



City of Richmond

Report to Committee

To General Purposes - Sep 15, 2008

To: General Purposes Committee
From: Joe Erceg, MCIP, General Manager,
Planning and Development
Re: **Bill 23 - Public Health Act**

Date: August 28, 2008
File: 01-0151-01/2008-Vol 01

Staff Recommendation

That, as per the report dated August 28, 2008, entitled: "Bill 23 - Public Health Act":

1. Amarjeet Rattan, Director, Corporate Programs Management Group (CPMG) be appointed, as the City Liaison to Richmond Health Services, a branch of the Vancouver Coastal Health Authority; and
2. The City notify Richmond Health Services of this appointment.

Joe Erceg, MCIP
General Manager, Planning and Development

Att.

JE:jc

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ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER	
Law	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>		
CPMG	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>		
REVIEWED BY TAG	YES <input checked="" type="checkbox"/> <i>GJS</i> NO <input type="checkbox"/>	REVIEWED BY CAO	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

Staff Report

Origin

City staff have been monitoring the Province's new *Public Health Act, Bill 23* and wish to update Council regarding it, as it will have implications for Richmond. Bill 23 was given Royal Assent in the BC Legislature on May 29, 2008.

Background

Status Of This Report

This report provides a general overview of the new Bill 23 and focuses on what appears to be its possible decision-making and policy implications for local governments. The report is not a municipal legal review of Bill 23, which will come later, once more is known.

Proposed Bill 23 - Public Health Act

On May 29, 2008, British Columbia's new *Public Health Act, Bill 23* received Royal Assent in the BC legislature. Bill 23 replaces the existing *British Columbia Health Act*, in order to better address important aspects of modern public health and amend many outdated clauses, while strengthening the Ministry of Health's ability to monitor and prevent chronic disease. It also supports the improved health and wellness of British Columbians and better addresses current public health issues. As Bill 23 is lengthy, it is not attached here. Instead, attached is a Question and Answer sheet from the BC Ministry of Health (**Attachment 1**).

The Act has been the subject of consultation for the past several years with health professionals, health authorities and local governments. It was created to address current and emerging public health issues including new challenges in communicable disease prevention and control (e.g., SARS, pandemic influenza), health promotion and health protection, chronic disease and injury prevention.

Bill 23, is intended to:

- provide public health officials with stronger powers and better clarify the roles and responsibilities of public health officials to respond to emergencies and investigate health hazard complaints,
- support Provincial preparations for and responses to public health emergencies,
- ensure that government and health officials have the authority that they may need to mobilize resources and take actions to protect the health of the public. It will support their ability to act quickly in the event of public health emergencies like disease outbreaks or natural disasters,
- help address chronic disease and injury prevention more directly. For example, regulations could be made to regulate "transfats" in the preparation of foods in schools, restaurants and food-service establishments,
- clarify the responsibilities for local governments regarding public health.

Proposed "Public Health Plans" (PHP)

Bill 23 will enable the Province to provide the tools to "require making public health plans" to address specific issues or in geographic areas. A "public health plan" is described in Section 3 of the Bill as:

A plan to protect and promote health and well-being. Purposes of public health plans include: identifying and addressing the needs of particular groups within the population (e.g., aboriginal peoples, new immigrants); monitoring and assessing the health status of the population (e.g., addressing mental health and substance use issues); preventing and mitigating the adverse effects of diseases, disabilities, syndromes, psychosocial disorders, injuries, health hazards and health impediments; and facilitating the delivery of public health functions.

A "public health plan" can take a number of forms and be developed by a variety of public bodies (e.g., commissions, agencies, health authorities, municipalities). At this point, it is not completely clear who decides which provincial, agency and municipal documents may be a "public health plan", or what the criteria will be to do so.

The Possible Role of Local Government

Bill 23 sets out new roles for local governments in Section 83, including:

1. If a local government becomes aware of a health hazard, it appears that it is to take one of the following three actions:
 - (a) Report the hazard to the Ministry of Health (MoH); or
 - (b) Take action, if it has been delegated authority under the Act; or
 - (c) Take action, if it has authority under another Act such as the *Community Charter* or the *Local Government Act*;
2. Designate a liaison to the Regional Health Authority. (For the City of Richmond, the Regional Health Authority is Richmond Health Services. Currently, the City has an informal staff liaison to Richmond Health Services); and
3. Request a *Medical Health Officer or the **Provincial Health Officer to issue an order regarding a health hazard.
 - *A Medical Health Officer (MHO) is designated by the Lieutenant Governor in Council to be the Medical Health Officer for a designated geographic area. Richmond Health Services has a designated Medical Health Officer. An MHO uses population health knowledge and skills to play leading and collaborative roles in the maintenance and improvement of the health and well being of their communities.
 - **A Provincial Health Officer (PHO) is the senior medical health officer for British Columbia and is responsible for providing independent public health advice to the Minister of Health, the government and the public; and overseeing the activities of Medical Health Officers,

It is noted that Bill 23 does not continue the explicit power of local governments (as under the *British Columbia Health Act*), to act as "Local Boards of Health", to make orders to remediate a health hazard. The power will be in the hands of Health Authorities under Bill 23; however, the legislation contains two ways for continued local government involvement:

1. Local governments can request a Medical Health Officer to take action on a health hazard and, if a Medical Health Officer fails to act, the local government can request the Provincial Health Officer to act [83(3)],
2. Local governments can request to have delegated authority from the Ministry to take on certain public health functions. These are in addition to local government powers to enact public health bylaws under the *Community Charter* [125 (4)].

Local Government Liaison and Consultation with Health Authorities

Under Bill 23, it appears that:

- Medical Health Officers are required to consult local governments, if they intend to report on a public health issue affecting local governments [73 (4)];
- Cabinet can establish processes to resolve disputes between local government and Health Authorities [120 (2)d]; and
- Public bodies (e.g., provincial ministries, an agency, commission, municipalities) that are ordered to prepare a “public health plan” are required to consult with affected local government [3 (4)].

Bill 23 Regulations - Part 9

The following section outlines some of the regulations in Bill 23 that affect local government. Bill 23 sets out three situations where Cabinet may pass a regulation [120 (1)], namely:

1. To promote or protect the health of the people within the jurisdiction of the local government;
2. To address a condition, thing, or activity that could adversely affect a health promotion or health protection initiative; and
3. To enforce a Memorandum Of Understanding or other arrangement, previously entered into by the local government and the Ministry of Health.

It is noted that the regulations referred to in Part 9 have not been completed. Public Health staff advise that the timeframe will vary and some regulations may take up to a year or longer to complete. For the above-noted areas, Cabinet may make a regulation that could order a local government to do something and constrain an approval authority, or affect a portion of a local government bylaw, plan or planning process.

Before taking any of these actions, the Minister must consult with local government. This would include a requirement to provide notice, provide information on the proposal and give sufficient time for local government to respond. Following consultation, the Minister must consider the response and must, if asked, provide comments back to the local governments.

For example, a local government could be ordered to prepare a “public health plan”, and by a Cabinet regulation to: monitor or respond to a health hazard [(120 (2) a)]; deliver a public health function [120 (2) b], or deliver a public health function [63 (1)a].

Regulations That Appear To Affect Local Government Approvals and Planning

It appears that Cabinet would also have the power to make regulations that affect local government planning processes and bylaws. Cabinet may require one or more of the following:

- require municipalities to consider “public health plans”, whoever prepares them;
- require that conditions be attached to a local government approval; and/or
- put conditions on the exercise of power of a local government under another enactment [5 (2)].

While the Ministry of Health and others may approve “public health plans”, if the Minister considers it in the public interest, a “public health plan” may be submitted to Cabinet, for approval and upon approval, may require one or more of the following actions:

1. local government must consider a “public health plan” when undertaking municipal planning processes;
2. require municipal plans to be consistent with a “public health plan”; and/or,
3. prescribe that those municipal plans; bylaws or other planning documents that are inconsistent with a “public health plan” are of no legal effect.

For local governments, before such a “public health plan” could have this effect, local governments would have to have been consulted during the preparation of the “public health plan” and on the proposal to have a “public health plan”, have one or more of the above three effects. The Minister would also have the ability to make an order modifying or exempting the effect of such a regulation on local government.

Analysis

At this point, because Bill 23 has just been approved, much is not clear. Staff will continue to seek clarification from the Ministry of Health, Richmond Health Services and its own Legal Division.

Bill 23 appears to provide new opportunities for consultation between local Boards of Health and local governments. The Bill appears to require that Public Health Officials consult with local governments in the creation of “public health plans”. It appears the local governments will need to consider, be conscious of, and respect “public health plans” when undertaking their planning processes (e.g., possibly for policy, regulation, engineering, enforcement, facility management, zoning, parks, recreation activities). Through the requirement of preparing “public health plans” in consultation with local government, there appears to be opportunities for a more proactive role for the City of Richmond.

A Possible Example Situation: City staff consider that Section 6 of Bill 23 requires particular City monitoring. Under proposed Section 6, local governments may be required to ensure that their strategic or operational plans, bylaws, or other planning documents be consistent with a “public health plan”. If the municipal plans are inconsistent with a “public health plan”, it appears that the Province can make a regulation, to provide that any local government plan, bylaw or other planning document has no “legal effect”[6 (c)].

Recommended Next Steps

1. The City of Richmond has informally had a staff liaison to Richmond Health Services for many years. As the Corporate Programs Management Group (CPMG) undertakes intergovernmental liaison, staff recommend that Amarjeet Rattan, Director, Corporate Programs Management Group, be appointed now, as the City's public health liaison to Richmond Health Services to co-ordinate City-Health matters. It is understood that other City departments will assist as necessary.
2. The City notify Richmond Health Services of the appointment.

Financial Impact


None

Conclusion

The proposed *Public Health Act - Bill 23* will replace the *British Columbia Health Act*, in order to better address important aspects of modern public health and amend many outdated clauses. Staff are recommending that the City formally appoint a liaison to Richmond Health Services, and have the City's liaison monitor the approval of Bill 23 and report progress as required.



Terry Crowe
Manager, Policy Planning (4139)



June Christy
Senior Planner (4188)



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Public Health Act - Frequently Asked Questions

Public Health Act - Frequently Asked Questions

1. What has prompted the revamping of the *Health Act* and the proposal for new legislation?
2. What is wrong with the current health law? Doesn't the *Health Act* provide the necessary tools to protect public health?
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16. Are changes to the existing Act going to allow more private surgeries or private health care insurance?
17. How will the new *Public Health Act* affect jurisdiction over public health services on Indian Reserves?
18. What legal powers does the new Aboriginal Health Physician Advisor working in the office of the Provincial Health Officer have?
19. Will the new *Public Health Act* affect cultural practices?

20. How does the new Act help address issues of mental health and addictions?

1. What has prompted the revamping of the *Health Act* and the proposal for new legislation?

The BC *Health Act* has been added to and updated over the years since it was introduced in 1893 but it has not had a major overhaul and since that time, while new public health challenges have emerged. Revising the name of the Act to the *Public Health Act* also more clearly defines the purpose of the updated legislation.

Updating the legislation will help in being prepared to deal with health concerns such as SARS, the threats of pandemic influenza and bio-terrorism, the rising burden of chronic disease and the need for a strong focus on disease prevention.

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2. What is wrong with the current health law? Doesn't the *Health Act* provide the necessary tools to protect public health?

The current Act contains the provisions necessary to protect public health. However, there are many improvements that can be made.

The new Act replaces outdated sections with more modern sections to deal with current public health hazards and emergencies, core public health functions, and clearly defining public health authorities and their responsibilities.

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3. What are some of the major differences between the current Act and the *Public Health Act*?

The *Public Health Act* has updated quarantine and isolation provisions which provide public health officials with the powers necessary to protect the public against communicable diseases and to deal with health hazards. The powers and duties of the Minister and public health officials are clarified and strengthened.

The new Act has additional regulatory powers to be able to require the reporting of non-communicable diseases, syndromes, health hazards, injuries, and other matters that adversely affect the health of the public.

The new Act has additional regulatory powers to be able to require the mandatory reporting of non-communicable diseases, syndromes, health hazards, injuries, and other matters that adversely affect the health of the public.

In the new Act, medical health officers can issue preventive orders (i.e. quarantine order) to groups of individuals, and can adjust the order to add or release people from the order. In the previous *Health Act*, medical health officers had to issue separate orders for each individual.

The new Act contains the ability for the minister to require development of public

health plans for health promotion and protection to address issues such as chronic disease prevention, inclusion of mental health and substance services in communities, or health hazards like West Nile Virus.

The *Public Health Act* has new provisions that enable the development of health impediment regulations. Health impediments are matters that adversely affect public health from long-term, cumulative exposures that: cause significant chronic disease or disability; interfere with the goals of public health initiatives; or are associated with poor health in the population (e.g. foods high in trans fats).

In the new Act, liability protection is provided for health officials, health practitioners and individuals who take actions to protect public health to ensure they are not prevented from acting out of fear of legal retribution.

Stronger penalties are provided in the new Act to ensure compliance and act as a deterrent.

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4. How does the new Act help protect the public against pandemics and public health emergencies?

Revisions to the Act enhance the ability to take immediate action in the event of a public health emergency such as a pandemic, and ensuring that health officials have the authority they need to take actions to protect the health of the public.

Examples of protective actions include quarantine and isolation measures, and closures of public places to help prevent the spread of a disease or health hazard.

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5. Under the revised legislation, how extensive are the powers to enforce quarantine and other protective measures during an outbreak?

During an outbreak, the enforcement powers of health officials would be very similar to those in the *Health Act*.

Medical health officers would still be empowered to quarantine and isolate individuals who pose a significant risk of spreading serious communicable diseases to others, but enforcement of these powers would only be used for individuals who do not voluntarily comply with medical health officers' orders.

An additional provision is included to allow a quarantine order to be made to a group of people to expedite the prevention of disease. This could apply, for example, if employees at a work site or a group of people at a social gathering were exposed to a disease that posed a serious public health risk.

The ability to quarantine groups of individuals was an important power that had to be provided to deal with the SARS situation in Ontario, and we wish to provide B.C. health officials with similar powers.

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6. Will the government or health authorities be given more extensive powers under the new *Public Health Act*?

The new Act will have the similar powers as the *Health Act*; however, the *Public Health Act* will also have some new powers to ensure that public health officials have the ability to take necessary actions to prevent disease and other health hazards. For example, medical health officers can have a person who is spreading disease detained until a court order can be obtained, or during a wide spread emergency, the Provincial Health Officer can take command of directing the public health response.

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7. In the new Act, what protections are in place for individuals affected by a health officer's orders e.g. if a person is ordered to be under quarantine?

The Act allows for reconsideration of orders by the health officer, and review of orders by a senior health officer or the Provincial Health Officer. Judicial review is also available.

The Act also requires accountability for emergency powers exercised by health officials; individuals affected must be given written reasons and/or rights to reconsideration or re-assessment once the emergency ends.

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8. How does the *Public Health Act* protect the privacy of individuals in situations where information is collected by public health officials to monitor the incidence of communicable diseases and for controlling the spread of hazardous agents?

The conditions under which health officials may request or disclose information are limited and specific. How information or records will be collected, used and disclosed will be subject the requirements of the *Freedom of Information and Protection of Privacy Act*, or the *Personal Information Protection Act*, as well as additional requirements to be prescribed in the regulations. Consultations with interested/affected stakeholders and the Information and Privacy Commissioner will precede the development of any new regulations

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9. Will this Act affect provincial authority over municipalities in the areas of environmental protection (e.g. water, air, etc.)?

This Act would not change provincial authority over municipalities in these areas as these areas are covered by other legislation such as the *Drinking Water Protection Act*, the *Environmental Management Act*, and the *Community Charter*.

The Act supports and clarifies the important working relationship between municipalities, regional health authorities, and the provincial government.

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10. How will the *Public Health Act* change powers or responsibilities of health authorities and local government?

This Act is not intended to increase powers and responsibilities, but rather clarify and modernize the legislative terminology underpinning these areas.

The Act clarifies the public health obligations for local governments to reflect their relationship with the regional health authorities.

The abilities of local governments to directly issue health hazard abatement orders has been removed as they no longer have staff with that expertise. Local governments are able to request that medical health officers issue such orders, and they may be given powers to deal with specific health hazards if they so desire.

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11. Will the new Act result in the downloading of provincial responsibility for public health protection and improvement to local governments?

Public health protection and improvement is a shared responsibility between the Ministry of Health, health authorities, local governments and many others and that sharing of responsibility will continue in much the same way it currently stands.

- The new Act with help to clarify how that responsibility is shared.
- No downloading of responsibility is included.
- The minister is required to consult with local governments if additional responsibilities for local governments are planned.

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12. Did the ministry seek public input prior to any legislation being drafted?

A public website with consultation documents and information about how to provide input was created and available starting in January 2005.

Representatives from many stakeholders were specifically sought out for their feedback such as other provincial government departments, regional health authorities, local government (through the Union of British Columbia Municipalities), Public Health Association of BC, First Nations health organizations, and the provincial business community.

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13. Will this legislation add any financial burden on the health care system and taxpayers?

Most of the additions are updating existing sections or adding powers that, while important, would be very rarely used.

The proposed revisions do not include additional structures or major additional processes that will require substantial ongoing financial expenditures.

Any regulation proposals that require additional financial resources will be examined to ensure value for the expected costs.

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14. Are measures to improve health promotion being considered in the new Act?

The new Act allows the minister to require the development of public health plans which can be used to increase the focus on the chronic disease prevention, health promotion, and the determinants of health.

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15. How will the new *Public Health Act* relate to the *Drinking Water Protection Act* and *Food Safety Act*?

The *Drinking Water Protection Act* and *Food Safety Act* are specific to drinking water safety and food safety protection. The new Act will cover areas such as communicable disease and environmental health hazards that are not covered by these other Acts. Health officials may also use the new *Public Health Act* to complement their powers under these other Acts.

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16. Are changes to the existing Act going to allow more private surgeries or private health care insurance?

No. The changes will not be addressing private surgeries or health care insurance. The changes will be dealing with public health services, those services that focus on preventing diseases, injuries, disorders, and disabilities and protecting and improving the health status of communities.

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17. How will the new *Public Health Act* affect jurisdiction over public health services on Indian Reserves?

The new Act will not change current jurisdiction on reserves. Provincial, regional, and federal officials will continue to work with First Nations in the delivery of public health services.

This new Act will enable alternate working arrangements for regional health authority medical health officers and environmental health officers to provide services to First Nations should the First Nations so desire such an arrangement.

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18. What legal powers does the new Aboriginal Health Physician Advisor working in the office of the Provincial Health Officer have?

The new physician does not have any legislative powers. These all continue to rest with

the Provincial Health Officer.

The new physician is assisting the Provincial Health Officer with monitoring and reporting on the health of First Nations, and working with First Nations, the ministry, and health authorities on measures to improve aboriginal health.

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19. Will the new *Public Health Act* affect cultural practices?

No, not unless a particular cultural practice creates a health hazard or increases the spread of communicable diseases. If such a rare circumstance were to arise, public health officials would work with the cultural group regarding continuation of the practices while preventing a public health hazard or spread of communicable diseases.

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20. How does the new Act help address issues of mental health and addictions?

- People with mental health and substance use problems are present in every community, and it is important that appropriate health services can be provided.
- Promoting health and caring for the needs of people with mental illness and substance related problems is a shared responsibility between government, health authorities, many organizations, and the broader community.
- The *Public Health Act* can support the inclusion of services for this population in all communities by allowing the minister to require that communities make provision for inclusion of services.
- In addition, those communities which obstruct the inclusion of such services through their zoning or planning processes could have those obstructions set aside.
- The intent of such action would be to ensure that all communities take their fair share of responsibility for helping their vulnerable citizens who are in critical need of community support.

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