



## CITY OF VANCOUVER

### ADMINISTRATIVE REPORT

Report Date: February 2, 2009  
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TO: Vancouver City Council  
FROM: City Librarian, Vancouver Public Library  
SUBJECT: Legislative Review of the Library Act

#### RECOMMENDATION

- A. THAT Council endorse the Vancouver Public Library Board's submission to the Minister of Education on the legislative review of the *Library Act*;
- B. THAT Council inform the Minister of Education of its support of the Library Board's submission.

#### CITY MANAGER'S COMMENTS

The City Manager supports these recommendations.

#### COUNCIL POLICY

Not applicable.

#### SUMMARY

As well as supporting the key principles of free access to public library service and citizen governance currently in the *Library Act*, the Library Board submission identifies specific changes to the *Act* for the consideration of the Minister of Education (submission attached).

## PURPOSE

To insure that the *Library Act* supports the public library in effectively serving the community, both for direct public service and internal operations.

## BACKGROUND

In November 2008 the Minister of Education announced the commencement of a legislative review of the *Library Act*.

At its January 28, 2009 meeting, the Library Board approved the following motions:

- A. THAT the VPL Board approve the submission to the Minister of Education on the legislative review of the *Library Act* and;
- B. THAT the *Library Act* submission be forwarded to City Council with a request that Council endorse the submission and notify the Minister of Education of its support, and;
- C. THAT the *Library Act* submission be forwarded to the Vancouver Board of Education and the Vancouver Park Board with the request that the Boards inform the Minister of Education of their support for the Library Board's recommendation on trustee term as it applies to appointees from these Boards.

This is the first comprehensive review of the *Act* since 1994. It is anticipated that the review will take a number of months and may result in public hearings.

Along with the Library Board submission to the Minister, the relevant sections of the *Library Act* for municipal libraries and Regulations to the *Act* are attached for Councillor consideration and information.

## DISCUSSION

The Library Board is firmly committed to the principles of free access to public library services and citizen governance. The Board believes it is important to emphasise these beliefs in its submission to the Minister.

The proposal to amend the language on trustee term addresses the situation in Vancouver where it has been long-standing practice for Council to appoint representatives from the School and Park Boards to the Library Board. The current language in the *Act* requires that these representatives be appointed to two-year terms on the Library Board. This may result in the situation where these appointees are still members of the Library Board when they are no longer sit on their "home" Board. The Library Board is recommending that the *Act* permit the appointment of elected representatives from other Boards to one-year terms in the same manner as the City Councillor appointee.

The Library Board submission calls for a review of the list of prescribed library collections and services which must be provided free of charge to residents. This includes consideration of

mandating free access to select on-line services and collections which are not specifically addressed in the current Act. The Board calls for the *Act* to mandate free resident access to the Internet in recognition of the importance of this service. Based on current practice this should not present difficulties for BC public libraries.

#### FINANCIAL IMPLICATIONS

Not applicable.

#### SOCIAL IMPLICATIONS

Free access to public library collections and services is a cornerstone of a democratic society. Public library services are especially important, and heavily used, during economic downturns. Societal well-being is predicated on a literate, informed and engaged population and the public library is one of the most-important civic services in fostering this outcome. Free access to core services ensures that all residents can benefit from the public library.

#### CONCLUSION

The Vancouver Public Library Board believes that Council endorsement of its submission on the legislative review of the *Library Act* will reinforce the message to the Provincial Government on the importance of the core principles in the *Act*.

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# **Vancouver Public Library Board**

## **Submission on the Legislative Review of the *Library Act and Regulations***

### **GENERAL COMMENTS**

The Vancouver Public Library Board welcomes the opportunity to comment on the *Library Act* (the *Act*) in the context of the pending review of the legislation. Some recommendations, including the one on trustee term, apply to municipal public libraries only.

The VPL Board believes that the *Act* plays a crucial role in supporting the successes of BC public libraries. The *Act* enables the core public library principle of open and free access to buildings, collections and the majority of services. It mandates governance by a citizen Board while recognizing appropriate City Council influence and control. The VPL Board believes it is crucial that revisions to the *Act* do not weaken either free access or citizen governance. The Board also believes it is important that the *Act* continue to require that there be a Provincial director of public library service who is a qualified librarian.

The 1994 *Act* provided a sound foundation for BC public libraries and it is notable that the Vancouver Public Library Board is not proposing substantive revisions.

### **TRUSTEE TERM**

Since the proclamation of the Library Act in 1994, the Public Library Service Branch moved to the Ministry of Education from Municipal Affairs. As well as being responsible for schools and public libraries, the Minister of Education also has responsibility for literacy. This strategic alignment has resulted in new opportunities for cross-sectoral collaboration and partnership.

Vancouver Public Library has a long-standing productive relationship with the Vancouver Board of Education recognized by the fact that City Council appoints an elected school trustee (nominated by the Board of Education) to the Library Board. This direct link between the Boards has been beneficial in both the strengthening of existing collaborations and the shaping of new joint-service initiatives. The Minister may wish to consider having legislation encouraging formal Board of Education representation on public Library Boards where there is geographic alignment between the Boards' service areas.

As well as appointing a school trustee to the Library Board, Vancouver City Council also appoints an elected Parks Board representative (nominated by the Parks Board) to the

Library Board, again in recognition of the importance of collaboration between the two services.

Sections 5(2) and 6 of the *Act* are awkward in their application to the appointment of these trustees who, following the municipal election cycle, serve a three-year term on their 'home' Board.

The *Act* only recognizes two types of appointments:

- a municipal council representative appointed to a one-year term
- residents or electors of the municipality appointed to a two-year term

This language in the *Act* requires that the trustees appointed from the School and Parks Boards must be appointed to a two-year term. This creates a situation where a trustee appointed as a representative from an elected board may continue to serve on the Library Board when they no longer hold elected office. This situation occurred for both the Vancouver School and Parks Board representatives following the 2008 municipal elections.

**It is recommended that the *Act* be amended to permit one-year terms for Library Board trustees who serve on elected municipal boards and who are appointed by City Council to formally represent the other board.**

## **LIBRARY MATERIALS REGULATION**

Section 46 of the *Act* mandates free basic public library service. A regulation to the *Act* specifies a series of types of library materials which must be loaned without charge. This list reflects library collections as they were in the mid 1990s. In the intervening 15 years there have been dramatic changes in collection formats and on-line content provision and, if anything, the rate of change is escalating. It is understood that these changes, especially for on-line and digital content, present very different challenges relating to the mandating of free access. Recognizing these challenges, there should be a review of the proscribed materials format list in the *Regulations* and a consideration of mandated free access for certain on-line collections and information services. Most certainly, on-line databases and services such as AskAway, which are funded in part or totally by the Province, should be freely available from all public libraries. The provision of Internet access in public libraries should be required to be free to residents given the importance of the Internet as a source of information and as a means to access government services at all levels. This should not prohibit libraries from providing free Internet access to non-residents should the Library Board wish.

**It is recommended that the legislative review of the *Act* include a review of the *Library Materials Regulation* "Proscribed categories" list and consideration of mandated free access to certain on-line collections and services, possibly through a regulation linked to section 46 (2)(b) of the *Act*.**

**It is further recommended that the *Act* specify that public access to the Internet in public libraries be free to residents of the library service area.**

## **AGREEMENTS**

Section 48 of the *Act* provides a list of nine entities with which a Library Board can enter into an agreement for the provision of library service. This list is supplemented by a regulation which adds the federal government and agencies of the federal government. The length of this list and because there is potential for such agreements with other appropriate agencies (e.g. regional health districts, immigrant settlement agencies, not-for-profit agencies and charities such as the CNIB) suggests that more-generic legislative language would be appropriate.

**It is recommended that Section 48 of the *Act* be amended to solely address the provision of library service to other geographic areas which necessitate changes in Board appointments.**

**It is further recommended that a clause be added to Section 2 (General powers and duties of library board) which enables the library board to enter into agreements for the provision of library service. When such agreements result in a net increase to the library budget, Council approval should be required.**

## **CONCLUSION**

Appended to this submission are a series of proposed housekeeping amendments to language in the *Act* which the Ministry may wish to consider.

The Vancouver Public Library Board and staff will be pleased to work with the Minister and her staff as the legislative review process proceeds. The *Act* is an important tool in shaping the development and delivery of public library service in British Columbia. The fundamentals of the *Act* as it relates to municipal libraries are sound. The continued development and successes of public library service in the 21<sup>st</sup> century are dependent upon the continuation of a solid legislative foundation.

# APPENDIX

## SUGGESTED HOUSEKEEPING REVISIONS TO THE LIBRARY ACT

### ***Election of chair and vice chair (Section 7)***

The Vancouver Public Library Board Procedure Policy calls for the election of two vice chairs. In the case of larger boards (the VPL Board has 13 members) having two vice chairs is useful.

**It is recommended that this section be amended to explicitly permit the election of two vice chairs should the Board wish.**

### ***Budget and Financing (Section 10 (1))***

The March 1 deadline for submitting the budget is well after the date required by the City of Vancouver.

**It is recommended that this subsection be amended so that the deadline is March 1 or at a date as required by the Municipality.**

### ***Expenditures And Financial Statements (Section 11 (2))***

As the Vancouver Public Library uses the City of Vancouver's accounting system and the City does not require separate audited financial statements for the library. The expense of providing audited statements is not warranted where the Municipality has open access to the library's accounting records and these records are reviewed as part of the overall City financial audit.

**It is recommended that this subsection be amended so that audited financial statements are only required if requested by the Municipality.**

**EXTRACTS FROM THE  
LIBRARY ACT RELEVANT TO  
VANCOUVER PUBLIC LIBRARY**



## **Purposes of this Act**

**2** The purposes of this Act are

- (a) to encourage the extension and use of public library service throughout British Columbia,
- (b) to enable the delivery of public library service in British Columbia by
  - (i) providing for the establishment and operation of municipal libraries, regional library districts and library federations, and
  - (ii) allowing existing public library associations and integrated public library systems to continue to operate, and
- (c) to support improvements in public library service.

## **Part 2 — Municipal Libraries**

### **How a municipal library is established**

**3** (1) A municipality may, by bylaw, establish a municipal library.

(2) A municipal library may be established under subsection (1) in a municipality served by a public library association, but only if the association has requested the municipality to assume responsibility for providing library service in the municipality.

(3) [Repealed 2003-52-157.]

### **Role and status of the library board**

**4** (1) A municipal library is to be managed by a library board called the "*[insert name of municipality]* Public Library Board".

(2) The members of the library board and their successors in office are a corporation with the powers and duties given in this Part.

### **How the library board is appointed**

5 (1) The municipal council must appoint the members of the library board at the first meeting of the municipal council after the coming into force of the bylaw establishing the municipal library.

(2) The library board is to consist of an uneven number of members, not fewer than 5 or more than 13, selected as follows:

(a) one from the municipal council;

(b) the remainder from people who are residents or electors of the municipality and who are not members of the municipal council or employees of the municipality or library board.

(3) All subsequent regular appointments are to be made each December at the first regular meeting of the municipal council.

(4) Before selecting anyone under subsection (2) (b), the municipal council must invite applications for membership by publishing a notice in a newspaper.

(5) A vacancy arising during the term of an appointment is to be filled, for the remainder of the term, by an appointment made at the first meeting of the municipal council after the vacancy arises.

(6) If an appointment is not made at the time specified in this section, the appointment must be made as soon as convenient.

#### Term of office

6 (1) The member appointed to the library board from the municipal council holds office for one year, or for the remainder of the year for which the appointment is made.

(2) One half of the members first appointed to the library board under section 5 (2) (b) hold office for a term of one year, and the others hold office for a term of 2 years.

(3) All subsequent regular appointments under section 5 (2) (b) are for terms of 2 years.

(4) A member is eligible for reappointment, but no member may serve for more than 8 consecutive years.

(5) The term of office of a member continues until a successor is appointed unless the member is removed for cause.

(6) On receiving a report from the library board, the municipal council may remove a member of the library board for cause, including if the member

(a) fails to attend 3 consecutive regular meetings of the library board without its written approval,

(b) becomes an employee of the municipality or of the library board, or

(c) ceases to be a resident or elector of the municipality.

#### **Election of chair and vice chair**

7 (1) The library board must elect a chair and a vice chair at its first meeting in each year after appointments are made to the library board.

(2) If the chair is not present at a meeting of the library board, the vice chair has all the powers of the chair and is subject to all rules applicable to the chair.

(3) If neither the chair nor the vice chair is present at a meeting of the library board, the members present may elect an acting chair who has, during the meeting, all the powers of the chair and is subject to all rules applicable to the chair.

#### **Regular and special meetings of library board**

8 (1) The library board must meet at regular intervals at least 6 times a year.

(2) A majority of all the members of the library board is a quorum.

(3) The chair or any 2 members may call a special meeting of the library board by notifying, in writing, the other members at least 2 days before the meeting and stating in the notice the purpose of the meeting.

#### **General powers and duties of library board**

9 The library board

- (a) may make rules for managing its business and for regulating the use of its facilities and services by the public,
- (b) may appoint any committees of its members that it considers necessary to carry out its business,
- (c) must appoint a chief librarian,
- (d) may hire and dismiss employees, enter into collective agreements with employees and set the terms of their employment, including fixing their remuneration and duties,
- (e) may lease land or buildings for library purposes, but only with the prior approval of the municipal council,
- (f) may acquire personal property for library purposes and dispose of personal property,
- (g) may contract, for a term of not more than 5 years, for professional or other services for library purposes,
- (h) may sue and be sued,
- (i) may have a common seal and may alter or change it, and
- (j) must prepare an annual report in the form approved by the minister and must send copies of the report to the minister.

### **Budget and financing**

- 10 (1) On or before March 1 in each year, the library board must prepare and submit to the municipal council its annual budget for providing library service in the municipality.
- (2) The municipal council must approve, with or without amendment, the budget submitted to it under subsection (1).
- (3) At the request of the library board, the municipal council may approve an amendment to the approved budget.
- (4) The municipal council must include in the municipality's annual budget a sum sufficient to finance the library board's approved budget.

(5) The municipality must pay to the library board the sum included in the annual budget and the payments must be made on the dates scheduled by the library board and the municipality.

#### **Expenditures and financial statements**

11 (1) The library board has, subject to the approved budget, exclusive control over the expenditure of

(a) all money provided by the municipal council for library purposes,

(b) all money given to the library board,

(c) the revenue derived from any source, including

(i) fees,

(ii) fines, and

(iii) money recovered by the library board for detention, damage or loss of library materials, and

(d) all money received by the library board under an agreement to provide library service.

(2) The library board must provide to the municipality annual financial statements that have been audited in the same manner and at the same time as the financial statements of the municipality.

#### **Powers and duties of chief librarian**

12 The chief librarian

(a) has general supervision and direction of the municipal library and its staff,

(b) is the secretary to the library board, and

(c) has the powers and duties the library board assigns to the chief librarian from time to time.

#### **Abolition of municipal library and dissolution of library board**

**13 (1)** A municipal council may only abolish a municipal library by bylaw adopted with the assent of the electors.

(2) On adoption of a bylaw under subsection (1), the library board is dissolved.

(3) When the library board is dissolved, the assets of the library board are vested in the municipality and any liabilities or obligations of the library board are assumed by the municipality.

## Part 5 — General

### Free basic public library service

**46 (1)** A library board must not charge for

- (a) admission to any part of a building used for public library purposes, or
- (b) using library materials on library premises.

(2) A library board must allow residents and electors of any area served by the library board to do the following free of charge:

- (a) borrow library materials that are normally lent by the library and that belong to prescribed categories of library materials;
- (b) use reference and information services as the library board considers practicable.

(3) A library board may charge fees for services not required to be provided free of charge under this section, including for the use of services described in subsection (2) by anyone who is not a resident or elector of an area served by the library board.

### Enforcement of library rules

**47** A library board may

- (a) impose fines for breaches of the library rules,
- (b) suspend library privileges for breaches of the library rules, or
- (c) exclude from the library anyone who behaves in a disruptive manner or damages library property.

### Agreements

**48 (1)** Subject to subsection (2), a library board may enter into a written agreement to cooperate in the provision of library services with one or more of the following:

- (a) another library board;

- (b) a municipality;
- (c) a regional district;
- (d) an aboriginal government;
- (e) a board of school trustees;
- (e.1) a francophone education authority as defined in the *School Act*;
- (f) an institution under the *College and Institute Act*;
- (g) the board of governors of a university;
- (h) the minister;
- (i) a prescribed body.

(2) Before entering into an agreement under subsection (1), the library board of a municipal library must obtain the approval of the municipality that established the municipal library.

(3) An agreement under this section may provide as follows:

(a) for the appointment of one or more members to the library board of a municipal library by a municipality, regional district or aboriginal government that enters into the agreement with that library board;

(b) for the appointment of one or more members to the library board of a public library association by an aboriginal government that enters into the agreement with that library board.

(4) Members appointed by agreement under this section are additional to those appointed to the library board under any other provision of this Act and members appointed under this section may vote at meetings of the library board.

(5) An agreement under this section must be consistent with this Act and the regulations.

(6) A library board may spend money available from its budget for the purposes of an agreement under this section.

#### **Library federations**

**49 (1)** Two or more library boards may enter into a written agreement to establish a library federation.



(2) An agreement under subsection (1) has no effect until it is approved by the minister.

(3) An agreement under subsection (1) must include terms

(a) establishing a plan for the cooperative provision of library service,

(b) establishing a federated library board,

(c) establishing a procedure for adopting bylaws,

(d) establishing requirements for membership in the library federation,

(e) relating to the budget of the library federation, and

(f) providing for disestablishing the library federation, distributing its assets and assigning its liabilities.

(4) A federated library board has the power and capacity of a corporation under the *Interpretation Act* and, in addition, may acquire and dispose of real property.

#### Unserved areas

50 (1) The minister may provide library service to individuals and communities that, in the minister's opinion, are unable to obtain public library service.

(2) For the purpose of subsection (1), the minister may enter into an agreement with a library board, including an agreement under which a library board extends free library service to residents of a reserve as defined in the *Indian Act* (Canada).

#### Director of public library service

51 (1) The minister must designate as director of public library service a person who is appointed under the *Public Service Act* and is a qualified librarian.

(2) The director of public library service is responsible, under the direction of the minister, for administering this Act and promoting the improvement and extension of public library service throughout British Columbia.

(3) Without limiting subsection (2), the director of public library service may

- (a) apportion money annually appropriated by the Legislature for grants to help library boards and to help public bodies that are engaged in promoting library service and improving library service,
- (b) impose conditions for the payment of grants, and
- (c) refuse or reduce a grant to a library board or public body that does not comply with a condition imposed under paragraph (b).

### **Advisory bodies**

**52 (1)** The minister may establish one or more bodies to advise the minister on matters relating to this Act.

(2) The minister may appoint, or provide for the manner of appointment of, the members of a body established under this section and may set the terms of reference for those bodies.

(3) The members of any body established under this section are entitled to be reimbursed for reasonable travelling and out of pocket expenses necessarily incurred by them in performing their duties under this Act, and may be paid for their services an amount determined by the Lieutenant Governor in Council.

### **Conflict of interest**

**53 (1)** A member of a library board who has a direct or indirect pecuniary interest in a matter considered at a meeting of the library board

- (a) must declare that he or she has a pecuniary interest in the matter,
- (b) must not take part in the discussion and is not entitled to vote on any question respecting the matter,
- (c) must leave the meeting, and
- (d) must not attempt in any way, whether before, during or after the meeting, to influence the voting on any question respecting the matter.

(2) Subsection (1) does not apply

- (a) if the matter relates to expenses payable to one or more members of the library board in relation to their duties as members, or

(b) if the pecuniary interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member in relation to the matter.

(3) A person who contravenes subsection (1) is disqualified from continuing to hold office as a member of the library board unless the contravention was done through inadvertence or because of an error in judgment made in good faith.

### Protection against lawsuits

54 (1) No action for damages may be brought against an existing or former member, officer or employee of a library board or against a person acting under the direction of the library board for

(a) anything said or done or omitted to be said or done in the performance or purported performance of a duty or the exercise of a power, or

(b) any alleged neglect or default in the performance or purported performance of a duty or exercise of a power.

(2) No action for the debts or obligations of a library board may be brought against an existing or former member, officer or employee of a library board or a person acting under the direction of the library board.

(3) Subsections (1) and (2) do not provide a defence if

(a) the member, officer, employee or person acting under the direction of the library board has, in relation to the conduct that is the subject of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct, or

(b) the cause of action is libel or slander.

(4) This section does not absolve a library board from vicarious liability for anything said or done or omitted to be said or done by, or for any neglect or default of, an individual referred to in subsection (1), for which the library board would have been vicariously liable had this section not been in force.

### Reimbursement of expenses

55 (1) The members of a library board are not entitled to be paid by the library board for their services but may be reimbursed by it for reasonable travelling and

out of pocket expenses, including child care expenses, necessarily incurred by them in performing their duties under this Act.

(2) A library board may not reimburse a member for any expenses if another body reimburses the member for the expenses or pays the expenses.

#### **Power to make regulations**

56 The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

## Library Act

### Library Materials Regulation

#### Prescribed categories

1 For the purposes of section 46 (2) (a) of the *Library Act*, the following categories of library materials are prescribed to be lent free of charge:

- Art prints
- Audio cassettes
- Audio compact discs
- Books with hard, soft or paper covers
- Braille books and periodicals
- CD-ROMs
- Computer diskettes
- Maps and charts
- Microforms
- Motion Picture films
- Music scores
- Newspapers
- Pamphlets
- Periodicals
- Photographs
- Video cassettes
- Video laser discs
- Vinyl records.

[Provisions of the *Library Act*, R.S.B.C. 1996, c. 264, relevant to the enactment of this regulation: sections 46 (2) (a) and 56]

## Library Act

### Library Board Agreements Regulation

#### Prescribed bodies

1 For the purposes of section 48 (1) (i) of the *Library Act*, the following are prescribed as bodies with which a library board may enter into a written agreement to cooperate in the provision of library services:

- (a) the government of Canada;
- (b) an agency of the government of Canada.

[Provisions of the *Library Act*, R.S.B.C. 1996, c. 264, relevant to the enactment of this regulation: section 48 (1) (i)]