranteed regardless of efficiency. A similar question arises with respect to the requirement that all buses come from the BC Transit unified provincial fleet. If the operators were given the option of leasing or purchasing their vehicles wherever they could get the best price and service, one could then tell whether the unified fleet really provides the best value for money.

EXHIBIT 8-3: PUBLIC TRANSIT SERVICE PERFORMANCE MEASURES

Canadian Urban Transit Association basic benchmark measures

- Operating cost recovery (annual operating revenue divided by annual operating cost)
- Operating cost per passenger (annual operating cost divided by annual passengers carried)
- Operating cost per hour (annual operating cost divided by annual total service hours)
- Rides per capita (annual passengers carried divided by regional population)
- Passengers per hour (annual passengers carried divided by annual total service hours)

Other public transit indicators and measures

- Hours of daily operation by mode, route, time period
- Frequency of service by mode, route, time period
- Variance between scheduled and actual run times by mode, route, time period
- Average maximum passenger load by mode, route, time period
- Passenger boardings per hour of service by mode
- Percentage of peak period trips requiring transfers to reach specified destinations
- Average percentage of seats occupied over the length of each bus route by time period
- Distance between bus stops by route
- Average and median walking distance to a bus stop
- Proportion of commuter trips by public transit
- Proportion of all trips by public transit

It is not clear that having transit planning in Victoria done by a provincially appointed regional transit commission and BC Transit is a good arrangement in the long run. Even though commission members come from the ranks of locally elected officials, they do not have their own staff and it is likely that their decisions will be more strongly influenced by the advice of BC Transit employees than by the concerns of their taxpaying constituents. A recognition of this point has led some Victorians to call for the establishment of a regional transportation authority like TransLink. However, like BC Transit and some other local government producers, both TransLink and the subsidiary companies that operate the bus system, SeaBus, SkyTrain, and West Coast Express are monopoly producers and the same concerns about longer-term efficiency would still apply.

8.6 Emerging Engineering Service Activities

Because of their nature, local government engineering services have become a main focus of “green” policies and initiatives aimed at fostering more sustainable community development. One initiative has involved investigations by a number of communities into the feasibility of establishing district energy services, like those that are common in Europe, and the actual implementation of such services in the cities of North Vancouver and Revelstoke. A second initiative has involved the exploitation of possibilities for generating energy from water and waste management service activities. Finally, a unique illustration of how these and other initiatives may be integrated in a contemporary development is provided in the Docksider Green project in Victoria, a private-sector undertaking but one for which the City of Victoria can claim much credit.

District energy services

A district energy service involves the distribution of thermal energy from a central heating plant to a number of users in the vicinity of the plant. Where the users are building occupants, the district service replaces the individual heating plants that would otherwise be installed in each building. The system typically involves a simple loop in which hot water or steam is delivered to the buildings and cold water is returned to the central plant for reheating and recirculation. The various possible methods of heating the water include burning fossil fuels, biofuels, or waste products, capturing solar or geothermal energy, or reusing waste heat from other processes.

A district energy system is similar to a municipal water supply system. Both deliver water through pipes, possess economies of scale in service delivery, and have the characteristics of a natural public utility monopoly. As it grows, a district energy utility’s purchasing power increases, enhancing its ability to buy fuels at lower rates than individual building owners could obtain. Like a water utility, a district energy utility could conceivably serve a whole city. For example, parallel cold water and hot water municipal systems are found all over Iceland, where geothermally heated water is supplied to almost 90 percent of the buildings for space heating and domestic purposes.

District energy systems are commonly found in European cities and in complexes like university campuses, but they are less common in North American cities. In B.C., they include a provincially regulated investor-owned utility in Vancouver, which was established in 1967 and supplies steam heat to more than 170 downtown buildings, and the publicly owned utilities in the cities of North Vancouver and Revelstoke. New systems are underway for Vancouver’s Southeast False Creek development, site of the 2010 Olympic Village, and for the Docksider Green project in Victoria. Burnaby, Coquitlam, Prince George, and Quesnel have studied the feasibility of establishing district energy systems in their communities.

Energy recovery from water and waste service activities

Technological advances since the 1980s have enhanced the feasibility of recovering thermal and other forms of energy from water and waste management activities. Local governments wishing to exploit energy recovery and reuse opportunities usually enter into contractual arrangements with private firms that bring the needed technical and operational expertise to the process.

The forms of energy recovered from water and wastewater management activities include electricity, chemical energy (biogas), and thermal energy (hot water, steam, waste heat). Biogas is usually burned to generate electrical and/or thermal energy but it can also be used to fuel vehicles, and for cooking, lighting, and absorptive refrigeration. Where electricity is produced it may be sold to BC Hydro, which distributes power to most of the province, or to FortisBC, an investor-owned utility that serves south central B.C. Examples of water and wastewater energy recovery activities among B.C. local governments include:

- The production of “micro-hydro” electricity by West Vancouver from the kinetic energy in water flowing downhill from Eagle Lake, the municipality’s source of potable water
- The recovery of heat for Okanagan University College (OUC) buildings from high-quality reclaimed wastewater, which is produced at Kelowna’s sewage treatment plant and circulated to the nearby OUC boiler plant before it is eventually discharged into Lake Okanagan
- The use of biogas recovered from the anaerobic digestion of sewage sludge to cogenerate heat and electricity for the operation of several GVRD sewage treatment plants
- The use of steam produced by burning municipal solid waste at the GVRD’s state-of-the-art “waste-to-energy” incinerator in Burnaby to generate electricity and directly heat the dryers in a nearby recycled paper plant
- The use of steam and hot water produced by burning sawmill wood waste to heat the mill’s dry kilns and the buildings served by the Revelstoke district heating system discussed above
- The use of biogas collected at the GVRD’s Coquitlam landfill, which closed in 1983, to fuel the boilers and a rotary drum dryer in a nearby newsprint recycling plant
- The use of biogas collected at the CRD’s Hartland landfill, Kelowna’s Glenmore landfill, and Vancouver’s Delta landfill to produce electricity and, in Delta, hot water for greenhouses

These are examples of the many possibilities for using recovered water and waste energy.

8.7 Observations on Engineering Services

The main engineering services provided by B.C. local governments include the water supply, waste management, and transportation services examined in this chapter. They usually account for most of the operating expenditures on engineering services incurred by local governments, although other public works, such as diking systems, may account for a large proportion of the assets in some cases. With only a few exceptions, provincial or private agencies provide other engineering-based services, such as electricity, gas, and telecommunications. Engineering services have also become a focus for “green” policies.

Engineering services tend to be capital intensive, measurable, and impersonally provided. The planning, design, and construction of major facilities are almost always contracted out to private firms, and day-to-day operations, such as solid waste collection and disposal, are often contracted out as well. Studies of performance indicate that local governments can provide many engineering services more efficiently in the competitive environments associated with contracts than through the monopolistic environments of local government organizations. Local government managers who are aware of the various service delivery alternatives are in a good position to select the best production arrangements for different kinds of service activities.

Chapter Nine

Human Services

Human service functions include education, recreation and cultural services, public health and health services, social welfare, and housing. Many of these services, especially in the areas of social welfare, health, and housing are provided by the provincial and federal governments. The human services in which B.C. local governments play an important role include education, parks and recreation, libraries, museums, public health, and social housing.

Education is the single most expensive local government function. For general-purpose local governments, parks and recreation has become one of the three most expensive functions, along with policing and roads. Libraries and museums cost much less. The public health function, which has been taken over by regional health authorities, has historically absorbed only a small proportion of local government budgets but has been important in the Lower Mainland and Capital regions. Housing affordability for low-income people is an important concern for many local governments.

9.1 Education

Education is a major provincial and local government activity in British Columbia. The range of programs is extensive and includes:

- local, district, francophone, and independent schools at the elementary and secondary levels;
- home schooling;
- special education for children with physical, mental, or emotional disabilities, as well as students who are gifted, homebound, or hospitalized;
- aboriginal education;
- English as a second language;
- distance education; and
- post-secondary education programs.

This section will focus on local government involvement in elementary and secondary education, as local school districts serve the largest number of students. One must recognize, that local school districts are only one group among the many highly interdependent institutions providing educational services in the province.

Nature of the service

Education services assist people to learn, and may range from elementary cognitive skills such as reading, writing, and arithmetic, to advanced academic skills, or specialized training for employment. The services may also help with social skills and with non-academic recreational or leisure-time activities, such as sports or music. A large share of the benefits of education, especially in higher grades, accrues to the students. External benefits for society include literacy and social understanding. These external benefits are one of the justifications for public schools and public financing of education in general. A more important rationale for public involvement, is the argument that there should be minimal barriers to education for those who cannot afford to purchase services on their own. Public education also plays an important role in socialization of children, which is beneficial to society.

Most education involves face-to-face interaction between students and teachers. Education is labour intensive and the salaries of employees constitute most of the cost. Students supplement face-to-face learning with reading, problem solving, interacting with media, including films and computers, and work experience. Still, for most educational activities, teachers are responsible for organizing work and monitoring progress.

Provision framework

Elementary and secondary (K–12) education policymaking is divided among several institutions in British Columbia, including the education ministry and school districts. The education ministry is responsible for the legislation under which 59 local school districts and a Francophone Education Authority are constituted and governed. It establishes elementary and secondary curriculum standards and sets the amount of funding for local school boards. The provincial requirement of standardized examinations also encourages the standardization of curricula throughout the province. Locally elected school board members and local administrators have decision-making authority over teachers, the breadth of the curriculum, special programs, extracurricular activities, and allocating the budget provided by the education ministry.²⁴

Each school has a governance structure that includes a School Planning Council and a Parent Advisory Council. School Planning Councils are advisory bodies that develop, monitor, and review school plans for student achievement in consultation with the school community. A Parent Advisory Council, through its elected officers, may advise the school board, the principal, and staff of the school respecting any matter relating to the school other than matters assigned to the School Planning Council.

The education ministry also supervises independent schools, which, if they meet certain conditions, qualify for provincial financial aid equal to a maximum of 50 percent of the cost per student of the local public school district. This subsidy for independent schools can be viewed as a voucher system. Other services funded by the ministry include home schooling and distance education, special education services for students with special needs in the school system, treatment centres, the BC Provincial School for the Deaf, English-as-a-second-language programs, and international student exchange programs. The education ministry also funds programs for school meals, inner-city schools, community schools, and summer activities.

Production arrangements

Local governments are most involved in elementary and secondary education. With a few exceptions (primarily students served by independent schools) the service is delivered through schools run by the local school districts. School districts in B.C. served approximately 590,000 pupils in 2006–07. This is a decrease of approximately 56,000 students from the 1997–98 school year. Due to this decline in enrollment and fiscal pressures, 175 schools in BC were closed between 2001 and 2007. Teaching processes are fairly standardized throughout the province, although in rural areas there may still be several grades of students in a single classroom.

While school districts operate their own schools, it is common to contract out some support activities, such as school busing, building construction, and maintenance. Some school districts have joint purchasing agreements with municipal governments, which allow them to obtain supplies at lower costs.

Performance measurement

Education is diverse and difficult to measure. Three factors cause this difficulty. First, only some skills are measurable and there are no generally recognized units of measurement for other valuable benefits,

²⁴ While a school board can levy property taxes a year at a time, the levy requires a referendum. No school districts have requested this approach as of 2008.

such as socialization or acculturation. Second, one must be careful to disentangle institutional learning from intellectual capacity, aptitude, and the influences of the home or societal environment. Third, learning involves considerable work by the student who may or may not have the time or the motivation to perform. The difficulty to measure the outputs or impacts of all kinds of learning, and to disentangle outside influences, means that it is a relatively difficult activity to manage.

There is great interest in school performance, particularly demonstrated by the interest in the Fraser Institute's annual report card on BC schools.²⁵ There has also been extensive focus on the use of standardized testing to measure the performance of students. These tests have been critiqued, with the accusation of pushing curriculum and learning toward success on the test, rather than broader educational achievement. As well, it is argued that other factors affect test outcomes, particularly the socio-economic level of the students and the community.

School districts are required to collect data and monitor the performance of their schools, in accordance with the achievement agreements they sign with the provincial government as part of the funding process. These agreements are the boards of education's public commitment to improving student achievement. Each contract is created based on student performance information at the classroom, school, district, and provincial level and reflects the unique characteristics, priorities, and needs of each district.

The education ministry collects a large amount of data on education, including data related to students (total, grade, select student group), class size, educator (number, type, salary), funding, foundational skills assessment results, provincial exam final mark results, grade-to-grade transition, grade 12 graduation, six-year completion rate, scholarships and awards, transition to B.C. post-secondary, and satisfaction survey results.

The environmental measures the education ministry uses to assess the performance of schools include:

- district population (employment, family structure, primary language at home);
- early development indicators; and
- school readiness (early development instrument)—percentage of children who enter kindergarten ready to learn.

Some of the education ministry performance measures are:

- completion rate;
- national and international assessments (Pan-Canadian assessment program, program for international student assessment);
- participation in industry-training programs;
- transition rate to post-secondary education;
- percentage of public school students and parents satisfied with educational choices available to them;
- reading and numeracy skills (foundation skills assessment grades 4 and 7)—percentage of students who meet or exceed standards; and
- percentage of students who pass one of the following language arts 12 courses (English 12 or Communications 12).

Observations

In the seven years from 1976 to 1983, school district expenditures per student rose from \$1,738 to \$3,935, a rate of increase that was about 30 percent greater than the inflation rate. The magnitude of the increase led to rigid provincial fiscal control from 1983 to 1985, when costs were reduced to \$2,190 per pupil. By

²⁵ The Fraser Institute reports are annual. Another approach used by the C.D. Howe Institute gives weight to socio-economic factors (Johnson 2008).

1988–89, however, costs had risen to \$4,846 per pupil and, five years later, had increased to \$6,339, a rate that exceeded the inflation rate by about 10 percent over the five-year period. In 2007–08 funding will be an estimated \$7,932 per student, an increase of \$336 from 2006–07.

Most evidence on the production of public services indicates that such services are best produced by relatively small or decentralized organizations. Cost increases in B.C., however, have resulted in greater and greater central control, to the point where the provincial government sets school district budgets and has engaged directly in collective bargaining with the teachers' union. These trends, which are quite the opposite of those for municipalities and regional districts, make school districts more like decentralized part of the provincial government than part of the local government system even though the education ministry still considers them to have considerable autonomy.

9.2 Parks and Recreation

Governments have a long tradition of providing local parks and playgrounds in settled areas. In the 1970s, local governments in B.C. started to become active in providing a variety of other recreation facilities and programs, often on the premise that they contribute to the wellbeing of a community in a manner comparable to educational facilities and programs. Parks and recreation services have now become one of the largest expenditures for many municipalities and regional districts, and are often heavily subsidized by property tax revenues.

Nature of the services

Local parks and playgrounds are generally open to all citizens without restrictions and hence have the characteristics of a public good. Most recreation programs, often partially financed through user fees, provide an individual benefit, but still play an important role in the overall physical and social health of a community. In general, participation in the programs can be easily monitored, the users are clearly identifiable and the programs readily lend themselves to being financed through user charges. There is currently increased attention to health and physical fitness as a preventable health care strategy, and thus more provincial funding to support initiatives in this area.

Provision framework

Most municipalities, all regional districts, and 18 improvement districts provide parks, recreation facilities, or recreation programs. The 1973 creation of a provincial Community Recreational Facilities Fund spurred local activity in recreation infrastructure. Prior to that, provincial support was limited. Between 1973 and 1975 the availability of provincial funding for one-third of the cost of recreational facilities resulted in 188 communities spending over \$36 million on 604 new projects, including curling rinks, community centres, tennis courts, camps, ice arenas, swimming pools, playing fields, and golf courses. More recently, grant programs have been introduced that are not specifically designed to fund parks and recreation, but fund related projects. The Spirit Square Program has provided grants for parks in some communities and LocalMotion has provided funding for the development of trails in some communities.

Recreation facilities in municipalities are typically managed by a recreation commission that is usually composed of several councillors and citizen appointees. Members of local school boards may also be appointed to the commission. In the City of Vancouver, members of the Board of Parks and Recreation are elected. In addition to commissions established by municipalities, there are more than 400 recreation commissions organized either by regional districts or nonprofit societies in unincorporated areas.

Since 1998, municipalities and regional districts have had broad authority to establish commissions to operate services and manage property and to delegate much decision making to these commissions. In practice, the autonomy of recreation commissions varies. Some make all policy decisions and only their

budget is dealt with by council or the regional board. Others function more like committees of council or of a regional board, with major policy decisions going before the entire governing body.

Production arrangements

A majority of parks and recreation facilities are planned, designed, and built by private firms under contract to local governments. Once constructed, the facilities may be run by local government employees, a local nonprofit society, or a private organization under a contract or franchise agreement. As well, a private partner may own the facility and lease portions of it to the municipality, for instance, ice arena rentals. Public-private partnerships are increasingly common, especially for a large-scale facility such as an arena.

There are two key sources of funding for parks. The first is the *Local Government Act* requirement that owners of land that is being subdivided set aside five percent of the land for parks or pay the municipality or regional district an amount that equals the market value of that land. The other funding option is the use of development cost charges specified under legislation. Land set aside for parks (discussed in Chapter 10) and service charges are common but they do not cover costs in most cases. In addition, most centres have a policy that specific assistance to individuals, such as golf or tennis instruction, is provided on a fee-for-service basis. Volunteer workers also deliver services for such activities as baseball, soccer, curling, hockey, and craft workshops. Some local governments use voucher systems to subsidize access to recreational services for lower-income people who cannot afford to pay full user fees.

Performance evaluation

Parks and recreational activities can play an important role in the state of health of individuals in a community and the amount of exercise citizens participate in. These outcomes can be assessed through a variety of performance measures related to recreation facilities, participation in recreation programs, citizen satisfaction, and amount of physical activity. It is important that performance measures account for the size and demographics of the population the parks and recreation facilities serve. There are currently no uniform national or provincial performance measures for parks and recreation, but this is a priority for the BC Recreation & Parks Association.

Examples of performance measure for parks and recreation include:

- Total kilometres of trails per 1,000 persons
- Square metres of municipal indoor recreation facilities per 1,000 persons
- Square metres of municipally owned outdoor recreation facility space per 1,000 persons
- Number of park maintenance employees per square kilometre of developed land
- Number of recreation courses offered
- Total participant hours for recreation programs per 1,000 persons
- Operating costs for parks per person
- Operating costs for recreation programs per person
- Operating costs for recreation facilities per person
- Operating costs for recreation programs and recreation facilities per person

While these measures are for active parks, some municipalities and regional districts also maintain natural habitats and sanctuaries where different kinds of performance measures would be appropriate.

Observations

The availability of provincial grants, especially in 1973–75, led to a major expansion of the recreation facilities provided by local governments in British Columbia. Subsequent grants have been relatively smaller. The limited use of user charges to fully finance ongoing programs, has led to large local

government expenditures from property tax revenues on this function. Recreation is politically sensitive, not necessarily because of widespread citizen participation but because the users are well organized and vocal. The use of facilities by “free-riders” who do not live in the municipality can be an issue when user charges do not cover the costs of programs. Tools to overcome the free-rides issue include implementing different user charges for residents and nonresidents, or having regional districts provide recreational services, in which case all residents of the regional district contributes through tax revenue.

9.3 Libraries

In 2006 there were 240 public library facilities and 76 locally appointed library boards in B.C. These library boards were responsible for more than \$170 million in annual spending.

Nature of the service

Libraries lend a wide variety of materials and provide a range of programs and services to the public. Among the many materials and resources on loan are books, magazines, CDs, video and audio recordings, and eBooks. Services include public computers with Internet access, reference services, interlibrary loan, licensed database access, workshops and user guides on topics such as computers, career development, English as a second language, small business development, etc. Library programming includes author readings, storytimes, summer reading programs, book clubs, slide shows, and events and programs designed for various age groups. Libraries are also a place for community meetings and relaxation. While libraries are common throughout the province and are a natural monopoly in some respects, their services do not possess characteristics that make governmental provision funded by taxation obviously superior to nonprofit or alternative arrangements for similar services.

Historically, many public libraries were begun by nonprofit societies and financed from contributions by community members. Today, local governments provide approximately 83 percent of public library revenue. The provincial government contributes about another 10 percent, and fundraising and other grants and contributions make up the rest.

Provision framework

Libraries in B.C. are provided by municipalities, regional library districts, regional districts, and nonprofit associations. They are each governed by an appointed library board, which is administratively separate from other aspects of local government. Under the *Library Act*, there are five types of libraries and associated boards, including:

- a library created by an incorporated public library association whose board consists of five to nine members elected by the association membership, plus a council or board representative from each municipality or regional district that provides the library with a grant;
- a municipal library whose board is appointed by the council, including one councillor and four to twelve municipal residents or electors who are neither councillors nor employees of the municipality or library board;
- a regional library district, of which there are three in the province, as described in Chapter 5;
- an integrated public library system operated by a regional district, such as in the Cariboo and Thompson-Nicola regional districts;²⁶ and
- a library federation established by two or more library boards and governed by a federated library board (there are now five library federations across the province that facilitate the collaboration of

²⁶ The authority of regional districts to operate new integrated library systems was abrogated in 1994 but existing systems were permitted to continue operating.

public libraries in specific regions on shared issues for their mutual benefit, including collections, programming, training, etc.).

The *Library Act* is administered by the education ministry's Public Library Services Branch. The branch ensures compliance with the Act, provides operating and other grants to public libraries, supports public libraries through consultation, training, and technical services, provides libraries with guidance in identifying and securing revenue from new sources, promotes information sharing among B.C.'s libraries, provides technical and financial support for a provincial interlibrary loan system, produces audio books for people with visual or neurological impairments, and provides access to library materials for individuals with special needs. The minister may also appoint one or more bodies to provide advice on library services, but individual library policies are made by each of the many different library boards in the province.

The *Library Act* outlines the basic public library services that must be provided free of charge. These services include admission to the public library building and use of library material on the library premises. Residents of the area must have a free access to borrow library materials and use references and information services. Libraries may charge fees for library fines and services not covered by the legislation.

Production arrangements

Library boards are responsible for their own administration. Library policymaking is separated from regular political decision making through the use of appointed boards, and library issues are infrequently politically visible, though disputes arise over the budget, new buildings, or controversial public issues, such as library access or freedom of expression.

It is fairly common, especially in rural areas, for libraries to use volunteers for service delivery. The use of volunteers may depend on the level of unionization, though some collective agreements include a role for volunteers.

Performance evaluation

The education ministry's Public Library Services Branch currently collects statistics annually as an accountability measure for the funding it provides. The branch collects information on revenue, expenditure, size of collection, number of cardholders, programs, number of questions answered, circulation (all items, children's books), population of service area, and annual in-person visits. These statistics are publicly available through the branch's website and are also in the process of being refined to allow for comparison between libraries across the province.

The Public Library Services Branch plans to develop additional performance measures that will better measure how libraries make an impact, both socially and economically, on the local communities they serve. These performance measures will ideally include more qualitative data about user satisfaction with a wide range library programs and services. These measures would be developed in consultation with local public libraries.

Observations

Libraries are an activity undertaken by local governments but there is a lot of community and volunteer participation as well as governance by separate library boards.

9.4 Museums

In 2008 there were 381 museums, art galleries, historic sites, archives, and natural history or botanical sites listed on the BC Museum Association website. Most were owned and operated by local nonprofit

societies. Some museums are operated by private firms, some are owned and operated by local governments, and a few are operated by local government employees for a nonprofit society.

Nature of the service

Most of the smaller museums in British Columbia focus on the history of their local area. Individuals who visit museums are easily identified. Some museums have user charges and some also perform an important educational function and help create a feeling of community for their residents. Local governments play an increasing role in helping to ensure these institutions locally promote civic engagement, social discourse, and social responsibility. There is also growing support for the involvement of museums and other cultural institutions to play an increased role in local communities and re-engage residents. Widespread volunteer and nonprofit involvement demonstrates the importance of museums regarded by many local residents.

Provision framework

Museums provided by municipalities are usually run by a committee of council or by the boards of historical societies to which one or two councillors are appointed. The society board then functions like a police commission or a library board, directly overseeing museum operation. If the museum is a local government service, budgets must be approved by the local government. The provincial ministry responsible for cultural services provides grants for specific museum activities but the activities for which grant applications are made are determined by each local museum. The BC Museums Association provides a number of programs to the museum and cultural community, including some grant programs, youth work assistance, and technology support. It also acts as a lobbying agency.

Production arrangements

Municipal museums are usually run by local government employees, often with volunteer assistance from historical societies. Even some managed by nonprofit societies, such as the museums in Burnaby, Kamloops, and New Westminster, may be staffed by municipal employees. Others are run by nonprofit societies.

Performance measures

There is currently limited statistical data available on museums, though Tourism BC collects visitor surveys and Statistics Canada collects information about visitation of cultural sites.

The following quantitative performance measures have been defined by the Museum Directors Group to compare institutional performance across Canada:

- Effectiveness
 - *Market share*—population of market area divided by number of customers
 - *Per visitor gross sales income*—number of visitors divided by gross sales income (admissions, gift shop, facility rentals, etc.)
 - *Self-sufficiency*—non-government revenue divided by total revenues
- Efficiency
 - *Cost per visitor*—total operating expenditures divided by number of visitors
 - *Marketing*—salaries and direct marketing expenses divided by admissions revenue
 - *Human resources*—salary and benefits divided by total revenues

Other examples of performance measures are:

- Diversity of visitors as expressed in visitor surveys—match between museum's visitor profile and the population distribution of the city
- Percentage of visitors satisfied as expressed in surveys
- Number of referred and non-referred publications by staff per year

- Number of presentations to professional colleagues per year
- Number of professional presentations to external audiences
- Number of information requests pertaining to the collection per year
- Number of person days of training undertaken by museum staff
- Percentage of salaries spent on training per year
- Number of volunteer hours per year

Observations

Museums are not a major local government activity. As with libraries, local volunteers and nonprofit societies play an important role in delivering museum services, especially in smaller towns.

9.5 Public Health

Regional health authorities were established by the provincial government in 2001 to govern the provision of local health services throughout the province. Each authority has a department responsible for public health that focuses on health improvement, disease, injury and disability prevention programs, environmental health, and health emergency management programs. Strategies used in public health are health promotion, health protection, preventive interventions, health assessments, and disease surveillance. Public health programs include food safety and security, air and water quality, tobacco use, and immunization for children and travel. Through bylaws, programs, and services, municipalities and regional districts still play an important role in public health.

Nature of the service

Protecting public health through immunization, food inspection, and other forms of disease control and eradication is a classic public good because the benefits accrue to everyone. The potential for widespread effects from public health problems and the localized nature of many sanitation problems creates both a province-wide and a local dimension to public health services.

While traditional public health activities are of a public goods nature, the public health divisions of health authorities also provide direct care services, including prenatal care, nursing, and home visits for seniors and people with disabilities. These activities tend to overlap with traditional hospital-based patient care. Direct care is very labour intensive and involves face-to-face interaction. The quality of the personal interaction between the recipient and the provider is important. Managing direct care requires different techniques than the more traditional responsibilities of inspection and disease control.

Provision framework

Organizational arrangements for policymaking in public health are set out in the *Health Act*, *Public Health Act*, *Health Authorities Act*, *Local Government Act*, *Community Charter*, and *School Act*. The *Public Health Act*, passed in 2008, includes a number of new requirements for the involvement of local government in public health. The Act specifies that local governments must be consulted in the creation of regional public health plans and can also require local government to consider the regional public health plans in their strategic or operational planning process. The Act also requires local government action if they become aware of a health hazard or impediment. Subject to the *Health Act*, municipalities²⁷ and regional districts²⁸ have the power to adopt bylaws to regulate public health. Local government involvement in public health policymaking includes smoking bylaws and water fluoridation. In practice,

²⁷ Granted in 8(3) of the *Community Charter*.

²⁸ Granted in 523(1) of *Local Government Act*.

public health policymaking is primarily the responsibility of medical health officers employed by regional health authorities, which cooperate with other local governmental bodies in public health regulation.

Production arrangements

Most public health services in B.C. are directly produced by the regional health authorities that were established in 2001. Still, regional districts and municipalities continue to provide some public health functions.

Performance measurement

There are broad social, economic, and other factors that contribute to "healthy communities," making measuring the performance of public health difficult. It is difficult to attribute an outcome to an intervention especially over an extended period of time. As well, different levels of government and divisions of the health care system are involved in health issues, therefore, it is difficult to attribute outcomes solely to the domain of public health. The provincial government is currently working with the regional health authorities to develop performance measures for public health activities and outcomes.

It is possible to measure and compare the inputs into the public health system, including level of funding, staff time, size and type of facilities, and equipment, with outputs and specific activities. Some of the outcomes of public health's main activities that can be measured are parental awareness of vaccine benefits, number of children immunized, reduced burden of vaccine-preventable disease in immunized children, and reduced prevalence of vaccine-preventable disease. Examples of performance measures include:

- Immunization rate for all children at 24 months of age
- Percentage of smokers or recent quitters age 18 and older who received advice to quit smoking from a health professional
- Documented cases of communicable disease related to food-service establishments
- Quarterly and annual restaurant inspection rates
- Percentage of failed restaurant inspections brought to standard within 10 days
- Level/concentration of pollutants in ambient air

Observations

Public health services absorb a small proportion of local government spending, although in some areas, like the Capital region, they are an important part of regional district activities. For most local governments, public health remains somewhat apart from other local government activities and is more integrated into the overall health system, both provincially and in relation to other health service delivery organizations, than they are into other local government activities.

9.6 Social Housing

Housing affordability for people who wish to own a home and for renters has been a serious concern in British Columbia for many years. It is of particular concern in heavily populated areas such as the Vancouver and Victoria regions where housing prices have been among the highest in Canada. Housing affordability challenges are not unique to the province as it is estimated that 1.7 million Canadians allocate more than 30 percent of their total income to shelter. According to the 2006 census 465,865 British Columbians (11.3 percent of the population) spent 30 percent or more of their household income on housing costs.

Over the years, all levels of government have developed a variety of policies, programs, and strategies aimed at addressing the problem. One of the most popular government approaches has been investment in the construction and administration of social housing developments aimed at providing safe

and suitable housing for low-income individuals and families. Although this practice was common from the 1950s to the 1990s, funding cuts at the federal and provincial levels have resulted in a decline in the number of new social housing units provided by the governments.

Nature of the service

Social housing is a welfare function that involves the redistribution of wealth through subsidies provided by the federal and provincial governments. The service can be politically sensitive, for example, when a local community group objects to government plans to locate social housing units in the neighbourhood, and it tends to involve face-to-face interaction between tenants and landlord representatives or among members of a housing cooperative. While the benefits to individuals and families who are helped can be easily measured, other benefits of home ownership and secure housing are harder to measure.

As of October 2007, government-assisted housing accounted for nearly six percent of the province's total housing. This proportion is projected to rise with the continuation of the Provincial Homelessness Initiative and Housing Matters BC programs. The provincial government also provides housing support in the form of private market rent subsidies, homeownership vouchers, and assisted-living services, especially in relation to seniors. There are also plans to increase funding to support services for social-housing tenants suffering from mental illness, addiction, and severe physical disabilities.

Provision framework

In 2004 the Canada-British Columbia Affordable Housing Program Agreement replaced several previous Canada grant programs to increase house subsidy programs. This program provides \$130 million from Canada which must be matched by British Columbia. This program targets homelessness and is often accompanied by drug or alcohol treatment programs. Individual project proposals are developed by both local governments and not-for-profit social service agencies. These programs are in addition to social housing programs.

The province provides social housing in B.C. through two Crown agencies. The Provincial Rental Housing Corporation, incorporated in 1961, holds provincial properties for social and other low-cost housing, including lands leased for long terms to nonprofit societies. The net book value of the properties in 2007 was about \$358 million. The British Columbia Housing Management Commission (BC Housing), established in 1967, is responsible for developing new social housing under the HOMES BC program, building and managing special group homes, administering about 8,000 units developed under the federal-provincial housing programs of 1953–93, and administering subsidy and operating agreements related to some 26,000 units managed by nonprofit societies and cooperatives. BC Housing's budget for 2007–08 was \$506.1 million, which included a contribution of \$328.3 million from the province and an additional \$139.8 million from the federal government. The agency has allocated \$256.9 million to the continued construction, maintenance, and operation of social housing units. The remaining funds, \$248.2 million, are used to provide other housing support programs, such as private market rental subsidies, and assisted-living services for seniors and people with disabilities.

Local government involvement in the provision of social housing has taken a variety of forms, including such policy and regulatory measures as:

- the inclusion of affordable housing provisions in regional growth strategies and official community plans, as required by the *Local Government Act*;
- the amendment of zoning bylaws to permit such things as increased densities in new or existing residential neighbourhoods, housing above shops, secondary suites, small lot developments, manufactured home parks, comprehensive development zones, density bonusing, housing agreements and the required inclusion of some affordable housing in new developments;
- the adoption of regulatory controls over the conversion of rental housing;

- the adoption of health, safety, and comfort standards for rental housing;
- the provision of social or special-needs housing in some new developments through “housing agreements”;
- the “fast-tracking” of approvals for affordable housing proposals; and
- the adoption of policies for special-needs housing.

In addition, some local governments have become more directly involved in providing social housing. The GVRD and the CRD have each established a corporation for this purpose and the City of Vancouver provides social housing through its Housing Centre. A growing number of municipalities have begun to implement new land use practices that promote the sustainable development of affordable housing including social housing, with the assistance of provincial programs designed to reduce the rate of homelessness and help households at imminent risk of homelessness.

Production arrangements

The planning and design of projects that include social housing is typically completed by architectural and engineering consultants, and the projects are built by contractors engaged through a tendering process. Once built and occupied, a project may be managed and maintained by the owner’s staff, a tenant cooperative, a contracted property manager, or other contracted personnel.

Performance evaluation

Performance measurement and evaluation has become an increasingly important to social housing in Canada. Unfortunately, there are many methodological challenges to measuring the effectiveness of social housing programs and currently there is no universally accepted framework for evaluating social housing. As well, many social housing programs include support services such as addictions counselling, employment and education programs, and various health care services, and the abundance of these programs makes it difficult to isolate outcomes attributed to social housing alone. It could be argued that the provision of such assistive services are a direct result of social housing, and therefore social housing does have a positive impact on individual tenants and the community as a whole.

Academic researchers interested in this issue have stressed the importance of identifying measurable and logically consistent objectives prior to developing an effective system of performance measurement. There is debate, however, as to whether outcomes should be measured on an individual or community basis, and some countries such as the United States and Australia, have attempted to evaluate social housing using both scales with some degree of success.

In the Australian state of Victoria, performance measures for social housing have been created regarding governance, agency management, financial viability, housing management, maintenance, and tenancy management. Tenancy management involves measures issues of allocation, accessibility, affordability of rent, security, client services, and tenant participation.

Observations

An underlying premise of government housing programs is that the incomes of many people are too low for the private market to meet the community’s housing needs or aspirations. For 50 years, Canada Mortgage and Housing Corporation (CMHC) has provided programs of mortgage insurance that make it possible for many people who could not otherwise afford to buy a home with a low down payment. Similarly, federal-provincial social housing programs were introduced because housing costs are too high for many citizens.

The problem of housing affordability in B.C., especially in some heavily populated areas, has been exacerbated by a number of factors, such as rates of population and household growth that have exceeded the rate of new housing construction for many years, land speculation, geographical and public policy

constraints on land supply, and local government approval procedures that increase project costs. These factors, together with the fact that the homeless rate has been steadily rising since 1993, and that the supply of social housing has experienced a decade-long period of stagnation, it can be said with certainty that there will continue to be a problem of housing affordability and suitability in B.C. for the foreseeable future.

9.7 Summary Observations on Human Services

Human services, which are generally provided to people rather than to property, tend to be labour intensive, hard to measure, personally provided, and sometimes politically sensitive. Nevertheless, the services are delivered not only by government employees but also through contractual, volunteer, and other arrangements.

The list of local government functions and activities examined in Chapters 6 through 9 is not exhaustive but they do account for the vast majority of local government expenditures. They also illustrate the variety and nature of local government services and the diversity of institutional arrangements used to provide and produce them.

Chapter Ten

Regulatory and Development Functions

The preceding chapters have discussed the delivery of services to a community. This chapter examines functions that regulate the activities of some members of the community for the benefit of others. One of the most important functions is the management of development, which includes a variety of regulatory and planning activities.

Achieving a balance between benefits and costs of regulation is more difficult than with most expenditure programs because regulation is relatively inexpensive to the government, but the major costs are borne by those who are regulated and not seen by the council as an expenditure they can compare with other expenditures. Performance measurement is also difficult, with most measures being of processes and costs of processes, not the ultimate outcomes from the regulation.

10.1 Regulatory Functions

Regulation is typically a function reserved to governments. Like imposing taxes, the power to prohibit or limit what people can do with their property, livelihood, or other activities, or to require people to do specific things, are not powers generally given to individuals or non-government entities except for the land use regulation authority provided by the government to condominium regimes. Most forms of local government have authority to create specific rules for services they provide or in relation to property they own. Beyond that, the broadest scope of regulatory authority for local governments is provided to municipalities. In addition to regulation of development, regional districts have a limited number of the same regulatory powers as municipalities, such as building regulation, public health, and nuisance control. Local trust committees of the Islands Trust are limited to authority to regulate development in the trust area, with authority that is much the same as regional districts' authority to regulate development in other rural areas.

Spheres of regulation

Prior to the *Community Charter*, municipalities were able to only enact bylaws to regulate matters which provincial legislation specifically identified. Over time, the list of permitted regulatory authority became extensive. Under the *Community Charter*, municipalities have broad powers to regulate and in most cases prohibit and/or impose requirements in relation to a number of broad areas or "spheres." Those spheres are divided into those which are autonomous, in which municipalities can choose independently whether or not to act, and those which are concurrent, which require some form of provincial involvement, whether by specific approval, agreement, or through general regulation, before a municipality can act on that matter.

Areas in which municipalities have autonomy to regulate, prohibit, and impose requirements are:

- municipal services;
- public places;
- trees;
- firecrackers, fireworks, and explosives;
- bows and arrows, knives, and other weapons;

- cemeteries;
- crematoriums;
- columbariums and mausoleums and the disposition of the dead;
- the health, safety, or protection of persons or property in relation to specific things, such as trailer courts, manufactured home parks, and matters within the scope of the *Fire Services Act*;
- the protection and enhancement of the wellbeing of its community in relation to specific matters, such as nuisances, noise, and unsanitary conditions;
- animals, except for wildlife;
- building and other structures, except standards that are, or could be dealt with by provincial building regulations; and
- removal and deposit of soil or other material, except prohibitions on soil removal or on deposit of soil that is contaminated or of a particular quality.

Areas in which municipalities have concurrent authority to regulate, prohibit, and impose requirements are:

- public health;
- protection of the natural environment;
- wildlife;
- building standards that are or could be dealt with by provincial building regulations; and
- prohibitions on soil removal or on deposit of soil that is contaminated or of a particular quality.

Where regional districts have some similar areas of authority (e.g., public health, building regulation), those areas are also concurrent.

Municipalities are also able to regulate businesses, to regulate and impose requirements for certain matters related to signs and other advertising devices, and to regulate and prohibit in relation to the discharge of firearms. Municipalities also have important regulatory powers by virtue of legislation other than the *Community Charter* or *Local Government Act*, in areas such as traffic and motor vehicles and solid waste management.

To be effective, regulatory authority is accompanied by important ancillary powers. Under the *Community Charter*, municipal bylaws may establish different rules for different classes of persons, places, activities, property, or things, and may also differentiate for different areas of the municipality, times, conditions, or circumstances. Municipalities may establish a system of licences, permits, or approvals in relation to any matter they regulate, including providing for the suspension and cancellation of those permissions, attaching conditions to them, charging fees for them, and prohibiting an activity unless permission is obtained. As well, two or more municipalities may establish intermunicipal schemes for any matters, enabling, for example, a small municipality to have a larger municipality apply its animal control bylaw in the smaller municipality, or a number of municipalities in a region to join together in an intermunicipal business licensing scheme. Intermunicipal business licensing operates in various areas of the province, including the Victoria area and parts of the Okanagan, especially for mobile businesses.

Business regulation

Most of the rules that businesses must meet are set by the provincial government but the *Community Charter* gives municipalities general authority to regulate business activities, including commercial, industrial, professional, personal, or other service businesses. Municipalities have authority to prohibit businesses or impose requirements on them in only limited circumstances using business regulation authority, for example, prohibiting exhibitions or requiring second-hand dealers to notify police of goods they take in. In practice, local governments use their zoning authority to prohibit certain types of businesses from certain areas of their jurisdictions. In addition to the general authority to regulate

businesses, municipalities may also regulate carriers of persons or things, such as taxis or delivery trucks, to the extent that they are not regulated under another act, such as the *Passenger Transportation Act*. Municipalities may also license commercial vehicles, subject to a variety of exemptions and conditions.

Recognizing that business regulation can directly intrude on the livelihood of citizens, municipalities must provide an opportunity for representations to council by those who consider themselves affected before exercising this authority, and must give written reasons for refusal of a business licence.

These ancillary powers are most frequently used in relation to business regulation. Perhaps best known are municipal bylaws requiring business licences, which in years past appeared in practice to be more revenue-raising measures than regulatory ones. At one time, the provincial government put limits on the amount of business licence fees and restricted local governments from charging fees on businesses from adjacent municipalities under most conditions, but these provisions were eliminated when the *Municipal Act* was reformed in 1999. The *Community Charter* now allows municipalities to charge fees to finance the implementation of regulations, but under common law, those fees cannot be taxes and must bear some relation to the costs of regulation.

Regulation of development

A local government's physical development functions can be divided into two groups. The first group includes development activities undertaken by the public sector, such as the planning, design, construction, operation, and maintenance of the infrastructure of pipes, roads, parks, and other facilities. The second group includes the regulation of development activities undertaken by the private sector through the use of building regulation, land use planning, zoning, subdivision control, and related activities. These are the most extensive regulatory activities undertaken by local governments and most of this chapter is devoted to them.

10.2 Building Regulation

Public regulation of the design, construction, alteration, and demolition of buildings is considered to be a protective service, as noted in Chapter 7, because it is primarily concerned with structural, fire, and other types of public safety related to buildings. Some communities use it as a development control tool that is related to zoning and similar activities for regulating physical development.

Policy framework

The primary instrument for regulating building in the province is the *British Columbia Building Code*, adapted from Canada's national building and plumbing codes to reflect conditions in B.C. Other instruments include acts or regulations related to health, fire services, electrical work and equipment, gas systems and equipment, elevating devices, and boilers. Policymaking has historically been the responsibility of the ministry responsible for municipal affairs but in 2008 was administered under the ministry responsible for housing and building standards, which, through the BC Safety Authority, also administers the regulation of gas, elevating devices, boilers, and most electrical installations. Local governments administer the regulation of building, plumbing, heating, ventilating, air conditioning, and in a few cases, electrical installations.

Before 1996, municipalities and regional districts were empowered but not required to adopt bylaws for regulating buildings and other structures. In that year, Part 21 of the *Municipal Act* was amended to empower the Lieutenant Governor in Council to make regulations that establish a uniform building code for the province. However, the procedures to be followed in administering building regulations and enforcing the Code were left up to the local government so that, for example, a regional district might decide that the extent to which it enforces the Code in remote areas should be limited due to cost considerations. Nevertheless, the effect of the 1996 amendment was that all owners of buildings in B.C.

are responsible for ensuring that the buildings comply with either the uniform code or, in accordance with the *Vancouver Charter*, the Vancouver code.

In 2008, the B.C. government announced that every new building in B.C. will have to meet new “green” standards for energy and water efficiency. New houses, multifamily residential buildings under five storeys, and small commercial and industrial buildings must meet new insulation requirements, or their equivalent, to achieve an EnerGuide rating of 77.²⁹ New high-rise residential buildings and larger commercial buildings will have to satisfy internationally recognized standards of energy efficiency. Low-flow toilets and other water-saving plumbing fixtures will be mandatory. The announcement also indicated that the province is exploring additional ways to reduce the impact of buildings on the environment by further improving water conservation, reducing energy use, and promoting the use of more environmentally friendly construction materials.

Implementation and enforcement

Local government building regulations are generally implemented by building inspectors who have appropriate technical education, experience, or both and, under the 1997 *Building Officials’ Association Act*, may have the title “Registered Building Official.” Their activities include providing consultation and advice to building owners, designers, and contractors; reviewing plans for compliance with regulations; processing applications for building, plumbing, demolition, and possibly other permits such as signs; issuing permits; conducting inspections of work at various stages of progress; and the issuing of occupancy permits when work has been satisfactorily completed. Inspection staff may also respond to complaints about such matters as the failure of a secondary suite to comply with regulations.

In a larger municipality, the building inspection department staff may include specialists for building, plumbing and sometimes electrical or gas inspection. In a smaller municipality, a building inspector may also act as a bylaw enforcement officer. Some municipalities allow owners of buildings to rely on certification of plans by architects and engineers who meet certain training qualifications and other requirements such as having liability insurance.

Regulation and liability

Sections 289 and 290 of the *Local Government Act* provide that municipalities and regional districts cannot be held liable for damages or loss resulting from a failure to enforce building regulations or from issuing a building permit for a development that does not comply with the regulations, as long as the permit has been issued when a professional engineer or architect has certified that the plans comply with an applicable code and the municipality has indicated in writing that it had relied on this certification. These provisions address certain questions of legal liability that have concerned local governments for many years, especially when some kind of notable building failure has occurred, such as the “leaky condominium” phenomenon of the 1990s.

Another response to the liability issue, along with the Homeowner Protection Office, has been the adoption of a procedure aimed at more clearly indicating that the onus for ensuring compliance rests with the owners and designers of buildings. The procedure, which was incorporated in the *B.C. Building Code* in 1992, provides for mandatory letters of assurance from the owner and registered design professionals that a building complies with all regulations. In addition to clarifying questions of legal liability, this and other requirements imposed by building professionals, are seen as ways to simplify and expedite a permit application process that can become very complex and lengthy, especially in larger jurisdictions.

²⁹ The EnerGuide rating system was developed by Natural Resource Canada’s Office of Energy Efficiency (OEE). The rating process involves the engagement of a qualified energy advisor who analyses the house plans, recommends energy-saving upgrades and works with the builder to identify cost-effective options. When the work is complete, the advisor verifies the applied energy upgrades and performs a blower door test. The home eventually receives its EnerGuide rating and a label for display on the furnace or electrical box.

In 1987 the Municipal Insurance Association was created in response to a liability insurance crisis under which local governments were unable to afford the insurance necessary to cover their operations, part of which was brought about by liability problems associated with poorly constructed buildings. The association is a nonprofit insurance cooperative that pools common risks for its members. The association's key purposes are: (1) to maintain the liability insurance coverage needed for member's financial security; (2) to stabilize liability insurance costs; and (3) to provide risk management education to assist members in preventing crime. More than 160 municipalities and regional districts insure through the association.

Performance measures and financing

The desired outcome from building regulation is buildings that are safe and minimize damage from events like fires and earthquakes. This is a continually upgrading process, where one learns not only from work in laboratories but also from natural events. This kind of research is generally beyond the capability of local governments and that is why most of the codes are prepared by national and provincial bodies.

At the local government level, performance measures include the cost of processing a permit, the time it takes to process a permit, and the time it takes an inspector to respond to a call to undertake an inspection. Time is an important variable because construction delays are very costly to builders.

It is generally assumed that builders should pay the cost of the permitting process. This facilitates a balance between the cost of providing the service and the importance of time to the builders. If builders complain that the time to process permits takes too long, or that there is too great a delay when inspections are called for, the local government can raise the fees for permits and use the revenue to add to building department inspection capacity so they can perform their tasks more quickly.

10.3 Land Use Regulation

Planning, zoning, and subdivision control are the most extensive regulatory activities undertaken by municipalities, regional districts, and the Islands Trust. The primary powers are in the *Local Government Act* and the *Land Title Act*.

Objectives of land use regulation

Land use regulation has three general objectives and many specific ones. The first general objective is to help private developers and local government officials predict future land use patterns with some degree of certainty. The planning function is associated with this objective.

Some knowledge of what kinds of land uses are likely to locate in an area facilitates building construction decisions. Private developers and businesspeople benefit from knowing with some certainty what the future uses of an adjacent property may be. A residential subdivision developer, for instance, would like to be sure nearby land uses will not be detrimental to the subdivision, and a person establishing a business may want it to be close to related businesses in areas with good traffic flow. Local governments also benefit from having a more certain future. By being able to predict future land use patterns they can plan for the installation of watermains, sewers, highways, and other public facilities. The quest for certainty has always been a major concern of land use regulation because land uses require large capital investments that will last and be used for a long time.

A second general objective prevents incompatible uses from locating next to one another. The zoning function allows a community to control what uses are permitted and where they may locate, thereby providing for compatible adjacent uses. In general this has meant that uses generating noise or traffic are kept away from residential areas, especially single-family neighbourhoods. The underlying assumption is that, unless adjacent land uses are controlled, undesirable external effects will abound.

A third general objective is to facilitate the orderly extension of public facilities and services to growing or changing areas. Local governments have a major concern for the adequacy of utilities, access roads, and other characteristics of specific developments. Through land use regulation, especially subdivision control, citizens may be protected from the expensive burden of upgrading an inadequate development. Thus, the three objectives of land use regulation—greater certainty about the future, avoiding negative external effects, and assuring an adequate infrastructure for new developments—have corresponding regulatory activities—planning, zoning, and subdivision control.

Within this context many municipalities and regional districts adopt specific objectives and guidelines, including economic development, social objectives including reducing the impact of illegal drug use or creating affordable housing, heritage preservation, and reducing automobile congestion with spatial patterns that encourage public transit usage. The entire area of land use regulation involves both planning and implementing those plans through regulations.

Public information and participation

The *Local Government Act* includes a number of provisions for public information and participation in the land use regulatory process. There must be extensive consultation and a public hearing in the process of preparing and adopting a regional growth strategy. A public hearing, for which notice must be given in a specified manner, must be held after first reading but before third reading of a community plan or zoning bylaw. Although they are not stated in the legislation, the courts have read in a number of common-law procedural and due process requirements into the public hearing requirement; for example, all reports that the council or board will be considering when making a rezoning decision must be made available to the public before the public hearing.

A local government must clearly define its regulatory procedures in a bylaw, must make available to the public a list of all bylaws, proposed bylaws and permits that have been issued, and may publish a procedures manual for public information.

The mandatory provisions in the Acts and common law are minimum requirements for public information and participation. Local governments not only comply with these provisions but may also use other methods such as onsite signage, open houses, workshops, surveys, focus groups, and special advisory committees to enhance public information and participation in the land use regulatory process. Sometimes these additional public information and participation opportunities are implemented on a case-by-case basis, and sometimes they are established as standard practice through the local government's procedures bylaw.

The mandatory consultation for various aspects of land use regulation may also require consultation with neighbouring jurisdictions. For example, development of an official community plan by a municipality requires consideration of early and ongoing consultation with its regional district board, any adjacent local governments, and provincial and federal governments.

First Nations consultation

Aboriginal rights, including aboriginal title and treaty rights are recognized and protected under the *Constitution Act 1982*. The province has a legal duty to ensure consultation with First Nations takes place and, where appropriate, provide for accommodation. The courts have indicated that the province's duty to consult is not just limited to Crown land, but also applies to Crown decisions made on private land in certain circumstances. The courts have also determined that the province may delegate procedural aspects of First Nations consultation to third parties.

The *Local Government Act* includes a number of provisions for specific consultations with First Nations in the land use regulatory process. Examples include the development of an official community plan

(OCP), the development of a regional growth strategy (RGS), and for a local government request to provide statutory approval, such as for a municipal boundary extension or a regional district bylaw.

10.4 Planning

Planning in B.C. occurs at provincial, regional, and community levels. Provincial land-related planning primarily relates to uses of Crown land. Processes that have been important in the regional and community planning context include the land and resource management plans prepared for various regions of the province and the designation of new provincial parks and protected areas. Increasingly, the province is directly involving First Nations in provincial land use planning for the lands in their traditional territories. Some provincial land use planning and regulation regimens do apply to private land and restrict the latitude that local governments have in their own planning. These include the agricultural land reserve (ALR), private managed forest land (MFL), and riparian area protection. For example, having set aside certain lands only for farm use, the ALR, through cabinet regulation, defines what may occur on those lands by limiting local government from using its zoning authority to prohibit certain types of uses and activities which the provincial government considers to be linked to agriculture.

Regional planning activities include the preparation of regional growth strategies, conducting research related to regional economic development, growth pressures and other regional issues, and coordination of shared regional services. Regional districts are also responsible for community-level planning for unincorporated areas.

At the community level, planning activities include the preparation of official community plans, or sometimes, unofficial plans, at the neighbourhood or community level. In addition to land use and related physical development, such plans may address such subjects as heritage conservation, social development, economic development, and most recently, the greenhouse gas emission target that must be included in OCPs and RGSs.

History

Modern city planning in North America started at the turn of the century with the City Beautiful movement, which was stimulated by the 1893 Chicago World's Fair. The work was initially undertaken by voluntary civic groups who were mainly concerned with urban sanitation, park planning, garden city developments, zoning, and subdivision regulation. These groups evolved into formal advisory commissions that realized that, if planning was to be effective, it had to be implemented by civic administrations. Eventually, land use planning and regulation became accepted as basic local government functions and, as urban areas continued to grow, the need for regional planning became more apparent. British Columbia passed the *Town Planning Act* in 1925, which facilitated municipal planning to supplement the zoning activities in which a few municipalities were already engaged.

Regional planning in B.C. dates back to the creation of a Vancouver regional sewerage committee in 1911 and a regional water district in 1926. In 1937, municipal representatives from Vancouver, Burnaby, Coquitlam, Port Moody, West Vancouver, and North Vancouver created a voluntary planning association for the Lower Mainland. Provincial legislation permitting regional planning was passed in 1948.

In 1949 the Lower Mainland Regional Planning Board was created. Its major achievement was a 1966 regional plan which laid out policies for dealing with forecasted growth. Other regional planning bodies that predated regional districts included the Capital Region Planning Board, created in 1951, the Greater Nanaimo Regional Planning Board (1956), and a Thompson-Okanagan planning body created in the 1960s. These bodies were eventually superseded by the regional districts in their areas.

From 1965 to 1983, regional planning was a mandate of regional districts which attempted to reconcile the policies of various municipalities and unincorporated areas within a coherent plan for the future.

Within the regional planning framework, municipalities created their own official community plans and regional governments assisted local electoral area directors and their advisory planning commissions to create official settlement plans for unincorporated areas. The municipal official community plans, regional district official settlement plans and regional plans were worked on until they were consistent with one another.

Official regional plans were eliminated in 1983. The apparent reasons for this were that regional plans were being used by some municipalities to control development in other municipalities and that, in any case, they were considered to be duplications of community and settlement plans. A form of voluntary, cooperative regional planning was restored in 1989 when amendments to the *Municipal Act* provided for “regional district development services consisting of coordination, research, and analytical services relating to the development of the regional district.” In 1995, legislation providing for the preparation of regional growth strategies strengthened the regional district role in regional planning, although not to the level that existed before 1983.

Regional planning in the Lower Mainland

When regional districts were created in 1965–67, the regional planning function in the Lower Mainland was divided among the Greater Vancouver, Central Fraser Valley, Dewdney-Alouette, and Fraser-Cheam regional districts (the latter three were merged into the Fraser Valley Regional District in 1995). Nevertheless, the four jointly developed a 1980 *Plan for the Lower Mainland of British Columbia* that was adopted by each regional district as its official regional plan. Not all of the policies were implemented, but the planning process was a major contributor to increasing public awareness of future growth problems for the Lower Mainland, especially in transportation.

In the GVRD itself, a *Livable Region Plan* (LRP) had been adopted in 1975 and continued to serve as a main point of reference until the late 1980s, well after official regional plans had been abolished in 1983. The main elements of this plan included the establishment of core areas with associated job targets, corresponding allocations of residential growth targets, the creation of regional town centres, the preservation of farmland, parkland, and views, and the establishment of a light rail system connecting the town centres and core areas.

By 1989, the rail system had been built in the form of SkyTrain and the GVRD decided to update the LRP. The process and results were documented in a series of reports, notably *Choosing Our Future* (1990), *Creating Our Future* (1990) and the *Livable Region Strategic Plan* (1996). The LRSP was formally adopted by the GVRD board in January 1996 and was “deemed to be a regional growth strategy” by the municipal affairs minister two weeks later. Action to implement the plan’s transportation policies was taken with the creation in 1998–99 of TransLink, the Lower Mainland transportation authority. In addition to the consensus among the 18 GVRD municipalities reflected in the plan, there is an agreement with the Fraser Valley Regional District to ensure that the GVRD and FVRD growth strategies are in harmony with each other. The Greater Vancouver area has a long, continuing history of regional planning.

Regional growth strategies

Regional growth strategy legislation is contained in the *Local Government Act*. The process for developing a regional growth strategy reflects the federative nature of regional districts, and requires establishing a strategic consensus among the various municipalities and electoral area directors regarding growth and development in the region.

As shown in Exhibit 10–1, the legislated purposes and content of a regional growth strategy extend beyond traditional land use, transportation, and utility system concerns to embrace a broader spectrum of growth management issues, including environmental protection, resource preservation, economic

EXHIBIT 10-1: REGIONAL GROWTH STRATEGIES

Excerpts from *Local Government Act*, RSBC 1996 Chapter 323, as appended and proclaimed as of May 29, 2008

849 Purpose of regional growth strategy

- (1) The purpose of a regional growth strategy is to promote human settlement that is socially, economically and environmentally healthy and that makes efficient use of public facilities and services, land and other resources.
- (2) Without limiting subsection (1), to the extent that a regional growth strategy deals with these matters, it should work towards but not be limited to the following:
 - (a) avoiding urban sprawl and ensuring that development takes place where adequate facilities exist or can be provided in a timely, economic and efficient manner;
 - (b) settlement patterns that minimize the use of automobiles and encourage walking, bicycling and the efficient use of public transit;
 - (c) the efficient movement of goods and people while making effective use of transportation and utility corridors;
 - (d) protecting environmentally sensitive areas;
 - (e) maintaining the integrity of a secure and productive resource base, including the agricultural land reserve;
 - (f) economic development that supports the unique character of communities;
 - (g) reducing and preventing air, land and water pollution;
 - (h) adequate, affordable and appropriate housing;
 - (i) adequate inventories of suitable land and resources for future settlement;
 - (j) protecting the quality and quantity of ground water and surface water;
 - (k) settlement patterns that minimize the risks associated with natural hazards;
 - (l) preserving, creating and linking urban and rural open space including parks and recreation areas;
 - (m) planning for energy supply and promoting efficient use, conservation and alternative forms of energy;
 - (n) good stewardship of land, sites and structures with cultural heritage values.

850 Content of regional growth strategy

- (1) A board may adopt a regional growth strategy for the purpose of guiding decisions on growth, change and development within its regional district.
- (2) A regional growth strategy must cover a period of at least 20 years from the time of its initiation and must include the following:
 - (a) a comprehensive statement on the future of the region, including the social, economic and environmental objectives of the board in relation to the regional district;
 - (b) population and employment projections for the period covered by the regional growth strategy;
 - (c) to the extent that these are regional matters, actions proposed for the regional district to provide for the needs of the projected population in relation to:
 - (i) housing,
 - (ii) transportation,
 - (iii) regional district services,
 - (iv) parks and natural areas, and
 - (v) economic development;
 - (d) to the extent that these are regional matters, targets for the reduction of greenhouse gas emissions in the regional district, and policies and actions proposed for the regional district with respect to achieving those targets.
- (3) In addition to the requirements of subsection (2), a regional growth strategy may deal with any other regional matter.
- (4) A regional growth strategy may include any information, maps, illustrations or other material.

851 Area to which regional growth strategy applies

- (1) Unless authorized under subsection (2) or required under section 852 [*Requirement to adopt regional growth strategy*], a regional growth strategy must apply to all of the regional district for which it is adopted.
- (2) On request by the applicable board or boards, the minister may authorize a regional growth strategy that:
 - (a) applies to only part of a regional district, or
 - (b) is developed jointly by 2 or more regional districts to apply to all or parts of those regional districts.
- (3) The minister may establish terms and conditions for a regional growth strategy authorized under subsection (2) or required under section 852.
- (4) If the minister considers this necessary or advisable for a regional district service in relation to a regional growth strategy referred to in subsection (3), the minister may by order give directions respecting the operation of the service, sharing of costs, voting on bylaws and resolutions relating to the service, the intergovernmental advisory committee and other matters relating to the regional growth strategy.
- (5) To the extent of any inconsistency between this Act and an order under subsection (4), the order prevails.

855 Consultation during development of regional growth strategy

- (1) During the development of a regional growth strategy,
 - (a) the proposing board must provide opportunity for consultation with persons, organizations and authorities who the board considers will be affected by the regional growth strategy, and
 - (b) the board and the affected local governments must make all reasonable efforts to reach agreement on a proposed regional growth strategy.
- (2) For the purposes of subsection (1) (a), as soon as possible after the initiation of a regional growth strategy, the board must adopt a consultation plan that, in the opinion of the board, provides opportunities for early and ongoing consultation with, at a minimum,
 - (a) its citizens,
 - (b) affected local governments,
 - (c) first nations,
 - (d) school district boards, greater boards and improvement district boards, and
 - (e) the Provincial and federal governments and their agencies.
- (2.1) In adopting a consultation plan under subsection (2), the board must consider whether the plan should include the holding of a public hearing to provide an opportunity for persons, organizations and authorities to make their views known before the regional growth strategy is submitted for acceptance under section 857.
- (3) A failure to comply with a consultation plan under subsection (2) does not invalidate the regional growth strategy as long as reasonable consultation has been conducted.
- (4) and (5) [Repealed 2008-23-16.]
- (6) For certainty, at any time during the development of a regional growth strategy, additional regional matters may be included in accordance with section 850 (3).

development, environmental pollution, housing, water quality, and energy supply. A main objective is to avoid urban sprawl. As of 2011 all regional growth strategies must establish greenhouse gas reduction targets and identify actions that will be taken to meet those targets.

Exhibit 10–1 also indicates that a regional growth strategy must apply to a whole regional district unless the province allows it to apply to another area, such as part of a regional district or several regional districts that have jointly developed a strategy.

The legislation encourages the voluntary participation of all affected local governments in the preparation of regional growth strategies. Thus, unless explicitly required by the Lieutenant Governor in Council, it is not mandatory for a regional district to prepare a regional growth strategy. If a regional district board passes a resolution to prepare a strategy, it must then provide for consultations with the municipalities and other parties affected by or vitally interested in it. Before it can be formally adopted, which must be done through a bylaw, the strategy must be accepted by all of the affected local governments except for very minor changes or, where efforts at gaining such acceptance voluntarily have failed, the issues must be resolved through a dispute resolution process which is binding on all parties.

Where the preparation of a regional growth strategy is warranted but the regional district has failed to act voluntarily, the provincial government reserves the right to require that a strategy be prepared and adopted. The province has ordered that a regional growth strategy be developed by the newly created Comox Valley Regional District and it is underway.

By 2008, regional growth strategies had been adopted for:

- Greater Vancouver Regional District (adopted in February 1996),
- Regional District of Nanaimo (updated June 2003),
- Thompson-Nicola Regional District (adopted in May 2000),
- Regional District of Central Okanagan (adopted in June 2000),
- Capital Regional District (adopted in August 2003), and
- Fraser Valley Regional District (adopted in October 2004).

Four other regional districts are currently in the process of developing their regional growth strategy including Squamish-Lillooet Regional District (initiated in 2003), Okanagan-Similkameen Regional District (initiated in 2004), Regional District of North Okanagan (initiated in spring 2007), and Comox Valley Regional District (initiated as part of its creation from the split of the Comox-Strathcona Regional District in 2008).

Community planning

Official community plans (OCPs) are the formal process by which councils and boards articulate their strategy and policies for physical development in the community. OCPs are adopted by bylaw, and once such a plan has been adopted all future bylaws and public works in the planning area must be consistent with it or require an amendment.

OCPs are prepared by municipalities, regional districts and local trust committees of the Islands Trust. The provisions for municipal and regional district OCPs are contained in the *Local Government Act*. As indicated in Exhibit 10–2, an OCP must include provisions for land use, residential development, sand and gravel deposits, special land use restrictions, infrastructure, public facilities such as schools and parks, housing policies, and other matters that the minister may require or authorize. An OCP may also include social policies, farming policies, environmental policies, designated development or temporary use permit areas, and designated heritage conservation areas. As of June 2010 all OCPs will be required to include targets for the reduction of greenhouse gas emissions in the planning area, and actions and policies to achieve the stated targets. An OCP must contain a regional context statement if it includes an area to which a regional growth strategy applies.

EXHIBIT 10-2: OFFICIAL COMMUNITY PLANS

Excerpts from *Local Government Act*, RSBC 1996 Chapter 323, as appended and proclaimed as of May 29, 2008.

875 Purposes of official community plans

- (1) An official community plan is a statement of objectives and policies to guide decisions on planning and land use management, within the area covered by the plan, respecting the purposes of local government.
- (2) To the extent that it deals with these matters, an official community plan should work towards the purpose and goals referred to in section 849 [*regional growth strategy goals*].

877 Required content

- (1) An official community plan must include statements and map designations for the area covered by the plan respecting the following:
 - (a) the approximate location, amount, type and density of residential development required to meet anticipated housing needs over a period of at least 5 years;
 - (b) the approximate location, amount and type of present and proposed commercial, industrial, institutional, agricultural, recreational and public utility land uses;
 - (c) the approximate location and area of sand and gravel deposits that are suitable for future sand and gravel extraction;
 - (d) restrictions on the use of land that is subject to hazardous conditions or that is environmentally sensitive to development;
 - (e) the approximate location and phasing of any major road, sewer and water systems;
 - (f) the approximate location and type of present and proposed public facilities, including schools, parks and waste treatment and disposal sites;
 - (g) other matters that may, in respect of any plan, be required or authorized by the minister.
- (2) An official community plan must include housing policies of the local government respecting affordable housing, rental housing and special needs housing.
- (3) An official community plan must include targets for the reduction of greenhouse gas emissions in the area covered by the plan, and policies and actions of the local government proposed with respect to achieving those targets.

878 Policy statements in community plans

- (1) An official community plan may include the following:
 - (a) policies of the local government relating to social needs, social well-being and social development;
 - (b) a regional context statement, consistent with the rest of the community plan, of how matters referred to in section 850 (2) (a) to (c), and other matters dealt with in the community plan, apply in a regional context;
 - (c) policies of the local government respecting the maintenance and enhancement of farming on land in a farming area or in an area designated for agricultural use in the community plan;
 - (d) policies of the local government relating to the preservation, protection, restoration and enhancement of the natural environment, its ecosystems and biological diversity.
- (2) If a local government proposes to include a matter in an official community plan, the regulation of which is not within the jurisdiction of the local government, the plan may only state the broad objective of the local government with respect to that matter unless the minister has, under section 877 (1) (g), required or authorized the local government to state a policy with respect to that matter.

879 Consultation during OCP development

- (1) During the development of an official community plan, or the repeal or amendment of an official community plan, the proposing local government must provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected.
- (2) For the purposes of subsection (1), the local government must:
 - (a) consider whether the opportunities for consultation with one or more of the persons, organizations and authorities should be early and ongoing, and
 - (b) specifically consider whether consultation is required with:
 - (i) the board of the regional district in which the area covered by the plan is located, in the case of a municipal official community plan,
 - (ii) the board of any regional district that is adjacent to the area covered by the plan,
 - (iii) the council of any municipality that is adjacent to the area covered by the plan,
 - (iv) first nations,
 - (v) school district boards, greater boards and improvement district boards, and
 - (vi) the provincial and federal governments and their agencies.
- (3) Consultation under this section is in addition to the public hearing required under section 882 (3) (d).

An OCP is adopted by bylaw. After first reading, the OCP is first examined with reference to the financial plan and any relevant waste management, economic strategy, or other plans, then it is referred, as appropriate, to the regional district, the Land Reserve Commission, and other municipalities. A public hearing must be held before third reading and adoption. The procedures in a regional district are the same

as that for municipalities, unless the minister provides otherwise. The plan must be submitted to the minister for approval before the board can adopt the bylaw.

Heritage conservation

In addition to designating heritage conservation areas in an OCP, the *Local Government Act* empowers a local government to conserve heritage properties by establishing a community heritage commission, creating a register of heritage properties, officially recognizing the heritage value or character of a property, and temporarily or permanently protecting heritage properties from actions that would inappropriately change them. Local governments have considerable power to enforce heritage property regulations but, in practice, it is unusual to designate a heritage property without the consent of the owner. The legislation requires that the owner be compensated for any reduction in market value caused by heritage designation and provides for transfers of development rights.

The heritage conservation legislation, which dates from 1995, was a result of increasing concerns about the impact of modern development on properties of particular architectural and historical value in B.C. communities and a general interest among British Columbians in the issue. Communities that have undertaken heritage conservation programs include North Cowichan (Chemainus), Cumberland, Ladysmith, Nanaimo, Nelson, Revelstoke, the City of North Vancouver, and Victoria.

Social planning

In addition to their powers to include social policies in an OCP, municipalities and regional districts may undertake social planning services. Municipalities which have done so include Burnaby, Kamloops, Vancouver, and Victoria. The areas of concern might include such things as social trends, community development, intercultural understanding, cultural activities, child care, disadvantaged citizens, refugee and immigration matters, substance abuse, juvenile prostitution, detention policies, housing affordability, and the social use of heritage buildings. Social planning services supported by government grants may also be provided by one or more local nonprofit societies, such as a social planning council or community services agency.

Economic development

While the subject of economic development must be addressed in a regional growth strategy, there is no specific requirement to include it in an OCP. Nevertheless, many local governments have included economic development policies in their OCPs and have developed complementary strategies.

The elements of an economic development strategy typically include an analysis of the existing situation, trends and issues, the identification of economic growth possibilities, the articulation of objectives, and the development of policies and action plans for achieving the objectives, including establishment of a government department or economic development commission to implement the strategy.

Neighbourhood planning

Provision for neighbourhood or local area plans can be found in most OCPs for larger municipalities. In some cases, such as the District of Saanich, the OCP consists of a general plan and a number of local area plans which, like the general plan, have been adopted by bylaw and may take precedence over the general plan in the case of disagreements between them. Alternatively, a municipality such as the City of Victoria, which has a single overall OCP, may have unofficial neighbourhood plans that have been adopted by resolution but may be as influential as the OCP itself in guiding future development. The City of Vancouver is unique in that it has a series of neighbourhood plans but no overall OCP as such.

Rural land use bylaws

Prior to 2000, unincorporated areas could adopt a rural land use bylaw that was effectively a combined official community plan and zoning bylaw for the area. The rural land use bylaw authority was discontinued in 2000 but existing plans continue to be in effect and may be amended.

Advisory planning commissions

Advisory planning commissions (described in Chapter 4) are used by municipalities, regional districts, and local trust committees of the Islands Trust to advise on such matters as land use, community planning, zoning, permits, and subdivision bylaws. Some councils use an APC for policy advice only, while others may involve it in the implementation of regulatory policies, such as the review of rezoning applications. In some cases, several APCs have been created for the initial development of local area plans, then, when the plans were approved, dissolved, and replaced by a single APC appointed for future deliberations.

A regional district board may appoint an APC to advise it on a rural area OCP or land use bylaw upon the recommendation of the electoral area director who represents it. In addition to the planning advice it gives, a rural area APC may also be used as a sounding board for the regional director regarding other services or facilities that the regional board should consider providing.

Observations on the community planning process

While public officials and technical personnel do most of the work in creating plans in larger municipalities, local residents often do much of the work in small municipalities, municipal neighbourhoods, sub-areas of a regional district, or local trust areas. The development of community plans is an important exercise, especially in rural areas where such planning had never occurred before it was required in 1971. Developing a plan leads to a greater understanding of the likely future of an area and, to the extent that there is agreement on likely future directions, expectations tend to be self-fulfilling. As developers take the plan into account, certainty is increased and conflicts are reduced.

Because the planning process tends to involve a variety of interest groups, the results may be mixed. An influential group may advocate policies based on abstract notions of the way things should be rather than what can be rationally predicted, or may seek to maintain the status quo and try to block forces for change, rather than plan for orderly development that acknowledges the way an area fits into its larger environment. To ignore such forces is not good planning, and the referral process provides some protection against it. For example, if a provincial ministry or agency objects to a regional district OCP, approval may be delayed and final approval by the minister may even be withheld.

10.5 Zoning and Related Activities

The *Local Government Act* provisions for zoning are contained in Part 26, “Management of Development.” In addition to zoning, this part of the Act covers OCPs, rural land use bylaws, public hearings, public information, land use procedure manuals, advisory planning commissions, boards of variance, regulation of signs, farm bylaws, development permits, temporary commercial and industrial permits, tree-cutting permits (for regional districts only), land use contracts (which are no longer used), fees, subdivisions, and development cost charges (DCCs). Subdivisions and DCCs are discussed in the next section.

History of zoning

Zoning was first developed in Europe in the mid-1800s. In North America, it was first used in California in 1885 to exclude Chinese laundries from specific areas. In 1916, after the State of New York passed legislation permitting New York City to undertake zoning, more comprehensive land use classifications

were developed that were intended to prevent the intrusion of industrial and high-density residential uses into the carriage trade areas along Fifth Avenue. Zoning was introduced in Ontario in 1921 and in the Municipality of Point Grey in 1922. It was extended to the City of Vancouver in 1927 when Point Grey, South Vancouver, and Vancouver merged. The *Town Planning Act* (1925) allowed all B.C. municipalities to undertake zoning.

Zoning started with the relatively simple idea of designating which land uses (e.g., single-family residential, multifamily residential, retail commercial, industrial, etc.) and at what density could occur in different areas of the city. Designating what uses are permitted in a zone excludes others. In the early years, the focus was generally on protecting single-family residential neighbourhoods from the intrusion of multifamily residences or commercial or industrial activities. Over the years, zoning practices have become more elaborate and additional types of uses have received special protection, such as agricultural lands and port terminal areas. In addition, with increasing desires to exercise greater control over developments, there has been a continuing increase in the number of detailed zoning distinctions related to specific sites. In many bylaws, the distinctions have become so elaborate that it is common to find 100 or more different zoning categories. In Victoria, for example, there were 121 in 1985, over 350 by 1995 and over 600 by 2008. In addition to the rigidity introduced by the detailed specification of land uses permitted in so many zones, a variety of tools to introduce flexibility have also been created, some of which are presented below.

Zoning bylaws

Like OCPs, zoning bylaws are prepared by municipalities, regional districts, and trust committees of the Islands Trust. As indicated in Exhibit 10–3, the main provisions for zoning bylaws are contained in section 903 of the *Local Government Act*. It is possible to include zoning provisions in a single, comprehensive land use bylaw that incorporates all elements of land use regulation. Provisions regarding parking, drainage, signs, screening, and flood plains may be incorporated in a zoning bylaw or could be in one or more separate bylaws. Nonconforming uses that exist at the time the bylaw is adopted are permitted to continue.

An individual property owner is not entitled to compensation for a reduction in land values or other losses related to the adoption of an OCP or zoning bylaw, unless the property in question is restricted to a public use. Some hardships may be alleviated through development variance permits.

Development variance permits

Sometimes a relaxation of the full application of the land use regulations would be appropriate. In such circumstances a municipal council or regional district board may issue a development variance permit to vary the provisions of a land use regulation with regard to a specific property. As with a board of variance, the use or density of the land cannot be varied, nor can a flood plain specification. The decision to issue a permit is made by a resolution of the council or regional district board no less than 10 days after it has issued appropriate notice of the proposed variance.

Where a local government has both a development variance permit procedure and a board of variance, a person can apply for a variance through either process. Some governments prefer the development variance permit mechanism because the basis on which a local government may allow a variance is broader than that for a board of variance. They may also prefer to exercise more direct control over variance decisions than is possible through an autonomous board of variance.

EXHIBIT 10-3: ZONING

Excerpts from *Local Government Act*, RSBC 1996 Chapter 323, as appended and proclaimed as of May 29, 2008.

903 Zoning bylaws

- (1) A local government may, by bylaw, do one or more of the following:
 - (a) divide the whole or part of the municipality or regional district into zones, name each zone and establish the boundaries of the zones;
 - (b) limit the vertical extent of a zone and provide other zones above or below it;
 - (c) regulate within a zone
 - (i) the use of land, buildings and other structures,
 - (ii) the density of the use of land, buildings and other structures,
 - (iii) the siting, size and dimensions of
 - (A) buildings and other structures, and
 - (B) uses that are permitted on the land, and
 - (iv) the location of uses on the land and within buildings and other structures;
 - (d) regulate the shape, dimensions and area, including the establishment of minimum and maximum sizes, of all parcels of land that may be created by subdivision, in which case
 - (i) the regulations may be different for different areas, and
 - (ii) the boundaries of those areas need not be the same as the boundaries of zones created under paragraph (a).
- (2) The authority under subsection (1) may be exercised by incorporating in the bylaw maps, plans, tables or other graphic material.
- (3) The regulations under subsection (1) may be different for one or more of the following, as specified in the bylaw:
 - (a) different zones;
 - (b) different uses within a zone;
 - (c) different locations within a zone;
 - (d) different standards of works and services provided;
 - (e) different siting circumstances;
 - (f) different protected heritage properties.
- (4) The power to regulate under subsection (1) includes the power to prohibit any use or uses in a zone.

- (5) Despite subsections (1) to (4) but subject to subsection (6), a local government must not exercise the powers under this section to prohibit or restrict the use of land for a farm business in a farming area unless the local government receives the approval of the minister responsible for the administration of the Farm Practices Protection (Right to Farm) Act.
- (6) The minister responsible for the Farm Practices Protection (Right to Farm) Act may make regulations
 - (a) defining areas for which and describing circumstances in which approval under subsection (5) is not required, and
 - (b) providing that an exception under paragraph (a) is subject to the terms and conditions specified by that minister.
- (7) Regulations under subsection (6) may be different for different regional districts, different municipalities, different areas and different circumstances.

904 Zoning for amenities and affordable housing

- (1) A zoning bylaw may
 - (a) establish different density regulations for a zone, one generally applicable for the zone and the other or others to apply if the applicable conditions under paragraph (b) are met, and
 - (b) establish conditions in accordance with subsection (2) that will entitle an owner to a higher density under paragraph (a).
- (2) The following are conditions that may be included under subsection (1) (b):
 - (a) conditions relating to the conservation or provision of amenities, including the number, kind and extent of amenities;
 - (b) conditions relating to the provision of affordable and special-needs housing, as such housing is defined in the bylaw, including the number, kind and extent of the housing;
 - (c) a condition that the owner enter into a housing agreement under section 905 before a building permit is issued in relation to property to which the condition applies.
- (3) A zoning bylaw may designate an area within a zone for affordable or special-needs housing, as such housing is defined in the bylaw, if the owners of the property covered by the designation consent to the designation.

Board of variance

The *Local Government Act* requires each local government which enacts a zoning bylaw to create a board of variance—an autonomous body with authority to vary requirements of the bylaw within prescribed statutory limits. The board can allow a “minor variance” if it finds that “hardship” to the applicant would be caused by full compliance with a zoning bylaw, a tree protection bylaw, prohibition of an alteration to a nonconforming structure, or certain parts of a subdivision servicing agreement in an area zoned for agricultural or industrial use. The variance cannot vary use or density, nor can it “defeat the intent of the bylaw.”

Neither a council nor a regional district board has the power to consider an appeal of a board of variance decision. It can only be appealed to the B.C. Supreme Court.

Observations on traditional zoning

Ideally, traditional zoning closely follows planning so that both the municipality and developers can predict future land use patterns from the zoning bylaw and considerable certainty is introduced into

development for a local area. To accomplish this end, zoning has to be based on accurate land use forecasts. The uses assigned must be economically feasible and the location and relative quantities of land assigned to different uses must be an accurate reflection of future market demands, because traditional zoning is primarily a negative tool. It can prevent development inconsistent with zoning, but it cannot get buildings constructed for appropriate uses. The marketplace and the individual commitments of private developers will determine the actual nature of development within the zones.

Serious problems can arise when land is zoned for uneconomic uses or is not allocated in relation to demand. Land zoned for uneconomic uses may be left vacant or, more likely, the landowners may continually request rezonings from the municipal council. Lack of development on inappropriately zoned parcels can also lead to a lower tax base and to development moving outside the municipality, but continual rezoning leads to a net reduction in certainty for everyone involved. Unlike in Ontario, there is no appeals process for zoning decisions other than the courts, which consider process and not the substance of the zoning itself.

Traditional zoning is not an easy tool to use. Local governments have not had a good history of predicting demands for future land use and have tended to zone vacant land very restrictively, so that every major change requires a political decision. It has been common, for example, to zone vacant land for rural or very large lot single-family residential use without designating any areas for future commercial or industrial developments. A residential developer may put in a subdivision and promise tranquility to the homeowners because the land adjacent to the subdivision is zoned for rural use. What the homeowners may not realize is that all vacant land may be zoned for rural use and, when market forces dictate a demand for industrial or commercial development, the demand may result in a rezoning application on the property next to the subdivision. Even if the land use is appropriate, political controversy can ensue. In one of the few attempts to evaluate zoning in British Columbia, a 1980 review and analysis of zoning in the Lower Mainland and elsewhere concluded that it had not worked very well (Goldberg and Horwood 1980). A policy of restrictive zoning followed by ad hoc changes increases rather than decreases uncertainty about future land use. It also presents a dilemma—how to balance the flexibility to achieve municipal objectives, which often include “amenity contributions” while not turning into an outright selling the zoning a developer wants.

Over the years, in recognition of the problems with traditional zoning, municipalities and regional districts have been provided with more flexible options. These options, which have included land use contracts and now include density bonusing, comprehensive development zoning, development permit areas, design review, transfer of development rights, phased development agreements, and covenants, are discussed below.

Contract zoning

Land use contracts were used in British Columbia from 1971 to the early 1980s. In simple terms, land use contracts were zoning contracts for individual pieces of land and each was negotiated with a local government individually. They were essentially spot zoning, that is zoning lots individually rather than providing larger zones for specific uses. The reason given for discontinuing their use in the province was the same as the criticism leveled against some flexible approaches elsewhere—they gave planners too much authority and, as a result, local governments were simply viewed as blackmailers who extorted demands from developers as a condition for project approval. The *Local Government Act* still contains provisions for amending or discharging previously existing land use contracts. New zoning options are more limited.

Density bonusing

A zoning bylaw may provide for density bonusing, whereby the zoning bylaw is written to offer additional density if developers provide amenities such as affordable housing, special-needs housing, public art, etc. This provision exemplifies the manner in which zoning bylaws have become elaborate mechanisms for local governments to provide more flexibility and exert greater control over specific developments.

Comprehensive development zoning

Establishing a special zoning category tailored to a specific development proposal for a site is sometimes called comprehensive development zoning. All the regulations for a specific development, including use and density, are written into a zoning category that is tailored specifically for the site. This approach is more flexible than conventional zoning but it is also more demanding of the time of proponents and municipal staff.

Development permit areas

The *Local Government Act* empowers local governments to designate development permit areas where development within an area must meet specific design requirements for that area. Development permit areas may be established for purposes such as protection of the natural environment, revitalization of commercial areas, form and character of multifamily residential development, protection of development from hazardous conditions, and since 2008, objectives to promote reduction of greenhouse gas emissions. The objectives for the permit areas and design guidelines must be clearly specified in the OCP or in a zoning bylaw.

Subject to certain restrictions, a development permit may vary or supplement a zoning or subdivision bylaw, impose conditions respecting the sequence and timing of construction and, as appropriate, include requirements, conditions, or standards regarding protection of the natural environment, landscaping, screening, fencing, siting, building form, exterior design, machinery and equipment, and finish. The types of physical changes that trigger a requirement for a development permit vary depending upon the purpose for which the design control is required. For example, a development permit may or may not be required for the removal of vegetation, depending upon the purpose of the area.

Development permit areas are used throughout British Columbia. Development permit areas provide landowners and developers with information about the special characteristics of the area and the community's aspirations. They also provide a community with an opportunity to regulate in a more detailed manner than a conventional zoning. The City of Vancouver, whose *Vancouver Charter* provisions are different from those of the *Local Government Act*, essentially treats the whole city as a development permit area.

Design review

Many local governments establish an advisory committee to review the design of proposed developments. The committee is typically composed of design professionals, such as architects and landscape architects. A design review committee can be especially valuable in assessing whether a proposed development complies with the requirements and guidelines stated in the OCP for a development permit area.

Transfer of development rights

The technique of transferring development rights involves transferring the density permitted on one property to another property, so the permitted density on the first property is reduced while that of the second property is increased. There is no specific legislative provision authorizing this technique. The most common format is for a local government to process two companion rezonings together, and for it to

require that a covenant be registered on the land title of the donor property indicating that it is not eligible for a return to higher density of development. This is a sophisticated approach that requires a great deal of political self-discipline. The Salt Spring Island OCP includes formal provisions for transferring development rights to discourage sprawl and encourage clustering of residential uses.

Phased development agreements

A phased development agreement is an agreement between a developer and the local government that has the effect of freezing subsequent changes to zoning bylaws and specified development permits for the term of the agreement, unless the developer agrees. A PDA can cover items such as the inclusion of certain features or amenities in the development, and the timing of the development.

Under a PDA, a local government is empowered to assure that the zoning for a large project will stay the same over the long term. In exchange, the local government may be able to negotiate greater benefits for the community. Provisions for PDAs were introduced in 2007 to address some of the concerns surrounding amenity zoning in British Columbia and to help increase certainty for the development industry that there would be no changes when, for example, the makeup and direction of councils may change from one election to another.

Covenants

A land use covenant is legal contract that runs with the land and is used to restrict or control development on a parcel of land. Covenants can be used for “building schemes,” for some other subdivision matters, and for the protection of natural areas and heritage resources. The types of covenants used in B.C. include agreements among private property owners, and, under section 219 of the *Land Title Act*, agreements involving private property owners and governments and non-governmental conservation organizations.

10.6 Subdivision Control

Subdivision, which involves the creation of new lots by subdividing larger ones, is a major activity in economic development and urban growth. Because it involves transactions in real property it is governed by the *Land Title Act* and the *Strata Property Act*, as well as the *Local Government Act*. The subdivision of land must meet requirements provided for in the zoning bylaws and other regulations which may or may not be combined into a single bylaw.

Subdivision servicing regulations can accomplish several objectives. They can ensure that new lots are appropriate for the intended use, that public services are installed at standards comparable to those in the rest of the area, that improvements are paid for by the developer as part of the development process rather than by the general taxpayers, and that ongoing servicing costs will be reasonable. When new developments must pay their own way, more efficient land use decisions are made because subdivisions will not be undertaken until there is sufficient market demand to pay the cost of transforming land for a new use.

Strata subdivision

The enabling legislation for land use regulation defines a subdivision as including both bare land and condominium building subdivision under the *Strata Property Act*. Bare land stratas³⁰ must be approved by the approving officer before they can be registered on land titles. Building stratas are not administered through this process.

³⁰ Bare land stratas are subdivisions within a condominium regime where roads and infrastructure are owned by the strata corporation, which is made up of the owners within the development. The corporation is likely to have much stricter rules than a municipal government.

Land use regulations, including minimum lot size, cannot be used to prevent condominium buildings from being built in multifamily zones. However, boards and councils do have effective veto-power over any conversion of existing rental buildings to strata ownership.

Subdivision of land as a bare land strata is a special situation. The legislation provides flexibility for the approving officer to use site size averaging to allow clustering of the development and the preservation of greenspace under common ownership. Because the internal roads and services will not come into public ownership the subdivision servicing standards bylaw does not apply to bare land stratas.

Subdivision approval process

An approving officer's signature on a final application is required before the provincial Land Titles Office will recognize a subdivision by registering the new plan and the deeds for the new parcels. The *Land Title Act* requires that each municipality designate an approving officer for subdivisions. Normally this is an employee, such as the chief planner, engineer, or another individual who has been given the role of an approving officer. The role of subdivision approving officer is primarily technical and administrative but it requires legal expertise as well as technical knowledge and judgement, and smaller municipalities may have to obtain services from a consultant. Although the approving officer is a local government employee, when exercising the approving officer functions the officer does not take direction from the council or elected representatives except through their enacted bylaws.

For unincorporated areas the approving officer is an employee of the ministry responsible for transportation. The ministry assumed this role long before the creation of regional districts in 1965–67 because of its responsibility for monitoring and controlling access to all land in the province, including highway access to subdivisions and adjacent lands through subdivided parcels, so that pockets of inaccessible land did not remain. In 1997 the provincial legislation (*Land Title Act*, s. 77.1) was amended to enable this authority to be delegated to regional districts that request the authority, but as of 2008 no such delegations have been approved.

Development cost charges, school, and park dedications

To supplement subdivision controls, local governments may impose development cost charges (DCCs) on every person who either obtains approval of a subdivision or obtains a building permit. DCCs contribute to the capital cost of the local infrastructure required to serve the development, including roads, sewers, water systems, drainage services, and park acquisition and development. DCC revenues must be placed in separate reserve funds to be used for future capital works or to help pay off debts incurred in the past for the provision of infrastructure. Considerable discretion is permitted local governments in the development of DCC schedules but a DCC bylaw must reflect actual costs that the local government has incurred or expects to incur, and it must be approved by the inspector of municipalities.

Subdivision permission, primarily for larger subdivisions, also requires that land be donated to the government for schools and parks. Under some provisions, cash can be paid instead.

Replotting schemes

Sometimes when development occurred long ago the actual construction of buildings did not conform to the correct parcel boundaries, with the result that several buildings encroach upon their neighbours' property. When a major project like a new freeway is undertaken, it can be expected that there will be situations in which existing patterns of land subdivision will be disturbed. To address this kind of situation, the *Local Government Act* enables municipalities to initiate replotting and reallocation of parcels to the landowners in the district, with compensation paid to owners who are adversely affected by the replotting scheme. To initiate such a replotting, a municipality must first publish a notice of it in a newspaper and must then have the consent of owners whose lands constitute at least 70 percent of the

assessed value of all land in the district. To deal with complaints, the municipality must ask the Supreme Court to appoint a commissioner to hold a public hearing. Ultimately, the replotted parcels are registered in the land title system. This is a specialized tool that is rarely used.

10.7 General Bylaw Enforcement

Local government bylaw enforcement generally refers to a host of actions directed at obtaining compliance with local government bylaws. This may include educating the public about regulatory rules, conducting inspections to ensure that the rules are being followed, mediating between members of the public, leveraging voluntary compliance with the rules where possible, and administering consequences for contraventions where compliance is not forthcoming or harm has been done to the community.

Key local government bylaw enforcement authority is found in the *Community Charter*, which provides the core municipal powers. Certain provisions of the *Community Charter*, particularly relating to municipal ticketing, also apply to regional districts and local trust committees. Other bylaw enforcement authorities for regional districts are found in the *Local Government Act*, and for local trust committees in the *Islands Trust Act*. Other local government bodies may have specific bylaw enforcement powers in their acts, for example, in the *Vancouver Charter* for the City of Vancouver.

“Self-help” enforcement powers allow local governments to undertake inspections by entering onto property at reasonable times and in a reasonable manner to determine if bylaw requirements are being met. In relation to certain hazardous situations or declared nuisances, a municipal council may order a person to rectify the situation or take action to eliminate the hazard. Where bylaw compliance is a condition of a permission, such as a business licence, a municipality could suspend the licence pending compliance. If a person does not take required actions in relation to property, the local government may take the action and recover the cost of it through property taxes.

If efforts to obtain compliance fail, a local government can take legal steps for enforcement in a number of ways. Since 2003, for simple matters, such as parking violations, local governments can implement an administrative penalty system known as bylaw notice enforcement under the *Local Government Bylaw Notice Enforcement Act*. If it chooses this system, a local government is required to establish a dispute process that is much less formal than a court and is presided over by a third party. As of 2008, 13 local governments had implemented this system. A local government can also choose to seek a summary conviction for the contravention of a bylaw in Provincial Court, through the abbreviated municipal ticketing process under the *Community Charter*. A municipal ticket is completed by a police or bylaw enforcement officer, and may be immediately personally served on the alleged offender. A municipal ticket may be resolved without court appearance through payment of a fine and admission of guilt, or may be disputed in court. A paid municipal ticket is typically not drawn up as a conviction. Since the *Community Charter*, there are few exceptions to the type of bylaw infraction that may be ticketed. Finally, a local government may seek a summary conviction for the contravention of a bylaw in Provincial Court through the longer process under the *Offence Act* involving appearance in court. This process is for the most serious bylaw infractions, with the formality of the process matching the potential seriousness of the consequences, such as a fine of up to \$10,000 and imprisonment.

A local government can also use civil remedies to enforce or prevent or restrain the contravention of a bylaw, such as applying to the Supreme Court for an injunction or court order.

Most bylaws require enforcement by individuals with specialized training, knowledge, or experience. Elements of bylaw enforcement are carried out primarily by employees and officers of a local government who are appointed by name or job classification as bylaw enforcement officers, although not all local governments employ such staff. Traffic and possibly some other regulations are enforced by the police. Some bylaws may be enforced by contracted personnel for parking or for animal control. For many

regulations there is no active enforcement mechanism and officials act only when complaints are received.

10.8 Performance Measures and Fiscal Equivalence

Evaluating the performance of the entire system of land use planning and regulation is difficult and is seldom attempted. Historically one might look at measures such as how often rezoning was undertaken to satisfy a particular proposal, which would be a negative measure in a well-zoned system, but this would be meaningless within governments that use more flexible zoning and land use tools regularly. There may be measures that can be used to look at specific outcomes, such as whether annual measures of automobile congestion are increasing or decreasing, or whether the amount of affordable housing is increasing or decreasing, but these broader measures cannot be associated with any single policy or program. Scholars and policymakers have a long way to go to develop performance measures for the land use planning and regulatory system.

The fact that it is difficult if not impossible to associate specific planning or regulatory decisions with specific outcomes makes achieving fiscal equivalence in planning and regulatory decisions equally difficult. While the direct costs for land use regulations to both the governments and developers can be identified and it is common for fees to cover a major portion of the costs, other costs that can be compared with the benefits of land use regulations are the long-term impacts on land and housing markets.

When land use regulations and the installation of infrastructure (roads, water, sewers, etc.) increases the supply of buildable land, the increased supply may contribute to keeping its price down for developers and result in lower housing costs for homeowners. However, when the regulatory processes lengthen the time it takes to make land available, get approvals for construction, or actually restricts the supply of land, the supply of housing may be restricted and costs and prices can rise significantly. The consequences for price increases due to regulation are very different for differently situated families.

Those families who already own homes can benefit significantly from regulation-driven cost increases as their homes become more valuable. They are also the local voters who dominate local hearings and local elections. Newcomers to the community will find housing prices to be very high, as will low-income families and individuals. Furthermore, if housing prices rise faster than incomes, an increasing proportion of residents will not be able to afford to become homeowners in that community. It is difficult to sort out the influences on housing markets and thus difficult to identify which government activities exert the strongest influence on housing prices, but the consequences can be very important.

Scholars in the United States tried to work out these consequences since cities in California began purposively restricting development in the 1960s. A recent study of the Seattle metropolitan area by the University of Washington's Economic Policy Research Center, which uses methodology developed at Harvard and the Wharton School at the University of Pennsylvania, concludes that land use restrictions and regulations in the Seattle area add approximately \$200,000 to the price of a \$450,000 residence. The study does not conclude that this is either good or bad. It simply points out that it is costing \$1,147 each month for the benefits for a family living within the regulatory system of the Seattle metropolitan area. It is difficult to take into account and balance the benefits and costs of the land use regulatory decisions by local governments throughout a metropolitan area, but that does not mean that real benefits and costs do not result from their decisions.

We are unaware of any similar studies in Canada, but land use regulations, including restrictions such as agricultural land reserve designation, do affect land availability and the time it takes for new developments. One should anticipate that the regulatory framework does increase housing prices and take that into account when designing these and other policies on housing.

Land use planning and regulatory decisions are shaped by provincial legislation, the *Local Government Act*, *Community Charter*, and other provincial legislation like the *Land Title Act*. Both the policy and regulatory decisions made by local government are relatively inexpensive compared to both the costs and benefits that accrue to citizens. In addition, citizens may have multiple and sometimes conflicting roles, such as citizens as homeowners liking higher housing values, but citizens as home purchasers preferring lower prices. There is no way to avoid these issues and problems, but they are very real ones.

10.9 Summary Observations

Planning, zoning, and subdivision control are undertaken by all municipalities and regional districts in British Columbia. While the legislation provides for comprehensive regulation it is not without problems. One problem is that the zoning process itself can lead to increased uncertainty regarding future land use in situations where OCP amendments and zoning changes are routinely made, each on the basis of an ad hoc political decision. This problem has been a serious one in some jurisdictions.

The second problem concerns the increasing complexity of regulations. For example, anyone proposing a subdivision or land use change must be sure the proposal meets community plan requirements. Next, the developer must meet all the zoning and subdivision requirements in the *Local Government Act*, *Land Title Act* and local bylaws, and must obtain any necessary approvals from one or more of the ministries responsible for transportation, highways, environment, Crown lands, forests, and agriculture. Each set of requirements that must be met is part of a substantial body of regulations, only a few of which will apply to the project. If any change in regulations is required, such as a rezoning or a variance, additional time must be allowed. Finally, several of the acts and the local regulations may cover precisely the same issues and the most restrictive one in any given case likely applies.

The net result is sufficiently complex that, for problems of any magnitude, developers who would normally process their own applications must turn to land surveyors, planning consultants, and/or lawyers for assistance, and even these specialists are not always conversant with the provincial or local bylaws applicable to specific situations. That the system functions at all is due to the efforts of people like the subdivision approving officers who are the focal point for coordinating all the different requirements before an approved plan can be forwarded to the land titles office for registration. It must be emphasized that criticisms of the complexity of overlapping regulations are not criticisms of the substance of the regulatory process. The roles of provincial ministries, regional districts, municipalities, and local groups involved in settlement and community planning are legitimate and essential to the effective regulation of land use.

Finally, given the complexity and magnitude of outcomes that cannot be associated with any specific policy, plan, or regulation, evaluating these processes is extremely difficult.

Chapter Eleven

Labour Relations

While unionization and collective bargaining for employees of the governments of Canada and British Columbia fall under special legislation, local government labour relations come under the same labour legislation as the private sector. Because they have major implications for the efficiency and responsiveness of local government service delivery, it is useful to examine the framework within which labour relations occur.

11.1 Policy Framework

A number of acts shape labour relations in the local government environment. Municipalities and regional districts can employ people, appoint people as officers of the local government, enter into agreements, and establish terms and conditions of employment by virtue of the powers they are granted as corporations. The *Community Charter* and the *Local Government Act* also set out specific powers and rules, especially in relation to local government officers—for example, the authority of the mayor to suspend an officer, subject to confirmation by council, and the requirement that termination of an officer without cause be decided by a two-thirds vote of all council members. However, the terms and conditions of employment and the processes that govern labour relations for local governments are determined by the key labour statutes—namely, the *Employment Standards Act* and the *Labour Relations Code*.

The *Employment Standards Act* ensures there are basic standards of compensation and conditions of employment that promote the fair treatment of employees and employers and provide fair and efficient procedures for resolving disputes. Where a contract of employment with non-unionized employees or officers or where a collective agreement between a union and a local government contains provisions relating to matters covered by the *Employment Standards Act*, the contract or collective agreement will apply. Where the contract or collective agreement is silent, the applicable provisions of the *Employment Standards Act* are deemed to be a part of the contract or collective agreement.

The relationships between local governments and their unionized employees are governed primarily by the *Labour Relations Code*. The Code includes rules for the formation and certification of unions, collective bargaining in good faith, collective agreement enforcement, settlement of disputes, strikes, lockouts, picketing, and the designation of essential services. Employers cannot interfere either positively or negatively with union organization processes. No strikes or lockouts can take place when a collective agreement is in force. Mid-contract disputes must be resolved by joint consultation, mediation, or arbitration. Strikes require authorization votes by the union membership and neither strikes nor lockouts can take place without proper notice. If the minister considers that a dispute “poses a threat to the health, safety, or welfare” of British Columbians, the “facilities, productions, and services” can be designated as essential services. Since 1996, a number of minor housekeeping changes have been made to the Code. For example, it has been amended to make the statute easier to read by reorganizing its layout.

The *Labour Relations Code* is administered by the Labour Relations Board, which consists of a chair, vice-chairs, and part-time members who represent employers and employees. The number of vice-chairs and part-time members fluctuate over time and are appointed by the cabinet. Members sit on adjudicative panels led by board vice-chairs to deal with such matters as applications for union certification or

decertification, complaints of unfair labour practices, or violations of the Code. The board provides mediation and arbitration services and enforces the provisions of the statute.

The Labour Relations Board operates under rules that have been developed primarily to govern private-sector labour relations, and local government employees comprise only a small proportion of the union members falling under its jurisdiction. However, even though local government employees constitute only a small part of the total unionized labour force in B.C., a high proportion of local government workers are union members.

One other piece of labour legislation affects local governments. The 1995 *Fire and Police Services Collective Bargaining Act* empowers the minister to refer collective bargaining disputes between employers and their firefighter and police locals to arbitration for binding resolution. No changes have been made to the Act since 1995. The *Fire and Police Service Collective Bargaining Act* supplements but does not replace the Code, which otherwise governs the labour relations involved.

11.2 Local Government Employee Unionization

In 2007, municipalities, school districts, and regional districts in British Columbia employed approximately 96,949 people, including management, a 19 percent increase from 1982. Unionized employees in municipalities, school districts, and regional districts totalled approximately 87,749, an increase of 26.5 percent from 1982, as indicated in Exhibit 11-1.³¹

EXHIBIT 11-1: CHANGE IN TOTAL EMPLOYEES AND UNIONIZED EMPLOYEES IN LOCAL GOVERNMENT 1982-2007

	Total Employees	Total Union Members
1982	81,500	69,365
2007	96,949	87,749
Percent Change	19.0%	25.2%

Within the totals in Exhibit 11-1:

- The estimated number of people employed in “local administration,” a census category for local government that excludes school districts and health providers, has varied over the years, from a low of 27,000 in 1988 to a current high of approximately 44,000. In 2007 over 37,000 worked in municipalities, nearly 5,000 in regional districts.
- The number of members in the BC Teachers’ Federation was 29,913 in 1982, 44,121 in 1998, and 31,299 in 2007, a decrease of 29 percent since 1998. Not all members of the BC Teachers’ Federation are employed as teachers and not all are full-time.
- The number employed in public school districts was estimated to be 48,500 in 1982, and 78,000 in 1997, a 61 percent increase. In 2007, the number decreased to 54,784, a drop of 29.9 percent. Teacher and school district employment follows demographic trends in the number of students.

³¹ Data on union membership was solicited directly from unions in both 1982 (Winter 1982) and 2007. Not all unions keep records of where their members are employed and this data must be viewed as a best estimate.

Of the estimated 81,500 employed in municipalities, school districts, and regional districts in 1982, 69,365 or 85.1 percent were unionized. In 2007, approximately 90.5 percent of those employed in municipalities, school districts, and regional districts were unionized, as indicated in Exhibit 11–2.

The percentage of unionization may be under-represented as some union member data was reported in mixed groups rather than in the categories of municipalities, school districts, and regional districts and could not be included in the analysis. There has been an increase in unionization in local governments from 1982 to 2007. Particularly, unionization in school districts has increased from 89.4 percent to 97.8 percent of the total workforce.

EXHIBIT 11–2: LOCAL GOVERNMENT UNIONIZATION			
1982	Employees	Union Members	Percent of Employees Unionized
Municipalities	31,000	24,963	80.5%
School Districts	48,500	43,381	89.4%
Regional Districts	2,000	1,021	51.1%
Total	81,500	69,365	85.1%
2007	Employees	Union Members	Percent of Employees Unionized
Municipalities	37,387	31,223	83.5%
School Districts	54,784	53,552	97.8%
Regional Districts	4,778	2,974	62.2%
Total	96,949	87,749	90.5%
Source: Winter, 1982, and Sean O'Melinn. Census and interviews. Numbers are estimates.			

Unions representing local government employees

Twenty-two unions represented local government employees in 2008. The Canadian Union of Public Employees (CUPE) and the BC Teachers' Federation (BCTF) are the largest. Most local governments have to bargain with several unions, and the unions represented have changed over time. Some have amalgamated with each other, others currently have no local government employed members and new ones are represented. An example of amalgamation is in 2004, the Industrial Woodworkers Allied Union became a part of the United Steelworkers Union. In some cases, like the International Brotherhood of Electrical Workers, members are contracted rather than employed by local governments. Two unions appearing since 1982 are the Canadian Auto Workers Union in the District of Kitimat and the International Alliance of Theatre and Stage Employees in the City of Vancouver. Exhibit 11–3 lists unions representing employees of local governments. The numbers of members must be regarded as estimates and not all union members are employed by local governments.

EXHIBIT 11-3: UNIONS REPRESENTING LOCAL GOVERNMENT EMPLOYEES	
Union	Membership in 2007
Canadian Union of Public Employees School Districts (22,253) Municipalities (20,969) Regional Districts (1,553) Other* (11,695)	56,470
British Columbia Teachers' Federation	31,299
Firefighters	3,650
Operating Engineers	not available
Police	3,557
West Vancouver Municipal Employees Union	1,078
Teamsters	396
British Columbia Government Employees Union	440
Greater Vancouver Regional District Employee Union	556
International Alliance of Theatre and Stage Employees	62
United Steelworkers **	245
International Brotherhood of Electrical Workers	140
Canadian Auto Workers Union	130
New Westminster Public Library Staff Association	60
Fraser Valley Regional Library Professional Staff	Not Available
Amalgamated Transit Union	90
Total union membership***	98,173

* The Other category includes some union members from municipalities, regional districts, and improvement districts which under-represents the levels found in those categories.

** In 2004, the Industrial Woodworkers Alliance Union joined the United Steelworkers.

*** Total union membership numbers include improvement districts, part-time employees and temporary employees not recorded in the total number of employees working in local government. There are also likely to be members who do not work for local governments.

Source: The data was collected by Sean O'Melinn from several sources and interviews.

Sizes of bargaining units

In response to the large number of unions that municipalities and regional districts have to bargain with, some employers have formed associations for labour relations and bargaining purposes. The three largest employer associations are the Metro Vancouver Labour Relations Department (formerly the Greater Vancouver Regional District Labour Relations Department),³² the Greater Victoria Labour Relations Association, and Okanagan Mainline Municipal Labour Relation Association remain. The Metro Vancouver Labour Relations Department bargained with representatives of over 15,000 employees while the Greater Victoria Labour Relations Association bargained with approximately 2,000 employees.

Bargaining units in local government are typically small. For example, Exhibit 11-4 indicates even within the large municipalities of the Greater Vancouver Regional District, 50 percent of bargaining units have less than 100 members in them.

³² It should be noted that the GVLRA does not represent all of the municipalities in the GVRD area.

EXHIBIT 11-4: SIZES OF BARGAINING UNITS IN THE GREATER VANCOUVER REGIONAL DISTRICT IN 2004

Size of Union Membership	Number of Bargaining Units
1 to 49	13
50 to 99	12
100 to 199	8
200 to 299	6
300 to 399	4
400 to 499	1
500 or more	6
Total Bargaining Units	50

Source: Sean O'Melinn, Interviews.

11.3 Private Market Labour Law and Local Government

A basic principle of private-sector labour relations is that groups of employees and employers should voluntarily work out the conditions of employment, with either side having the right to withhold agreement through strikes or lockouts. The implications of this model for most public-sector activities are different than the implications for the private sector.

Generally, when production ceases in the public sector, a public service ceases to be available. Thus, the inconvenienced parties are citizens who were receiving services such as garbage collection and who continue to pay taxes for services not received during the work stoppage. In contrast, much private-sector employment involves the production of physical products like lumber or manufactured goods. These products can be inventoried or obtained from alternative suppliers. When strikes or lockouts occur in the private sector, employees cease to receive paycheques and employers cease to receive revenues from sales, but customers can switch to other sources of supply and are generally not too inconvenienced.

When the public is injured or inconvenienced by a cessation of public service, local government employers have no more authority to end the stoppage than a private employer. Except for disputes involving essential services such as fire or police services, which must not be stopped and must ultimately be resolved through arbitration, local public officials have to weigh the costs of service stoppages against citizen responses to higher taxes. Public officials must also consider that public-sector union members may be active in politics as well as in labour negotiations. Union members may contribute to campaigns or work on behalf of elected officials who promise to provide them with more generous settlements or to increase services and may work against those who promise to cut taxes or reduce services.

Another way in which local government labour relations differ from those in the private sector is in the relative sophistication of the bargaining parties. Many local government unions are local chapters of the Canadian Union of Public Employees (CUPE), which is a member of the Canadian Labour Congress. CUPE provides even small local unions with assistance for bargaining and contract negotiations that are as sophisticated as those usually found in the largest municipalities and in bargaining associations in Vancouver and Victoria. As one moves to smaller local governments, however, the willingness of elected officials to delegate bargaining to professionals declines and their negotiating teams often lack the skills of their union counterparts.

While it is difficult to assess the overall effects of municipal government union activities, one measure is provided by Richard E. Mueller. His study examined the wage differentials between local,

provincial, and federal governments in Canada. He found that at the federal and local levels, employees earned a wage premium across the different wage ranges (Mueller, 1998). A direct comparison of wages between local governments and the British Columbia provincial government in several job categories indicated that local government has a high hourly wage. The only category in which a higher wage was not seen was the maximum wage of clerks or typists. The strength of the comparisons between governments is limited because the job descriptions and duties may not be identical and wage data did not include all local governments in British Columbia.

11.4 Summary Observations on Labour Relations

Public-sector labour relations differ from those in the private sector because of the potential seriousness of a cessation of service provision. This problem has led to modification of the private-sector labour relations model for local governments, primarily through provisions for the designation of essential services and the arbitration of disputes affecting police and fire services. Historically, public-sector settlements were imposed through government legislation but the Labour Relations Board now has the authority to use a variety of dispute resolution processes. These processes are designed to encourage successful collective bargaining in both the public and the private sectors.

Chapter Twelve

Finance

The preceding chapters have discussed local government functions and activities, the magnitude of the expenditures on them, and budgeting procedures in municipalities and regional districts. This chapter examines the rationale for different revenue sources, accounting requirements, ways expenditures are financed, and the magnitude of the different revenue sources. There is also a discussion of approaches to evaluating financing alternatives and the relationship between financing and the decision to provide services.

12.1 Local Government Revenue Principles

While revenues and revenue raising are sometimes discussed separately from the basic decision-making processes of local governments, revenue raising and expenditure decision making are intimately related. An important criteria for a decentralized system of local governance is that when decisions are made to provide benefits, they need to be balanced against the costs of those benefits. This is best done by elected officials, a municipal council, or regional district board that represents the citizens who will benefit and who will also have to raise taxes or impose service charges on the benefiting citizens to pay for their benefits. This principle is called “fiscal equivalence.” This does not mean that groups cannot make separate decisions within themselves to adjust tax burdens in different ways and there are always some people who would prefer their benefits be paid for by someone else. However, only if some reasonable balance between benefits and costs can be maintained in individual and local government decision making can fair and efficient long-run results be expected. This concept has some dimensions that are useful to identify.

Direct benefits to individuals

Many governmental activities result in direct benefits to identifiable individuals who may choose whether or not to use a good or service. According to the principle of fiscal equivalence, benefits such as parking spaces, tennis courts, ball fields, or special searches for documents should be paid for by users. People will use more or less of a service depending on its price and the availability of substitutes. Only by charging a price equal to the cost can one be sure that the value placed on the service is at least as great as the cost of providing it. B.C. local governments levy a lot of service charges consistent with this requirement.

Benefits to groups

Local governments separate provincial citizens into spatially defined groups. Some municipalities provide a broad range of services for their citizens. Improvement districts, school districts, and regional district service areas provide a single or very few services to their members. Where the benefits accrue primarily within the boundaries of the group, it is appropriate that the group raise the funds to pay for them. The British Columbia local government system, especially its regional districts, is organized on this principle. Where there are significant spillovers of benefits to citizens outside the boundaries of the group, the criteria of fiscal equivalence would be better met if some part of the cost was borne by a larger govern-

ment that included all of the beneficiaries. This includes provincial government transfers to smaller governments where there is a provincial interest involved, and also the assumption, by the provincial government, of almost all of the services that directly involve income redistribution (e.g., welfare).

Temporal fiscal equivalence

Temporal fiscal equivalence is the matching of payments to the time when benefits are received. This means paying for current programs from current taxes but paying for the construction of a long-term facility through borrowing which will be paid back over time by the users of the facility. These two aspects of fiscal equivalence appear to be achieved to a very high degree in British Columbia because the provincial government supervises local government debt quite strictly.

The other way to pay for a facility over time is through contributions to a reserve fund. In this case, temporal fiscal equivalence is not achieved because the time when the payment is made does not match the time when the benefit is received.

There can be problems with achieving or maintaining temporal fiscal equivalence. For example, once physical facilities such as streets, sidewalks, watermains, and sewers are in place, maintenance by the current beneficiaries may be neglected. Such neglect reduces the need to raise revenues in the short run but much more expensive reconstruction may be required in the long run. Achieving a balance between costs and benefits would require that beneficiaries pay for maintaining the facilities they inherit—a policy that would provide net benefits for all over time. However, raising funds for the upkeep of existing facilities appears to be something elected officials are often willing to put off. As a result, the deterioration of facilities can become a serious problem.

Tax equity

While the criterion of fiscal equivalence applies to governments in relation to other governments and to service charges for individual benefits, tax equity applies to individual taxpayers within a government. Several criteria that are important. One criterion is **benefits received**. That is, taxes should bear some relationship to the benefits received by the taxpayer. A second is **horizontal equity**, which means equally situated taxpayers should pay the same taxes. Two other closely related criteria are **vertical equity** and **ability to pay**. With vertical equity, taxpayers who are unequally situated should pay different taxes, and ability to pay makes it clear that taxpayers with higher income or assets (depending on the tax base) should pay more than those with less. Another concept with regard to property taxes is that **an old tax is a good tax**. Property purchases are usually long-term decisions, so knowing what taxes and benefits are associated with the property allows the purchaser to make better decisions. The criteria of fiscal equivalence and tax equity are used to understand the effects of using the different revenue sources.

12.2 Budgeting and Financial Reporting

Budgeting and financial reporting in local governments are two vital functions at opposite sides of the same issue. Budgeting looks forward and estimates costs and revenues for the future, while financial reporting looks back at the past and quantifies what results were achieved.

Budgeting

The budget process in local government is one in which policy becomes reality. Estimates of the costs of programs and projects are put into a timetable, and revenue sources put in place to fund them. In this way all the financial needs of a local government are collected with estimated revenues into one document called the budget or financial plan.

Budgeting was referred to in Chapter 3 as part of the municipal governance process, where the legal responsibilities of council to adopt a five-year financial plan by May 15 in each year were listed.

Here we will deal with the financial plan from the finance point of view. The budget process in most local governments is one of the most important and time-consuming processes that the organization will undertake. In most organizations it will actually take almost a year. A typical budget process includes these steps:

- Finance director meets with council to determine budget objectives for the year.
- Budget instructions issued to departments.
- Departments submit budget requests to finance department.
- Finance department compiles the requests.
- Staff evaluates request and makes adjustments.
- Finance department submits preliminary budget figures to council.
- Council considers budget and makes adjustments as they see fit.
- Public meeting held to review proposed budget.
- Council considers public input and makes changes as they see fit.
- Finance draws up financial plan bylaw.
- Council considers bylaws and adopts the plan.

Within these steps there can be considerable negotiation between the finance department, operating departments, council committees, and council. For major changes in service charges or programs, council or council committees may involve the public in meetings or open houses prior to the more formal presentation of the complete budget in a public meeting. Separate activities that are self-financing, such as utilities, may follow a parallel process before coming together in the final budget plan.

Regional districts follow a similar process except that they must budget by function and include all costs and revenues related to that function. They must also complete the process earlier so that requisitions for funds can be delivered to the municipalities well before the May 15 deadline for setting tax rates.

In practice, the budget process is divided into operating and capital sections, although the processes will run in parallel.

- Operating expenditures on such items as salaries, benefits, supplies, contracted services, and debt payments, are funded from operating revenues raised in the same year that the money is to be expended.
- Expenditures on tangible capital assets such as roads, buildings, and underground utilities can be financed from a variety of sources including operating revenues, grants, development cost charges, reserves, or borrowing.

The budgeting process is the major decision-making process for local government activities. Once the process is completed, the budget plan is also the legal framework for revenue collection and spending.

Financial reporting

Accountability requires that local governments report their financial results to their various stakeholders in a variety of ways. Several different reports are needed:

- Annual audited financial statements prepared in accordance with Generally Accepted Accounting Principles for Canadian Governments as laid out by The Public Sector Accounting Board (PSAB). This report will usually be presented to the board or council three months after the year-end and incorporated in the annual report issued to the public and outside stakeholders soon after.
- Internal reporting to councils and boards, directors, and managers. These reports are usually monthly or quarterly and usually concentrate on comparisons of budgets to actual results.

- Statutory reports required by specific agencies, such as CRA, Statistics Canada, and the provincial government. For municipalities the municipal affairs ministry requires a specific report (LGDE) on which it collects data which is distributed to other provincial agencies.

In the past, local governments in B.C. accounted for and reported on their revenues and expenditures through a variety of self-contained funds, each established for a defined purpose. This simplistic “cash-in, cash-out” system worked well for many years, particularly in small entities with a limited number of funds, where the stakeholders involved understood the limitations of each fund.

Reporting by fund did not give a clear picture of the whole entity’s financial condition. PSAB was formed with this vision: “That the public understands and has confidence in public-sector reporting.” They issue standards and guidance with respect to matters of accounting in the public sector.

Under PSAB, local governments must:

1. Consolidate all activities of the government entity into their financial statements. For instance, if they control a library, it must be shown as part of the local government’s statements.
2. Show actual results compared to budget.
3. Show their financials assets and financial liabilities separately so as to calculate their net debt or net financial asset position.
4. Report liabilities such as post-employment benefits and landfill reclamation costs.
5. As of 2009, local governments must show their tangible capital assets on their balance sheets at cost less accumulated depreciation in the same way as the private sector and other levels of governments.

The results give a clearer picture of the total financial position of a local government in a format that is the same for all governments, so that results can be compared across different entities. Annual financial statements must be audited. B.C. legislation requires that each local government have an auditor who is qualified under section 180 of the *Company Act*.

However, PSAB only relates to annual external reporting. Many stakeholders need more detailed information, more frequent reporting, or for the same numbers to be reported in a different way. Local governments must issue periodic budget variance reports, reports on individual entities, capital project reports, and reports on reserves to satisfy the needs of their internal users, who must monitor progress being made throughout the year.

Regional districts have more complex fund structures than municipalities in order to allocate revenues and expenditures to their many service areas. For example, before being split, the Regional District of Comox-Strathcona had separate funds within its general, water, and sewer funds for more than 125 distinct functions in 2004. While these are consolidated in the audited financial statements, many external users are interested in the financial results of each function, so most regional districts ensure that the numbers for each fund are reported separately in their annual statements.

All local governments must issue statutory reports under provincial and federal legislation as well as reports to granting and lending agencies. Most modern computer systems can easily accommodate codes for different entities, funds, functions, objects, and departments. These can be adapted to report on the same basic numbers in a format that will meet the different reporting requirements of many stakeholders.

12.3 Revenue Sources

Local governments in British Columbia, like those in most of the western world, finance their activities with revenues from property taxes (including grants in lieu of taxes), service charges and special assessments, transfers from other governments, and various other of their own sources, including developer contributions, licence fees, fines, earnings on reserve funds, and sale of assets. However, as

indicated in Exhibit 12–1, the relative reliance on the various sources varies considerably among the different local governments.

Four kinds of government—municipalities, regional districts, school districts, and TransLink—collectively account for over 98 percent of all local government operating revenues and expenditures in British Columbia. Exhibit 12–1 shows that these governments received and spent over \$13.2 billion in 2006, an amount equal to a little over \$3,000 for each person in the province or slightly over \$9,000 for a family of three. Municipalities and school districts accounted for 83 percent of the total.

The distribution of revenue was as follows:

- Municipalities raised over \$5.9 billion, 45 percent of the overall total or \$1,626 per municipal citizen. About 48 percent of this came from property and other taxes, 32 percent from sale of services, 12 percent from other own source, and 7 percent from government transfers.
- Regional districts raised \$1.2 billion, 9 percent of the total or \$278 per regional district citizen. Thirty-two percent came from electoral area property taxes and municipal requisitions, 48 percent from sale of services, 9 percent from other own source, and nearly 11 percent from other governments.
- Nearly \$5 billion was raised for school districts, 38 percent of the total or \$1,151 per provincial citizen. More than 90 percent came from provincial and other government transfers. No property taxes are levied by school districts, but the provincial government does levy a school property tax which raises revenue equal to approximately 33 percent of school district expenditures. Those revenues go into the provincial general fund and schools are financed on a formula basis. School district own-source revenues include summer school charges, international student fees, rents, and transfers directly from First Nations to school districts where the First Nation has assumed responsibility for education or wants special programs in the schools.
- TransLink raised over \$1.1 billion, about 9 percent of the overall total or \$527 per Greater Vancouver citizen. Fuel tax was the largest source, and together with property taxes, accounted for over 47 percent of total revenue. More than 26 percent came from transit fares. Twenty-two percent of the government transfers was from municipalities for capital projects benefiting the municipality that were being managed by TransLink.

The revenue patterns for British Columbia's general local governments are similar to local governments across North America. The property tax and sale of services are the most important sources for general local governments, including municipalities, regional districts, and, elsewhere, counties. While a greater proportion of education funding is being provided by provincial or state governments, British Columbia is one of the jurisdictions in which the tax-setting function of local boards of education on even a small part of the total cost has been replaced by provincial transfers, even though the districts possess a residual taxation authority, subject to a popular referendum, that none have used. The almost total reliance on provincial transfers reflects the fact that the provincial government assumed direct control over the collection of nonresidential school taxes in 1982 and residential school taxes in 1990. In the process, the general power of school districts to set their own rates and collect their own property taxes was effectively abrogated and the percentage of school district revenues attributable to property taxes declined from around 40 percent in 1980–93 to 33 percent in 2006. This shift has helped provide tax room for other local governments that levy property taxes and helped keep residential property taxes in British Columbia around one percent of property value, which is toward the low end of residential property tax rates across North America. Provincial control of education spending also appears to contribute to education costs being lower relative to total spending by municipalities than prior to the takeover.

EXHIBIT 12-1: LOCAL GOVERNMENT REVENUE SOURCES IN 2006

Local Government (1)	Municipalities	Regional Districts	School Districts	TransLink	Total
population (1,000s)	3,618.53	4,319.08	4,320.26	2,221.61	4,320.26
Revenue (millions)	\$5,899.11	\$1,203.64	\$4,973.58	\$1,169.83	\$13,246.16
Percentage of revenue	45%	9%	38%	9%	100%
Per capita revenue from:					
property and other taxes (2)	\$779	\$90		\$249	\$871
service sales (3)	\$523	\$134	\$49	\$139	\$692
other own-source (4)	\$203	\$25	\$61	\$19	\$266
government transfers (5)	\$121	\$30	\$1,040	\$119	\$1,232
Total per capita revenue	\$1,626	\$279	\$1,151	\$527	\$3,061
Percentage revenue from:					
property and other taxes	47.9%	32.4%	0.0%	47.4%	28.5%
service sales	32.1%	48.0%	4.3%	26.5%	22.6%
other own-source	12.5%	8.9%	5.3%	3.6%	8.7%
government transfers	7.4%	10.7%	90.3%	22.5%	40.3%
Total percentage revenue	100.0%	100%	100%	100%	100.0%

Notes:

- 1 The four kinds of governments listed account for 98.5 percent of local government revenues. Excluded are improvement districts, regional hospital districts, regional library districts, and the Island Trust. Greater detail for municipalities and regional districts is provided in Exhibits 12-2 and 12-3.
- 2 For TransLink, motor fuel tax revenues are slightly higher than property tax revenues.
- 3 For school districts service sales are for summer school, off-shore tuition fees, direct funding from First Nations and rentals. For TransLink these are primarily transit fares.
- 4 These are not always listed in more detail on financial statements but include items such as the sale of capital and investment income.
- 5 Included in the government transfers for schools are property taxes labelled "school property taxes" collected by the provincial government. They are equal to approximately 33 percent of school district expenditures. These tax revenues go into the general fund and are not related to the transfers provided to individual school districts, which are formula based.

Sources: *BC Stats; Public Accounts; Local Government Statistics;* Ministry of Community Services (improvement district data); reports available on the websites of the Islands Trust, regional hospital districts, TransLink, regional library districts, Ministry of Education, Surveyor of Taxes.

Revenues of other local governments

Regional hospital districts, regional library districts, and the Islands Trust all rely on property taxes as a major revenue source. Improvement districts raise revenue from property taxes and the sale of services, depending on the nature of their activity. The total revenues for local governments are estimated to be less than two percent of the total revenues for all local governments. Property taxes raised by the provincial government in unincorporated areas and to finance BC Assessment, the Municipal Finance Authority, and BC Transit are also excluded from the Exhibit 12-1.

Municipal revenues

As indicated in Exhibits 12–1 and 12–2, municipalities have a diversified revenue base. Overall, nearly 93 percent of their 2006 revenues came from their own sources, including:

- 47.9 percent from local property and other taxes, including grants in lieu of taxes but not including taxes collected for other bodies, such as regional districts;
- 32.1 percent from sales of services (water, sewer, solid waste, transportation, recreation, etc.), rentals, franchise fees, licences, permits, fines, and other service charges;
- 6.15 percent from development cost charges; and
- 7.9 percent from the disposition of financial and physical assets, investment income, actuarial adjustments (reduction to the principal) on long-term debt, insurance proceeds, income of government business enterprises, and miscellaneous other sources.

The remaining 7.45 percent of the revenue were conditional or unconditional grants, entitlements, and cost-sharing transfers from other governments, including 5.7 percent from the provincial government, 0.7 percent from the federal government, and 1.1 percent from other governments (regional districts, school districts, First Nations, improvement districts, some non-public authorities such as the Federation of Canadian Municipalities). Smaller municipalities were more reliant on transfers from other governments, especially provincial grants.

Regional district revenues

The sources of regional district funds are similar to those of municipalities, as indicated in Exhibits 12–1 and 12–3, but there are notable differences between the Greater Vancouver Regional District (GVRD), which accounts for over half of the provincial population, and the other incorporated regional districts. Nearly 90 percent of all regional district revenue is from their own sources but, for all but the GVRD, property taxes are the major revenue source. For the GVRD, sale of services is the major revenue source.

- 32 percent (7 percent GVRD, 53 percent other) from property taxes, parcel taxes, and grants in lieu of taxes
- 48 percent (72 percent GVRD, 28 percent other) from sales of services, rentals, franchise fees, licences, permits, fines, and other service charges
- 9 percent (10 percent GVRD, 10 percent other) from developer cost charges, disposition of financial and physical assets, investment income, actuarial adjustments on long-term debt, insurance proceeds, government business enterprise income, and miscellaneous other sources

The remaining 10 percent of the revenue (11 percent GVRD, 10 percent other) was conditional or unconditional grants, entitlements, and cost-sharing transfers from other governments.

Regional districts do not collect their own property value taxes but rely on municipal tax collectors and the provincial surveyor of taxes to collect regional district taxes within their respective jurisdictions. The regional district submits requisitions to the province for services to citizens in electoral areas and to each municipal government in the regional district for services to municipal citizens. Tax collectors must indicate how much has been levied to pay the requisitions so citizens are aware of the cost of the regional district.

12.4 Property Taxes

Directly or indirectly, property taxes are an important source of revenue for local governments. Property value taxes are annual levies generally based on the assessed value of land and buildings. Tax rates are typically expressed in dollars per \$1,000 of the total value. Thus, a tax rate of \$10 would be \$10 per \$1,000 of assessed value, or one percent of the value of the property.

EXHIBIT 12-2: MUNICIPAL REVENUE SOURCES IN 2006

	Pop. under 5,000 (81 municipalities)	5,000–19,999 (46 municipalities)	20,000–99,999 (21 municipalities)	100,000–499,999 (8 municipalities)	Over 500,000 (Vancouver)	All municipalities (157 total)
2006 population (1,000s)	176.53	452.35	1,182.06	1,228.18	579.41	3,618.53
2006 revenue (\$ millions) (1)	\$310.13	\$830.26	\$1,916.94	\$1,783.21	\$1,058.57	\$5,899.11
Per capita revenue from (2)						
Property and other taxes (3)	\$724.75	\$888.99	\$793.28	\$686.74	\$875.91	\$778.97
Service charges (4)	\$498.96	\$509.86	\$495.31	\$431.17	\$789.23	\$522.60
Developer contributions (5)	\$48.34	\$84.82	\$98.48	\$146.43	\$32.53	\$100.04
Other own-source revenue (6)	\$106.20	\$66.27	\$73.37	\$68.07	\$42.31	\$67.31
Provincial govt. transfers (7)	\$241.89	\$166.91	\$66.46	\$81.09	\$69.59	\$93.04
Federal government transfers (7)	\$17.93	\$46.25	\$9.45	\$2.59	\$1.70	\$10.90
Other government transfers (7)	\$46.60	\$23.03	\$33.09	\$3.54	\$0.00	\$17.16
Disposition of assets (8)	\$33.87	\$45.30	\$45.82	\$32.30	\$16.22	\$35.84
Total per capita revenue	\$1,718.54	\$1,831.43	\$1,615.26	\$1,451.93	\$1,827.49	\$1,625.86
Percentage revenue from (2)						
Property and other taxes (3)	42.17	48.54	49.11	47.30	47.93	47.91
Service charges (4)	29.03	27.84	30.66	29.70	43.19	32.14
Developer contributions (5)	2.81	4.63	6.10	10.09	1.78	6.15
Other own-source revenue (6)	6.18	3.62	4.54	4.69	2.32	4.14
Provincial govt. transfers (7)	14.08	9.11	4.11	5.58	3.81	5.72
Federal government transfers (7)	1.04	2.53	0.59	0.18	0.09	0.67
Other government transfers (7)	2.71	1.26	2.05	0.24	0.00	1.06
Disposition of assets (8)	1.97	2.47	2.84	2.22	0.89	2.20
Total percentage revenue	100.00	100.00	100.00	100.00	100.00	100.00

Notes:

- 1 Excludes property taxes collected for other governments.
- 2 The breakdowns are based on statistical schedules that were amended in 2002 to conform with generally accepted accounting principles (GAAP) for local governments.
- 3 Includes property value taxes, grants in lieu of taxes and other own-purpose taxation, such as parcel and business taxes.
- 4 Includes sales of services (water, sewer, solid waste, transportation, recreation, etc.), rentals, franchise fees, licences, permits, fines, etc.
- 5 Includes revenue from developer cost charges, payments of cash in lieu of park land, etc.
- 6 Includes investment income, actuarial adjustments (reduction to the principal) on long-term debt, insurance proceeds, income of government business enterprises, etc.
- 7 Includes unconditional and conditional grants, entitlements, and cost-sharing agreements. Federal transfers include \$4.1 million for the Town of Sidney, accounting for \$48 of the \$56 overall per capita amount. "Other" governments include regional districts, school districts, First Nations, improvement districts, some non-public authorities such as the Federation of Canadian Municipalities, etc.
- 8 Includes disposition or revaluation of financial assets and disposition of physical assets.

Source: *Local Government Statistics, Ministry of Community Services; LGDE Help Manual*

EXHIBIT 12-3: REGIONAL DISTRICT REVENUE SOURCES IN 2006

	Greater Vancouver Regional District		Other 26 Regional Districts		All 27 Regional Districts	
2006 population (1,000s)	2,221.61		2,097.46		4,319.08	
2006 revenue (\$ millions) (1)	\$539.19		\$664.45		\$1,203.64	
Percentage of total revenue (1)	44.80%		55.20%		100.00%	
	per capita	percent	per capita	percent	per capita	percent
2006 revenue from (2)						
Property and other taxes (3)	\$17.13	6.66	\$159.37	53.10	\$90.30	32.40
Service charges (4)	\$185.97	72.33	\$84.38	28.11	\$133.72	47.98
Developer contributions (5)	\$2.25	0.88	\$5.77	1.92	\$4.06	1.46
Other own-source revenue (6)	\$20.46	7.96	\$19.14	6.38	\$19.78	7.10
Federal government transfers (7)	\$10.67	4.15	\$3.38	1.13	\$6.92	2.48
Provincial govt. transfers (7)	\$17.31	6.73	\$22.76	7.58	\$20.11	7.22
Other government transfers (7)	\$0.12	0.05	\$5.35	1.78	\$2.81	1.01
Disposition of assets (8)	\$3.19	1.24	\$0.00	0.00	\$0.99	0.36
Total per capita revenue	\$257.10	100.00	\$300.15	100.00	\$278.69	100.00

Notes:

- 1 Excludes member municipality MFA debt payments.
- 2 The breakdowns are based on statistical schedules that were amended in 2002 to conform with generally accepted accounting principles (GAAP) for local governments.
- 3 Includes parcel taxes; grants in lieu of taxes; funds requisitioned from municipalities and the provincial surveyor of taxes (for electoral areas), who collect property value taxes on behalf of regional districts.
- 4 Includes sales of services (water, sewer, solid waste, transportation, recreation, etc.), rentals, franchise fees, licences, permits, fines, etc.
- 5 Includes revenue related to developer cost charges, payments of cash in lieu of park land, etc.
- 6 Includes investment income, actuarial adjustments (reduction to the principal) on long-term debt, insurance proceeds, income of government business enterprises, etc.
- 7 Includes unconditional and conditional grants, entitlements, and cost-sharing agreements. "Other" governments include municipalities, school districts, First Nations, improvement districts, some non-public authorities such as the Federation of Canadian Municipalities, etc.
- 8 Includes disposition or revaluation of financial assets and disposition of physical assets.

Source: *Local Government Statistics, Ministry of Community Services; Regional District LGDE Help Manual*

Historically, the property tax was one of the earliest taxes used by any government and it has become almost exclusively limited to use by local governments in North America as national, provincial, and state governments have made increasing use of income, sales, and excise taxes. Newfoundland-Labrador and Quebec have retained provincial property taxes, as does British Columbia with its provincial rural and school property taxes. Ontario and Alberta also levy provincial property taxes for schools.

Rationale

Property taxes have three main advantages for local governments. First, they can be easily used by very small jurisdictions with overlapping or different boundaries, including the service areas within regional districts. Each jurisdiction indicates the tax rate in different areas to the tax collector who in turn adds them to the annual tax bill of property owners within the jurisdiction. The revenues are then collected and passed on by the tax collector.

A second advantage is that real estate is immobile. This facilitates the use of the tax by small jurisdictions because property cannot get up and leave if a tax is levied on it. However, in the long run, unless the property owners' tax costs are offset by government benefits or lower land prices, there may be less new construction. A jurisdiction whose taxes are high relative to the benefits it provides or in relation to other jurisdictions providing similar benefits will experience less new growth than one with lower costs.

Third, the property tax is a benefits-received type of tax to the extent that the benefits of government expenditures financed by property taxes accrue to residents and property owners in the jurisdiction. The depressing effects of the tax on property values are offset by the enhancing effects of the benefits. The enhancing effects are obvious when revenues are spent for police protection, fire protection, street paving and streetlights, but they also occur with services such as sewers, parks, and even education. To achieve these benefits, property tax assessments must be consistently accurate and up to date. The actual uses of property taxes in British Columbia are described below.

Property assessment procedures

In British Columbia, BC Assessment (BCAA), a provincial Crown corporation, assesses all property in the province. As shown in Exhibit 12-4, property in B.C. is divided into nine basic classifications for assessment purposes.

In general, the assessed value of a property in B.C. reflects the estimated market value of the land and improvements on it. There are three main approaches to determining the market value:

- A direct comparison approach, in which the market value is determined by comparing the prices at which comparable properties have been sold, is the primary method used in assessing the value of residential properties wherever annual sales volumes permit reasonably valid, accurate comparisons.
- An income approach, in which the market value of a property that is rented or leased, such as an apartment or a commercial space, is determined by calculating the total investment that would be needed to earn the rental or lease income under current market rates of interest.
- A cost approach, in which the market value is determined by estimating the site value (land and improvements) and the cost of replacing the existing building, then deducting the value of all sources of depreciation, including physical deterioration, functional obsolescence and economic obsolescence. This approach is used where there are no comparable sales or rental income, or where the improvements are unique or specialized, such as for a large industrial plant.

To stabilize municipal tax bases that had experienced extreme cyclical variations when more traditional market approaches were used in assessing major industrial properties, the *Assessment Act* and regulations include special provisions for assessing major industry (class 4) and farm (class 9) property.

Another approach is used to assess linear utility (class 2) properties, for which the taxable value is normally determined using rates prescribed by the BC Assessment Authority. This is not an approach to estimating market value but rather, a substitute for such an estimate. In place of the BC Assessment Authority rates, which are not to be confused with tax rates, the *Local Government Act* requires municipalities to base certain utility company property taxes on gross annual sales and rental revenues, as described below.

EXHIBIT 12-4: BRITISH COLUMBIA PROPERTY CLASSIFICATIONS

1. **Residential:** single-family residences, multifamily residences, duplexes, apartments, condominiums, nursing homes, seasonal dwellings, manufactured homes, recreational property, some vacant land, farm buildings, day care facilities.
2. **Utilities:** structures and land, excluding offices and sales outlets, used for railways, pipelines, telecommunications transmission, electrical generation, and transmission.
3. **Supportive Housing:** includes only eligible, designated supportive housing properties.
4. **Major Industry:** land and improvements (buildings) of major industrial properties, such as lumber and pulp mills, mines, smelters, large manufacturers of specified products, ship building, and loading terminals for sea-going ships.
5. **Light Industry:** property used or held for extracting, manufacturing, or transporting products, including ancillary storage, scrap metal yards, wineries, and boat-building operations, excluding properties used for food and non-alcoholic beverage production.
6. **Business Other:** offices, retail, warehousing, hotels, motels, properties that do not fall into other classes.
7. **Managed Forest Land:** privately owned forest land managed in compliance with the *Private Managed Forest Land Act*.
8. **Recreational Property Nonprofit Organization:** land used solely for such outdoor recreational activities as golf, skiing, tennis, public swimming pools, waterslides, amusement parks, marinas, and hang gliding (but excluding improvements such as a clubhouse); and property used for at least 150 days per year as a place of public worship or as a meeting hall by a nonprofit, fraternal organization.
9. **Farm Land:** farm land that must produce a prescribed amount of qualifying primary agricultural products for sale, such as crops or livestock.

Every year, on or before December 31, the BCAA mails the owner of each property a notice of its assessed value and prepares an assessment roll or report for each taxing jurisdiction. The roll or report lists all properties within the jurisdiction, including those exempted from taxation.

People may appeal the assessment of their properties to a local property assessment review panel appointed by the minister, as long as the notice of complaint is filed by January 31. The review panel must render its decision by April 7. If either the appellant or the assessor is dissatisfied with the panel's ruling, an appeal can be made in specified instances to the provincial Property Assessment Appeal Board, provided that a notice of appeal must be filed by April 30.

Properties in an improvement district that directly levies its own taxes are also assessed by an officer of the improvement district, who notifies all owners and prepares an improvement district assessment roll. Complaints can be made to a court of revision appointed by the improvement district trustees and that body's decisions can be appealed to the inspector of municipalities.

Property tax rates

The bodies that can tax property in B.C. include the province, municipalities, the Sechelt Indian Government District, regional districts, the Islands Trust, improvement districts, regional hospital districts, TransLink, BC Transit, the Municipal Finance Authority (MFA), the BCAA and, where it has satisfied a referendum requirement, a school district.³³ Each body determines how much revenue it needs to recover through property taxes. First Nations may also levy property taxes on reserve lands.

³³ Some jurisdictions, like municipalities, levy property taxes directly. Others, like regional districts, do not directly levy taxes but "requisition" revenue at specified tax rates to be collected by either the municipal tax collector or surveyor of taxes. The rate setting is similar and consequences the same for taxpayers.

The province levies a tax on rural properties at uniform province-wide rates (except for special provisions in Peace River) for each class to fund road maintenance, rural subdivision approval, and snow removal for public secondary roads. The province levies school taxes throughout the province at uniform rates for each class of nonresidential property but rates for residential properties vary among the school districts, based on a formula that takes into account variations in residential assessments across the province. The province also levies a property tax on unincorporated areas and in municipalities under 5,000 population for provincial policing provided to those areas.

Municipalities, regional districts, and the other taxing jurisdictions set their rates to generate the tax revenue needed to cover costs not covered by other revenue sources. The variable tax rates set by regional districts, improvement districts, regional hospital districts, BC Transit, and the MFA must be based on “class multiples,” ratios for each class of property set by the ministry responsible for municipal affairs or set out in separate legislation or service establishment bylaw. For example, if the rate for business properties were required to be 2.5 times the residential property rate, and if the residential rate were set at \$5 per \$1,000 of assessed value, the business rate would have to be \$12.50. In municipalities, the tax rate ratios are independently determined, subject to any restrictions in the governing legislation. The tax rates set by BC Assessment and MFA are generally uniform for each class throughout the province, while the rates set by the other taxing jurisdictions must be uniform within the relevant service area.

Municipalities use two approaches to determine tax rates. One approach sets the rate for each class of property as a multiple of the residential rate, calculates a multiplied assessed value for all nine classes, then calculates the actual rate for each class required to generate the needed revenues, based on the preset multiples. The other approach decides the proportion of the needed funds to be provided by each class of property, then calculates the rate for each class by dividing the total amount it is to provide by the total assessed value for the class. In practice, several calculations with different rates for different classes are normally made before the tax rates for the year are finally set.

Taxation of utility and port properties

Taxes on linear utility properties are normally based on assessed values determined by BC Assessment. However, the *Local Government Act* requires that a different method be used by B.C. municipalities for taxing the property of any electric light, power, telephone, water, gas, or closed-circuit television company operating within a municipality, wherein the tax is equal to one percent of the company’s gross rental or sales revenue from customers in the municipality.

For the taxation of other utility properties, such as railways, a municipality can levy up to \$40 per \$1,000 or 2.5 times the class 6 (business) rate, whichever is greater. This rate cap was introduced by the provincial government in 1995 after it determined that municipal tax rates on linear utility properties had become too high in some cases and reform was warranted. The reform was part of an initiative that changed the ways railway properties were assessed, making B.C.’s railway property taxes fairer and more comparable to those elsewhere in Canada.

In 2004, the provincial government placed a cap on the tax rates for certain class 4 (major industry) port properties in the municipalities of Delta, North Vancouver City, North Vancouver District, Port Moody, Prince Rupert, Squamish, and Vancouver. The legislation was extended in 2008. A cap of \$27.50 per \$1,000 on the existing properties extends to 2018, while a cap of \$22.50 per \$1,000 for 10 years on new investment in those properties if constructed before 2018. The rate cap was imposed in response to concerns about the impact of municipal property taxes on the competitiveness of B.C. ports and the municipalities were compensated by the provincial government for their loss of revenue.

Exemptions and payments in lieu of taxes

The federal and provincial governments cannot tax each other, so federal properties are exempt from property taxation. In recognition of local services, the government owning the property pays a payment in lieu of taxes (also called grants in lieu) to the local government. These payments are generally included in property tax revenue. Provincial legislation further requires that certain types of property be exempted from taxation, including most provincial and municipal properties, public libraries, cemeteries, places of worship, certain nonprofit homes for the elderly, hospitals, schools, fruit trees, sewage treatment plants, and some specified farm property. The Lieutenant Governor in Council may also prescribe exemptions with respect to specific industrial, business, community airport, or community port improvements.

In addition to provincial exemptions, municipalities may exempt properties owned or used by charitable, philanthropic, or other not-for-profit corporations, properties owned or used by other local authorities, and properties used for specified religious, seniors' homes, private hospital, private school, or recreation purposes. A municipality may also exempt properties to encourage various types of revitalization, to achieve a range of environmental, economic, or social objectives. Municipalities may enter into special tax exemption agreements with respect to heritage properties, riparian properties, cemetery properties, and golf properties related to municipal service partnering agreements. These are specified exceptions to a general prohibition on assistance to business. Regional districts have similar powers for exemptions with the exception of for revitalization.

Property tax collection and enforcement

Property taxes are collected in B.C. by three types of taxing authorities: municipalities, the provincial surveyor of taxes, and some improvement districts. In a municipality, taxes are collected by a municipal officer whose duties must specifically include tax collection, although some municipalities' tax bills are processed by contractors. The municipal collector also collects taxes on behalf of the province (for school purposes and for policing in municipalities under 5,000 population), regional districts, regional hospital districts, BCAA, MFA, transit authority, and any other body whose taxing jurisdiction includes properties in the municipality.

In rural areas, the provincial surveyor of taxes collects provincial rural property taxes as well as other property taxes on behalf of the various taxing jurisdictions. Improvement districts may levy their own taxes directly or, if the services they provide include fire protection and/or streetlighting, may arrange to have the taxes collected on their behalf by the appropriate municipal and/or provincial tax collector(s), depending on where the improvement district is located.

Municipalities and the surveyor of taxes mail annual tax notices in time for property owners to pay their taxes by the due date, normally July 2. A municipality may establish one or more other due dates by bylaw, in which case a property owner may elect to pay taxes either on July 2 or on the other date(s). Improvement districts that collect their own taxes may establish their own schedules and other provisions by bylaw.

Each taxing authority enforces its powers and recovers delinquent taxes by charging interest, imposing penalties, seizing personal or other property, accepting real property, proceeding with a tax sale of the real property in question, or going to court. Annual tax sales for delinquent properties in municipalities are held on the last Monday in September. Owners whose properties have been sold for taxes have one year in which to redeem the properties by paying all outstanding taxes, interest, penalties, and costs. Delinquent rural and improvement district properties forfeit to the Crown.

Property tax assistance programs

The provincial government provides three property tax assistance programs through the Surveyor of Taxes Office. One, a farm extension program provides a time extension until October 31 for qualifying farms to pay current year taxes.

A homeowner grant program introduced in 1957 offers grants to owner-occupiers of residential properties to offset part of their school property tax burden. In practice, the grants are paid by the province directly to the tax collector on behalf of the property owners and are applied to school taxes first, then to municipal or other taxes. In 2008, they included a “regular grant” of up to \$570 to a qualifying homeowner, provided that the net tax payment could not be reduced below \$350, and an “additional grant” of up to \$845 to a qualifying homeowner who is a senior, a veteran, or a disabled person, provided that the net tax payment could not be reduced below \$100. These grants are phased out for high-valued homes, beginning at assessed values of \$1,050,000 and are eliminated for homes assessed at \$1,219,000 or more.

A property tax deferment program introduced in 1974 offers low-interest loans to qualifying homeowners to help them pay their property taxes. The program benefits people who have low incomes, such as some seniors, by letting them remain in homes whose market value has increased to a point where they cannot afford to pay all the taxes. To qualify for the program, a person must be able to satisfy residency criteria, have a minimum equity in the home of 25 percent of the assessed value, and be at least 55 years old, or a surviving spouse, or a person with disabilities. In 2004, about 11,000 people were taking advantage of the program.

Property taxation on Indian reserves

In 1988, British Columbia was the only Canadian province in which provincial and local government property taxes were consistently levied on leasehold lands held by non-aboriginals on Indian reserves. This practice was controversial because the provincial government did not maintain the Indian reserve roads that served leaseholds in rural areas and there was evidence that, on average, municipalities only provided about 25 percent of the services to leaseholds that were provided to properties elsewhere in the municipality.³⁴ In addition, the province, regional districts, and municipalities had no regulatory authority, such as land use regulation, on reserve lands. However, in some instances municipalities provided all services to leaseholds and, in some cases, to all reserve lands. In these cases, since the First Nation governments paid neither property taxes nor grants in lieu of taxes with respect to the unleased reserve lands, the services were delivered either through a contractual arrangement or on an informal basis.

While some First Nations and municipalities had managed to resolve leasehold tax and service delivery issues, there were many complaints. Some First Nations complained that leasehold values were reduced because taxes were levied but no services provided. Some municipal officials complained that they could neither collect taxes from status Indians nor regulate reserve lands within their boundaries. In addition, because of the difficulty of enforcing property tax collection on reserves, there was a relatively high incidence of delinquency. Delinquencies could be expensive for a municipality because it had limited ability to collect taxes levied but still had to pay other taxing jurisdictions, such as regional districts and school districts, the money that the municipality was required to collect on their behalf, whether the taxes were actually collected or not.

Major changes were made in the legislation affecting Indian reserves in 1988 and 1990. In 1988, amendments to the federal *Indian Act*, called “the Kamloops amendments” after the band that initiated them, made it easier for all First Nations to introduce their own property taxation on reserves. To assist

³⁴ Forty-five of approximately 1,600 Indian reserves in British Columbia were estimated to be located within municipal boundaries in 1988. In 2008 the provincial government estimated that there are 1,703 reserves in the province but no adjusted numbers for those within municipalities were available.

First Nations develop taxation regimes, the federal government established the Indian Taxation Advisory Board (ITAB) to perform regulatory functions for First Nation taxation and in 2005, ITAB was replaced by the more comprehensive First Nations Tax Commission.

In 1990, the passage of B.C.'s *Indian Self Government Enabling Act* harmonized provincial practices with the 1988 *Indian Act* amendments. By 2007, 82 Indian band council governments in B.C. and 114 in Canada levied a total of over \$49 million in taxes on reserve properties that had been leased to non-aboriginal parties. Many have also formalized contractual relations with municipal governments to purchase services, and some sit on regional district committees and pay for their share of a regional district service. This indicates an increased understanding that jurisdictions that supply a service should be able to collect appropriate fees or taxes to pay for the service and that taxes should not be levied where services are not provided.

Property tax impact, incidence, and effects

Property tax policies and practices have important implications for the local economy and tax base. It is important to understand the impacts, incidence, and longer-term effects of the use of property taxes as the major source of local government financing.

Property tax impacts are the costs generated or any problems taxpayers encounter in paying the bill. Most residents with mortgages have the tax included as part of their monthly payments. The elderly and disabled may defer tax payments and have them paid when they die or the property is sold. Farmers are allowed to defer payment until October 31, when harvest revenues are realized. Others may have to write large cheques once a year but an approximate amount is known well in advance. After income tax payments are due, some businesses find their tax bills have a large impact on cash flow and reserves must be set aside to pay them.

Tax incidence refers to the actual burden of a tax that may be borne not only by the taxpayer, but by other parties as well. Tax incidence must be understood before the criteria for taxation can be applied. Tax incidence on owner-residential-occupied property is straightforward. The homeowner pays. The homeowner also takes into account the amount of property taxes (and the benefits it finances) when purchasing the residence. If taxes are raised or lowered significantly without a change in benefits, the tax change may affect the price for which the homeowner can sell the house. With taxes higher, the price will be lower and vice versa. This effect is called capitalization and it simply means that any significant change in either taxes or benefits can be expected to be reflected in the market value of the residence when it is sold. This results in the primary incidence of the tax accruing to the property owners at the time the tax change occurs as initially a higher tax payment and subsequently as a lower value for their property.

The application of tax criteria to residential property taxation is straightforward. Because benefits from local services accrue largely to residents they virtually always receive benefits in excess of their tax costs. Residents in homes with similar assessed values pay the same tax (horizontal equity) and residents in more valuable homes pay higher taxes (vertical equity). Within a jurisdiction, because residents with more valuable homes pay higher taxes, there is a correlation of tax payments with ability to pay. This is increased with the homeowner grant program, which provides greater relative relief to owners of lower-valued homes.³⁵

³⁵ The correlation between income and the assessed value of a residence is fairly high within a local government. However, there may be little correlation in different parts of the province. For example, a high-income family in Prince George may reside in a physically nicer, but lower-valued, house than a lower-income family in Vancouver. When property taxes are levied province-wide, the lower-income family in a high-housing-value area may pay higher taxes than the higher-income family in a low-housing-value area. This is why property taxes are most appropriately used by local governments.

Residential property taxes in British Columbia generally do not exceed one percent of value and are known when residents purchase their house. A 2003 study (Bish 2003) indicated that median residential tax rates were the lowest in Canada. The effect of property taxes on residences should be minor, especially as they are more than offset by benefits.

Tax incidence and the application of tax criteria to business is more complicated for two major reasons. One is tax shifting. The other is due to nonresidential properties being diverse, with no systematic relationship between their assessed values upon which the taxes are based, and the benefits received from local services. For example, a railroad that has properties with high assessed values receives virtually no benefits from local services, is extremely difficult to compare to other taxpayers and has a limited ability to pay because its income is low relative to the value of the property. In contrast, a bar that depends heavily on local services may occupy a property with a low assessed value and have a high ability to pay because its income is high relative to the value of the property. Furthermore, nonresidential school property taxes are the same throughout the province. This is likely to result in similar businesses paying significantly different taxes in different areas of the province because assessed values in some areas, such as the Lower Mainland, are much higher than assessed values in other parts of the province.

Business property owners may try to shift the tax burden forward by increasing prices and/or shift it backward by reducing expenditures on labour, raw materials, and wholesale products. Whether or not it is possible to do this depends on the state of the markets in which they buy and sell. Sales could decline if customers resist paying higher prices, in which case some of the burden could be shifted backward as the businesses reduce their purchases of supplies. In most cases, it is difficult to shift the burden in this manner. Many large industry businesses cannot shift property taxes forward because they sell their products at world market prices. This includes the lumber, pulp, paper, minerals, oil, and gas industries. For profitable businesses there is some relief as the taxes are part of business costs and thus result in a lower income tax burden.

If it is not possible to shift the tax burden forward to customers or back to suppliers, it must be borne by the property owner and/or the business owner. If the business is owned by stockholders whose earnings are reduced by the property taxes, they might shift their investments to other businesses. If the business owner is a tenant and the property owner tries to shift the tax burden by increasing the rent, the business owner could relocate to less costly premises. In both cases, the property owner may have to bear the full burden of the tax. For many large businesses, the business is the property owner.

Where the full burden of the tax is borne by a business, the net annual income from the property is reduced by the amount of the tax and its sales value is reduced commensurately. In other words, the tax burden is capitalized into the value of the property. If the property is sold, the new owner does not bear the burden of the tax because it has already been reflected in the sales price, even though the new owner will continue to pay the annual property tax bill. For business, if the tax was in effect prior to purchasing the business, it should have been considered in the price paid for the business. Problems for business may arise from changed tax rates or from changed business conditions where the business revenue declines for other reasons.

Tax shifting and diversity make the application of tax criteria to business very difficult. Because there is no systematic relationship between taxes paid and benefits received nor between the assessed value of a business (and its taxes) and its net income, there is no relation between taxes paid and ability to pay. This also means that criteria of neither horizontal nor vertical equity cannot be determined and are unlikely to be met.

The effects of property taxation on business are related to the tax rates in individual municipalities. In general if taxes are not too far from benefits received and not higher than adjacent jurisdictions there are no adverse consequences. The overall level of property taxes on business relative to residential taxes, and

the extremely high property tax rates on industry in some municipalities, may have negative consequences for business investment and the overall investment climate in British Columbia. Several studies have addressed these issues.

The relationship between residential and business property taxes

British Columbia's municipalities have more discretion to set different property tax rates on different classes of property than any other jurisdiction in Canada. Other provincial governments set the ratios among property classes, have fewer business and industrial classes, and/or constrain tax ratio and rate setting. Since 1984, when they were no longer required to base their tax rates on ratios set by the province, B.C. municipalities have gradually increased the rates on business, industry, and utility classes relative to residential tax rates. By 2003, some nonresidential rates and associated tax ratios were the highest in North America. At the same time, the median rates on residential properties in B.C. were the lowest in Canada. Studies that have been done on this issue include the following:

- A 2006 study of British Columbia's competitiveness determined that in some municipalities, high municipal property tax rates on major industry, such as pulp and paper mills, smelters, and ports, were creating a disincentive to investment and having a serious impact on the competitiveness of business, specifically the pulp and paper industry. The study concluded that the weighted average tax rate for the major industry class in the province was \$40/\$1,000 of assessed value compared to just over \$4/\$1,000 of the assessed value for the residential class. The significant uncertainty caused by the ability to adjust rates each year was also described as having a negative effect on B.C.'s competitiveness (B.C. Competition Council 2006).
- A 2005 study confirmed that, relative to other property classes, major industry property assessments in B.C.'s industrial municipalities have declined over time while the tax rates on those properties have increased, such that municipal tax revenues from this source have remained relatively stable over the years. Any changes in tax policy to limit major industry tax rates would have the biggest negative impact on smaller resource towns with an undiversified tax base, since they depend on major industry revenue to provide more services than would be sustainable without the major industry tax base (Mezynska 2005).
- A 2004 study of taxation in the two North Vancouver municipalities for the North Shore Waterfront Industrial Association found that industrial taxpayers paid \$2.45 in property taxes for each dollar of net services consumed while residential taxpayers in the City and District paid 58 cents and 86 cents respectively (MMK 2004).
- A 2004 study of major industry taxation from 1990 to 2003, conducted for the Union of British Columbia Municipalities, found that major industry property assessment in the 73 or so B.C. municipalities with such properties had declined both absolutely and relatively, from an average of 3.5 to 1.1 percent of their tax bases. At the same time the assessment for this class had increased in unincorporated areas. Almost all municipalities had increased their tax rates to compensate for the assessment decline and their annual revenue from the properties had actually increased by \$23 million. On average, more than 40 percent of the property tax revenue received by industrial towns with populations under 5,000 came from major industry (Adams 2004).
- A 2003 study found that high tax rates imposed by the top quartile of municipalities on major industry properties, and to a lesser extent on utilities, were the highest in North America and may be contributing to a business climate problem in B.C. (Bish 2003).
- A 1995 study of Vancouver's property taxes for the City of Vancouver found that the taxes on business not only covered the costs of providing city services to commuters and shoppers coming into the city from other municipalities, they also contributed so much that local residential taxpayers only had to pay 50 cents for each dollar's worth of services they received (KPMG 1995).

In response, the City of Vancouver has pursued a policy of gradually shifting more of the tax burden to the residential class.

The studies show that services to B.C. residential properties have been significantly subsidized by the taxes levied on nonresidential properties, especially those in the industrial class. There are two explanations for this.

The history of industry support for local amenities in smaller municipalities led those municipalities to depend on its industrial tax base for support. Local industry management often supports the high taxes to finance amenities for their employees. However, with relatively high tax rates those towns have not attracted additional investment from existing industry or new industry—so they keep raising tax rates as the plant and equipment depreciated and assessments declined to maintain industry tax revenues. The mills and other heavy industry in these municipalities also cannot shift taxes to higher prices because their products are sold at world market prices in U.S. dollars. This has been exacerbated by the rise in the Canadian dollar, which in effect means their revenues in Canadian dollars, which they use to pay business costs and taxes, are lower. These towns are essentially in a property tax death-spiral because with high tax rates and as rates increase further, no business will make investments in the town and eventually the depreciating facility will close,³⁶ and taxes on remaining residents and businesses will have to rise to maintain local services.³⁷ Situations such as in Vancouver and the North Vancouver municipalities do not have the same history as their business taxes are not nearly as high as industry taxes in outlying towns. They seem to result from normal operation of democratic elections where elected officials respond to their voters.

The second and rather unsurprising explanation is that municipal councils seek to satisfy their voters, who are largely residential property owners or tenants, by keeping residential property taxes low at the expense of nonresidential property owners. The councils can then provide more services for their residents than the residents would be willing to pay for because the tax burden can be shifted to nonresidential property owners, who subsidize the services to the residents. It is nice for residential property owners to reside in such a system, at least in the short run, but it is not so nice if the high taxes on nonresidential properties discourage investment and ultimately undermine the tax base. The structure of property tax rates in most municipalities it is quite straightforward. Except for farmers, the fewer the voters in a property class, the higher the tax rates.

In recognition of the likely outcome from providing municipal councils with unlimited tax-rate-setting authority, other provinces either combine classes so all businesses are in a single class (which reduces the opportunities to tax industry higher than locally owned businesses) or fix the ratios among tax rates on different classes of property. In the U.S. virtually all state governments or state constitutions simply require that tax rates are the same for all kinds of properties.

³⁶ It can be difficult to compare property tax rates with income and excise tax (GST) rates. Property tax rates are based on assessed or capital value while income and excise tax rates are based on an income flow or transaction. One simple approach is to estimate that a business expects a 10 percent net return from a capital investment. A one percent property tax on the entire investment would be equivalent to a 10 percent income tax. The study of property tax rates on industry in 2003 (Bish 2003) found that the top quartile of municipal tax rates in B.C. municipalities was 6.4 to 14.6 percent. If the expected net return on capital was 10 percent those rates are equivalent to income tax rates of 64 to 146 percent of the return on that investment. The “old tax is a good tax” often applies to existing business but it is very unlikely either old or new businesses will invest under these tax rates.

³⁷ The increase in property taxes necessary to make up for the loss of industry property tax revenues will be borne primarily by existing property owners. New purchasers buying residences or business in the town will be able to take into account the high property tax rates when determining how much they are willing to pay for a house. Existing owners can remain and pay high taxes or sell their property for a lower market value as the cost of increased taxes is capitalized into their property value. If part of the economic base of the town is also eliminated so residential prices fall still further, these towns become desirable places for retirees to live as they often have excellent amenities, including community recreation facilities that were paid for by the former industrial property owners.

In recognition of the problems associated with high tax rates on business and industry in some municipalities, the provincial government legislated ceilings on port industrial property taxes, as previously mentioned, and in 2007 passed legislation requiring all municipalities to meet new tax policy disclosure requirements. The *Community Charter* now requires municipal five-year financial plans to include a more explicit form of revenue and tax policy disclosure, which requires municipalities to include in the five-year financial plan their objectives and policies regarding: (a) the proportion of total revenue that comes from each of the funding sources; (b) the distribution of property taxes among the property classes; and (c) the use of permissive tax exemptions (such as revitalization tax exemptions). These new revenue and tax policy disclosure requirements further enhance municipal accountability to the public by requiring all municipalities to develop and publicly disclose their objectives and policies in relation to their municipal taxes. The development and disclosure of objectives and policies is intended to assist municipalities in making more considered and meaningful decisions regarding their revenue and tax policies, including in the distribution of property tax rates across property classes, such as major industry.

There is a growing awareness among municipalities that the inequitable distribution of rates is a problem. For example, in 2008, the City of Vancouver's Property Tax Policy Review Commission released its final report. The commission was established to engage with Vancouver's business and residential communities, as well as other stakeholders, to essentially "recommend to Vancouver City Council a long-term policy that will define and achieve a 'fair tax' for commercial property taxpayers, addressing the perceived inequity in the share of the City of Vancouver's property tax levy that is paid by the nonresidential property classes, as compared to the share paid by the residential property class."

Observations on property taxes

British Columbia has one of the most highly evolved, geographically based, fiscally equivalent property tax systems in North America. Standardized property assessments are exceptionally uniform at market value across the province and the tax system is well administered. Homeowner grants and tax deferment programs reduce the burden on occupants of lower-valued dwellings, the elderly, and the disabled, who might otherwise be unable to afford to continue living in their homes. The regional district system allows for a flexible pattern of internal divisions into various areas for supplying services, so that only the properties within a given area are taxed for the services to that area. Likewise, a municipality can create special taxing areas to pay for special services not provided elsewhere in the municipality. Both situations provide opportunities for local people and their officials to relate local taxes to local benefits. In addition, the proportion of school financing from property taxes has been reduced and school resources are equalized province-wide. Social welfare and other services devoted primarily to income redistribution, which were once funded by local property taxes, are now administered by the provincial government and funded from general income and sales taxes.

While the local government system possesses fiscal equivalence and residential property taxation is reasonably structured, the balance between residential and nonresidential within municipalities appears out of balance, with businesses subsidizing residential taxpayers. This raises questions of fairness in larger municipalities, but its consequences in smaller, industry-dependent towns, are likely to be much more serious.

12.5 Service Charges and Special Assessments

In addition to revenues from property taxes some local governments derive considerable operating revenue from service or user charges, such as rentals, franchise fees, licence fees, fines, permit fees, and sales of services (water, sewer, solid waste, transportation, recreation, education, etc.) to other governments, businesses, and individuals. These revenues constitute a third of municipal revenues, more than 70

percent of GVRD, and nearly half of all regional district revenue. They are also the only funding source for some improvement districts.

Rationale

Service charges and special assessments can be used to finance the provision of any service for which the beneficiaries can be easily identified (individuals or small groups of property owners) or can be easily excluded unless payment is made (such as potential users of parking stalls), but they are more than simple revenue sources. Their special relationship to a benefit received can make information derived from their use important for decision making and their direct benefits-received nature provides them with a quality of fairness, in the sense of getting what you pay for, that may be lacking with general taxes. Licence and permit fees can also be fair when the revenues are used to provide a related service, such as when fees for dog licences are used to finance enforcement and pound services, or when building permit fees help finance building inspection department activities.

The information component of service charges and special assessments is important. For a special assessment, an estimate is made of the costs of providing the service and what the assessment will be for each individual property owner in the group. If most property owners feel the benefits are worth the cost, the local government will provide the service. This moves decisions on public expenditures to a small group level, with beneficiaries and taxpayers having the major say in decisions. Thus, they can balance benefits against costs in their decision making in a way that is lacking when general government expenditures are considered separately from the taxes that pay for them.

Revenues collected from user charges provide an indication of the current value of the service to the citizen consumers, and revenue and price information can provide a basis for local governments to make investment decisions. For example, a local government can use service charges to finance downtown parking facilities. If the facilities continually fill up, it can estimate the price increase necessary to ration the spaces available and determine if estimates of future revenues from expanded sales would be sufficient to construct additional parking facilities. If demand warrants, additional facilities can be constructed, with the additional revenues from their use paying for the construction. Thus, demands can be met as long as the citizens place a high enough value on the services to pay for them.

There are some disincentives to the use of service charges for full cost recovery. Local officials may choose to charge less than full price to make the service more affordable for more people, especially lower-income citizens, or simply to help increase demand for the service. For example, few local governments set service charges for recreational facilities like playing fields for clubs and swimming pools at a sufficient level to recover costs, although in some cases they may subsidize certain services to lower-income users through a device such as a voucher system.

Special assessments, such as local area service taxes within municipalities, are also levied on individuals and businesses for specific goods or services provided to them. Thus, a special assessment is a kind of service charge imposed on a group of property owners for a specific service benefiting the group. Services funded by special assessments typically include water supply systems, sanitary sewer systems, curbs, sidewalks, underground wiring, snow removal, and public parking facilities but since 2004, municipalities can do any service on an area-by-area basis. The service may be delivered to all or most of the properties in a municipality, such as a water supply or sewerage system, or it may be a local area service, such as sidewalk paving or underground wiring. In the latter case, the service may have been requested in a petition from the local property owners or may have been initiated by the council, subject to a counter-petition or a local referendum.

The special assessment may be in the form of a parcel tax (based on either a single amount, the taxable area, or the taxable frontage instead of based on assessed value), although to use parcel taxes the local government must prepare its own parcel tax roll and appoint a parcel tax review panel to authenti-

cate the roll and deal with complaints or appeals. An improvement district that levies its own property taxes and bases the tax on a criterion other than property value would follow this kind of procedure.

Some common local services charges are listed in Exhibit 12–5.

EXHIBIT 12–5: COMMON LOCAL GOVERNMENT SERVICE CHARGES

Advertising	Moorage	Skating and ice rentals
Bicycle licences	Museum fees	Subdivision fees
Building permits	Parking meter charges	Swimming pool fees
Campground fees	Plumbing permit fees	Taxi meter inspection fees
Cemetery charges	Public health inspection fees	Tennis lesson fees
Civic centre rental	Pool rentals	Theatre entrance fees
Concession rental	Recreation facility usage fees	Transit fares
Dog licences	Sewer connection charges	Tuition fees
Garbage collection fees	Sewer service charges	Water connection charges
Golf course fees	Sign fees	Water supply charges

Service charge policy issues

When individual or small groups of beneficiaries can be identified and charged for the benefits, fiscal equivalence and benefits-received criteria are fully met. Where ability to pay is an important criteria municipalities often set service charges to cover only part of the costs of the service or provide vouchers and special prices for some users. For services such as playfields for organized sports, the municipality may decide there are sufficient external benefits for the entire community to share costs between service charges and the general municipal budget.

One dilemma with cost sharing between users and the general taxpayer is that no one other than an administrator argues for more service charges. Non-users of special services are unlikely to find it worthwhile to lobby for increased charges because any single user charge has little effect on general tax levels. In contrast, groups of users are more likely to lobby to retain their benefits and keep the charges down. The lobbying efforts of special groups can be resisted only when the local government adopts a general policy of imposing user charges for full cost-recovery wherever beneficiaries can be identified and there is not a specific objective of income redistribution.

12.6 Developer Contributions and Other Own-Source Revenues

Development cost charges (DCCs) and payments in lieu of park and school land contributions (described in Chapter 10) are a normal practice in B.C. municipalities and regional districts. These charges are in addition to the developer bearing the costs of infrastructure within the development itself and are a charge to buy into the extensive infrastructure that already exists and provide reserves for future infrastructure as the population within the local government increases. They prevent the costs of new development and new residents from being borne by existing taxpayers. Under some conditions both DCCs may be waived but that is not common.

Various other revenue sources, such as the disposition or revaluation of financial assets, the disposition of physical assets, investment income, actuarial adjustments (reduction to the principal) on long-term debt, and insurance proceeds are collected by different governments. As with development cost charges, while the overall amounts are small relative to total revenues for all local governments, they are often important for a few local governments at different times.

12.7 Government Transfers

Historically, transfers of funds from other governments have been an important revenue source for local governments in B.C. While they have declined in importance for municipalities and regional districts, they account for almost all school district revenues. As indicated in Exhibit 12–1, government transfers comprised 40.3 percent of all local government revenues in 2006, including 7.4 percent for municipalities, 10.7 percent for regional districts, 90.3 percent for school districts, and 22.5 percent for TransLink.

Approximately 90 percent of transfers to municipalities and regional districts and 95 percent of transfers to school districts came from the provincial government. Transfers from the federal government accounted for most of the rest but this did not include federal contributions to federal-provincial programs administered by the province or UBCM. Transfers from other sources, including municipalities, regional districts, school districts, First Nations, improvement districts, and some non-public authorities, such as the Federation of Canadian Municipalities' green municipal funds, accounted for less than one percent of all municipal and regional district revenues.

Rationale

Activities where significant benefits accrue beyond a local government's boundaries are unlikely to be provided at levels that reflect those benefits if all of the costs are borne by local taxpayers. These include activities for which the provincial or national government determine there is a provincial or federal interest such as encouraging energy-efficient programs. Transfers are also used when the larger government has responsibility, such as for welfare and other income redistribution activities, but where the activity itself is more effectively produced by a local government, as with social housing. Conditional transfers are specifically designed to encourage the local government to undertake activities it would not undertake without the payment.

Conditional transfers to school districts, where they comprise 95 percent of school district revenues, involve a combination of external benefits because educated people move around, equalization among school districts with different levels of wealth, and provincial control. They have a different impact than when a local government funds 90 percent of its activity from own-source revenue and undertakes a small proportion of its activities from conditional transfers as do municipalities and regional districts.

Unconditional transfers, often referred to as grants, are a small proportion of all transfers. While they appeal to local government officials who get funds to spend without having to impose taxes or charges, senior government officials would like to inform their taxpayers of specific benefits to be obtained and just giving money to other governments has not proved attractive relative to the use of conditional grants. The most important uses of unconditional transfers are to support local governance, especially smaller governments. From 1978 to 1994 the province had a much larger unconditional transfer program where it shared a percentage of the major provincial tax revenues with municipalities. The remnants of that program are small transfers to small local governments and regional districts. Instead, the province has turned to conditional transfer programs more focused on specific provincial priorities and to take advantage of federal involvement.

Conditional transfers

Provincial transfers to municipalities, regional districts, and prescribed related organizations are governed primarily by the 1994 *Local Government Grants Act* and regulations. The Act allows for funding a variety of projects including local government planning, growth management, restructuring, water supply, sewage disposal, highways, underground installation of utilities, and other infrastructure. There are specific ministry guidelines for the different kinds of transfers and the total must fit within the ministry budget. The Act also provides that the municipal affairs minister must consult with the Union of British

Columbia Municipalities (UBCM) at least annually regarding the amounts and administration of the grants.

The municipal affairs ministry also provides a number of specific funding programs to promote environmental sustainability and healthier communities. These programs, which are in some instances provided with assistance from federal and other provincial ministries, aim to, for example, reduce greenhouse gas emissions, improve drinking water and sewer services, provide greater access for seniors and those with disabilities, and help build active communities. Some of these key programs include the Canada-BC Municipal Rural Infrastructure Fund, Towns For Tomorrow, BC Spirit Squares Program, and the Green Cities Awards. Other provincial ministries and agencies also provide conditional transfers to local governments for purposes that further their policies, including a number that are administered by the UBCM. Programs administered by the UBCM included transfers to promote tourism, prepare emergency response plans, improve fire protection in forest fringe areas, traffic safety, mosquito control, counter the use of crystal meth, health promotion, develop innovative approaches to housing and senior programs and, jointly with BC School Trustees, to strengthen school and community connections. Programs administered by other provincial government ministries or agencies include grants for public libraries, museums, crime prevention, emergency preparedness, cycling infrastructure, and roads that had been transferred by the provincial government to local governments.

The federal government has directly sponsored or contributed to a number of conditional funding programs in B.C., such as the infrastructure and emergency preparedness programs mentioned above, within the broader frameworks of such initiatives as the Canada Strategic Infrastructure Fund, the Municipal Rural Infrastructure Fund, and the Border Infrastructure Fund. In 2005, a new five-year New Deal for Cities and Communities was introduced which provided for the transfer of \$635.5 million in federal gas tax revenues to B.C. local governments for projects aimed at improving air quality, drinking water quality, waste management, public transit, and other items in support of an environmentally sustainable local government infrastructure. This fund was extended through 2014 with \$8 billion in new funding in 2007. UBCM is a full participant in tailoring appropriate programs and administering the fund in British Columbia.

Unconditional transfers

The unconditional transfers provided by the province to municipalities and regional districts are prescribed in the *Local Government Grants Act* and regulations. While important for small municipalities, they are a very small proportion of all local government funding. They include grants to small municipalities, grants to regional districts, and traffic-fine revenue-sharing grants. The provincial government also makes other unconditional transfers from time to time, which have included transfers to the Peace River Regional District (to share some oil and gas revenue), and a transfer of a share of provincial casino revenue with the municipalities within which casinos were located.

Observations on government transfers

Most government transfers in British Columbia are for activities of interest to the provincial (or national) government where they want to encourage local governments to do something differently than they would have done if the activity was financed by local taxpayers. One new feature is the direct involvement of the UBCM in some of these grants. This gives UBCM the opportunity to design programs that meet member needs and federal assessments indicate that UBCM's programs are exceptionally well run. Unconditional transfers support local governance by small municipalities and regional districts.

The most significant change in local government finance over the past decades is the elimination of taxation by school districts. When school districts do not levy taxes, even if they finance only a small proportion of their expenditures, there is very little reason for most residents to pay any attention to them.

The predicted result is that the members elected to the board are likely to be elected by only those interested in higher expenditures on education, primarily parents, teachers and their unions. The result is that the school board can turn into a lobbying agency to get more funds from the provincial government, rather than a board carefully considering how to balance educational needs against what their local taxpayers are willing to pay. Ministry control, has led to the proportion of school district spending relative to municipal spending to fall over time.

12.8 Debt Finance and Reserve Funding

The financing of local government activities through borrowing and reserve funding is not separately indicated in Exhibits 12–1, 12–2, and 12–3 because longer-term debt is repaid over a period of years, debt incurred through borrowing in anticipation of revenue is simply repaid during the current year, and money placed in a reserve fund is not counted as an expenditure until it is spent, in some cases it is also not counted as revenue until it is spent.

For municipalities and regional districts, repayments of interest on long-term debt are included in the annual operating expenditure for each function, but repayment of the principal is not, just as the money borrowed for capital works is not included in the annual operating revenue. With respect to the other local governments, regional hospital district revenues are used primarily for servicing debt, some TransLink revenues are used for paying interest on debt, and long-term borrowing for school districts is handled directly by the provincial government.

Rationale

The rationale for local government debt is simple. For short-term debt, some municipalities borrow at the beginning of the year because property tax revenues do not come in until July. They then pay off the debt. More important is long-term debt for major capital expenditures. Use of debt finance for major capital expenditures means the local government does not have to raise large irregular sums of money, and it is appropriate that the beneficiaries of the project pay for it over the lifetime of its use.

Debt finance procedures

The provincial government has historically supervised local government borrowing very closely. Municipalities and regional districts must follow prescribed procedures. The Islands Trust cannot borrow money without ministerial approval, improvement district borrowing bylaws are subject to registration by the inspector of municipalities, regional hospital district borrowing bylaws must conform to provincial requirements, and regional library districts can only borrow money on a short-term basis to meet current expenditures. TransLink is an exception in that its board only needs to pass a resolution to authorize borrowing, although the resolution must be ratified by the mayors' council.

The province also restricts the aggregate size of the debt that a local government may incur. For example, in 2005 the *Community Charter* and *Municipal Liabilities Regulation* provided that a municipality's annual cost of servicing its aggregate liabilities for the year could not exceed 25 percent of its annual revenue for the previous year, in accordance with definitions and calculations prescribed in the regulation, unless the inspector of municipalities approved an increase. Furthermore, as a conservative restriction for local governments that rely heavily on class 4 (major industry) tax revenue, the regulation provided that the tax rate used in calculating the applicable tax revenue from class 4 properties could not exceed the average rate in the province, as determined by the inspector of municipalities, and the total calculated assessed value of the class 4 properties could not exceed 20 percent of the total assessed value of all properties in the municipality. The *South Coast British Columbia Transportation Authority Act*

provides that TransLink's outstanding debt obligations cannot exceed \$1.05 billion or any increased amount ratified by a resolution of the GVRD board of directors.

A municipal council or regional district board can provide for short-term borrowing in anticipation of revenue simply by passing a bylaw but, where it wishes to incur a longer-term debt, the bylaw must be approved by the inspector of municipalities. If the repayment period will be longer than five years and the money is being borrowed for capital purposes, a loan authorization bylaw must be approved by the electors unless the annual cost of servicing all of the municipality's liabilities is less than five percent of the previous year's total revenue or the work is ordered under the authority of the provincial inspector of dikes, the *Waste Management Act*, the *Environmental Management Act*, or the *Drinking Water Protection Act*. Approval of the electors may be obtained through a referendum or through the alternative approval (counter-petition) process.

When a municipality has adopted a loan authorization bylaw, it does not borrow the money directly. Instead, it must ask the board of the regional district in which it is located to undertake the financing. If it consents, the regional district board adopts a security-issuing bylaw providing for the issue of debentures or other evidence of debt. A loan application, which includes the two bylaws, a liability servicing limit certificate confirming the municipality's ability to service the debt, and a ministry certificate of approval, is then submitted for approval to the Municipal Finance Authority of British Columbia (MFA). Upon approval, the MFA includes the amount to be borrowed in the value of securities it periodically issues in the international money marketplace. The proceeds of the securities issued are then re-lent by the MFA to the local governing bodies that had requested loans.

With the exception of the City of Vancouver, which may incur long-term debt directly, all municipalities and regional districts in B.C. must finance their long-term capital borrowing through the MFA. Like the City of Vancouver, regional hospital districts and TransLink may finance long-term borrowing by issuing their own securities or through the MFA. Municipalities and TransLink borrow through their respective regional districts, as described above, while regional districts and regional hospital districts borrow on their own behalf. Otherwise, the procedure for regional district borrowing is essentially the same as for municipalities.

To repay its MFA debt, a municipality transfers the required funds in accordance with the payment schedule to the regional district, which in turn transfers the money to the MFA. The MFA then places it in a sinking fund to secure eventual repayment of the money it owes to investors. In 2006, B.C. regional districts processed almost \$92 million in municipal MFA debt payments.

Improvement districts must issue their own securities to finance their borrowing. Short-term borrowing and capital leasing may also be financed through the MFA.

The Municipal Finance Authority

The Municipal Finance Authority (MFA) was established in 1970 to undertake long-term capital borrowing on behalf of all regional districts and municipalities in B.C. It is a small operation with a staff of eight people that handled investment portfolios worth more than five billion dollars in 2007. It is governed by thirty-five regional district appointees, including eight from the Greater Vancouver Regional District (GVRD), two from the Capital Regional District (CRD), and one from each of the other twenty-five regional districts. MFA members meet twice a year and elect from amongst themselves a chair, a vice chair, and a board of trustees, which must include four members from the GVRD, one from the CRD and five from the other regional districts. The board develops policy and oversees operational activities.

Since its inception, the MFA's client base for long-term capital borrowing has expanded to include the Greater Vancouver Water District, the Greater Vancouver Sewerage and Drainage District, regional hospital districts, TransLink and two emergency communications corporations, one in Greater Vancouver

(E-Comm), the other in Greater Victoria (CREST). In addition, the MFA has introduced several voluntary programs:

- An interim financing program provides short-term financing at attractive rates (prime less approximately 1.25 percent) for borrowing in anticipation of revenue, capital borrowing up to five years, temporary financing of capital projects, or temporary financing to meet current operating expenditures. Some B.C. municipalities, regional districts, and regional hospital districts, as well as E-Comm, CREST, TransLink, and the Okanagan-Kootenay Sterile Insect Release Program participated in this program in 2007.
- A pooled leasing program provides low-cost, flexible financing for capital leasing of equipment or rolling stock at preferred rates of interest (prime less one percent). Program participants in 2007 included some B.C. municipalities and regional districts, as well as the Oliver and West Shore Parks and Recreation Societies, the Greater Victoria Public Library, and municipalities in Alberta, Ontario, and the Yukon.
- A pooled investment program provides opportunities for local governments and other bodies to invest surplus funds at better-than-market rates in three professionally managed investment funds. Program participants in 2007 included municipalities, regional districts, improvement districts, regional hospital districts, regional library districts, First Nations, TransLink, educational institutions, other governing bodies, and local government interest groups.

More than 280 groups participated in at least one of these programs in 2007. In addition, the MFA offers a community bond alternative which provides for the purchase of bonds by community members in support of local projects, and a voluntary investment program for municipal employees, elected officials, and their partners. The MFA also offers financial forums, community workshops, and assistance to educational institutions.

Protection for MFA investors is provided by the combined credit of the participating local governing bodies, which collectively stand behind the MFA's obligations. In addition, the MFA has established a debt reserve fund to which each borrower sharing in the proceeds of a securities issue with a term of five years or more must contribute an amount equal to one-half of the borrower's average annual debt payment. Ultimately, all MFA borrowing is secured by its unconditional legal authority to levy property taxes in all the jurisdictions it serves and in Vancouver, which essentially includes all the taxable land and improvements in the province. Consequently, MFA securities are consistently rated by Canadian and U.S. bond rating services in the highest category.

Reserve funding

Debt finance (buy now, pay later) and reserve funding (pay now, buy later) are both ways to "smooth out" capital expenditures over time. Reserve funds are particularly useful for things that may not be readily amenable to debt financing, such as smaller items of furniture or equipment, or items financed by development cost charge revenue that may not be spent in the same year as the money was received. A reserve fund must be established by bylaw and is not the same as a reserve account, which is merely a form of appropriated surplus usually established by resolution.

Municipalities and regional districts may establish reserve funds for any of specific purposes, such as water supply, sewerage, roads, parks, general capital works, equipment replacement, land acquisition, local improvements, feasibility studies, etc. Reserve funds must be established for any money received from development cost charges, the sale or disposition of parkland, the disposal of highway property that provides access to water, off-street parking space or alternative transportation infrastructure payments, and the sale of land and improvements (except tax sales). An improvement district is required to establish a reserve fund for renewing the works of each service it provides.

In general, the money in a given municipal or regional district reserve fund can be used only for its stated purpose but, if the amount in the fund exceeds what is required for that purpose, some or all of the money can be transferred to another reserve fund. As well, local government may borrow internally from one capital reserve fund to another subject to repayment requirements. Money in a development cost charge reserve fund or a parkland acquisition reserve fund can only be transferred to another fund if the relevant bylaw is approved by the minister.

Observations on debt finance

The system of local government debt finance in B.C. through the Municipal Finance Authority exemplifies an exceptionally successful cooperative approach to financing regional district and municipal investments in roads, sewers, water systems, and other infrastructure. By acting on behalf of all regional districts and municipalities, the MFA is able to obtain more favourable borrowing terms than individual local governments could get on their own. With the small premium it collects on borrowing by local governments, the MFA has created a fund that would cover any failure by a local government to meet its payments. Long-term borrowing is not permitted to meet current expenses, but is reserved, as it should be, for financing projects with long-term benefits.

12.9 Observations on Local Government Finance

It is impossible for any analyst or group of analysts in Victoria to determine if local governments in British Columbia are functioning responsibly and efficiently. It is possible, however, to see if the *Local Government Act*, *Community Charter*, and other legislation under which local governments operate provide a framework for local citizens to resolve their own problems efficiently. This in turn requires that local citizens and local officials account for both the benefits and costs of their actions.

There appear to be only two arrangements where problems should be predicted. One is the property tax death-spiral that small, single-industry towns have experienced by relying on higher and higher tax rates on depreciating industrial assessments so that new investments are discouraged. As existing plants become obsolete, they will be abandoned rather than renewed and the municipality will have a tax rate crisis for its residents. This dynamic is not the only problem for small towns but it is a serious one. The benefits-received imbalance between residents and businesses is a problem in some other municipalities, because of the fairness of taxing business for benefits that residents may not be willing to pay for. While this is a fairness and efficiency problem, it is unlikely to lead to the kind of crisis facing small, industrial towns.

The second arrangement is the current organization and operation of school financing. No matter how hard a ministry tries, it cannot monitor the effectiveness and efficiency of the production of education by school districts. To create a situation where locally elected members have no incentive to balance taxpayer-funded costs against benefits is unlikely to result in good performance. That will depend on the administrators. With the ministry providing almost all financing, it is likely to become less and less clear what role school boards have in the delivery of education in the province.

Except for the variable tax rate structure, the financing of school districts, and some of the regulatory practices presented in Chapter 10, the British Columbia local government system is characterized by a high degree of fiscal equivalence. This is the single most important characteristic of a polycentric local government system such as in B.C. Equally important, the reliance on the property tax and service charges for the great proportion of municipal, regional district, and other local government revenues (except schools) is appropriate to this system, as is the use of provincial and federal government transfers to achieve broader objectives. The philosophy of local governance and the financing system match.

Chapter Thirteen

Concluding Observations

British Columbia is a large and diverse province. Its settlements include isolated fishing villages, farming villages, diversified manufacturing and marketing centres, and the large urban agglomerations of the Lower Mainland, southern Vancouver Island, and the Okanagan.

Most of the economic activity within British Columbia occurs through private market transactions. However, some kinds of problems, such as public goods, common pools, external effects, and utilities, are best dealt with collectively. To achieve their resolution, over 500 local governments have been created. Policymaking in these local governments is the responsibility of over 2,000 elected officials and numerous appointed boards and commissions. In 2006 these officials employed more than 90,000 people and incurred expenditures of over \$13 billion, more than \$3,000 for every person in the province.

Some goods and services provided by local governments are easily measurable but others have no common measuring unit. Some are delivered or produced primarily by labour, others by machinery, and others by capital equipment. Some are delivered through individualized face-to-face interaction between the provider and the citizen, while others are delivered impersonally. This diversity has led to the use of a variety of production arrangements, including own-forces production, joint arrangements, public-private partnerships, contracts, corporations, franchises, and volunteer production. At the same time, the diversity of goods and services and the difficulty of measuring outputs have made comparisons of performance and evaluations of efficiency difficult.

The structure of local government that has evolved within the parameters of provincial legislation is extremely diverse. While it began with municipalities and school districts, like most of North America, it has evolved to include regional districts, with their electoral areas and service areas, local community commissions, an Indian District, the Islands Trust, single- and multipurpose improvement districts, regional library districts, regional hospital districts, regional health boards, a regional transportation authority, water users' communities, and local service areas. Of these organizations, British Columbia's regional districts are one of the most innovative forms of local government in North America.

The examination of local government in the preceding 12 chapters reveals an evolutionary structure with a distinct problem-solving orientation. Reform ideologies, such as those advocating the separation of politics from administration, the creation of strong city manager systems, or the consolidation of smaller local governments into larger, comprehensive local governments for each urban region, have not had a major impact in British Columbia. Instead, elected officials are involved in administration as well as policymaking, city managers are closely controlled by elected officials, and urban areas are populated by numerous independent local governments. This reflects traditions of local self-government.

The provincial government sets the framework within which local governments are organized and function. The rules established by the province permit institutional flexibility while ensuring consistency where necessary, so that finances and debt creation are managed properly. Within a local government the council or board is responsible for the effectiveness and efficiency of its operations. For some functions, such as education and health services, the provincial ministries play a much larger role and local governments have less autonomy.

The evolution of local government is ongoing. New ways to organize production can lead to greater efficiency. As the system grows larger and more complex, it will become increasingly difficult to trace through all the potential impacts of changes. To aid in such analysis, better data on the performance of alternative arrangements and the satisfaction of citizens with the goods and services they receive is needed. Only with such data is it possible to determine how efficiently decision makers use their revenues and whether one form or another or one size or another is more efficient and responsive.

In addition to gaining greater knowledge of performance, guidelines for structural change can be useful. These are not guidelines such as bigger is better or more professionalization is better, which, in spite of their popularity, are supported by little or no evidence (Bish 2001). Rather, they are guidelines that explicitly recognize the diversity of the environment. They include the criterion that institutions should be designed to achieve fiscal equivalence, that is to force the analysis and balance of both benefits and costs for everyone involved in decision-making processes—citizens, elected officials and administrators. Then those decision makers who are closest to the problems can weigh the advantages and disadvantages of various options and make their choices accordingly. This is the only kind of decision-making framework that is effective for managing large, complex systems, which is what the institutional arrangements for local government in British Columbia exemplify. To a great extent, the B.C. local government system does possess this balance, which is consistent with a tradition emphasizing responsibility for decisions and the common-sense notion that all benefits have a cost that must be accounted for in local government decisions.

Appendix:

First Nations Governments

Local and First Nations governments in British Columbia are becoming increasingly interested in collaborating to provide, share, and develop local services. These emerging relationships are growing as a result of the growing number of First Nations assuming responsibility for self-government and providing local services.

In 1997, the Union of British Columbia Municipalities (UBCM) and the First Nations Summit organized a provincial forum that brought representatives from local and First Nations governments together to discuss goals and opportunities to work together. The success of this event helped to establish the Community to Community Forum Program, which is unique in Canada. The program provides grants to hold forums between local and First Nations elected officials and is jointly funded by the provincial and federal governments. Since 1997, more than 130 local governments and close to 200 First Nations have participated in 170 forums around the province. As a result of the forums, numerous protocol agreements and memorandums of understanding have been signed by the parties, which have helped establish formal communication lines and build relationships in areas that include servicing, economic development, and business collaboration.

The following material provides an overview of some First Nations governments and examples of relationships being established between local government and First Nations in B.C. The statistics in this Appendix are from 2006 and were obtained from the Government of Canada and Census Canada websites.

Indian Bands

Most First Nations governments in B.C. operate under the federal *Indian Act*. This federal legislation establishes that the basic unit of First Nations governance in B.C. is a band governed by a council elected by members of the First Nation. The council consists of a chief and from one to twelve councillors, based on a formula of one councillor for every 100 members.

Each First Nation has reserve lands³⁸ set aside by the federal Crown and the federal government provides funding for services in accordance with its constitutional obligations.³⁹ In 2006, there were just over 200 Indian bands and over 1,700 reserves in B.C. for a total area of 343,741 hectares or 0.36 percent of the province's total land area. The population centres on reserve lands are called villages, reflecting traditional aboriginal organization that preceded the establishment of reserves and the introduction of the *Indian Act*.

First Nations in B.C. vary in size. In 2006, the average size was about 600 members per band. The largest was the Cowichan Tribes near Duncan with 4,200 members and the smallest was the Popkum

³⁸ Legal title to reserve land is held by the federal Crown for the use and benefit of specific First Nations through the bands recognized under the *Indian Act*. Section 29 of the *Indian Act* protects reserve lands from seizure under legal process.

³⁹ Under the *Indian Act*, the relationship between the federal government and Indian bands is trust-like, where the federal government has fiduciary obligations to the Indian bands under its jurisdiction.

Band near Hope with eight members. In 2006, the total aboriginal population of B.C. was about 196,075. About 26 percent of the aboriginal population in B.C. lived on reserve lands.

In some respects, First Nations governments are similar to small municipal governments in that they provide basic local services for residents living within a defined territory. Both governments can make bylaws and create a variety of boards, societies, commissions, or committees to support the activities of the elected councils, and both provide a variety of services on different scales to residents. Sections 81, 83 and 85 of the *Indian Act* give band councils the power to enact bylaws applicable to lands within their reserve boundaries.

With respect to how they are elected and what additional services they provide, First Nations governments are different from small municipal governments. A municipal council is elected by voters who reside within the municipality at the time of the election, but a First Nations council is elected by band members who are formally registered on a list maintained either by the First Nation and/or Indian and Northern Affairs Canada (INAC), and who may or may not reside on First Nations reserve lands. In addition, First Nations election practices may vary from those prescribed by INAC through the development of a custom code. This can mean that First Nations could hold elections every three years, rather than two, or be governed by a traditional or customary method of governance, such as a hereditary system, with only limited responsibilities assigned to the First Nation elected council. In this case, a band council's powers may be more limited in scope than those of a small municipal council.

The range of services provided to band members living on reserves varies considerably, depending on factors such as the size and geographic location of the reserve population. At one time, the federal government provided virtually all the funding for services on reserve. Over time this has changed and now First Nations governments may also receive revenue from other federal departments, the provincial government, trust account earnings, leaseholds, on-reserve enterprises, user charges, and property taxes from aboriginal and non-aboriginal leaseholders.

On reserve, First Nations governments are engaged in a range of services that cover social, cultural, education, child welfare, and health services. Police protection can be delivered by provincial units of the RCMP, through contract with municipal forces, and by the First Nation. Other local services, such as fire protection, water supply, waste, and road system management, may be delivered by the First Nation, through contracts with private firms, and through contracts with nearby local governments.

Sechelt Indian Band

Located on the Sunshine Coast about 50 kilometres north of the Lower Mainland, the Sechelt Indian Band (SIB) became the first band in B.C. to negotiate a type of self-government agreement that was completely outside the provisions of the *Indian Act*. In 1986, after many years of negotiations, the federal *Sechelt Indian Band Self-Government Act* was passed, providing the SIB with powers for self-government, and the band subsequently adopted its own constitution and criteria for membership. Determination of SIB members' Indian status continues under the *Indian Act*.

In 1987, B.C. passed the *Sechelt Indian Government District Enabling Act* (SIGD Act) that enabled the SIB to become the first Indian government district (IGD) in B.C. This legislation recognizes that the SIB will exercise its federally defined powers in the provincial sphere and over non-Indian residents of the IGD. The Sechelt IGD mimics a municipality in terms of its jurisdiction for property taxation and servicing, though it is not actually incorporated as such. The SIGD Act also enables IGD membership in the Sunshine Coast Regional District. In 2006, the provisions of the Act were renewed for an additional 20 years.

The IGD and the SIB are governed through a council structure. Members of the SIB elect a chief and council for three-year terms under the conditions of the SIB constitution. The SIB council oversees

jurisdiction relating to social development, education, housing, public works, resource management, community health, economic development, and culture and recreation. The members of the SIB council also make up the IGD council, which holds the legal powers of the IGD and is the decision-making body with respect to zoning and land use, building construction and maintenance, taxation for local purposes, public order and safety, road construction, traffic regulation, and operation of businesses. The IGD council acts on behalf of all residents residing on reserve lands and its bylaws apply to all residents, while SIB council bylaws apply only to band members.

In addition to the IGD council, an advisory council created by the SIGD Act forms part of the IGD structure. The advisory council's purpose is to allow participation by non-member lessees living on reserve lands in the decision making of the IGD council on local servicing matters. Any resident living on reserve lands may run for election for the advisory council. Five members are elected for three-year terms under the provincial *Local Government Act* election provisions.

Under the self-government agreement, reserve lands are now owned by the SIB in fee simple, though they retain reserve status and remain under federal jurisdiction. Provincial and federal laws of general application apply to reserve lands. Both the SIB and IGD are vested with the rights and obligations of a natural person, which includes the capacity to sue and be sued, to make contracts, to invest and borrow money, and to acquire and hold property.

It should be noted that the Sechelt self-government agreement is a delegated arrangement and does not abrogate or derogate from any land claims process or treaty negotiation being undertaken by the SIB. Currently, the SIB is in stage five of the six-stage B.C. treaty process.

Indian Self Government Enabling Act, 1990

In 1988, amendments to Section 83 (taxation) of the federal *Indian Act* made it easier for all First Nations to introduce a system for property taxation on reserves and to pass taxation bylaws. The Indian Taxation Advisory Board (ITAB) was created to provide technical assistance on the development and implementation of section 83 bylaws. ITAB also reviewed bylaws and made recommendations to the federal minister for their approval. The board was made up of five regionally based representatives of aboriginal descent. It has been superseded by the First Nations Tax Commission.

In 1990, B.C.'s *Indian Self Government Enabling Act* harmonized provincial practices with the federal legislation by providing First Nations with options for exercising their taxation jurisdiction. The Act also included an option for other First Nations to adopt the SIB model and participate as Indian government districts in the local government system. However, to date, no other First Nations have expressed an interest in this option.

First Nations Land Management Act, 1999

In 1996, 14 First Nations in Canada seeking greater control over their land and resources negotiated the *Framework Agreement on First Nations Land Management* (Framework Agreement), a government-to-government relationship with the federal government.

In June 1999, the *First Nations Land Management Act* (FNLMA) was ratified by the federal government that brought into effect the Framework Agreement. The FNLMA is a governance arrangement that allows signatory First Nations, who apply and qualify for the process, to manage their reserve land and resources outside of the *Indian Act*.

Bands develop their own land code that must be ratified by band members. Bands then negotiate an individual Framework Agreement with INAC, which is implemented with the approval of the minister.

The FNLMA allows First Nations to manage their reserve lands and resources, though title remains vested in the Crown for the use of the First Nation. If new lands are acquired following a treaty or land claims settlement, the FNLMA only applies if the new lands are designated as treaty settlement lands.

Under FNLMA, First Nations have jurisdiction to manage forestry and agriculture resources on their lands, while fisheries, oil and gas resources, subsurface rights, migratory birds, and endangered species remain outside their jurisdiction. Individual land codes differ, but all First Nations under the FNLMA may make laws pertaining to development (includes zoning and servicing), conservation (includes environmental protection), and protection, management, use, and possession of reserve lands. First Nations can generate revenues by leasing and granting rights and licences on First Nations land. A First Nation can also develop its own land.

As of October 2007, 25 First Nations in British Columbia are signatories to the Framework Agreement and have either developed their land codes or have the option to do so.

Nisga'a Final Agreement

In 1998, the Nisga'a Lisims Government (NLG) was established under the terms of a treaty between the Nisga'a Tribal Council, Canada and B.C. The *Constitution of the Nisga'a Nation* provides for the NLG to consist of five main parts: a legislature; an executive; four village governments; a council of elders; and "urban locals" in Vancouver, Terrace, Prince Rupert and any other local area "determined in accordance with Nisga'a law." Beginning in 2000, elections for NLG officers, village government chiefs and councils, urban local representatives and other elected offices in Nisga'a public institutions take place every four years. The elected officials and voters must be Nisga'a citizens, but non-Nisga'a people residing on Nisga'a lands can be consulted about decisions, seek review of decisions, and participate in elected bodies where their interests are "directly and significantly" affected.

In 2006, there were about 5,500 Nisga'a citizens. Of those, almost two-thirds resided outside Nisga'a territory. Nisga'a citizens must meet specified eligibility and enrollment criteria that allow the enrollment of non-aboriginal people in very limited circumstances. Under the terms of the treaty, Nisga'a citizens continue to be aboriginal people but their aboriginal rights under the *Constitution Act, 1982* are modified into treaty rights, which are exhaustively defined in the treaty. The *Indian Act* no longer applies except to determine who is a status Indian. Their *Indian Act* tax exemptions for transaction taxes (PST and GST) expired May 31, 2008, and the tax exemption for income tax will expire December 31, 2012.

The lands in Nisga'a jurisdiction comprise 1992 square kilometres in the lower Nass River area, located in Electoral Area A of the Regional District of Kitimat-Stikine (RDKS), about 100 kilometres from Terrace in northwestern B.C. The Nisga'a own all the forest resources on Nisga'a lands and also own another 27.5 square kilometres of lands that are subject to the laws of B.C. All lands owned by the Nisga'a are held in fee simple and are constitutionally protected.

The Nisga'a have established a land title system that is similar to and harmonious with the B.C. Torrens system. In accordance with the treaty, replacement tenures have been issued for continuing the legal interests of other parties in lands within Nisga'a jurisdiction, including fee-simple lands, agricultural leases, wood lot licences, submerged lands, rights of way, the Nisga'a highway, and other key roads held by the province.

Fee-simple property owners and third-party tenure holders have guaranteed access to their interests and the public has access to Nisga'a lands for hunting, fishing, and recreation, although the NLG may regulate access for public safety and protection of environmental, cultural, or historic features. The federal and provincial governments may acquire interests in Nisga'a lands for purposes such as rights of way, subject to fair compensation.

Wilp Si'ayuukhl Nisga'a (WSN) is the elected legislative body. Its members include a speaker, a deputy speaker, officers of the government executive, the chairperson of the council of elders, the village governments, and the urban local representatives. The council of elders advises the government on matters relating to the traditional values of the Nisga'a Nation and is composed of a chairperson, seven other elders, including simgiigat (hereditary chiefs) and sigidimhaanak (hereditary matriarchs), and eight alternates, all of whom are appointed by the NLG Executive Committee for staggered two-year terms.

The NLG Executive Committee consists of the president of the Nisga'a Nation, the executive chairperson, the secretary-treasurer, the chairperson of the council of elders, the chiefs of the village governments, and one representative from each urban local. It can make regulations and oversees the administration of the government.

In 2005, the central administrative structure included more than 50 staff in five directorates: programs and services, lands and resources, fisheries and wildlife, communications and intergovernmental relations, and finance. The programs and services directorate includes child and family services, an enrollment and eligibility department, a justice department, and an Ayuukhl Nisga'a department which is responsible for the preservation and promotion of Nisga'a language, culture, and history. Each of the five directorates is overseen by a committee of the executive.

Wilp Si'ayuukhl Nisga'a can make laws regarding culture, language, public works, transportation, land use, solemnization of marriages, health, child welfare, and education services, but it has no exclusive powers. Constraints on NLG legislative and other powers include:

- All NLG law-making powers are concurrent with those of Canada and British Columbia, whose laws of general application apply to the Nisga'a unless varied by terms of the treaty.
- The *Criminal Code of Canada* and the *Canadian Charter of Rights and Freedoms* apply to the Nisga'a people.
- NLG regulatory standards with respect to forests are to meet or exceed provincial standards.
- The province retains full ownership and regulatory authority over water. Existing water licences remain in place. The Nisga'a are allocated one percent of the average annual flow from the Nass Valley watershed for domestic, industrial, and agricultural needs. Any Nisga'a hydro development project would be subject to B.C. approval and regulation.
- Canada and B.C. retain responsibility for fisheries conservation and management. The Nisga'a have an annual allocation of Nass River fish, and can sell them under certain conditions, but cannot establish large fish processing facilities until 2008.
- Existing traplines are under NLG jurisdiction; guide outfitter and angling guide tenures remain under provincial jurisdiction.
- Nisga'a hunting is subject to conservation, public health, and public safety requirements, and cannot interfere with other authorized uses of Crown land or the ability of the Crown to dispose of Crown land. The Nisga'a must prepare an annual wildlife harvest management plan for provincial approval and cannot sell wildlife, but they can continue to trade and barter among themselves or with other aboriginal peoples. Nisga'a citizens who hunt wildlife outside the Nass Wildlife Area, which includes the NLG lands and some Crown lands, are subject to provincial laws.
- The NLG has concurrent authority with Canada and B.C. for environmental assessment and protection on Nisga'a lands, but federal and provincial laws prevail if a conflict occurs. B.C. and Canada may respond to natural disasters and environmental emergencies on Nisga'a lands.
- The Nisga'a Memorial Lava Bed Park, Bear Glacier Park, and the Gingietl Creek Ecological Reserve remain under provincial ownership. The Nisga'a Memorial Lava Bed Park and Bear Glacier Park are established as Class A provincial parks and operate under a co-management arrangement with NLG.

- Key cultural sites are designated provincial heritage sites under provincial legislation. Key geographic features are given Nisga'a names in accordance with provincial policy.
- The NLG can provide its own police protection service, subject to provincial approval. The service must meet the provincial requirements that apply to municipal police in B.C. with respect to training, qualifications, and professional standards. In 2008, the Nisga'a, Canada, and B.C. operated the police service under a tripartite agreement delivered by the Lisims-Nass Valley detachment of the RCMP.
- The NLG can establish a Nisga'a court with jurisdiction over Nisga'a laws on Nisga'a lands, subject to provincial approval. The court must meet provincial standards for independence, accountability and supervision. Accused persons may also choose to have their cases heard in B.C. Provincial Court.

The treaty provided for a dispute resolution process and two joint management committees, each with representatives of the Nisga'a, B.C., and Canada, to make recommendations to the responsible federal and provincial ministers respecting Nisga'a fisheries and wildlife management activities.

The NLG can enter into service agreements with the RDKS and otherwise coordinate activities with respect to common areas of responsibility. Nisga'a citizens may vote in local municipal and regional district elections, depending on where they live in the RDKS. As the Nisga'a population is the majority in Electoral Area A they have consistently elected a Nisga'a citizen to the RDKS board as the electoral area director. This director represents all residents of the area, including those not on Nisga'a lands.

Several key services that the NLG could provide directly are still provided by agencies that delivered them before the treaty was signed.

- Nisga'a School District 92, established in 1974 under the B.C. *School Act*, delivers K–12 educational services that emphasize Nisga'a language and culture. It is governed by a board of five trustees elected for three-year terms.
- The Nisga'a Valley Health Authority, established in 1984 under the B.C. *Society Act*, delivers a range of health services through a contract with the provincial government and functions independently of the provincial health authorities. It is governed by six directors, five elected for four-year terms, plus one appointed by the NLG.
- Wilp Wilxo'oskwhl Nisga'a Institute (the Nisga'a university college [WWNI]), established in 1993 under the B.C. *Society Act*, provides adult education and related services. It is governed by ten or eleven directors, including a chairperson, the president, an elder, and one representative for each of the four village governments, the urban locals, the faculty, and the student body. The WWNI is a degree-granting institution under terms of an agreement with the University of Northern British Columbia. The WWNI also delivers programs under agreements with the Simon Fraser University, Northwest Community College, and the B.C. Justice Institute.

The school and health boards both include four members elected by village citizens and one elected by the non-aboriginal population in the area. All members of the WWNI board are appointed by the executive or the village governments, except for the faculty and student representatives who are elected by their peers. The NLG could exercise more direct jurisdiction over any of these services but has not yet chosen to do so.

The four Nisga'a villages are New Aiyansh (also known as Gitlaxt'aamiks), Gitwinksihlkw (formerly known as Canyon City), Laxgalt'sap (formerly known as Greenville), and Gingolx (formerly known as Kincolith). Each has its own charter and the legal capacity to contract. They are governed by elected village chiefs and four to eight councillors, depending on the size of the resident population. The village governments make laws regarding local matters and sit as members of Wilp Si'ayuukhl Nisga'a. New

Aiyansh, the largest village with a population of about 900 people, is the seat of the central Nisga'a Lisims Government.

The village governments are responsible for local services, programs, and regulations. For example, the Gitwinksihlkw Village Government's functions include governance and administration, community planning and development, social development, education, infrastructure maintenance, fire protection, emergency response, parks and recreation, and search-and-rescue services. Each village fire chief serves as the local assistant to the provincial fire commissioner under the *Fire Services Act*. Like the governments of other small communities, the administrative staff size in the villages is small, ranging from about 25 in New Aiyansh (the largest village) to 12 in Gitwinksihlkw (the smallest village).

The NLG receives fiscal transfers from Canada and B.C. that enable it to provide government services at levels comparable to those generally available in northwest B.C. The fiscal financing agreements are negotiated every five years and take into account the NLG's ability to raise funds from other sources, such as the community's fisheries, forestry, and tourism activities. In 2008, the NLG continued to operate under the first fiscal financing agreement as negotiations for the second fiscal financing agreement continued.

Like other local governments in Canada, the NLG's activities are generally tax-exempt. It can levy direct taxes on Nisga'a citizens on Nisga'a lands. If and when it imposes property taxes on its citizens, it may negotiate a tax delegation agreement with B.C. to permit it to impose property taxes on non-Nisga'a occupiers of Nisga'a lands. In the meantime, provincial taxing authorities continue to have the power to levy property taxes on non-Nisga'a occupiers of Nisga'a lands as well as provincially incorporated businesses.

Westbank First Nation

In 2004, the Westbank First Nation Self-Government Agreement (Agreement) was ratified by Canada through the passage of the *Westbank First Nation Self-Government Act*. This legislation gave the Agreement the force of law and recognizes Westbank First Nation (WFN) jurisdiction in several important areas.

However, the Agreement, is not a treaty and may be superseded by the outcome of future treaty negotiations. The Agreement differs from others reached in B.C. as the provincial government was not a party to the agreement.

Democratic elections of council, procedures for the passage and amendment of laws, financial accountability, and provisions for establishing WFN membership, amongst other matters, are set out in the WFN constitution as required by the Agreement. The WFN constitution was ratified by the WFN community at the same time as the Agreement and was developed by a community working group. The WFN Constitution also includes provisions respecting the creation, holding, and disposition of Westbank lands.

The Agreement essentially removes the application of the *Indian Act* on Westbank lands. WFN members retain their Indian status as defined by the *Indian Act* and in many areas of WFN jurisdiction, the *Indian Act* continues to apply until the WFN passes a law in its stead. WFN may enter into agreements for providing services with other governments and may make agreements concerning land, water, and other resources with other governments.

The Agreement does not involve a change in the amount or type of lands set aside for WFN and WFN lands remain federal lands as "lands reserved for the Indians" within the meaning of section 91(24) of the *Constitution Act, 1867*. For a short period prior to the Agreement, WFN lands were managed under a *First Nations Land Management Act* land code. The FNLMA no longer applies to WFN and, as with bylaws that were previously in effect under the *Indian Act*, laws passed under the land code remain in

force as WFN laws under self-government. The *Westbank First Nation Self-Government Act* recognizes WFN jurisdiction over the management, regulation, use, and protection of WFN lands, which includes zoning and land use planning.

In addition to land management, WFN may make laws concerning renewable resources such as wildlife, hunting, trapping, and forestry. WFN may regulate and manage their non-renewable resources, including oil and gas and surface minerals. Environmental standards and conservation must be greater than or equivalent to related provincial laws in that area. Other areas of jurisdiction include public works, infrastructure and local services, K–12 education, and Okanagan language and culture preservation. The Agreement also provides that there must be a mechanism in WFN law for consultation with residents of, or interest holders in, WFN lands who are not WFN members, on decisions that directly and significantly affect them.

There are approximately 30 WFN laws in force. These include establishing an advisory council to address the representation of non-members living on WFN land, residential tenancy matters, the allotment of community lands, land use, including a land use plan and zoning regulations, family property, dealing with the division of property on marriage breakdown, and a number of administrative laws addressing the enforcement and adjudication of Westbank law.

Federal and WFN law-making powers are concurrent on WFN lands. Conflict rules with respect to the application of WFN law and federal law are set out for each area of WFN jurisdiction. General provincial laws apply to WFN members and lands unless those laws deal with a subject matter covered by the Agreement, the enabling legislation or a Westbank law, or where there is conflict with the Agreement, the enabling legislation or a Westbank law.

The WFN government and its public institutions are exempt from income and other taxes in the same manner as municipalities. For status Indians registered under the *Indian Act*, including WFN members, tax exemptions under the *Indian Act* continue to apply. The WFN government's own-source revenue includes the collection of property and consumption taxes, and fees and other charges levied under WFN law.

In addition to own-source revenue, the WFN government has an ongoing fiscal transfer agreement with Canada, renegotiated every five years, which sees the federal government providing funding for services comparable with other jurisdictions in the area and which considers the revenue-generating capacity of the WFN.

First Nations Fiscal and Statistical Management

On July 1, 2007, the First Nations Tax Commission (FNTC) officially began operations. The 10-member commission was established through the passage of the *First Nations Fiscal and Statistical Management Act*. It is the successor institution to the Indian Taxation Advisory Board, building on the board's 18 years of experience and expertise.

The FNTC is a major step forward for First Nations governments in the field of property taxation. It is mandated to help First Nations governments build and maintain fair and efficient First Nations property tax regimes, and to ensure those First Nations communities, and their taxpayers alike, receive the maximum benefit from those systems.

In the past, the Indian Taxation Advisory Board (ITAB) provided many functions similar to provincial government bodies that regulate their local government property tax authorities. However, there were important differences. For example, the Board was advisory in nature, having only the power to make recommendations. The power to approve or not approve First Nations taxation laws remained with the minister. ITAB also faced many unique challenges because the First Nations property tax system

operates within a legislative, legal, and policy context that is very different from local government tax systems.

The enhanced authority of the FNTC will allow property tax revenues to finance infrastructure more effectively and reduce other barriers to economic development on First Nations lands. The FNTC will operate as part of an overall system of fiscal governance for First Nations. It will be responsible for the development and regulation of the First Nations property tax system. In carrying out this role, the FNTC will work with First Nations, other First Nations institutions, and the federal, provincial, and local governments. In 2008 the FNTC created the Tulo Centre of Indigenous Economics to provide university programs in tax administration and economic development for First Nation students, as well as undertake economic development research for reserves. The first programs are being offered at Thompson Rivers University in Kamloops.

The FNTC will ensure the First Nations property tax system is administratively efficient, harmonized with the rest of the country, and is fair to on-reserve taxpayers. To do this the FNTC will set administrative standards, regulate matters pertaining to its property tax mandate, enforce these regulations, mediate disputes, and act on behalf of the collective interest of First Nations tax administrations.

The *First Nations Fiscal and Statistical Management Act* created two other bodies:

- First Nations Finance Authority (FNFA) provides a legal framework for issuing investment-grade First Nation bonds, and provides for long-term financing for First Nations infrastructure borrowing. The FNFA operates throughout Canada, but is modelled after B.C.'s Municipal Finance Authority.
- First Nations Financial Management Board is an independent body that offers certification and intervention services in support of FNFA borrowing, and in support of FNTC policies relating to taxation and expenditures.

British Columbia Treaty Commission

Most First Nations in B.C. have not signed treaties⁴⁰ and most of the province remains subject to outstanding aboriginal land claims. From the late 1800s, the B.C. government rejected the validity of claims, arguing that aboriginal rights or title to land were extinguished before B.C. became part of Canada. If claims were found to exist, the province said they were entirely the federal government's responsibility. In 1990, the B.C. government changed its position and in 1993, Canada, B.C., and First Nations in the province established the British Columbia Treaty Commission (BCTC) to facilitate the negotiation of modern treaties.⁴¹ The BCTC assesses the readiness of the parties to begin negotiation, allocate negotiation funding to aboriginal groups, help obtain services to resolve disputes when requested, and monitor and report on the status of negotiations.⁴²

Local governments have several interests in the outcome of the BCTC process. Issues of concern to B.C. local governments include land ownership, governance, intergovernmental relations, dispute resolution, service provision, infrastructure, land use planning and regulation, emergency services, bylaw enforcement, economic development, loss of property tax revenue, the political representation of non-aboriginal citizens residing on treaty settlement land, and First Nations regional district membership.

Local governments in B.C. do not directly participate in the BCTC process, but they are recognized as advisory members of the provincial negotiating teams under a memorandum of understanding between

⁴⁰ B.C. has two historic treaties: the Douglas Treaties on Vancouver Island and Treaty 8 in northeastern B.C.

⁴¹ For more information on the B.C. Treaty Process see the BC Treaty Commission website.

⁴² The Nisga'a Treaty was negotiated outside of the B.C. Treaty process.

the province and the Union of British Columbia Municipalities. To assist in this role a number of treaty advisory committees (TACs) have been established to represent local government interests and advise the provincial negotiators on issues of concern to local governments. The TACs consist of municipal and electoral area elected officials and local government staff. The largest TAC is the Lower Mainland Treaty Advisory Committee, which has a thorough website detailing research and activities that support treaty negotiations in the area.

In 2006, two agreements were signed through the BCTC negotiation process and were ratified by the participant First Nations, the Tsawwassen and Maa-nulth First Nations. Following ratification by First Nation residents, both received Canadian government Senate approval and Royal Assent June 26, 2008.

Tsawwassen First Nation Final Agreement (2007)

On July 25, 2007, B.C.'s first modern urban treaty negotiated through the BCTC process was ratified by the 358 Coast Salish members of the Tsawwassen First Nation (TFN). Their traditional and modern-day village is located on the Strait of Georgia, approximately 35 kilometres south of Vancouver, adjacent to the municipality of The Corporation of Delta (Delta). While the traditional territory covers approximately 279,000 hectares, the Final Agreement land package consists of approximately 724 hectares located mainly between and around the B.C. Ferries terminal and Roberts Bank Superport.

The TFN Final Agreement provides TFN with rights and law-making authorities for matters related to land, resources, and self-government. Following a transition period, the federal *Indian Act* will no longer apply to Tsawwassen First Nation, its land, or its members.

Approximately 662 hectares of the treaty settlement land, known as the Tsawwassen lands, consist of former reserves (290 hectares) and provincial Crown land (372 hectares). The First Nation will own the Tsawwassen lands and subsurface resources, and will have law-making authorities over the lands. The remaining 62 hectares of land, known as the Boundary Bay and Fraser River parcels, will transfer to the TFN as fee-simple land. The First Nation will not own the subsurface resources of these fee-simple lands. These latter parcels will remain within the municipal boundaries of Delta.

As of the treaty's effective date, all Tsawwassen lands will be or continue to be registered in the B.C. Land Title Office in accordance with the *Land Title Act*.

TFN will have rights of refusal for 80 years after the treaty takes effect to purchase approximately 278 hectares of lands north of Tsawwassen lands (Brunswick Point lands) if the people currently leasing these lands choose not to buy them or decide to sell them. If TFN purchases land within the Brunswick Point lands within 50 years after the effective date of the treaty, TFN may add these lands to its treaty settlement lands.

Following this 50-year period, TFN can add lands to its treaty settlement lands if it purchases the land from willing sellers, but the federal, provincial, and municipal governments must consent to the addition.

While federal and provincial laws apply to the lands owned by TFN, the provincial agricultural land reserve (ALR) designation only applies to about 227 hectares consisting of former provincial Crown land and the Boundary Bay parcels. If they wish to remove this land from the ALR, TFN must apply to the Agricultural Land Commission (*Agricultural Land Commission Act*).

The Highway 17 and Deltaport Way (Roberts Bank) corridors remain provincial land. Other roads that may become Tsawwassen lands are to remain open for public use.

The Tsawwassen Government will hold elections at least every five years. While the government may include elements of traditional governance, such as hereditary chiefs, the majority of government representatives will be elected. This will be determined by the First Nation's constitution, which will come into force on the treaty's effective date.

The Tsawwassen First Nation Final Agreement sets out the First Nation government law-making authorities and, in the event of a conflict, specifies whether federal, provincial, or TFN laws will prevail. Areas of authority include the delivery of health services, education, adoptions and child protection, social services, public works, culture, and emergency preparedness. In most of these areas of authority, federal or provincial law prevails in the event of a conflict with Tsawwassen law.

The TFN government can make laws with respect to land management and use, including planning, zoning, and development. This includes authority over agriculture through land use planning and zoning. Before a proposed law is made, residents of those lands who may be affected by the proposed laws are to be consulted, similar in principle to that required of a municipality undertaking similar law making.

The TFN government can also make laws with respect to the regulation, licensing, and prohibition of businesses, traffic regulations on their roads, fire protection, and public works on Tsawwassen lands. The *British Columbia Building Code* (BCBC) applies to buildings and structures on Tsawwassen lands. They can make laws with respect to buildings and structures on Tsawwassen lands but cannot establish standards that are additional to or different from the BCBC. Laws to conserve and protect culture and language including regulating the access to heritage resources can also be made.

On the effective date, the TFN government will become responsible for providing local services to all residents on Tsawwassen lands.

The TFN government will also become a member of the Greater Vancouver Regional District (Metro Vancouver). The director, an elected member of the Tsawwassen First Nation government, will be appointed to the board and have all the functions, powers, duties, and obligations of all Metro Vancouver board directors. As a regional district member, TFN government will pay for regional services, e.g., administration and solid waste management, and access voluntary services.

The TFN Final Agreement provides access to water from the Greater Vancouver Water District (GVWD) on the same basis as other members of the water district. Costs for water provision are to be negotiated by the TFN and the GVWD. Existing service agreements between the TFN and the municipality of Delta will remain in place and the two parties can enter into new agreements for the provision of services.

The TFN will have the ability to tax members and non-members within the Tsawwassen lands, including the levying of property taxes. The *Assessment Act* and *Assessment Authority Act* will apply in respect to establishing property taxes.

Residents who reside on Tsawwassen lands who are not members of the First Nation will contribute to the decision-making process of a Tsawwassen public institution if the activities of the institution, including taxation matters, directly or significantly affect them.

Under the TFN Final Agreement, tax exemptions for transaction taxes and other taxes under the *Indian Act* (section 87) will be phased out after eight and twelve years respectively of the treaty effective date. Through a negotiated side agreement, B.C. will share 50 percent of provincial income tax and sales tax revenue collected from TFN members after the tax exemptions have been phased out.

On June 26, 2008, the TFN Final Agreement received Senate approval and Royal Assent in parliament.

Maa-nulth First Nation Final Agreement (2007)

In the summer and fall of 2007, the Maa-nulth Final Agreement was ratified by the Huu-ay-aht First Nations, the Ka:'yu:'k't'h'/Che:k'tles7et'h First Nations, the Toquaht Nation, the Uchucklesaht Tribe, and the Ucluelet First Nation. These five nations comprise the Maa-nulth First Nations, whose communities are in the areas of Bamfield, Ucluelet, Alberni Inlet, and Kyuquot Sound on the west coast of Vancouver Island. They have a combined population of approximately 2,000 people.

The Maa-nulth Final Agreement provides for the creation of five Maa-nulth governments, one for each of the five First Nations who are signatories to the treaty. Each Maa-nulth First Nation will have a constitution that provides for a government that is democratically and financially accountable to the Maa-nulth-aht and Maa-Nulth First Nation citizens. The constitution of each Maa-nulth First Nation will come into force on the effective date of the treaty.

The Maa-nulth First Nations governments will hold elections at least every five years. At the discretion of each Maa-nulth First Nation, its constitution may provide for the appointment of Ha'wiih (Nuu-chah-nulth hereditary chiefs) into its government structure, but the majority of government representatives will be elected. This will be determined by the First Nation's constitution.

Maa-nulth First Nations continue to be aboriginal peoples and their rights under the *Constitution Act, 1982* are set out exhaustively in the Final Agreement for greater certainty. With the exception of determining Indian status, after a transition period the *Indian Act* will no longer apply to Maa-nulth First Nations, their lands, or members.

When actions of a Maa-nulth government or public institution will directly and significantly affect individuals who are not Maa-nulth citizens, the Maa-nulth government or institution will have to consult with those individuals. The Maa-nulth must ensure that non-members have the ability to participate in discussions and vote on decisions that will affect them. The Maa-nulth First Nation governments will also be accountable to Canada and B.C. for financial transfers they receive from them.

Maa-nulth First Nation lands do not form part of any municipality. Local government bylaws do not apply to Maa-nulth First Nation lands unless specific agreement has been reached between the applicable Maa-nulth First Nation and local government. The Final Agreement sets out the provisions under which the Maa-nulth First Nations will become members of the relevant regional district. After the effective date of the treaty, there will be a 10-year transition period during which the Maa-nulth First Nations are not required to become regional district members. However, at any time during the transition period a Maa-nulth First Nation may end the transition period and become members of the regional district.

If it has not done so already, at the conclusion of the 10-year period each Maa-nulth First Nation will become a member of the applicable regional district. The First Nation director to the regional district Board will be an elected member of the First Nation government. The Huu-ay-aht First Nations, the Toquaht Nation, the Uchucklesaht Tribe, and the Ucluelet First Nation will join the Alberni-Clayoquot Regional District, while the Ka:'yu:'k't'h'/Che:k'tles7et'h First Nations will become a member of the Strathcona Regional District.

After the transition date, the Maa-nulth First Nations will participate in regional services, such as administration, solid waste management, and hospital financing of the applicable regional district. They may opt to participate in voluntary services, such as library, the 9-1-1 emergency service, the Tofino-Ucluelet Airport, and other services provided by the regional district.

Each Maa-nulth First Nation may enter into land use planning protocols or service agreement contracts with the regional district. However, neither party is obligated to provide or pay for services unless both have specifically agreed to do so. The Province of British Columbia must consult with the Maa-nulth First Nations on any changes planned for the structure or boundary of regional districts that will directly and significantly affect the Maa-nulth First Nations.

The Maa-nulth First Nations will have law-making authority over such matters as the Nuu-chah-nulth language and culture, governance and citizenship, lands, K-12 education, and adoption as set out in the Final Agreement. In these areas, Maa-nulth First Nations laws prevail over federal and provincial laws if there is a conflict between the two. The Maa-nulth First Nations may also make laws in areas including child care services, post-secondary education, health services and social development, public order, regulation of businesses, traffic and transportation, and enforcement of Maa-nulth laws. However, in

these areas the applicable federal or provincial law prevails over the Maa-nulth law if there is a conflict between the two.

Constraints on Maa-nulth First Nations' legislative and other powers include:

- Maa-nulth regulatory standards with respect to forests and range practices must meet or exceed provincial standards.
- Federal and provincial laws concerning water continue to apply on Maa-nulth First Nation lands. Water reserves for each Maa-nulth First Nation will be established on the effective date of the treaty for domestic, industrial, and agricultural use. Certain streams will be set aside for potential hydro development by Maa-nulth First Nations. Water licences will continue to be issued by the British Columbia government.
- B.C. retains jurisdiction for fisheries, though Maa-nulth First Nations may harvest fish for domestic purposes and regulate harvests and distribution of fish among members. A Joint Fisheries Committee, with one member appointed by Canada and each Maa-nulth First Nation, and by B.C. if that government chooses to do so, will receive annual fishing plans from each Maa-nulth First Nation and will manage matters relating to fisheries for the Maa-nulth First Nations.
- Maa-nulth First Nations may harvest wildlife and migratory birds for food, social, and ceremonial purposes subject to conservation, public health, and public safety regulations and according to a harvest plan written by each Maa-nulth First Nation government.
- Environmental assessment laws of Canada and B.C. will apply on Maa-nulth First Nation lands. However, no project will proceed on these lands without the consent of Maa-nulth First Nations.
- Maa-nulth First Nations governments may not establish a court for arbitration of Maa-nulth First Nations laws. The Provincial Court of B.C. will hear prosecution of offences under Maa-nulth First Nations laws.

The Final Agreement land package consists of a total of approximately 24,550 hectares of treaty settlement lands, including former reserves, that will be held in fee-simple title by the Maa-nulth First Nations. The Maa-nulth First Nations have identified certain parcels of land that are eligible to be purchased by the Maa-nulth First Nations and added to the MFN lands within 15 years of the treaty coming into effect. When these parcels are located within the boundaries of a municipality, the purchase must be agreed to by the municipality. In general, Maa-nulth First Nation lands are not subject to expropriation by the federal or provincial governments, though cases where this might occur are detailed in the Final Agreement.

Maa-nulth jurisdiction on treaty settlement land includes management, planning, zoning, and development. Each Maa-nulth First Nation owns and manages all forest resources and most subsurface resources on their lands and may determine the conditions for resource development and extraction. The Final Agreement allows for access to Maa-nulth First Nations lands to be granted to officials of the federal or provincial government as they carry out their duties, such as enforcing laws or responding to emergencies. The general public has access to Maa-nulth First Nations lands for recreation and non-commercial hunting and fishing. Public roads and highways on Maa-nulth First Nations lands remain under British Columbia jurisdiction.

Each Maa-nulth First Nation will have regulatory jurisdiction over the foreshore (Crown land below the high-water mark) adjacent to its treaty settlement lands. The specific provisions for this jurisdiction will be outlined in individual Foreshore Agreements entered into by each Maa-nulth First Nation and B.C. The regulatory powers over the foreshore delegated by the province will include planning, zoning, regulation of businesses, and nuisances.

Each Maa-nulth First Nation government will have the ability to levy direct taxes (such as income taxes) on its citizens within its treaty settlement lands. Current sales tax exemptions for status Indians under the *Indian Act* will be phased out eight years after the effective date of the treaty, and other tax

exemptions will cease twelve years after the effective date. Each Maa-nulth First Nation government will provide that non-Maa-nulth First Nation members who ordinarily reside on Maa-nulth First Nation lands, and registered owners of real property (or their representatives) who do not ordinarily reside on Maa-nulth First Nation lands, will have the ability to participate in discussions and vote on taxation decisions that directly and significantly affect them.

Provincial legislation to ratify the Maa-nulth Final Agreement received Royal Assent on November 29, 2007. The treaty will also require Royal Assent from the federal parliament before taking effect. At the time of publication, the timing of this process was not known.

Tribal Councils

In addition to individual First Nations providing services to members on reserve, groups of First Nations have formed associations, or tribal councils, to perform specific functions. Tribal councils are not a form of government and are not provided for in the *Indian Act*. They are generally established as societies under the provincial *Society Act*. Tribal councils consist of two or more First Nations that work cooperatively on issues, such as cultural concerns, presenting positions to other governments and providing services on a larger and more efficient scale to members. In 2006, 29 tribal councils represented more than 150 First Nations bands in B.C. While not recognized as a First Nations government, tribal councils receive some government funding to operate.

There is great diversity in the levels of authority and activities of tribal councils, depending on the needs and wishes of the First Nations that form them. Some, such as the Nuu-chah-nulth Tribal Council on Vancouver Island, can be described as a comprehensive tribal council concerned with a wide range of political, cultural, and service delivery matters. Others have more limited mandates, including a single focus such as the resolution of aboriginal land claims through the negotiation of treaties.

Tribal councils will generally defer to individual member First Nations in land matters related to their traditional territory.

Observations

First Nations governments in B.C. are undergoing significant change as First Nations assume greater responsibilities for providing a broad range of services and look for opportunities to partner and promote economic development. As a result, many First Nations are developing contractual relationships with surrounding or adjacent municipalities and regional districts, and are participating formally and informally in the local government system. It is expected that First Nations governments will have an increasingly important role in governance and service provision in the province.

Chapter Notes

Full citations to references and some other documents are listed in the bibliography. Persons interviewed are listed in the acknowledgements. For the first two editions, the most important bibliographical sources of information were Crossley and Nykwist. For the third and fourth editions, the most important sources include documents and other information posted on various websites. The main websites are for the provincial government (www.gov.bc.ca and links) and the Union of British Columbia Municipalities (www.civicnet.bc.ca and links). Virtually all municipalities, regional districts, and organizations like the Island Trust maintain their own sites. We have found that searches, primarily in Google, for specific information, legislation, or documents work very well.

Chapters 1 and 2

The approach taken in the book is based in a tradition that focuses on the incentives inherent within institutional arrangements to balance benefits and costs in decision making and the nature of the good or service desired by citizens. It is an integration of classical liberal economics and political science. The classic article describing this perspective in political science is by Ostrom, Tiebout and Warren. The article that introduces the term fiscal equivalence is Olson. Two useful introductions with direct application to local government are Bish (1971) and Bish and Ostrom. Applications of this approach to a broad number of local government issues is provided in *Polycentricity and Local Public Economies*, ed. Michael D. McGinnis. A non-technical, more detailed explanation of the problems with applications to local governments is included in Bish (1971). Other publications by Bish are referenced or available at <http://publicadmin.uvic.ca/cpss/lgi/publish.htm>. Examples of different kinds of public services are also provided in subsequent chapters. Information sources for the overviews of local governments, provincial ministries, agencies, and statutory officers include annual reports, published statistics, and other documents on websites.

Chapters 3 and 4

The history of municipal government in British Columbia is discussed by Bracewell, Ormsby, and William Burns in pages 623–640 of Scholefield. The B.C. Royal Commission reports of 1912 and 1938 and the 1947 Goldenberg report are also excellent sources of historical information. Background on regional districts is contained in Brown, Collier, Tennant, and Zirnhelt, Ministry of Municipal Affairs (1978) and Bish (1999c). The main sources of information about municipalities and regional districts are the municipal affairs ministry, the individual local governments, and interviews. Smith and Stewart also analyze the problems of the electoral system in Vancouver. Indian reserves in municipalities are discussed in Bish (1987); Cassidy and Bish; and Bish, Clemens and Topham. The discussion of amalgamation is largely based on sources cited in Bish (2001) and Sancton. The amalgamation issue in the Capital Regional District is examined in Bish (1999a, b and d). Most current information, comes from websites for the governments described.

Chapter 5

The municipal affairs ministry is a primary source of information about the Sechelt Indian District, improvement districts, local community commissions, the Islands Trust, and local areas. The Islands Trust provided updated statistical data. A discussion of the Sechelt Indian District is included in Cassidy and Bish. Updating of other information came from websites and directly from the ministry responsible for those governments.

Chapters 6–8

The descriptions and analysis in Chapters 6 through 8 were done by Bish, McDavid and Eric Clemens and is based on research on these topics since the 1970s and 1980s. Many of the reports were for clients and are not public. Others are published and listed in the bibliography. Specific information on local government arrangements in British Columbia came initially from many student papers, but has since been updated through websites and consultation with local and ministry officials. Documents in which concepts are discussed include Advisory Committee on Intergovernmental Relations (ACIR); McGinnis; and Bish (1986; 1999a).

Alternative approaches to service production, including contracting, are the focus of many articles by McDavid and his co-authors. More than a dozen of these studies are listed in the bibliography, and they cover policing, fire protection, recycling, and solid waste collection and disposal.

Information on the production of local government services in the United States is presented in Ostrom, Bish, and Ostrom. U.S. police services are discussed in Ostrom, Parks, and Whitaker; Parks; and several articles in McGinnis. We relied heavily on interviews and comments from the officials listed in the acknowledgements for the information on current arrangements in British Columbia.

Evaluation of services and programs is discussed in McDavid and Hawthorn (2006). This textbook includes chapters on both program evaluation and performance measurement, and a separate chapter on cost-benefit analysis that describes the key steps in conducting a cost-benefit study of project or program alternatives. A more recent guide to policy and program evaluation that is intended for persons who do not have background in evaluation is McDavid and Huse's *Policy Evaluation Guide for the BC Government* (2008). It is available from the authors and includes two modules that offer additional web-based sources on a wide range of evaluation topics, including program evaluation, cost-benefit analysis, and performance measurement.

Chapter 9

The previous three editions relied heavily on student papers and interviews. For this edition, websites, BC government statistical sources, and a new set of interviews were conducted.

Chapter 10

Land use planning, zoning, and subdivision policies and practices are covered in a variety of publications from the municipal affairs ministry and local governments. The Vancouver area regional planning history is presented in Gerald Hodge and Ira M. Robinson's *Planning Canadian Regions* (2002). Other documents relevant to this chapter include Bish and Nourse; Goldberg and Horwood; Kitchen; and Martin. Buholzer's *British Columbia Planning Law and Practice* looseleaf seems to be the reference for planners.

Chapter 11

Sources of information on local government labour relations include the direct contact with the variety of unions involved, not all of which had information on the number of their members who worked for local governments, employers and employer bargaining associations.

Chapter 12

Any public finance text covers issues of taxation. The Ministry of Municipal Affairs, the Municipal Finance Authority, and individual local governments are the main sources of information on municipal, regional district, and improvement district finances. Indian reserve taxation issues are analyzed in Bish (1987) and Bish, Clemens, and Topham. The business-residential property tax relationship studies are all cited in the text and may be found in the bibliography. User charges are examined in Kitchen (2002), Galambos and Schreiber; and Sproule-Jones and White.

First Nations Governments Appendix

In recognition of the variety of First Nations governments in B.C., the authors felt it would be valuable to provide an overview of the different approaches to providing local services and administration. Sources of information included federal, provincial, and First Nations websites, as well as interviews with individuals working within government and First Nations organizations. Text on First Nations governments from previous editions was updated and incorporated into the Appendix.

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The references listed here have been selected from many documentary sources that provided the basis for this book. Items relevant for the first two editions that are unavailable have been deleted. Such items as news releases, websites, or local government bylaws are not listed unless a specific reference is made to them in the text. Legislation discussed within the text is not listed separately but is included in the index. For ease of reference, the bibliography has been divided into provincial government and other publications and documents. Where publications are accessed online the website as of August 2008 is provided. Because website addresses may change, such publications are usually found by Google searches for either the publication or the name of the publishing organization.

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- 1999b. *The Cost of Municipal Elected Officials in the Capital Region of British Columbia*. University of Victoria: Local Government Institute.
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- 1999d. *Local Government Organization in the Capital Region of British Columbia*. University of Victoria: Local Government Institute.
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Contributors to the Fourth Edition

Bill Bellwood	Oak Bay Police Department
Kevan Brehart	Kemp Lake Waterworks District
Kevin Brewster	Ministry of Health
Emmanuel Brunet-Jailly	School of Public Administration, University of Victoria
William Cochrane	District of Oak Bay
Sharon Cohen	BC Public Service Agency
Brian Gardiner	BC Government Employees Union
Meagan Gergley	Ministry of Community Development [Policy & Research]
David Gilbride	Metro Vancouver
Robin Grantner	Ministry of Community Development [Local Government First Nations Relations]
Trafford Hall	District of Kitimat
Jim Harding	Museums Association of BC
Mark Hancock	Canadian Union of Public Employees BC
Terry Hartley	City of Nanaimo
Doug Holmes	City of Nanaimo
Deborah Humphrey	Ministry of Community Development [Infrastructure & Finance]
Bill Huot	Ministry of Community Development [Intergovernmental Relations & Planning]
Bob Janzen	School District 43
Brittany Johnson	Ministry of Community Development [Infrastructure & Finance]
Bruce Jordan	The firm of Staples McDannold Stewart
Inba Keho	Subject Librarian, University of Victoria
Marjorie MacDonald	School of Nursing, University of Victoria
Sharon Meredith	BC Recreation and Parks Association
Errin Morrison	BC Library Trustees' Association
Paul Murray	District of Saanich
Paige Mutterback	School of Public Administration, University of Victoria
Ann O'Melinn	Metro Vancouver
Lorcan O'Melinn	School District 43
Gary Paget	Ministry of Community Development
Toby Pike	South East Kelowna Irrigation District
Trish Rossell	Ministry of Education
Toby Seward	City of Nanaimo
Richard Simpson	Ministry of Public Safety & Solicitor General [Office of the Fire Commissioner]
Talitha Soldera	Ministry of Community Development [Infrastructure & Finance]
Terry Stewart	Ministry of Education
Doug Stein	District of Saanich
Kathryn Stuart	The firm of Staples McDannold Stewart
Don Sutherland	Ministry of Community Development [Advisory Services Branch]
Ted Swaybe	City of Nanaimo
Jill Symonds	Ministry of Community Development [Policy & Research]
Grace Van den Brink	Ministry of Community Development [Local Government First Nations Relations]
Dirk Van Duyn	School of Public Administration, University of Victoria
Alayna Van Leeuwen	Ministry of Community Development [Policy & Research]
Phil Venoit	International Brotherhood of Electrical Workers
Brian Walisser	Ministry of Community Development

James Whyte	Ministry of Public Safety & Solicitor General [Provincial Emergency Program]
Deidre Wilson	Ministry of Community Development [Policy & Research]
Jeff Young	West Vancouver Police Department
Lydia Zucconi	Ministry of Community Development [Policy & Research]

Organizations that provided information for the Fourth Edition

Canadian Autoworkers Union
 Carpenters Union
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 International Alliance of Theatre and Stage Employees
 International Association of Firefighters BC
 New Westminster Public Library Staff Association
 Police Associations of Abbotsford, Nelson, Delta, Central Saanich, and Oak Bay
 Teamsters Union
 United Steelworkers Union
 West Vancouver Municipal Employees Union

Contributors to the Third Edition (1999)

Debbie Anderson	Secretary, Kemp Lake Waterworks District
Phil Arnoldi	Real Property Taxation, Ministry of Finance & Corporate Relations
David Bartley	Administrator, Town of Sidney
John Bell	Chair, Advisory Planning Commission, Town of Sidney
Gerald Berry	City Manager, City of Nanaimo
Vera Biebrach	Kemp Lake Waterworks District
Johnny Carline	Chief Administrator, Greater Vancouver Regional District
Dannie Carsen	Municipal Financial Services, Ministry of Municipal Affairs
Peter Chinneck	Communications, Ministry of Municipal Affairs
Bob Crane	Housing Policy, Ministry of Municipal Affairs
Elizabeth Davidge	Municipal Financial Services, Ministry of Municipal Affairs
James Dias	Administrator, District of North Cowichan
Julia Duff	Municipal Financial Services, Ministry of Municipal Affairs
Russell Dyson	Secretary, Lantzville Improvement District
Ann Evans	Finance & Management Services, Ministry of Health
Reg Faubert	Housing Policy, Ministry of Municipal Affairs
Deborah Fawcett	School of Public Administration, University of Victoria
Rob Gage	School Finance & Capital Planning, Ministry of Education
Barry Gaetz	Local Government Programs, Camosun College
Ed Gilman	Clerk Administrator, Town of Lake Cowichan
Kim Heyman	Secretary, Clearwater Improvement District
Russ Fuller	Finance & Administration, Ministry of Transportation & Highways
Allison Habkirk	School of Public Administration, University of Victoria
Lillian Hallin	BC STATS, Ministry of Finance & Corporate Relations
John Herbert	Finance & Management Services, Ministry of Health
Joan Hill	City of Burnaby
Monte Holding	Juan de Fuca Parks and Recreation Commission
Derrien Karr	Provincial Treasury, Ministry of Finance & Corporate Relations
Edith Kinzel	Clearwater Improvement District
Karen Kirby	BC STATS, Ministry of Finance & Corporate Relations
Heather Kirkham	School of Public Administration, University of Victoria
Jim McDavid	School of Public Administration, University of Victoria
Bob Moncur	City Manager, City of Burnaby
John Newhouse	Highways Operations, Ministry of Transportation & Highways

Bob Paddon	Communications, Greater Vancouver Regional District
Gary Paget	Planning & Governance, Ministry of Municipal Affairs
Mark Penney	Research Assistant, University of Victoria
Brodie Porter	Planner, Islands Trust
Carol Quartermain	Police Services, Ministry of Attorney General
Judy Reykdal	Police Services, Ministry of Attorney General
Judy Rogers	City Manager, City of Vancouver
Rob Rounds	Municipal Financial Services, Ministry of Municipal Affairs
David Rozen	Police Services, Ministry of Attorney General
Mike Skene	Corporate Administration, City of Victoria
Heather Smart	Water Management, Ministry of Environment
Frank Storey	Union of BC Municipalities
Jim Sproul	Economic Development, Ministry of Employment & Investment
Judy Stiles	Finance & Management Services, Ministry of Health
Don Sutherland	Planning & Governance, Ministry of Municipal Affairs
Richard Taylor	Executive Director, Union of BC Municipalities
Linn Teetzel	Local Government Programs, Capilano College
Martin Thomas	Property Assessment Review Panels, Ministry of Municipal Affairs
Derek Trimmer	Planning & Governance, Ministry of Municipal Affairs
Linda Wachter	Secretary, South East Kelowna Irrigation District
Brian Walisser	Corporate Policy, Ministry of Municipal Affairs
Elizabeth Walker	School of Public Administration, University of Victoria
Larry Walters	Water Management, Ministry of Environment
Barbara Whitehead	Regional District of Comox-Strathcona
George Wiley	Clerk Secretary, City of Port Alberni
Bruce Williams	Administrator, Regional District of Comox-Strathcona
Jolayne Williams	Communications, Ministry of Municipal Affairs
Rob Woodland	Corporate Administration, City of Victoria

Contributors to the First and/or Second Editions (1987, 1990)

Doug Caul	Research Assistant, University of Victoria
Sherri Macdonald	Research Assistant, University of Victoria
Sandra McLelland	Research Assistant, University of Victoria
Tara Mason-Ward	Research Assistant, University of Victoria
Marnie Reinstein	Research Assistant, University of Victoria
Evelyn Butler	Research Assistant, University of Victoria
Allison Fader	Research Assistant, University of Victoria
Julia Quon	Research Assistant, University of Victoria
Patricia Richards	Research Assistant, University of Victoria
Deborah Needley	Project Secretary, University of Victoria
John Adams	Museums & Galleries Programs, Ministry of Provincial Secretary
Mrs. Akerley	Clerk Treasurer, Village of Lake Cowichan
J.D. Allan	Municipal Clerk, District of West Vancouver
Philip Arnoldi	Surveyor of Taxes Office, Ministry of Finance
Vern Atkinson	BC Fire Commissioners Office
Lucina Baryluk	Planner, Nanaimo Regional District
J. Berikoff	Administrator, District of North Cowichan
David Blake	Municipal Administrative Services, Ministry of Municipal Affairs
Dr. Bullen	Independent Schools Division, Ministry of Education
John Callan	Administrative Services Branch, Ministry of Municipal Affairs
Ian Cameron	Curriculum Development Branch, Ministry of Education
Colin Crisp	Deputy Municipal Manager, City of Victoria
D.R. Comis	Deputy Municipal Clerk, Burnaby
John Allan Davies	University of British Columbia

Paul Douville	Treasurer, City of Duncan
Wayne d'Easom	Executive Director, Comox-Strathcona Regional District
Paul Edgington	Treasurer, Town of Sidney
Ron Drolet	Small Community Urban Transit Authority
Patrick Durban	Clerk Treasurer, Village of Lake Cowichan
Johann Du Pisanie	Professor of Economics, University of Pretoria, South Africa
Mr. Durrard	Clerk Administrator, Central Saanich
H. W. Egleston	Clerk, District of North Vancouver
David Emerson	Treasury Board, Ministry of Finance
I.M. Faulkner	Fire Academy Coordinator
Lionel Feldman	Municipal Affairs Consultant
Chuck Gibson	Planning Division, Ministry of Municipal Affairs
Lois Leah Goodwin	Ministry of Municipal Affairs
Tony Green	Clerk, District of North Saanich
C. Greer	Municipal Finance Authority
John Hasell	Recreation & Fitness Branch, Ministry of Provincial Secretary
P. Hayward	Secretary Treasurer, Cowichan Valley Regional District
Norman Healey	Apprenticeship Councillor, Ministry of Labour
Mr. Henry	Clerk, City of Vancouver
Kevin Hicke	Waste Management Branch, Ministry of Environment
Monte Holding	Panorama Leisure Services
M. Hurlen	Treasurer, Township of Langley
Mark Johnston	Executive Assistant, City of Victoria
Kenneth Jolley	Senior Financial Officer, Municipal Affairs
Edith B. Kinzel	Secretary, Clearwater Improvement District
M.J. Kubisheski	Secretary-Treasurer, Colwood Fire Protection District
Morris Lamb	City of Victoria
John Langford	Professor of Public Administration, University of Victoria
Peter Leckie	Director of Finance, City of Vancouver
C. Evelyn Lilja	Secretary Treasurer, Lantzville Improvement District
Terry Lister	Senior Planner, District of Surrey
Peter Lofthouse	Ministry of Municipal Affairs, Recreation and Culture
David A. Logan	Policy & Legislative Services, Ministry of Education
G. Logan	Clerk Administrator, Town of Sidney
Mark Loken	Resident of CVRD Area A
Ken MacLeod	Research Director, Ministry of Municipal Affairs
J. Macleod	Clerk, District of North Cowichan
Warren Magnusson	Department of Political Science, University of Victoria
Russ Malcolm	Ministry of Lands, Parks & Housing
Jim McDavid	Assoc. Professor of Public Administration, University of Victoria
John MacDonald	Financial Services, Ministry of Municipal Affairs
A. McDonald	Commissioner, Greater Nanaimo Water District
Duncan McDougal	Urban Transit Authority
Ron McKeever	Comptrollers Office, Ministry of Human Resources
Christine McKnight	BC Transit
Duncan McRae	Vocational Programs Branch, Ministry of Education
Aubrey Millward	Administrative Assistant, GVRD
G. Morris	Municipal Clerk, District of Richmond
S.B. Mould	Manager, South East Kelowna Irrigation District
Don Munroe	School of Law, University of Victoria
Gale Nash	Ministry of Environment
Jim Nelms	Engineering Department, City of Victoria
Gary Paget	Policy & Organization Branch, Ministry of Municipal Affairs
Mike Patton	Parks & Recreation, Nanaimo
Ken Pleasance	Engineer, Greater Victoria Water District

J. Plesha	Administrative Assistant, District of Burnaby
R. Proudfoot	Chief, Colwood Fire Department
Ken Rainsberry	Roads and Traffic Engineer, District of Saanich
L. Remple	President, Haul-Away Disposal Ltd.
Judy Reykdal	Policy & Program Division, Ministry of Attorney General
Larry Roberts	Engineering Department, City of Victoria
Gary Robinson	Water Management Branch, Ministry of Environment
Gary Rogers	Public Services Superintendent, Central Saanich
Rob Rounds	Ministry of Municipal Affairs
Larry Seminiuk	Financial Services, Ministry of Municipal Affairs
Mark Spencer	Waste Management Branch, Ministry of Environment
Mark Sproule-Jones	Professor of Political Science, McMaster University
Bill Stavdal	Publications, Ministry of Education
Joan Stevens	Education & Information Office, Ministry of Municipal Affairs
Joanne Stone	Urban Transit Authority
Marguerite Stone	Financial Administration, Ministry of Education
Bill Strain	Planning Officer, City of Langley
Neil Swainson	Professor of Political Science, University of Victoria
Agnes Szilos	Parks and Recreation Department, District of Oak Bay
Al Tamblin	Financial Management, Municipal Affairs
Richard Taylor	Executive Director, Union of BC Municipalities
Paul Tennant	Professor of Political Science, University of British Columbia
Harold Thompson	Planner, Okanagan-Similkameen Regional District
Mike Townsend	Superintendent, Engineering & Development, Town of Sidney
Ken Vance	Union of BC Municipalities
Howard Verdi	Planner, Thompson-Nicola Regional District
John Walsh	Legislation and Information Services, Ministry of Education
D.A. Welsh	Manager, District of North Vancouver
Ken Yates	Administrator, Recreation Commission, Matsqui-Abbotsford
D. Young	Executive Director, Capital Regional District

Local Government in British Columbia

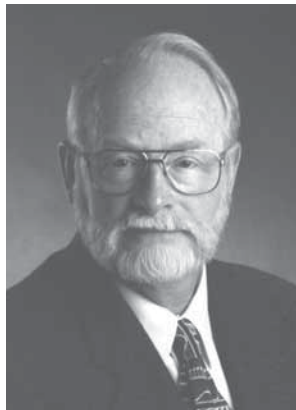
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About the Authors

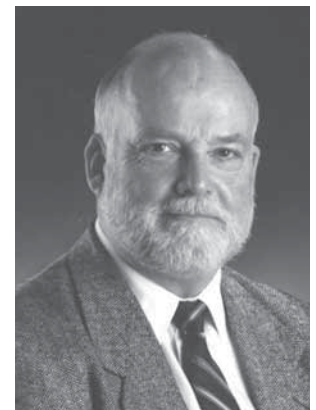
Robert L. Bish, Ph.D., is Professor Emeritus in the School of Public Administration at the University of Victoria and Academic Chairman, Board of Directors, of the Tulo Centre of Indigenous Economics. Prior to joining the University of Victoria in 1981, Dr. Bish received his A.B. Magna Cum Laude from the University of Southern California (1964) and M.A. (1966) and PhD (1968) in Economics from Indiana University. He served in departments or schools of economics, public affairs, public administration, and urban studies at the universities of Washington (1968–72), Southern California (1972–76), and Maryland (1976–81).



Dr. Bish was one of nineteen economists at Canadian universities included in the first edition of *Who's Who in Economics* in 1983. The editors selected an international group of 1,000 economists from 1700 to 1980, based on the frequency with which their published work was cited in economics and related social science journals. He was included in subsequent editions until his retirement in 1998.

Dr. Bish's research and consulting activities have included, in the United States, the Office of Technology Assessment, U.S. Congress; The U.S. Departments of Commerce, Transportation, Agriculture, and Housing and Urban Development; Advisory Commission on Intergovernmental Relations; Washington State Legislature; the Puget Sound Water Quality Authority; Governor's Office, State of California; and the National Science Foundation. In Canada, they have included projects for the Department of Indian and Northern Affairs; Macdonald Royal Commission; the B.C. Ministry of Municipal Affairs; the Gitksan-Wet'suwet'en Tribal Council; the Indian Taxation Advisory Board; the InterAmerican Development Bank; and various other provincial ministries, local governments, First Nations governments, and incorporation study task forces.

Eric G. Clemens was a management consultant whose areas of practice include public policy and program analysis, survey research, and local and aboriginal government management, finance, and service delivery. He held the degrees of Bachelor of Architecture (Manitoba), Master of Architecture and Urban Design (Washington, St. Louis), and Master of Public Administration (Victoria). He was also an Adjunct Assistant Professor in the University of Victoria School of Public Administration and had served as a practising architect, an Assistant Professor of Architecture, and a Senior Planner (Urban Design) with the National Capital Commission in Ottawa.



Eric's local and aboriginal government work included projects for the Regional District of Alberni-Clayoquot, Capital Regional District, City of Victoria, Town of View Royal, District of Metchosin, Indian and Northern Affairs Canada, Indian Taxation Advisory Board, and the Squamish, Tsawwassen, and Adams Lake First Nations. For the University of Victoria School of Public Administration, he had developed and taught courses since 1991 in local government, urban and regional economics, property taxation, and contracting out government services. His published work included a variety of consulting reports, *Indian Government Taxes and Services in British Columbia* (1991), with Robert L. Bish and Hector G. Topham, and "Contracting out local government services: the B.C. experience" (1995), with James C. McDavid. The latter received the J.E. Hodgetts Award for the best English-language article published in *Canadian Public Administration* in 1995.

Eric passed away in October 2008, prior to the completion of this edition. He was a major contributor to the local government and academic communities in British Columbia and will be greatly missed.