

APPENDIX F

TO: UBCM Members
FROM: UBCM Executive
DATE: September 3, 1993
RE: **LOCAL GOVERNMENT AND THE
CONSTITUTIONS³**

ITEM #3(b)

September 22, 1993

B.C. COMMUNITIES AGENDA

BACKGROUND

The 1991 Convention endorsed the policy paper *Local Government and the Constitutions*. It called for a federal constitutional initiative; a parallel provincial constitutional element - a local government Bill of Rights; and a framework for implementing legislation.

The proposal was reconsidered during the discussions on the Charlottetown Accord along with a legal opinion on the Accord's impact on local government and the paper was reaffirmed. The UBCM President and other Executive members followed up with a series of high level meetings with federal, provincial and aboriginal leaders.

RECENT EVENTS

Bill 54, the Constitution Amendment Act, 1993 proposes a new approach to establishment of provincial ministries. With the exception of a Provincial Registrar and a Justice Minister, all Cabinet position appointments would be established at the time of appointment.

The present Ministry of Municipal Affairs Act which requires government to establish such a Ministry would be repealed. The Act states that one function of the Ministry is to be "the medium of communication between municipalities and the Lieutenant Governor in Council". Thus, while it is hoped this would never be the case, it is possible that a future Cabinet might not contain a Municipal Affairs Minister. In any event, the requirement for the government to have a recognized "medium of communication between municipalities" and Cabinet would be lost.

Bill 54 was not adopted at the last session. It remains on the Order Paper. This provides an opportunity for local government to put forward its views on amendments to the Constitution Act, such as the amendment proposed to add a Local Government Bill of Rights contained in *Local Government and the Constitutions* policy paper (see Appendix A).

The provisions set out in section (d) which states:

The Local Government Bill of Rights would recognize that the Province and local governments were partners in providing essential services to the public and include a commitment to consultation and cooperation; including the rights of local governments to:

- *guaranteed access to provincial decision-making;*
- *consultation on all matters affecting local government legislation;*
- *an amending formula for local government legislation;*
- *joint decision-making in areas of shared responsibility;*
- *negotiation of conflicts; and*
- *ensuring local government jurisdiction is respected by provincial ministries, Crown corporations and agencies.*

would offset the proposal in Bill 54 to repeal the *Ministry of Municipal Affairs Act*.

ACTION PLAN

1. That Bill 54, the *Constitution Amendment Act* be amended to include “A Local Government Bill of Rights”.
2. That the 1991 policy statement *Local Government and the Constitutions* be reaffirmed.

LOCAL GOVERNMENT CHARTER OF RIGHTS

A Local Government Bill of Rights would contain:

a. Founding Principles

The Province would recognize local government as an order of government and be committed to maintaining a legislative framework to allow local governments full authority to meet community needs. The basic role of the provincial government and provincial legislation would be to enable local governments to meet community needs rather than supervising the way they do this. Accordingly, the province would only restrict or regulate local government activities where it is in the provincial interest.

Preserved as a founding principle of local governments would be the requirement that any local government would conform to the following:

- no deficits;
- debt limits;
- voter assent requirements for long-term borrowing;
- due process to respect rules of natural justice; and
- access to information and protection of privacy.

b. Responding to Community Needs

The Province would provide to local government in legislation, responsibility to manage all areas of community life except those areas that it or the federal government has occupied or specifically reserved. The Province would agree to respect areas of local government jurisdiction to the extent of provincial interest.

c. Financing Communities

A Local Government Bill of Rights would recognize that local government must be provided areas of taxation and revenue authority requisite to its responsibility. It would also ensure that when the province wished local governments to take on new responsibilities they would be provided additional revenue sources.

d. Community/Provincial Relations

The Local Government Bill of Rights would recognize that the Province and local governments were partners in providing essential services to the public and include a commitment to consultation and cooperation; including the rights of local governments to:

- guaranteed access to provincial decision-making;
- consultation on all matters affecting local government;

- an amending formula for local government legislation;
- joint decision-making in areas of shared responsibility;
- negotiation of conflicts; and
- ensuring local government jurisdiction is respected by provincial ministries, Crown corporations and agencies.

What the Local Government Bill of Rights provides is a bridge – a bridge between the federal constitutional recognition of local government and the provincial statutes that establish those frameworks.