

RURAL URBAN GOVERNANCE OPTIONS FOR CONSIDERATION

*Prepared by the Rural/Urban Governance Working Group
On Behalf of the Municipal Forum
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Introduction

Municipal Affairs (MA) is aware of voluntary discussions taking place in some communities about how an existing rural municipality and one, or more, existing urban municipalities might join together to form a single entity. In keeping with the province's policy of supporting voluntary restructuring efforts, MA has encouraged these discussions. However, when the Ministry took a closer look at what was potentially being proposed, it became apparent that this sort of "hybrid rural/urban municipality" could not be accommodated through present legislation and programs.

If the province and the municipal sector want to enable municipalities to pursue a reorganization of their present municipal structure in this way a new rural/urban governance structure with the appropriate legislative authority is needed.

On November 13, 2009 the Municipal Forum directed officials to work cooperatively to develop options for a new rural/urban municipal entity that could be considered by the sector and the province. The working group was comprised of officials from MA, SARM, SUMA, the RMAA and UMAAS and was guided by the following principles agreed to by the partners in the Municipal Forum:

- any new legislative or regulatory provisions are as consistent or logical as possible in relation to existing legislative provisions (i.e. do not unnecessarily add to the complexity of legislation);
- seek to enhance flexibility for councils and administration when possible;
- all options are voluntary and do not erode existing local autonomy; and
- a new governance option will not have negative financial impacts on the municipalities involved as compared to the provincial funding available to existing urban or rural municipalities.

The working group was to report its findings and options to the first Municipal Forum held in 2010.

Key Issues

The key issues to be resolved, and the options for action, are:

1. NAME

After discussion the committee recommended that a new entity created by merger of both urban and rural municipalities could be called a "Municipal District". Other options to be considered include: Regional District, Regional Municipality or a Special Municipality. For simplicity and clarity, we refer to the new entity as a "municipal district", or MD, for the remainder of this report.

2. FUNDING

Revenue Sharing

Currently provincial revenue sharing funding is distributed from three pools: urban, rural and northern. The analysis concerned only the urban and rural pools.

Funding is allocated to municipalities differently in each pool:

- For urban municipalities, funds are allocated to cities on a per capita basis, and to all other urbans using a combination of per capita and a base amount; and
- For rural municipalities (RM), the grant for each municipality is based on a formula that includes the road system and a per capita amount.

Given the ever changing nature of how municipalities operate, analysis was needed to determine how revenue sharing could be provided and from which pool it comes in circumstances where urban and rural municipalities combine to form a MD (where the urban does not dissolve into a hamlet or organized hamlet). This consolidation creates a challenge since urban and rural grants are based on separate formulas.

There are three major questions regarding revenue sharing funding that need to be addressed:

- the distribution formula;
- the pool where the funding is taken from, and
- if any financial incentives should be considered.

Distribution Formula

Option 1: Develop New Formula Based on Rural Distribution Formula (Recommended)

A new formula could be modeled closely on the newly re-configured rural formula which has been simplified and will prove beneficial to high growth areas. The new rural formula now has two components, a transportation grant which accounts for 70 percent of the total and a per capita grant accounting for the other 30 per cent. For the purposes of a MD, which will have a higher urban component, yet still must maintain rural road infrastructure, a formula with more appropriate distribution could be developed.

Option 2: Use the Rural Distribution Formula to Calculate MD Revenue Sharing

The new MD would use the rural formula to calculate its grant. This would provide continued support to road maintenance but may not be appropriate for the population and the levels of service provided in an MD.

Option 3: Use the Small Urban Distribution Formula to Calculate MD Revenue Sharing

The population of the RM would be added to the existing population of the town or village. While this would increase the amount of per capita grant to the MD, the base grant would not see any increase and there would be no recognition of road maintenance costs.

Option 4: Combine the Urban Grant and the Rural Grant

Though this option appears to be workable at the outset given that they will receive the maximum benefit from both pools, it is not feasible in the long-term since population statistics are compiled for the new entity, and not as the former municipalities. However, it could be an interim solution that could last until the first census after the formation of a Municipal District.

The Pool

Option 1: Create New “Municipal District” Pool (Recommended)

Create a separate pool of funding for MDs. This may be more appropriately done after the next census when the allocation amongst the pools is to be reviewed as per Section 7 (1) of *The Municipal Grants Regulations*. The efficiency of having a separate pool for MDs could be questioned if only a few are formed. Further discussion with SUMA and SARM would be required.

Option 2: Fund from Existing Rural and Small Urban Pools

This could be an appropriate short-term option. Other municipalities will not lose out as funds already allocated to the communities who have chosen to combine will continue to flow. However, this could only be a short-term option; after the next census, separate municipal statistics for the previously existing communities will not be available.

Incentives

Option 1: Transition and Long-Term Incentive Components (Recommended)

To encourage the formation of MDs, incentives could be offered through two components. The first would be to offer financial assistance to assist with costs associated with the merger. This would be offered for the first three years after the creation of the MD. Once the three years had been completed, a further “permanent” financial incentive would be put in place. This incentive would offer financial assistance of no less than a 15 percent top up in funding above the revenue sharing received by the MD. This funding would be provided through a new pool of money, outside of the revenue sharing pool, and administered by MA.

Option 2: Short-Term Incentives

To encourage the formation of MDs, government and the sector may wish to provide a short-term incentive to assist with costs associated with the merger. This funding would be provided through a newly developed sleeve of funding provided by MA.

Option 3: Long-Term Incentives

In order to promote the formation of MDs, government and the sector may want to build in a “permanent” financial incentive into the revenue sharing distribution formula for MDs. This could mean a generous base grant or a higher per capita amount as opposed to the traditional small urban distribution formula.

Communities in Transition

Only RMs are eligible to receive funding through the Communities in Transition Program (\$700K annually) as it is provided through the rural revenue sharing pool. This program provides funding to RMs to address environmental liabilities, administration and feasibility studies related to municipal restructuring. If the RM no longer exists, due to the creation of a new municipal entity, restructuring costs would not be eligible for reimbursement.

Program amendments would be required and amendments to *The Municipal Grants Regulations* to ensure that the new entity would be eligible to apply for reimbursement of eligible costs.

Federal/Provincial Infrastructure Funding

Federal-provincial agreements typically provide the ability to provide infrastructure grants to municipalities or “Local Governments”. The BCF-CC definition is as follows: “**Local Government**” means a city as defined in the *The Cities Act, S.S. 2002, c. C-11.1*, with a population less than 100,000; a town, village, resort village or rural municipality as defined in *The Municipalities Act, S.S. 2005, c. M-36.1*, the City of Flin Flon with respect to the Boundary Area of Flin Flon, the Saskatchewan portion of City of Lloydminster; or a northern municipality as defined in *The Northern Municipalities Act, S.S. 1983, c. N-5.1*, or any equivalent successor legislation. Legislative or agreement amendments would be required to accommodate a new entity not currently covered. If contribution agreements are active (MRIF, BCF-CC, Gas Tax, etc.) with municipalities that wish to restructure, amendments would likely have to be made to properly reflect the new recipient. This is a minor change, which would require signature from appropriate provincial and municipal officials.

Borrowing

Municipalities often borrow funding to match federal and provincial funding for infrastructure. The Saskatchewan Municipal Board (SMB) reviews long-term borrowing requests for all municipalities (*The Municipalities Act*), with the exception of cities. Cities have borrowing limits, which are set by the SMB and reviewed when increases are requested. Revisions to sections 161-183 (not inclusive) may be required if restructuring involves cities and other municipalities.

Revisions to *The Municipalities Act* would be required.

3. ELECTIONS

Election Cycles and Term of Office

- The term of office for urban municipalities (towns, villages and resort villages), if anticipated amendments to *The Local Government Elections Act* (LGEA) are approved are four years with elections held on the fourth Wednesday of October, starting in 2012. School board elections are held concurrently with urban elections.
- If anticipated amendments to the LGEA are approved, a councillor and reeves term of office will be four years starting in 2012 with staggered elections every two years.

Voter Eligibility

- To vote in urban and rural municipal elections, a voter must be a Canadian citizen, 18 years old and resided in Saskatchewan for at least six months prior to the election.
- In addition, urban voters must have resided in the municipality for at least three months immediately prior to the election, or owned assessable land immediately prior to the election. Rural voters must have resided in the municipality for at least six months immediately prior to the election, or have a specific attachment to the land in the RM, such as assessed owner/occupant, licensed business property owner, permit holder, CEO of cooperative, corporation or religious association holding assessed land.

Candidate Qualifications

- To be a candidate in an urban election requires the same conditions as being eligible to vote – Canadian citizen, 18 years old and a resident in the province for at least three months immediately prior to the election. However, non-resident owners of assessable land cannot run for office (except in resort villages).
- To run for office in a rural election, the same conditions as for a rural voter apply. Having an attachment to land enables a person to vote and run for office regardless of residency.

Vacancies

- Urban municipalities are required to consult with school boards before holding by-elections in case there is a need to coordinate by-elections. Filling a vacancy in the fourth year of the term is optional.

There are detailed steps to fill a rural vacancy reflecting the particular needs of the staggered term.

Rural Divisions, Urban Wards and At Large

- Local government election legislation provides for divisions or wards and at-large representation. Recent legislative changes make it possible for a restructured municipality to use a division/ward system and for organized hamlets to become a division within an RM. This added flexibility makes it possible to be creative and for local interests to be represented on the council of a restructured municipality.

Option 1: *Municipal Choice (Recommended)*

As part of the negotiations between the merging municipalities, it would be determined if the MD would use either the rural or urban election process. This decision would be included in the Minister's Order creating the MD. This avoids the complication of creating a new electoral system or imposing one system on a new district. The MD would have to use a division or ward system, not at large. The LGEA will need to be amended in order to enable the election of more than one councillor per division. While this option promotes local choice, it has the potential to create a patchwork system throughout the province, with no clear system used by MDs. It has the potential to create confusion for local voters and the province in keeping track of which electoral system an individual MD employs.

Option 2: *MD to Use the Urban System*

The rationale for staggered terms for rural councillors is to ensure continuity of elected office. However, there is often little change year over year. For instance, in the last rural municipal elections 87 percent of the councillors were elected by acclamation. The urban side reported 46 percent of councillors elected by acclamation in the last urban elections. Only when a particularly contentious issue arises do the ratepayers become engaged to the point of a whole sale change of councillors. The administration then is expected to provide the continuity and corporate memory. Continuity tends to be less of an issue for larger municipal entities who have larger administrative capacity.

In terms of the number of people voting in local government elections, most do so under the urban electoral process which includes school boards elections.

Option 3: *MD to use Rural System*

Urban voter eligibility is based largely on residency, although being an owner of assessable land also qualifies the voter. Rural voters have similar qualifications; however, provisions go further by defining the particular forms of the attachment to land. As it now stands, a person living in town and owning farmland can vote in both urban and rural municipal elections. Similarly, a person living outside the RM, but owning land in the RM can vote, as can a person owning land in town or village, but living elsewhere in Saskatchewan. The only significant point of separation is the interest in the land, which is specified in detail for rural voters.

The key difference between urban and rural candidates is that nonresident owners of assessable land cannot run for office in an urban election (with the exception of resort villages). To hold office in the urban municipality the person must reside in the municipality. In a rural election a person with some connection to land, as specified in the LGEA, can hold office and live elsewhere. RM councillors need not live in the particular division they represent or, for that matter, in the rural

municipality. In many cases they reside in the town or village within or near the rural municipality where they own land.

In order to avoid disenfranchising, those who may have voted or ran for a rural council in the past, ensuring that all new MDs run their elections on the rural system, could be considered.

Option 4: *Hybrid System*

Municipal District would hold its election on the same fixed date used by the urban municipalities; however, to avoid any possible disenfranchisement of previously eligible voters or candidates, eligibility requirements would be identical to those used for rural municipal elections.

4. ASSESSMENT/TAXATION

Assessment

Assessment legislation is an area where there is a significant urban/rural difference. Farm buildings are exempt from assessment, as are farm residences to the extent of the assessment of agricultural land owed/leased by the occupant. Section 53 (f) of *The Municipalities Act* provides a restructured municipality the authority to “establish areas for the purposes of assigning different tax rates and providing different service levels”, it may be possible to deal with this issue, if it is a concern, in an appropriate way reflecting local sensitivities and priorities.

Restructuring into an MD would address this as the council would have the authority to create rural and urban service areas and set mill rates accordingly.

Taxation and Service Levels

Taxation is linked to the provision of municipal services. Rural service needs tend to revolve around transportation infrastructure – road access for agricultural and industrial purposes, although rural municipalities have been experiencing significant subdivision activity in the last few years. In an urban context, service needs are much more diverse and include water/sewer, social/cultural and recreational infrastructure.

As a result, levels of service could vary considerably within a MD. Furthermore, there is often a significant spread in taxation between rural and urban mill rates. Section 53(3)(i), provides the flexibility and authority for a restructured municipality to apply different tax rates and provide different levels of service. Associated revenues and expenditures would need to be tracked to provide a

degree of transparency of public finances. This would add to the administrative complexity of operating a restructured MD.

The goal of the provincial government should be to provide the necessary tools and authorities to enable restructuring to take place, while ensuring democratic principles are upheld and good governance practices continue to be enhanced.

Questions as to the level of taxation between urban and rural residents are legitimately left to the local government.

5. ASSOCIATION MEMBERSHIP

An important consideration which would not be a decision for the province is the question of which municipal association an MD would belong to? The Saskatchewan Urban Municipalities Association and the Saskatchewan Association of Rural Municipalities would be asked to consider the question of membership for a rural/urban municipality. This is an important for both associations as there are a number of issues around insurance programs and bonding that are dependent on membership in these organizations.

6. LEGISLATIVE CHANGES

A number of pieces of legislation will require amendments in order to provide authority for an MD, most notably *The Municipalities Act* and *The Local Government Elections Act*. However, a number of other ministries have indicated that respective pieces of their legislation would also have to be amended. This list includes:

Environment

The Prairie and Forest Fires Act, 1982

Agriculture

Noxious Weeds Act, 1984

The Saskatchewan Farm Security Act

Corrections, Public Safety and Policy

The Uniform Building and Accessibility Standards Act

Energy and Resources

The Mineral Taxation Act, 1983

Justice and Attorney General

The Companies Act

The Direct Sellers Regulations, 1997

The Lord Days (Saskatchewan) Act

The Land Titles Act, 2000

The Land Titles Regulations

The Motor Dealers Regulations

The Municipal Hail Insurance Act

The Marriage Regulations, 1997

The Proceedings against the Crown Act

The Provincial Court Compensation Regulations

The Provincial Court General Regulations

The Saskatchewan Insurance Regulations, 2003

The Summary Offences Procedure Act, 1990

The Summary Offences Procedure Regulations, 1991

The Traffic Safety Court of Saskatchewan Regulations

The Trust and Loans Corporations Regulations

The Vital Statistics Act, 1995

Watershed Authority

The Drainage Control Regulations

The Conservation and Development Act

A comprehensive plan will need to be developed to ensure that amendments are done in a timely and organized fashion. The possibility for preparing an omnibus bill will be discussed with the Ministry of Justice.

7. TIMING/FURTHER CONSULTATIONS

Once the Municipal Forum has had a chance to review and comment on the options presented, a process of consultation with SUMA and SARM, UMASS, RMAA, the SMB the SSBA, Saskatchewan Chamber of Commerce, as well as other government ministries is recommended.

This could take place over the summer of 2010 with a final series of recommendations presented to the Municipal Forum in fall 2010. Legislation could be proposed for introduction in fall 2011.