

APPENDIX L

TO: UBCM Members
FROM: UBCM Executive
DATE: October 2, 1995
RE: **REPORT TO THE 1995 CONVENTION ON BILL 55**

ITEM #3(e)

October 4, 1995

B.C. COMMUNITIES AGENDA

1. INTRODUCTION

Bill 55 was introduced late in the 1995 Legislative Session and provided wide discretion to the provincial government to modify railway assessments.

The Ministry of Municipal Affairs in conjunction with the Ministry of Finance and Corporate Relations and Ministry of Employment and Investment undertook seven regional meetings to discuss Bill 55¹. This report summarizes the proposals, the results of the meetings and sets out recommended directions.

2. THE GOVERNMENT'S PURPOSE AND MEANS

It is the intention of the provincial government to utilize four measures to reduce rail and utility assessment and taxation:

- **Reduce Utility Class Tax Rates** - class 2 tax rates will be capped; the type of "cap" and its amount are to be determined after consultation.
- **Exempt Bridges** - bridges will not be assessed or taxed (except as provided for through Impact Management Measures)
- **Reduce Railway Assessments** - assessments on rail properties will be reduced by a set of standard province-wide factors. There will be different factors applied to different types of property (e.g., track, right-of-way, yards, etc.); the amount of the factor is to be decided after consultations. The standard assessment reduction factors may be varied in an approved impact management plan.
- **Revalue Non-Linear Property and Possibly Move Market valued Property to Class 6** - railway yards are to be valued at market value ("across the fence" valuation). Property which is assessed at market value (not Commissioner's rates) but falls in class 2 (includes for example, BC Tel warehouses and rail yards) may be moved to class 6 but this has yet to be determined.

Impact Management Measures

The government's intent is to modify the assessment adjustment factors, reintroduce some portion of bridge assessment, or increase the "tax cap" if a local government would experience an unreasonably large revenue reduction as a result of the standard assessment reductions or "tax cap". The determination of the level of significance or "hardship" where local government tax losses would be limited is not yet decided and is open for discussion. Cabinet will ultimately establish what level of rail and utility tax reduction is "affordable" and what taxes will shift to other taxpayers.

A four year phase-in is also offered as an impact management measure. Feedback on the nature of the phasing (25%, 50%, 75%, 100% or other phase-in scheme) was also invited.

¹ References in this report to Bill 55 pertain to section 3 and not section 4, pertaining to BC Rail.

Implementation Schedule

We understand that the provincial government target dates for implementing this initiative are:

| | |
|---------------|--|
| October, 1995 | Finalize a regulation with respect to reducing school taxes paid by railways. |
| 1996 | Full amount of school tax reduction effective for 1996 tax year. |
| April, 1996 | Finalize regulation for application to municipal and regional district taxes including establishing the utility/business tax ratio for 1997. |
| 1997 | Local government property tax reduction begins to take effect in the 1997 tax year. |
| 2000 | End of four year phase-in reduction for local taxes (details of phase-in are open for discussion). |

3. SUMMARY OF MEETINGS

The provincial government organized seven regional presentations on Bill 55 during the August 15 - September 14, 1995 period (Kamloops, Richmond, Cranbrook, Prince George, Nanaimo, Terrace and Richmond). Approximately 89 local governments were represented. UBCM Executive and staff attended all meetings to observe, record comments and offer clarification as required. The following is a summary of what UBCM representatives heard from the membership during the meetings:

i. Competitiveness is a Concern

Most local governments acknowledged that there was a need to ensure the competitiveness of the railway and port systems.

However, there was little agreement that reducing local government taxation was the means to do that. A variety of opinions and observations were registered:

- were other provincial tax reduction options considered?
- there is a need for more explanation of interprovincial tax comparisons used to justify the actions.
- the extent to which this was more an issue relating to the viability of ports rather than for railway communities.
- what were other provinces doing to assist railways? (ie. responding to the Crow rate cancellation)
- local taxpayers shouldn't be subsidizing the operational inefficiencies of railways which also determines their competitive position.

Some local governments reported that cost and benefits of railways to individual communities were not well appreciated including:

- the costs of municipal infrastructure to accommodate rail operations (e.g., grade separations).
- the foregone land use and tax opportunities of rail corridor communities.
- the nuisance costs (e.g., noise, dust, traffic disruption at level crossings).
- the cost of special services provided (e.g., emergency response).

It was suggested by several representatives that the provincial government should look at alternatives that are completely within its own revenues sources if it wishes to provide tax relief.

ii. Lead Up

Local governments were very concerned about lack of advance consultation. This raised several comments about the missed opportunity for local government to suggest and examine alternatives

such as reclassification to class 6. Consultation on implementation of a decision was viewed as very different than prior consultation on a range of preferred solutions.

iii. Meeting Conduct

A common lament was the lack of participation by provincial politicians.

iv. Province Redefines the Scope of the Problem

Many local governments were concerned that what was originally portrayed as a railway assessment/taxation issue had been expanded to encompass limiting all utility taxation. Often discussed in the context of “high utility taxes” were the shortcomings that were not recognized of using tax rates or tax ratios in isolation as the means to support this supposedly high utility taxation levels.

v. Complexity of the Solution

Many members expressed concerns about the complexity of the impact management approach. This concern included the added bureaucracy to administer the impact management measures.

vi. Precedent

Local government commented repeatedly on the precedent this will set for:

- expansion of tax rate capping, especially to the major industry class;
- opening up avenues to potential discretionary deals on impact management measures; and
- intrusion into the independence of the assessment system.

There was a sense at many meetings that there might be a simpler way.

In a related vein, there were concerns about maintaining the impact management plans into the future, including:

- how future changes in assessment (both rail and overall would effect impact management plans); and
- the durability of these measures well into the future.

The degree of complexity within regional district specified areas and the lack of flexibility in setting RD tax rates were of special concern.

vii. Continued Uncertainty

The opportunity to comment on the final decisions presented an opportunity to influence those decisions. It also created an air of continued uncertainty, particularly with respect to determining the real impacts on communities, as long as major questions such as the overall amount of rail tax reduction or the level of the thresholds for mitigation would become effective were not decided.

A contributing factor to the level of uncertainty was the lack of good base assessment data from which to analyze impacts. This was a theme especially prevalent among regional district spokespersons.

4. OPTIONS FOR UBCM RESPONSE

Clearly, Bill 55 has little support among the UBCM membership that attended the meetings. Yet it is now law and the provincial government has invited comment on a range of decisions it must make to implement Bill 55 including:

- the type and level of the utility class tax cap.
- the threshold where impacts would begin to be mitigated.
- the nature of the four year phase-in.
- reclassification of “yards” to class 6 and the definition of right-of-way.

- the levels of the general rail assessment reduction factors for track, right-of-way, yards and other rail assessment.

The provincial government has also to decide if it will apply adjustment factors to “yards valued at market” that may be reclassified to class 6.

Options for a UBCM response include:

Option A - Response to the Implementation Points

Under this option, UBCM would respond, or set a process in place to respond, to all or some of decisions that are to be taken by Cabinet which are set out above.

The downside of not responding is that local government would shut itself out of the design of measures that might ease its problems. Such recommendations could however, be used in the future to justify other types of assessment and tax reductions as also falling within the limits acceptable to local government.

Option B - Principles Based Response

UBCM would respond on basis of how Bill 55 violates basic principles including:

- the commitment to prior consultation - as set out in the 1995 provincial budget.
- as an intrusion into the integrity of the assessment system.
- as establishing a precedent for further Cabinet intervention into local taxing decisions.

The recommendation under this option would be to restate the original request not to proceed with Bill 55 as it affected local government railway taxation.

5. CONCLUSIONS AND RECOMMENDATIONS

We conclude that the current approach is flawed in the following respects:

- a) On the basis of long-standing UBCM principles of:
 - protecting the integrity of the assessment system (UBCM General Policy 1.8 and Financing Local Government #24 and #25);
 - preserving local autonomy to establish tax rates (UBCM General Policy 1.3); and
 - ensuring consultation and notice (UBCM General Policy 2.7).
- b) On the technical grounds, while likely workable, the solution proposed:
 - is very complex and will need considerable resources to implement;
 - will leave a legacy of impact management plans for years to come; and
 - has discriminatory elements that give rise to the serious question of legal challenge.

These conclusions lead us to recommend:

1. UBCM concurs with the provincial government that it is in both the provincial and national interest to maintain the competitiveness of our rail and port systems.
2. That the provincial government provide clear assurance of their commitment to:
 - protecting the integrity of the assessment system;
 - preserving local autonomy to establish tax rates; and
 - ensuring consultation and notice.
3. That UBCM wishes to continue to consult with the provincial government and the railways as suggested in the 1995 Provincial Budget, with the objective of seeking solutions that balance the

economic needs of the railways and with the costs of the rail system to individual local governments and other local taxpayers.

4. That the provincial government not proceed with implementing the railway assessment and utility taxation measures enabled by Bill 55 and that alternative means of addressing both the concerns of railways and local government be investigated.