

January 19, 2024

Re: Legislative Reform Initiative Update

Dear Local Government Colleagues:

On September 21, 2023, the Regional District of Nanaimo (RDN), Alberni-Clayoquot Regional District, Fraser Valley Regional District (City of Chilliwack), and Don Lidstone, K.C., hosted an interactive, discussion-based panel session (Legislative Reform Initiative) focused on reform of the *Local Government Act (LGA)* at the UBCM Annual Convention in Vancouver. While the lack of powers for regional districts in the *Act* was a major spark for this initiative, the session was intended for both municipal and regional district officials because many aspects of municipal operations are contained in the *LGA* and municipal issues with the *Act* have been the subject of numerous UBCM resolutions over the years. Similar workshops have been held previously at the Association of Vancouver Island and Coastal Communities' Annual Conventions in 2022 and 2023. Approximately 80-85 people attended the September 2023 UBCM session, indicating a broad interest in this evolving topic.

Concerns about the dated *Local Government Act* have been widespread for some time among local governments. Although the Ministry of Municipal Affairs has made significant incremental changes in the legislation over time, without a comprehensive modernization of the *LGA* regional districts are left without sufficient tools or authority to meet expanding responsibilities or to legislate in key areas in comparison with municipalities. Moreover, the evolving social, political, and economic environments that both municipalities and regional districts operate within, such as climate change, environmental stewardship, and a recognition of the importance of First Nations' participation in regional governance, should be reflected in updated and modernized legislation. A key component of our discussions is that any additional powers or tools granted to local government are opt-in so that local governments can choose to implement tools based on what is best for their area.

The goals of the September 2023 UBCM interactive panel session were:

- to provide context and background about the Legislative Reform Initiative
- to discuss whether to proceed with the Legislative Reform Initiative
- to discuss options for the best path forward to steer the process

Prior to the session, the Ministry of Municipal Affairs provided some background information and several questions to consider during the group's discussion. This material was useful and very much appreciated.

The RDN committed to sending UBCM members a "What We Heard" document summarizing discussion at the session and next steps. We are attaching that document to this letter for your information, as well as the material provided by the Ministry of Municipal Affairs that was considered as part of the September 2023 panel discussion at UBCM. In addition, we are attaching the slide deck presented at the UBCM session.

We encourage other local governments to participate in this important initiative. As indicated in the "What We Heard" document, the RDN is currently following up with UBCM on the possibility of requesting that the UBCM Executive form a working group on this topic. Having letters of support from local governments across the province would be helpful in demonstrating interest. Should you wish to send a letter of support, have any questions, or wish to share examples of legislative challenges stemming from the *Local Government Act*, please contact RDN Chief Administrative Officer Douglas Holmes at dholmes@rdn.bc.ca.

Sincerely,

A handwritten signature in black ink, appearing to read "Vanessa Craig". The signature is fluid and cursive, with a large initial "V" and a stylized "C".

Vanessa Craig
Chair, Regional District of Nanaimo

Encl.

Background and Discussion Questions

The Ministry of Municipal Affairs (MUNI) is committed to listening to local governments about their evolving needs and how the existing legislated framework accommodates new responsibilities and challenges. Much of the legislative agenda sponsored by MUNI in recent years has responded to critical local government needs uncovered as a result of the pandemic and in response to UBCM resolutions. The development of legislative change is a lengthy, complex, and resource intensive process. Therefore, it must be rooted in and supported by a clear gap in existing tools and authorities to fix an identified problem that the current legislation or other tools don't resolve. The mere desire for regional district (RD) legislation alone needs to be tested against a real need, with a clear path on policy development for the province to consider.

Government Priorities

The province has been clear in its priorities and focus on pressing issues of affordability and housing supply – allocating significant resources from both the Ministry of Housing and MUNI to initiatives in this space. That scarce allocation is determined by elected decision makers. The priority on affordability and housing supply also presents an opportunity and recognizes that issues of housing availability and affordability are not just urban issues – and that there is a role for regional approaches to support this work that may require new thinking of how RDs are better able to participate in solutions that will have direct implications for RD regulatory authorities.

In addition, MUNI along with other agencies and ministries, are working on other initiatives that have a direct impact on RD authorities, these include:

- The local government financial review working group, made up of staff from the province and UBCM, where work has been underway to review the local government finance system in B.C., analyzing the recommendations in the 2021 UBCM report, and discussing matters of mutual interest;
- Inclusive regional governance to explore First Nations' interests on RD boards (explore issues such as geographic implications/boundaries of the current RD system and alignment with First Nation territories, election mechanics, and service provision);
- Consideration of business licensing and enforcement authorities for RDs, as previously requested by RDs.

Discussion questions – Are there specific RD challenges and legislative concerns that align with the current provincial priorities? What are the clearly defined problem statements/lack of authority for RDs not already accommodated for?

Other Approaches and Tools

In the past, RD officials have expressed a range of concerns such as lack of regulatory authority – in some cases the authorities in question may exist or it may be facilitated through regulation (recent examples include fireworks and source separation regulations). Other identified concerns relate to some of the fundamental foundations of RD structures and principles – such as the principle that cost-recovery for services being matched with the beneficiaries of the service, or the unique ability of RDs to balance rural and urban interests. Any changes contemplated need to be evidence-based and targeted

and not be change for “a nice to have” versus a particular business or governance need for which a policy rationale exists and no other tools exist.

Discussion questions – given the inherent flexibility in the RD system, are there other tools or approaches that may address challenges that could support RDs in the absence of legislative changes?

Process for further engagement

Given the key and pressing priorities that the province is currently engaged on (e.g., housing and homelessness, climate change and emergency planning, health, and the opioid crisis) there are practical considerations about how the local government system (including municipalities and RDs) will partner and collaborate with the province to address these issues. MUNI remains committed to understanding the broad views and perspectives of local government officials (both regional and municipal) across BC on the issues facing their regions and communities including the need for legislative change. We will take under consideration the results of this session.

Discussion questions – Have inclusive, broad meaningful conversations about RD outcomes and authorities occurred across all RDs? And have those been shared with MUNI? How will RDs organize themselves to ensure that all voices will be heard?

Legislative Reform Initiative: Next Steps

To log into Slido for this session:

Join at slido.com
Enter code: #UBCM1

In Slido, please tell us where you are from and whether you are an EA Director or from a municipality.

Agenda

2:30-2:40

Welcome/introductions/objectives of session

2:40-3:40

Legislative Reform Initiative: A Summary

- Context and background
- Challenges with the Local Government Act
- 20 years of resolutions: a quick review
- Actions taken on this initiative
- Themes from previous sessions and discussions
- Priorities identified in previous discussions
- Background and questions from Ministry of Municipal Affairs
- Reflections from the panel and discussion
- **Decision: Is there an interest in proceeding with the leg reform initiative?**

3:40-4:20

Options for steering and managing the legislative reform initiative

- UBCM working group
- Joint local government project
- Other ideas
- **Decision: decide the best path forward to manage the initiative**

4:20-4:30

Conclusion/wrap up

Welcome and Introductions

- **Vanessa Craig**, Chair, Regional District of Nanaimo
- **John Jack**, Chair, Alberni-Clayoquot Regional District; Chief, Huu-ay-aht First Nation
- **Jason Lum**, Chair, Fraser Valley Regional District; Council Member, City of Chilliwack
- **Don Lidstone**, K.C., Managing Partner, Lidstone & Company

Objective of Today's Session

- Provide context and background about the Legislative Reform Initiative
- Decide whether to proceed with the Legislative Reform Initiative
- Decide the best path forward to steer the process

Legislative Reform Initiative: Context and Background

- Community Charter replaced Municipal Act 2003
 - Excellent piece of municipal legislation in Canada
- Local Government Act (LGA) created in 1966
 - Not overhauled in early 2000s as planned
- Comprehensive modernization of LGA has not been done
 - Accountabilities of RDs continuing to increase
 - RDs lack tools and authority to meet expanded responsibilities
 - Many aspects of municipal operations that need updating are in the LGA (planning)

Challenges with the Local Government Act

- Limits on legislative authority no longer supported by policy rationales
- Demographics/population growth/increased development/sparsely populated areas
- Business licensing, subdivisions, fireworks, parking, tree management
- Is such a distinction between authority of regional districts and municipalities still supportable?
- Revenue generation, models of taxation, funding for services – lack of flexibility in current paradigm

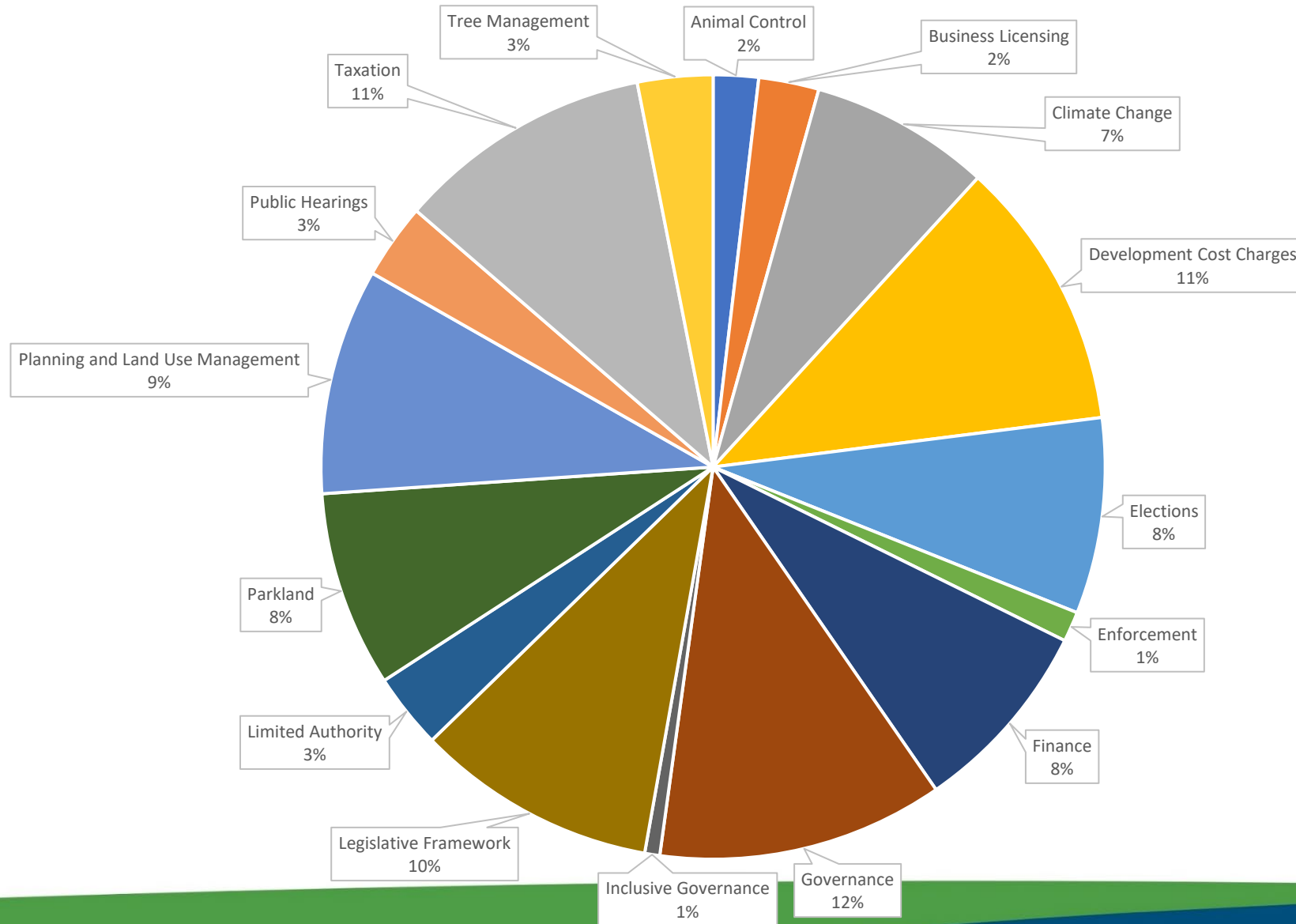
Challenges with the LGA (continued)

- Establishing services to optimize scale, cost distribution, fair participation
- Urban/rural friction
- Social, political, economic values have shifted significantly since legislation was drafted
- *The Province has implemented incremental legislative change over time - which is welcome and beneficial - but it is time for a comprehensive review and update.

20 Years of Resolutions: A Quick Review

- From 2003 to 2022, 161 endorsed resolutions specifically mentioned amending the Local Government Act. 34% were sponsored by regional districts. The rest are from municipalities.
- An additional 71 resolutions requesting an LGA amendment were submitted to UBCM for consideration and were either not endorsed or not admitted for debate.
- Of the 161 endorsed resolutions, three have called specifically for modernization of the LGA and one has called for the creation of a Regional District Charter.
- The 5 most common themes are:
 - Governance
 - Development Cost Charges
 - Taxation
 - Legislative framework
 - Planning and land use management

Resolutions At a Glance



Actions Taken on this Initiative

- **April 2021** – RDN initially presented this topic to Chair/CAO Forum for preliminary discussion
- **June 2021** – RDN and Don Lidstone hosted a half-day session with BC Chairs and CAOs to explore a collaborative effort to modernize the LGA
- **April 2022** - AVICC convention – RDN, ACRD and Don Lidstone hosted a 2-hour workshop with local governments to hear about areas needing reform, and to build support for interjurisdictional collaboration
- **September 2022** - RDN submitted resolution, endorsed by UBCM, proposing that UBCM work with Ministry and local government on this initiative

Actions Taken on this Initiative, cont'd

- **September 2022** – RDN and ACRD met with former Minister of Municipal Affairs Nathan Cullen to discuss moving project forward
- **March 2023** - Provincial response to RDN 2022 UBCM resolution on legislative reform received:
 - “The current framework mostly works well”
 - RDs can be innovative, creative in targeting issues
 - RDs should work with Ministry for tailored regulations
 - New tools/authorities must be based on a clear analysis
 - Consensus is needed for system-wide change
 - January 2022 “MOU on Local Government Financial Resiliency” (UBCM/Province) establishes a working group to review challenges

Actions Taken on this Initiative, cont'd

- **March 2023** – RDN again presented on this initiative to CAO Forum and Chairs/CAOs Forum to gather ideas and specific examples
- **April 2023** - RDN, ACRD and Don Lidstone hosted a second panel session at the 2023 AVICC Convention in Nanaimo, building on ideas from 2022 AVICC workshop and seeking guidance on how to move the project forward
- **September 2023** – UBCM Convention (Vancouver), RDN, ACRD, City of Chilliwack, and Don Lidstone hosting a third panel session, building on ideas from the April 2022 and April 2023 AVICC sessions, and seeking guidance on next steps, process and timeline, and priorities to be addressed

Themes from Previous Sessions and Discussions

- UBCM may be the most effective avenue for shepherding this initiative
- First Nations must be invited to be part of modernizing exercise
- A new legislative scheme should contemplate seven generations into the future; establish a framework responsive to future societal changes
- “Be careful what you wish for”: more authority may require more resources
- Ensure core task of modernizing legislation is not sidetracked by other issues
- RDs need more flexibility with revenue sources.
- Municipalities have authority to use fees to shape behaviour.

Themes from Previous Sessions and Discussions, cont'd

- Community amenity contributions should be addressed as part of this initiative
- Consultation with Boards, First Nations, stakeholders, developers, owners, citizens, Province is key
- Identify specific, concrete, local community issues to build ongoing grassroots pressure on local politicians
- Planning and land-use issues should not be included in this initiative
- Connect issues to ministerial mandates
- Capacity and resourcing (financial and staff time) will be major challenges for moving project forward

Priorities to Be Addressed: Ideas from March 2023 Chair/CAO Forum

- Legislative Powers
 - Clarify respective powers of Mayor and Council
 - Amending legislation that provides the ALC with powers to supersede the OCP and RGS
 - Give local governments time to make those changes within the land use plan in the OCP and RGS
- Weighted Voting Structure
 - EA Directors outvoted by municipalities (Planning and Land Use Management)
 - Unfair voting practices on RD assets/service establishment bylaws and their taxation with limited and ineffective representation

Priorities to Be Addressed: Ideas from March 2023 Chair/CAO Forum, cont'd

- Subdivision Approval
 - Maximum build-out to water availability to ensure sustainability. Water consumption needs to be met by raw water source without affecting other current infrastructure, forced to create potable water service
- Inclusive Governance
- Revenue Alternatives
 - Sales tax revenue alternatives, competing for grant funding
 - Ability to have additional revenue streams
 - Additional tools to meet residents' quality-of-life expectations

Priorities to Be Addressed: Ideas from March 2023 Chair/CAO Forum, cont'd

- Long-term Borrowing
 - For regulated infrastructure (water treatment) and essential services (sewer where there are health and/or environmental issues). Not requiring AAPs/referendums.
- Service Establishment – reduce complexity
- Business Licensing – enable RDs to have licensing
- Bylaw Enforcement – declared nuisances

Background and Questions from Ministry of Municipal Affairs

- Legislative reform is a resource-intensive process
- Need to demonstrate a clear gap in tools and authorities
- Must show a real need and a clear path
- Must be evidence-based and targeted
- Consider options other than legislative reform
- Provincial priority on affordability and housing supply presents urban/regional opportunities to participate in solutions

Background and Questions from Ministry of Municipal Affairs, cont'd

- Province has several other initiatives that impact regional district authorities (e.g., inclusive governance study, financial review working group, consideration of business licensing)
- Demonstrate how local government challenges align with provincial priorities
- Local government needs an effective process to organize this project and to enable broad, inclusive and meaningful consultation

Questions for Consideration from Ministry of Municipal Affairs

- Are there specific RD challenges and legislative concerns that align with the current provincial priorities? What are the clearly defined problem statements/lack of authority for RDs not already accommodated for?
- Given the inherent flexibility in the RD system, are there other tools or approaches that may address challenges that could support RDs in the absence of legislative changes?
- Have inclusive, broad, meaningful conversations about RD outcomes and authorities occurred across all RDs? And have those been shared with MUNI? How will RDs organize themselves to ensure that all voices will be heard?

Reflections from the Panel

Why this initiative is important...

Slido Poll:

Is there an interest in proceeding with
a legislative reform initiative?

YES

NO

Discussion: Options for Next Steps

- What process would be most effective to steer and manage this initiative?
 - UBCM working group
 - Joint local government-led project

A Refresher: Process Suggested at April 2023 AVICC Workshop

Option 1: UBCM Working Group

UBCM to manage this initiative; establish working group to steer the legislative review process:

- Working group comprised of reps from municipalities, regional districts, First Nations, UBCM, ministerial staff
- Research and policy work on the framework/approach to reviewing and modernizing the LGA
- Report back to UBCM membership in 2024 (if there is a resolution from the floor in 2023) or in 2025 (if resolution is submitted in 2024)
- Discuss pros and cons of this option (unified, centralized, broad reach, consistency, mechanisms in place)

Alternative Process To Consider

Option 2: Joint Local Government Project

Local governments could contribute funding to establish a working group to oversee the legislative review process.

- Working group possibly comprised of reps from municipalities, regional districts, First Nations, UBCM, ministerial staff
- Undertake research and policy work on the framework and approach to reviewing and modernizing the LGA
- Report back to UBCM membership? Local governments?
- Discuss pros and cons of this option (challenges with capacity, resources, complex coordination)

Slido Poll: Choose One Option

- Option 1: The Legislative Reform Initiative should be steered and managed by a UBCM Working Group.
- Option 2: The Legislative Reform Initiative should be steered and managed as a joint local government project.
- Option 3:

Conclusion and Wrap Up

- Action(s) depending upon results of today's polls
- RDN staff will follow up with a “What We Heard” document

Thank you!

LEGISLATIVE REFORM INITIATIVE: NEXT STEPS
UBCM ANNUAL CONVENTION, September 21, 2023
Summary of Session and What We Heard

SUMMARY OF SESSION

On September 21, 2023, the Regional District of Nanaimo, Fraser Valley Regional District (City of Chilliwack), Alberni-Clayoquot Regional District, and Don Lidstone, K.C., hosted an interactive, discussion-based session on legislative reform. The session was intended for both municipal officials as well as regional district officials because many aspects of municipal operations are contained in the *Local Government Act*.

The goals of the session were:

- to provide context and background about the Legislative Reform Initiative
- to discuss whether to proceed with the Legislative Reform Initiative
- to discuss options for the best path forward to steer the process

The Ministry of Municipal Affairs provided background and several questions to consider during the group's discussion (Attachment 1).

Approximately 80-85 people attended the session, indicating a broad interest in this evolving topic.

Concerns with the dated *Local Government Act* include restrictions on taxation and revenue sources, complexities in establishing services, and the lack of provisions in comparison with Section 8 of the *Community Charter* which gives municipalities powers to regulate, prohibit, and impose requirements by bylaw without provincial approval or establishing bylaws. Regional districts are limited in their legislative authority in comparison with municipalities in several key areas such as business licensing authority (which the province is now addressing as part of its efforts around short-term rental housing), subdivision approval, regulation of fireworks discharge, parking enforcement, tree management, and taxation and funding models. Further, social, political, and economic environments that local governments operate within continue to evolve in areas such as climate change, environmental stewardship, and a recognition of the importance of First Nations' participation in regional governance. These realities should be reflected in a modernized legislative framework.

During the session, Slido polls were used to conduct two "straw polls" of the participants, on these questions: 1) whether or not to proceed with the Legislative Reform Initiative, and 2) whether a UBCM working group or a joint local government project is the best path forward to steer the process.

The majority of participants indicated support for the Legislative Reform Initiative, and indicated their preference would be for a UBCM working group to steer the initiative. These polls were conducted to gain a sense of the sentiments of the session participants only, and are not assumed to represent the views of the UBCM membership as a whole.

WHAT WE HEARD

WHY A COMPREHENSIVE MODERNIZATION EFFORT IS NEEDED

- The Ministry of Municipal Affairs has made important incremental changes in the legislation over time, but a more comprehensive modernization project is needed.
- Extensive downloading of responsibilities from the Province to local governments has exacerbated the problems local governments face; outdated legislation prevents local governments from addressing these issues effectively.
- Over 90% of the province is rural and is not under the *Community Charter*; these areas should not be governed by legislation that was drafted in 1966.
- Regional districts and municipalities have restricted powers where they have delegated authority only, are not constitutionally protected, and have few tools or resources to address local problems.
- Particular challenges with the *Local Government Act* (LGA) raised by participants at this session:
 - responding effectively to emergencies and natural disasters
 - taking measures to mitigate the effects of climate change
 - dealing with old infrastructure and the ability to fund these projects solely through property taxes
 - population growth and migration from cities during the pandemic is rapidly changing the character of rural areas; incoming residents have higher expectations for services
 - incorporation should not be the only other governance option for rural areas; there should be an intermediate step available
 - Electoral Areas lack power and resources
 - business licensing authority¹ and subdivision approval are difficult for regional districts
 - small municipalities and regional districts are unable to fund necessary projects costing millions, such as recycling, dikes, etc., to continue to provide the quality of life that residents cherish in these communities.

CONSIDERATIONS FOR PURSUING LEGISLATIVE REFORM RAISED AT THIS SESSION

- The background and questions provided by the Ministry of Municipal Affairs were very helpful in this discussion.
- Need to identify and list specific, concrete, local community issues and distill them from a 10,000-foot level to provide the Ministry of Municipal Affairs with evidence for the need to modernize the *Local Government Act*.
- Legislative reform should be viewed as supporting the Province, not in conflict with the Province.
- The Ministry of Municipal Affairs should be involved from day one.
- The Ministry should provide funding for this initiative's research and policy work, as they have done for the Northwest Benefits Alliance.

¹ The Province is addressing this as part of its efforts around short term rental housing. Amendments to the *Local Government Act* allow Regional Districts to regulate and licence short-term rentals and other businesses in similar ways to municipalities [see link](#)

- What is working well in the legislation should be left as is.
- If legislative reform is successful in providing new powers and tools for local governments, that does not mean all local governments must use them.
- Islands Trust has an even smaller toolbox than municipalities and regional districts.
- Metro Vancouver has excellent models and best practices, especially in the area of climate change; we can borrow good ideas.
- Local governments need a legislative framework that recognizes the importance of, and facilitates working together with, First Nations in a respectful, effective, and inclusive manner.
- When First Nations participate at the Board level, it changes the conversation and the votes. Local governments often are not well informed regarding Indigenous rights and title.
- The inclusive governance goals in UNDRIP legislation and provincial action plans can be reinforced and worked on concurrently with the Legislative Reform Initiative.
- Need to consider 7 generations into future when modernizing the LGA.
- Planning and land use issues should not be included in this initiative.
- Several participants stressed the need to draft a new charter rather than revise portions of the LGA in a continuation of the “band aid” approach.
- Area associations of UBCM should be included in the conversation.
- A retired CAO or Chair could be a primary resource person for this project, conducting research and policy work and keeping the project on track.

DECIDING WHETHER TO PROCEED WITH THE LEGISLATIVE REFORM INITIATIVE

- **Slido poll #1:** Is there an interest in proceeding with the Legislative Reform Initiative? (96% yes, 4% no)

OPTIONS FOR STEERING AND MANAGING THE LEGISLATIVE REFORM INITIATIVE

Option 1: UBCM Executive could form a working group on legislative reform, comprised of representatives from municipalities, regional districts, First Nations, UBCM, and ministerial staff

Option 2: This could be structured as a joint local government project, with local governments contributing funding to form a working group on legislative reform, comprised of representatives from municipalities, regional districts, First Nations, UBCM, and ministerial staff

Considerations for Option 1:

Pros:

- UBCM has an efficient network, broad reach, consistency, research capacity, and impact with the province.
- UBCM can be representative.
- UBCM has already been doing some work on legislative reform, and has experience.
- UBCM can allocate resources if legislative reform is identified as a priority.
- Reporting back will happen at UBCM.

Cons:

- Last UBCM working group report in 2010 did not meet expectations.
- Some uncertainty on the part of some participants as to how a UBCM working group functions.
- A UBCM working group may be more distant from local governments than is ideal.

Considerations for Option 2:

Pros:

- May insulate the project from getting sidetracked, if the Province does not assist with resources for UBCM.
- With a group of passionate people committed to working together on the project, the Legislative Reform Initiative may not need UBCM.

Cons:

- Challenges with resources and capacity: initiative will require significant buy-in and continued long-term commitment from local governments in terms of funding and staff time.
- Difficult to achieve forward momentum “off the side of the desk”.
- The complex coordination required for the project will be a challenge.

➤ Slido poll #2:

- **Option 1:** UBCM Executive forming a working group (85% in favour)
- **Option 2:** Joint local government project (15% in favour)

NEXT STEPS

- A “What We Heard” document summarizing the session will be distributed to UBCM members.
- It is noted that although there was significant enthusiasm for the initiative, including from areas outside the AVICC region, some representatives indicated they would like additional information on the initiative.

UPDATE: December 2023

Following the UBCM Annual Convention, Douglas Holmes, CAO of the Regional District of Nanaimo had the opportunity to discuss the Legislative Reform Initiative and the September 21, 2023, interactive panel session with Gary Maclsaac, Executive Director, UBCM. Mr. Maclsaac is in the process of seeking direction on this matter from the President’s Committee.