

**DATE:** November 28, 2018**FILE:** 7200-01**TO:** Chair and Directors  
Black Creek/Oyster Bay Services Committee**FROM:** Russell Dyson  
Chief Administrative OfficerSupported by Russell Dyson  
Chief Administrative Officer***R. Dyson*****RE:** *Fire Safety Act- Implications for Regional Districts***Purpose**

The purpose of this report is to update the committee regarding the new *Fire Safety Act* and its potential impacts on regional districts.

**Recommendation from the Chief Administrative Officer:**

This report is for information only.

**Executive Summary**

In April 2016 the Province gave third reading to the *Fire Safety Act (Act)* which will replace the current *Fire Services Act*. It is the intent of the Office of the Fire Commissioner of BC (OFC) to enact the new *Act* once the supporting regulation has been developed.

- The new *Act* will shift responsibility for fire inspections and fire investigations from the OFC to the regional district.
- This shift of responsibilities may have cost implications for the regional district.

A group of regional district Fire Service Managers met to share information and identify concerns specific to Part 4 (Fire Safety Inspections) and Part 7 (Fire Investigations and Inquiries). A discussion table attached as Appendix A was developed that highlights the changes from the current *Fire Services Act* to the new *Act*.

**Part 4 (Fire Safety Inspections)**

The *Act* confirms that the regional district “must” designate, in writing, a person(s) as fire inspector(s) to conduct fire safety inspections. The designated inspector will be empowered to inspect public premises to ensure compliance with the *Act* and its regulations. The designated inspector “may” conduct inspections:

- On receiving a complaint
- If believed advisable by the fire inspector, without a complaint
- On request of an owner or occupier of premises

When a regional district “must” designate a fire inspector it establishes a duty-of-care, and therefore “must” carry out inspections. This aspect was captured in the June 7, 2016 letter from then Union of BC Municipalities president Al Richmond (Appendix B).

Currently, the OFC appoints Local Assistants to the Fire Commissioner (LAFC) to conduct safety inspections on behalf of the OFC. The OFC is currently the authority having jurisdiction and manages any Orders or Actions resulting from an LAFC inspection. The LAFC program is not included in the new legislation.

**The new *Act* presents a shift as the responsibility and liability for inspections would now rest with the regional district as the authority having jurisdiction.**

Each of the four Comox Valley Regional District Fire Chiefs is currently appointed as an LAFC but only within their local service area. The *Act* applies over the whole geographic area of the regional district, including within the boundaries of an improvement district, but not within municipalities. **This presents a challenge as the regional district currently only has fire service taxation authority within defined local service areas. Funding for safety inspections may require the establishment of an independent service for fire inspections that are required outside of a local fire service area.**

Under the new *Act* the designated inspector(s) must meet the training standards as stipulated by the OFC. This presents a shift as rudimentary LAFC training is currently supplied by the OFC.

**The new *Act* presents a shift as the cost for a more extensive fire inspector training will need to be covered by the regional district.**

Note:

The Manager of Fire Services and the CVRD Fire Chiefs generally agree that a local fire inspection program will provide for greater safety for the firefighters and the public than the current system. Further, in preparation for the enactment of the *Act*, the Oyster River Fire Chief and deputy chief are currently undertaking Fire Inspector training and anticipate meeting the OFC standard by spring 2019.

#### Part 7 (Fire Investigations and Inquiries).

The *Act* confirms that the regional district “must” designate, in writing, a person as fire investigator who “must” investigate all fires that result in destroyed or damaged property or resulted in injury or death.

Currently the LAFC reports such fires to the OFC who will conduct the investigation if warranted. In areas of the regional district that do not have a fire service area or an appointed LAFC, the local police are appointed as the LAFC.

The *Act* applies over the whole geographic area of the regional district, including within the boundaries of an improvement district, but not within municipalities.

**This presents a challenge as the regional district currently only has fire service taxation authority within defined local service areas. Funding for fire investigations may require the establishment of an independent service for fire investigations that are required outside of a local fire service area.**

In August of 2018 the Union of British Columbia Municipalities established a working group and engaged a consultant to gather information and measure the potential regional district impacts of the *Act*.

Staff will continue to monitor the development of the *Act* and will develop a plan to implement its requirements for fire inspections and investigations.

Prepared by:

Concurrence:

***J. Bast***

***T. Ian Smith***

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James Bast  
Manager of Fire Services

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T. Ian Smith, MCE  
General Manager of Community Services

Attachments: Appendix A – “Fire Services Act, Discussion Table”  
Appendix B – “Letter from UBCM President”

<b>Bill 4 – 2016: Fire Safety Act Implications for Regional Districts</b>			
<b>Fire Safety Act Part</b>	<b>Legislative Change</b>	<b>Implications</b>	<b>Current System</b>
<b>Part 4 - Fire Safety Inspections</b>	A local authority must designate in writing, persons or a class of persons as fire inspectors to conduct fire safety inspections.	<p>The Regional District must designate a fire inspector(s) who <u>may</u> conduct fire safety inspections;</p> <ul style="list-style-type: none"> <li>- for determining compliance with the Act and the regulations upon receiving a complaint,</li> <li>- upon request from an owner or occupier of a premises, or</li> <li>- if the fire inspector believes that a fire safety inspection should be conducted, even in the absence of a complaint being submitted.</li> </ul> <p>There may be cost implications to the Regional District.</p>	<p>Currently, the process for addressing this issue in the Regional District would see the Office of the Fire Commissioner (OFC) receiving complaints. The OFC would then conduct fire safety inspections as that Office deemed necessary, and the OFC would follow up with any Orders and/or actions as required.</p> <p>The new Act will shift this responsibility from the province to the Regional District.</p>
<b>Part 7 - Fire Investigations and Inquiries</b>	A local authority must designate in writing persons or a class of persons as fire investigators to conduct fire investigations.	<p>The Regional District must designate a fire investigator(s) who <u>must</u> investigate all fires that result in destroyed or damaged property or resulted in injury or death.</p> <p>The Regional District's designated fire investigators will be responsible for determining the need to, and conducting, all</p>	<p>The existing Fire Services Act provides the OFC with the authority to appoint Local Assistants to the Fire Commissioner (LAFC's). Currently some of the Regional District Fire Chiefs hold an LAFC appointment. The LAFC's have the authority, under the OFC office, to conduct fire investigations within their fire protection service areas.</p>

		<p>fire investigations within its geographical boundaries, excluding the municipalities.</p> <p>The Regional District will no longer be able to rely on the LAFC (Local Assistant to the Fire Commissioner) program as this program is not being included in the new legislation.</p> <p>The new legislation removes the responsibility of the local police to investigate fires unless there are circumstances that deem the fire to be suspicious in nature. The local police would participate only to fulfil their criminal investigation needs.</p> <p>There may be cost implications to the Regional District.</p>	<p>Currently, in areas of the Regional District where there is no appointed LAFC the responsibility to conduct fire investigations falls to the local police.</p>
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*Note: Table excerpted above produced by Melanie Perrin, Fire Services Coordinator RDFFG, following Regional District Fire Services Coordinator discussion of new Fire Services Act, April 28, 2016.*

June 7, 2016

Hon. Naomi Yamamoto  
Minister of State for Emergency  
Preparedness  
Room 227, Parliament Buildings  
Victoria, BC  
V8V 1X4

Hon. Peter Fassbender  
Minister of Community, Sport and  
Cultural Development  
Room 310, Parliament Buildings  
Victoria, BC  
V8V 1X4

Dear Ministers:

**Re: Fire Safety Act**

During the last sitting of the Legislature, Bill 4 – *Fire Safety Act*, received Royal Assent. The Act is expected to come into force by regulation.

Last fall, UBCM and specifically its regional district members, expressed serious concerns about the proposed legislation. In response our membership endorsed priority resolution, A3, at the 2015 Convention that requested the Province to:

*“provide the resources necessary to inspect and enforce provincial safety regulations, including the Fire Services Act and its regulations, through either the Office of the Fire Commissioner or the BC Safety Authority rather than pursuing options to download the responsibility for inspections and enforcement of provincial regulations on local governments.”*

After a number of meetings, we thought our position had finally been heard and reflected in the new legislation. In fact, following Convention, we received assurances from both of you, and your staff, that the new Act would not require regional districts to undertake inspections. Unfortunately, we fear that is now not the case.

Since the introduction of Bill 4 in February 2016, we have repeatedly heard from our regional district members, questioning what they are required to do, and asking what their obligations will be under the new Act. Having received assurances from the Province that regional districts would not be required to undertake fire inspections, on more than one occasion, we published this message in our e-news to dispel regional district concerns.

The new Act clearly requires regional districts, as well as municipalities, to appoint a fire inspector, who meets the applicable standard set out by the Fire Commissioner. While we have been told there is nothing in the Act that requires regional districts to undertake inspections, why in fact are they being asked to



appoint qualified individuals to serve as fire inspectors if that is not a service that they are being asked to perform?

Due to the incongruence, we sought our own legal opinion, which in part states:

*8. It is my opinion that Regional Districts MUST designate a fire Inspector. That person must meet the qualifications and standards set by the Fire Commissioner, but once designated by the Regional District that person assumes their authority to inspect or not, directly from Section 9 and not by any delegation from the Fire Commissioner. That said it is open under the Act (Section 5) for the Fire Commissioner to delegate some of his or her additional powers to others including , Fire Inspectors, but those delegations are not a delegation of the power to inspect.*

*9. It is my opinion that Regional Districts must under the Act designate a Fire Inspector or Inspectors meeting the requisite standards and those persons must carry out their safety function in a responsible and reasonable manner. Not to do so is to risk legal proceedings against them personally and against the Local Authority.*

We are deeply concerned that the legislation is placing an obligation on regional districts to undertake fire inspections, when we have been assured the contrary. If the intent was to make fire inspection permissive and not required, then why has the legislation been crafted in such a way as to create confusion and uncertainty. On behalf of our members, we feel it is imperative that amendments be made to the legislation, or that regulations be brought forward, to fix this discrepancy. We would be pleased to work with you to find a solution.

We have shared our legal opinion and concerns with Gordon Anderson, Fire Commissioner, who has advised he is reviewing the matter and will get back to us to discuss further. However, due to the significance of this issue for our members, we felt that we needed to share our concerns directly with you as the ministers responsible for emergency management and communities, respectively.

Yours truly,



Chair Al Richmond  
UBCM President

cc: Gordon Anderson, Fire Commissioner  
BC Regional Districts