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5TH SESSION, 37TH PARLIAMENT

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TUESDAY, MAY 18, 2004

The House met at 10:05 a.m.

Prayers.

Orders of the Day

Hon. G. Collins: I call Committee of the Whole for consideration of Bill 39.

Committee of the Whole House

FINANCIAL INSTITUTIONS STATUTES AMENDMENT ACT, 2004

The House in Committee of the Whole (Section B) on Bill 39; J. Weisbeck in the chair.

The committee met at 10:07 a.m.

Section 1 approved.

On section 2.

Hon. G. Collins: I move the amendment to section 2 standing in my name on the orders of the day.

[SECTION 2 (b), by deleting "other than a central credit union," and substituting "other than a central credit union or a corporation designated by regulation,".]

Amendment approved.

Section 2 as amended approved.

Sections 3 to 5 inclusive approved.

On section 6.

Hon. G. Collins: I move the amendment to section 6 standing in my name on the orders of the day.

[SECTION 6, in the proposed section 15.1 (5) (b) by adding "unless" before "the commission".]

Amendment approved.

Section 6 as amended approved.

Sections 7 to 10 inclusive approved.

On section 10.1.

Hon. G. Collins: I move the amendment to section 10.1 standing in my name on the order paper.

[SECTION 10.1, by adding the following section:
10.1 Section 73 is renumbered as section 73 (1) and the following subsection is added:

(2) If the rules of a credit union with more than 10 000 members provide for voting by electronic means, a reference in subsection (1) to voting by ballot or mail ballot may be read by the credit union as a reference to voting by electronic means.]

Amendment approved.

Section 10.1 as amended approved.

Section 11 approved.

On section 12.

Hon. G. Collins: I move the amendment to section 12 standing in my name on the orders of the day.

[SECTION 12, by deleting section 12 and substituting the following:

12 Section 81 (1) is repealed and the following substituted:

(1) Subject to subsection (1.1), a credit union or its subsidiary, other than a central credit union or a subsidiary of a central credit union, must not carry on business outside of British Columbia.

(1.1) With the consent of the commission and the deposit insurance corporation, a credit union or a subsidiary of a credit union may carry on business outside of British Columbia to the extent permitted under the laws of another jurisdiction.]

Amendment approved.

Section 12 as amended approved.

Sections 13 and 14 approved.

On section 15.

Hon. G. Collins: I move the amendment to section 15 standing in my name on the orders of the day.

[SECTION 15, in the proposed section 93 (2) by deleting ", 81 (1)" and substituting ", 81 (1.1)".]

Amendment approved.

Section 15 as amended approved.

Sections 16 to 26 inclusive approved.

On section 27.

Hon. G. Collins: I move the amendment to section 27 standing in my name on the orders of the day.

[SECTION 27 (b), by deleting "subsection (3)" and substituting "subsections (3) and (6)".]

Amendment approved.

Section 27 as amended approved.

Sections 28 to 105 inclusive approved.

On section 106.

Hon. G. Collins: I move the amendment to section 106 standing in my name on the orders of the day.

[SECTION 106, by deleting the proposed section 243 (4) (c) and substituting the following:

(c) an inquiry, examination or investigation under this Act, or.]

Amendment approved.

Section 106 as amended approved.

Sections 107 to 113 inclusive approved.

On section 114.

Hon. G. Collins: I move the amendment to section 114 standing in my name on the orders of the day.

[SECTION 114, in the proposed section 253.1 (4) (b) by deleting "under section 242".]

Amendment approved.

Section 114 as amended approved.

Sections 115 to 121 inclusive approved.

On section 122.

Hon. G. Collins: I move the amendment to section 122 standing in my name on the orders of the day.

[SECTION 122 (c), by deleting "paragraph (b)" and substituting "paragraph (c)".]

Amendment approved.

Section 122 as amended approved.

Sections 123 to 143 inclusive approved.

Title approved.

Hon. G. Collins: I move the committee rise and report the bill complete with amendments.

Motion approved.

The committee rose at 10:10 a.m.

The House resumed; Mr. Speaker in the chair.

Reporting of Bills

Bill 39, Financial Institutions Statutes Amendment Act, 2004, reported complete with amendments.

Third Reading of Bills

Mr. Speaker: When shall the bill be considered as read?

Hon. G. Collins: By leave, now, Mr. Speaker.

Leave granted.

Bill 39, Financial Institutions Statutes Amendment Act, 2004, read a third time and passed.

Hon. G. Collins: I call Committee of the Whole House for consideration of Bill 52.

Committee of the Whole House

ELECTORAL REFORM REFERENDUM ACT

The House in Committee of the Whole (Section B) on Bill 52; J. Weisbeck in the chair.

The committee met at 10:13 a.m.

On section 1.

J. MacPhail: I raised a couple of questions at second reading. The Attorney General answered one question clearly on the double majority and how it works, so that's fine. That's under section 3, and we may be discussing that later.

Under section 1 — which is "Referendum required if Citizens' Assembly recommends change" — who writes the question for the referendum?

Hon. G. Plant: There has not been a final decision made about that, but I think the way it's likely to unravel or unroll, depending on the perspective, is that the assembly will probably take the first cut at drafting the question and....

J. MacPhail: The Citizens' Assembly?

Hon. G. Plant: The Citizens' Assembly; sorry. The Citizens' Assembly will take the first cut at drafting the question. Then we'll want to have it looked at by legislative counsel or lawyers in the legal services branch to make sure it's the right language technically to do what the assembly wants. We've heard the assembly speak already about their desire to ensure that the issue they want to present to voters, if they decide change is to be recommended, should be presented with as much control by them as possible. That's fair enough, but I think we would do ourselves a disservice if we didn't also make sure the question was examined by the legislative counsel and/or lawyers in the legal services branch to make sure the question as proposed would actually achieve the result the assembly wants for it.

[1015]

J. MacPhail: Is it the Attorney General's view that the Citizens' Assembly final report would include, if they decide to recommend a question for referendum, a recommended language for the referendum question that then would be accepted or modified by government?

Hon. G. Plant: The assembly could include a proposal with respect to the question in their final report. I'm not sure I want to make that an obligation on the

assembly. But if the Citizens' Assembly were to propose a draft question, I would hope they would understand why we think it's necessary to ensure that we get a chance to have a look at the question.

I'm being careful in answering the question because I don't necessarily want to impose on the assembly the obligation to draft the question. I have heard that they're thinking about that. If that is how they want their report to be written, then that's fine.

J. MacPhail: Yes, I understand. I guess I'm urging as much the Citizens' Assembly to participate in the.... If they do recommend a change to go to referendum, that they also recommend language around that.... I have just recently been reviewing the history of referenda in Quebec, and the way the question is written is often as much up for debate as the actual vote itself.

Hon. G. Plant: In that context maybe, at least for the purpose of introducing this subject here on the floor of this chamber, I'll take this topic one step further, not so that it needs to be resolved now. But there is already some discussion about whether the referendum question that might emerge from a decision by the Citizens' Assembly to recommend a new form of electoral representation should be a one-sentence yes-or-no question that would go something like: "Do you wish to support a change to the way we elect our MLAs consistent with the recommendation of the Citizens' Assembly in their report dated XYZ?" Bang-o. Or does the referendum question need to have more detail about the actual model?

Of course the more detail, then the longer the ballot becomes. At some point there is a question about the printing cost of three million ballots, but on the other hand, if there is no detail in the actual referendum question, how are we going to ensure that the voting public knows what they're voting on?

As I said, these are not questions on which I have any settled opinion as yet. We're going to have to continue to work on them as the assembly continues to do its work of deciding whether or not it wants to recommend change.

G. Halsey-Brandt: I, too — as the Leader of the Opposition has — have been sort of looking at other examples around the world. I believe it was New Zealand. I don't know quite how it was built into the system. My question, I guess, is as much to the Citizens' Assembly as to the Attorney General. I don't know whether it was part of the referendum or part of the legislation, or perhaps it was in the bill that went through their Legislature. They recommended that if the referendum was approved to change the voting system, it be two complete election cycles, and then the public would have the opportunity to have another referendum on that. If that sort of idea was considered by the Citizens' Assembly — and it may well be — would that come back, probably, as their report or perhaps another question in the referendum? Would the

next government, if it was approved after 2005, consider that in future legislation?

Hon. G. Plant: That is not in the terms of reference for the Citizens' Assembly. Of course, there would be nothing to stop a future government from initiating a process of review, if there was to be a change. Some years down the road a government could decide that they wanted to ask the public whether they thought the change was working or not, but that's not in the terms of reference for the Citizens' Assembly in the work that they are currently doing.

Section 1 approved.

On section 2.

J. MacPhail: Section 2 says: "Subject to this Act, the Referendum Act applies to a referendum required under section 1." Does the Elections Act apply?

[1020]

Hon. G. Plant: To the extent that the Referendum Act makes the Elections Act applicable to referenda, then it also applies.

J. MacPhail: Today there was a Supreme Court of Canada decision on third-party advertising. This is a Supreme Court of Canada decision about third-party spending that applies to the federal Elections Act, but it also will, I think, have consequences for provincial elections law. I'm just curious as to whether the Attorney General knows immediately whether there is anything in the Referendum Act that talks about third-party spending on a referendum question.

Hon. G. Plant: Without actually having pieced together the pieces of the jigsaw puzzle in a minute or two, I think what has happened is this. We legislated a removal of third-party spending restrictions in the Election Act, and there are no spending rules in the Referendum Act that are independent, so the removal of the spending provisions in the Election Act would have the same.... It would have that impact on referenda, and that would mean there would be no third-party spending restrictions on this referendum.

Having said that, I have not had the opportunity to look at the decision the member says was handed down this morning. I will want an opportunity to do that and to consider its implications, if any, for the Citizens' Assembly work, but I think the law at present in British Columbia is that there are no third-party spending restrictions on provincial referenda.

Section 2 approved.

On section 3.

The Chair: Minister, on the amendment to section 3.

Hon. G. Plant: I wanted to say that we had a look at one issue after the bill had already been prepared for printing, and I wanted to bring it to the attention of members.

The Referendum Act works so that the results of referenda are announced by the Lieutenant-Governor-in-Council. I think that was probably designed for referenda that were conducted at some time other than in the context of a general election, but the referendum that would flow from a recommendation by the Citizens' Assembly will be conducted on an election day, and I'm sure that the people of British Columbia will want to know the results of that referendum as soon as they can.

Cabinet would not be in a position, really, to make the results public that night. It has occurred to us that the best way to ensure the results are made public as quickly as possible would be to give the chief electoral officer both the power and the obligation to report the results as quickly as he thought he could.

There are two ways you could get there. I think it is possible you could get there by passing a regulation now to make sure that happened, but it might be more straightforward and transparent to actually include an amendment to section 3 of the bill.

[SECTION 3,

(a) by renumbering the proposed subsection (1) as subsection (2) and the proposed subsection (2) as subsection (3), and

(b) by adding the following subsection:

(1) Section 3 of the Referendum Act does not apply and, instead, the Chief Electoral Officer must announce the results of the referendum in a manner that the Chief Electoral Officer considers will inform the electorate of the results of the referendum.]

On the amendment.

Hon. G. Plant: The amendment would add a subsection that would, in effect, read as follows: "Section 3 of the Referendum Act does not apply and, instead, the Chief Electoral Officer must announce the results of the referendum in a manner that the Chief Electoral Officer considers will inform the electorate of the results of the referendum."

[1025]

I realize I didn't table this yesterday, so this would be the first opportunity the members would have had to consider that as a proposed amendment. I don't want to move forward with it if it would cause serious concern. I think it's pretty innocuous, and I would be prepared to move the amendments if necessary.

I know it's sort of an informal way to do things. I wanted members to understand the issue and the proposed way of dealing with it and to know whether or not members have any concerns before deciding whether to move forward with the actual amendments.

J. MacPhail: I'm fine with the amendment, but I will use this opportunity to raise the question of what resources the chief electoral officer will have (1) to conduct the referendum and (2) to be able to ensure that he or she can properly carry out their duty under this

amendment — i.e., to report broadly and consistently across the province.

Hon. G. Plant: I'm advised that with respect to the first issue, the chief electoral officer will have to bring a budget for conducting the referendum to the Finance Committee of the Legislature as part of his annual budget. I'm certain that the government members of that committee will provide the necessary level of scrutiny to ensure that the budget is the appropriate amount. We will want to support the chief electoral officer in doing that work.

I think the announcement of the results is probably not much more than standing up in a room with a bunch of TV cameras and making the statement about the announcement. If there is more the chief electoral officer will want to do to make sure that the results of the referendum are well known, then that will be something he can bring forward along with his other budget requests.

Amendment approved.

On section 3 as amended.

J. MacPhail: This would be, I think, an appropriate time for the Attorney General to reiterate the logic behind the double majority in a way that the public can understand, as we move forward a year from now perhaps to have the referendum.

Hon. G. Plant: The formula the member refers to is expressed legislatively here in section 3(1). The results of any such referendum would be binding on the government according to this formula only if at least 60 percent of the validly cast ballots vote the same way on the question that is stated for the referendum, and if in at least 48 of the 79 electoral districts more than 50 percent of the validly cast ballots vote that same way on the question. And 48 out of 79 is a way of expressing numerically the requirement that there be majority support for the referendum in at least 60 percent of the electoral districts.

[1030]

The logic behind this double majority requirement is that the view of government is that the issue of whether to change our electoral system is sufficiently important that it ought to enjoy the support of a significant percentage of the populace. We had some discussion about where to set the percentage figure, given that we had decided it was going to be a higher threshold than a bare majority. We looked at a number of examples of situations where a higher threshold than a simple majority is required, and they range across the universe of these kinds of situations from 55 percent for some kinds of decisions up to 75 percent in other kinds of decisions. It depends on whether the issue is redesigning the constitution of a corporation or perhaps redesigning the constitution of a country. Government was of the view that 60 percent struck the fair balance among the different alternatives. If you've got a

got a 60 percent majority, you've got significantly more than half of the people who voted who want change, and that sends a strong message that change should be acted on.

The second component, which is the component that there be at least a majority in at least 60 percent of the constituencies, reflects a second set of considerations, and that is making sure that we don't have a situation where one region of the province ends up driving or causing electoral reform over the lack of support in other regions. We introduced what really amounts to a bit of a regional requirement here. You've got to get majority support in at least 60 percent of the electoral districts. Again, the question of how high you set that threshold was discussed, and we looked at a number of different levels at which the threshold could be set. We thought that putting that threshold at at least 60 percent of the electoral districts spread the net out widely enough to give the regions the voice they need here without rendering it impractical to expect that the referendum would ever pass.

I don't know that you want to give any particular corner of the province a veto over change. But we did want to raise the stakes high enough so that we could be assured that support for change was widespread across the province as a whole — hence the 60 percent first threshold — and that there was support across most of the province for change. That is the logic behind imposing the double majority requirement.

J. MacPhail: This legislation is implementing the resolution that was passed by the Legislative Assembly for which the opposition voted in favour. I just want to make sure that as we move forward in what I believe will be a historic time — if indeed there is a referendum — people understand the thoughts behind the legislators in determining this greater than a simple majority threshold — two thresholds.

But I want to urge this. The Referendum Act under section 6, which will still apply, says that without limiting subsection (1)... Well, let me just read the whole thing into the record, if I may:

"Regulations on how the referendum is to be conducted. 6 (1) The Lieutenant Governor in Council may make regulations that the Lieutenant Governor in Council considers necessary or advisable respecting the manner by which a referendum under this Act is to be conducted. (2) Without limiting subsection (1), the regulations may (a) specify what provisions of the Election Act apply, and (b) adapt any of the provisions of the Election Act with changes that the regulations may provide."

I urge caution here to the Attorney General to ensure that as much of the Election Act as is feasible applies to this referendum and that the government is assuring with this double majority — one simple and one 60 percent — that there is a resounding view cast by the electorate. I am urging to make sure that as many British Columbians as is feasible get to have a voice in that referendum.

[1035]

Hon. G. Plant: Well, I agree that the referendum, if it is to be meaningful, needs to be an opportunity for all British Columbians to express their views. The chief electoral officer always has before him the challenge and the task of trying to make sure that elections are conducted in a way that gives as many British Columbians as possible a chance to participate.

I think I share the member's concerns and goals in that respect. There is some flexibility here in part, I think, because the chief electoral officer needs to have some flexibility to make rules that are intended to accomplish those objectives.

One thing that the member's comments reminded me of, though, was that while it was government that came up with the idea around the double majority, it was the Legislature as a whole that had the opportunity to express an opinion on it and did endorse it. I will speak to the staff who are responsible for doing the detailed work around this initiative to make sure that we continue to move it forward on a — I'm not sure of the right word — non-partisan or bipartisan basis so that the members of her caucus are as informed as possible about the details so that we can continue to work together to give the people of British Columbia this historic opportunity, if that is what the Citizens' Assembly wants them to do.

Section 3 as amended approved.

Section 4 approved.

Title approved.

Hon. G. Plant: I move that the committee rise and report the bill complete with amendment.

Motion approved.

The committee rose at 10:37 a.m.

The House resumed; Mr. Speaker in the chair.

Reporting of Bills

Bill 52, Electoral Reform Referendum Act, reported complete with amendment.

Third Reading of Bills

Mr. Speaker: When shall the bill be considered as read?

Hon. G. Plant: By leave, now, Mr. Speaker.

Leave granted.

Bill 52, Electoral Reform Referendum Act, read a third time and passed.

Hon. G. Plant: I call second reading of Bill 54.

Second Reading of Bills

MISCELLANEOUS STATUTES AMENDMENT ACT (No. 2), 2004

Hon. G. Plant: I move that the bill be now read a second time.

Mr. Speaker, this bill, Miscellaneous Statutes Amendment Act (No. 2), 2004, makes amendments to quite a number of statutes — 19, I think, to be exact. In seeking to explain what all of these amendments are about, I will briefly describe the changes in the order they appear in the bill with an attempt to cluster some of the related changes as I go. I will try to provide a bit more detail about some of the more significant amendments.

First, there are two minor changes needed as a result of the recently enacted Cremation, Interment and Funeral Services Act. A drafting error was made in the consequential change to the Community Charter, and a consequential change to the School Act was inadvertently missed. This bill will correct these errors and in so doing will ensure the continuation of current taxation policies with respect to cemeteries.

Second, this bill proposes amendments to the Election Act to help ensure the quality and accuracy of the provincial list of voters. As I mentioned last fall during second reading on Bill 90, Miscellaneous Statutes Amendment Act (No. 3), 2003, we had been looking for ways to ensure that we have an election list for general election purposes prior to the next general election that is as up to date as possible.

[1040]

One of the things we've been looking at is the idea that we could use the federal list kept by Elections Canada, which we believed could be merged with our provincial list to generate a much more up-to-date voters list. We have since found that is indeed the case, and so these amendments permit the use of the national register of electors, also known as the federal voters list, for the purpose of updating the provincial list of voters.

The amendments to the Election Act allow for the automatic provincial registration of qualified voters who are on the federal voters list. At the same time, these amendments greatly improve the quality of the provincial voters list. They should enhance convenience for voters and eliminate duplication of effort, particularly the effort of enumeration between Elections B.C. and Elections Canada. These amendments are estimated to save the taxpayers of British Columbia up to \$11.5 million by eliminating the need for a provincewide door-to-door enumeration and the need to set up preregistration centres for new voters during the next general election.

We also anticipate that using the federal data will allow automatically for the addition of over 700,000 voters to the provincial list, which will make a full door-to-door enumeration unnecessary. Door-to-door enumerations are not only becoming a very expensive undertaking, but experience is showing that they are

no longer as effective an expenditure of public dollars as they once were, because the number of names you get to add to the list by undertaking those kinds of enumerations no longer produces the return on investment, if you will, that used to be the case some decades ago. This is a good step in adding a significant number of voters to the provincial list.

Bill 54 also amends the Election Act to remove the requirement for a voter's signature at the time of registration. This will permit innovations such as on-line voter registration. A signature will, of course, be required at the time of voting to maintain the integrity of the voting process. In other words, you might be able to register on line, but when you show up to vote, you will still have to sign a document to say that you are in fact qualified to vote.

There are further amendments that will provide greater flexibility to the chief electoral officer of British Columbia in the appointment of district registrars of voters.

Using the federal list is, I'm told, consistent with a trend across Canada. Using the national register of electors is, I suggest, essential to a long-term, sustainable, low-cost solution to voter registration and voters list maintenance in British Columbia. Obviously, it goes without saying — but maybe it goes better with saying it — that having an accurate list of voters is also essential to a fair and democratic election, and I am very pleased to say that we will be putting this list in place with these proposed amendments contained in Bill 54.

The third set of amendments made by this bill is made in response to a recommendation made by the Hon. Gary Filmon in his Firestorm 2003 report. That report highlighted the inconsistent levels of preparedness — or lack of preparedness — among adjacent geographical areas because regional districts are not currently required to have emergency plans.

At least 88 of 164 electoral areas, or a full two-thirds of the land mass of the province, are not covered by written, current or adequate plans to address emergencies and disasters for B.C. residents. Planning and response efforts can only work when all regional districts and municipalities have adequate, integrated and current emergency plans. In response to this, this government is introducing amendments to the Emergency Program Act to make all regional districts, not just municipalities, responsible for emergency planning and maintaining emergency management organizations. In addition, a package of supports to municipalities and regional districts will include increased provincial emergency program staffing, \$1 million for emergency planning, plus an additional \$300,000 for emergency preparedness training.

[1045]

These supports will be available to all regional districts, whether or not the district already has an emergency plan, so that all regional districts can implement the lessons learned from the Firestorm 2003 report. This amendment, along with this financial support, will ensure consistent emergency planning and preparedness for British Columbia.

Fourth, this bill makes some amendments to the Employee Investment Act and, consequentially, to the Employee Investment Amendment Act, 2002, the Income Tax Act and the Miscellaneous Statutes Amendment Act (No. 2), 1999. These amendments, which will streamline regulations and ensure consistent treatment for companies and investors under the legislation, will do three things.

They will increase the amount that a labour-sponsored fund may invest in any single eligible business from \$5 million to \$10 million within a two-year period and, by doing so, increase the amount of capital available to those businesses. Secondly, they will allow tax credits to be issued over multiple years for employee share-ownership plans, successorship plans. Thirdly, they will repeal the grandfathering of hardship dispositions to ensuring a level playing field for all labour-sponsored investment fund shareholders.

The government is committed to providing increased investment, enhanced competitiveness and a stronger, more dynamic British Columbia economy that attracts business from around the world and creates new opportunities right here in British Columbia. These amendments will help us achieve these goals.

Fifth, Bill 54 will also amend section 105(1) of the Gaming Control Act in order to enhance certain regulation-making authorities in that act. This regulation-making authority will be used to give certainty to and define the consultation obligations that are legislatively required of local governments in regard to gaming facilities. The regulations made under the amendments will also be used to give certainty to and define the time lines associated with a dispute resolution process provided for in section 21 of the Gaming Control Act.

Sixth, this bill makes some minor housekeeping amendments to the Health Professions Act in order to correct minor drafting problems, mostly problems with cross-references from one section to another arising from the enactment of the Health Professions Amendment Act, 2003.

Seventh, in order to support the establishment of an independent authority to administer the land title and land survey functions, amendments are proposed by Bill 54 to the Land Title Act in order that fees for certain land title office transactions be increased by approximately 8 percent. These transactions include registering a title or charge, filing a caveat, general filing, filing a change of name and registering a cancellation or discharge of a registered charge.

Most of these fees are in either the \$20 or the \$60 range. A \$60 fee, for example, will rise by \$4.75 to \$64.75. This independent authority — that is, the independent authority that will be established to administer the land title and land survey functions — will be established at a later date, but its establishment requires this fee increase to fund the transition.

Eighth, this makes a number of changes to local government legislation. The first of these is a minor housekeeping amendment to correct a drafting error. A

reference to the words "a municipal bylaw" in the Local Government Act is struck out and replaced with a reference to the words "a regional district bylaw."

More significantly, section 910 of the Local Government Act and the Municipalities Enabling and Validating Act (No. 3) are amended in response to concerns expressed by some local governments and their legal counsel about the sufficiency of statutory authority to allow local governments to administer floodplain issues to the degree intended by the Flood Hazard Statutes Amendment Act, 2003. That was an amendment act that, among other things, amended section 910 of the Local Government Act.

[1050]

The amendments in Bill 54 respond to those concerns and, in particular, provide certainty that local governments will be able to pass floodplain bylaws that incorporate variations in their provisions in accordance with a set of considerations relating to localized conditions in types of development or amend existing floodplain bylaws. The amendments also grant site-specific exemptions from these bylaw provisions as circumstances warrant, so long as these exemptions are consistent with provincial guidelines and plans or are supported by a professional report stating that the site can be safely used for the intended purpose.

Related amendments to the Municipalities Enabling and Validating Act (No. 3) are also made in order to provide certainty that floodplain bylaws adopted and exemptions granted prior to November 17, 2003, are automatically continued in effect until such time as local governments choose to make changes to them. There are yet more amendments to local government legislation in this bill.

In addition to the floodplain amendments, the Municipalities Enabling and Validation Act (No. 3) is amended to validate bylaws of the resort municipality of Whistler related to the proposed development of a hotel and passenger rail station at Nita Lake. These amendments are a response to a request from the municipality of Whistler for legislation to validate a flawed bylaw so that the Nita Lake development, which has already seen significant financial investment and legal commitments, can proceed. Without this legislation, Whistler is concerned that the Nita Lake development may not be completed, even though the development clearly has the support of the Whistler community. The amendments recognize that this development reflects provincial as well as local goals, given the contribution that the project will make to helping meet transportation and accommodation needs for the 2010 Olympics as well as supporting economic development and the growth of the tourism industry generally.

Further with respect to local governments, Bill 54 amends the Vancouver Charter to provide the city of Vancouver with authority to adopt a bylaw to prohibit street fighting and to make such physical altercations in public places a ticketable offence. The amendment was requested by the city of Vancouver to provide it with another tool for responding to the impact that

street fighting can have on public safety and police resources.

I note that under the Community Charter, which applies to municipalities other than the city of Vancouver, other municipalities in B.C. already have the authority necessary to prohibit such activities in public places. In other words, this amendment gives to the city of Vancouver a bylaw-making authority which other municipalities governed by the Community Charter already have. The kind of street fighting we're talking about here tends to be street fighting that is voluntary in nature and not someone being assaulted involuntarily.

Next, following from the various changes made to local government legislation, Bill 54 makes some changes dealing with the regulation of video games and motion pictures. Basically, these changes involve the repeal of the Video Games Act, which was never brought into force, and the amendment of the Motion Picture Act to fill the gap brought by that repeal and address a couple of other issues.

Some of the changes to the Motion Picture Act include the following. First, the term "video games" is added to the definition of motion picture. Second, a power is added to allow the official named in the act — the Motion Picture Act — to reconsider a film classification decision set by an external rating agency, and power is given to change this classification. Third, powers of investigation are strengthened. Government determined that the Video Games Act was unnecessary and that the Motion Picture Act could be easily adapted to deal effectively with the regulation of video games.

[1055]

In fact, the vast majority of video game regulation now takes place through an industry self-regulation classification system administered and created by the group known by the acronym ESRB. What we've got here is a recognition that there is no need in British Columbia to reinvent that complete universe. For most cases and on most occasions, that system of self-regulation will be used and relied upon, but there are times and places where it may be necessary to find a way to provide a rating or change a classification for a particular video. As a result of these amendments, we will have the regulatory framework that will allow us to do that by using the regulatory framework that applies to motion pictures. I think that strikes a very good balance between the need to protect the public and the need to not impose costs of regulation that are out of proportion to the return on investment.

Tenth, Bill 54 amends the Probate Fee Act to prevent the loss of probate revenue. This change is made in response to a recent court decision that ruled certain shares to be outside the province and therefore outside the reach of the legislation. The amendments clarify that probate fees apply to the value of intangible personal property for estates where the deceased was ordinarily resident in British Columbia.

Finally, Bill 54 makes a series of amendments to the Railway Act, one of the oldest statutes in British Co-

lumbia, in order to repeal the incorporation and corporate governance provisions of that act as they are no longer necessary in light of the Business Corporations Act and to transfer the administration of those railways incorporated under the Railway Act to the Business Corporations Act. The amendments also repeal provisions allowing railway constables to be appointed under the act, as these constables will in future be appointed under the Railway Act. None of the changes to the Railway Act affect B.C. Rail.

That constitutes a summary of the provisions of Bill 54.

L. Mayencourt: I just want to speak for a moment on second reading, Mr. Speaker.

Mr. Speaker: Please proceed.

L. Mayencourt: Thank you very much.

Miscellaneous statutes acts are often a favourite of mine because they tend to do a lot of the cleanup of things that have been important to communities. One of those is, of course, the amendment to the Vancouver Charter.

Vancouver city council asked us as a government, as did the Vancouver police department and community groups like Barwatch, to make this amendment so that it would be possible for them to make a consensual street fight a ticketable fine. I think that is a demonstration of this government being able to work with communities to increase the safety of our cities throughout the province. In fact, it was only required under the Vancouver Charter because the Community Charter facilitates that for the rest of British Columbia.

I also want to speak in favour of it because of the changes to the electoral act. I think those are important. They make clear the ability and rights of individuals that are in temporary housing or homeless, or what have you, as to their rights to be able to vote. I think it moves forward in a direction that the chief electoral officer has requested of our Public Accounts Committee and our Finance Committee on a number of occasions with respect to using the national register of electors as a way of saving money and being more efficient with the use of chief electoral dollars.

The other point I want to make is that I've talked a lot to people in the Working Opportunity Fund. That's a labour-sponsored fund. They have won the opportunity to leverage their labour-sponsored funds with a little bit more freedom. I think this bill actually does that by raising the cap to \$10 million as opposed to \$5 million.

There are other pieces of this legislation that are very, very important to British Columbians, but I just want to conclude by saying that I think this reflects what our communities have been telling us about some of the previously passed acts. We're making those adjustments, so I salute the AG for putting this forward. I think it's important that we work with our communities when they need special recognition for certain problems.

[1100]

Motion approved.

Hon. G. Plant: I move that the bill be referred to a Committee of the Whole House to be considered at the next sitting of the House after today.

Bill 54, Miscellaneous Statutes Amendment Act (No. 2), 2004, read a second time and referred to a Committee of the Whole House for consideration at the next sitting of the House after today.

H. Bloy: I ask leave to make two belated introductions.

Leave granted.

Introductions by Members

H. Bloy: This past May 7 there were 120 extraordinary students from Forest Grove Elementary School in my riding of Burquitlam that visited the Legislature. They were accompanied by 16 parents and their teachers Peggy Tooley, Dini Dahlen, Peter Dubniskey and Patti Long.

I visited these 120 students at their school on May 10, and we had a 45-minute question-and-answer period. I can tell you, Mr. Speaker, they had some great and really challenging questions. I know I was speaking to the future leadership of British Columbia. Amongst that group of 120 students there were a school mayor and student council representatives. I know that I have met future elected officials of this country. I want to say what a pleasure it was to meet these students, and I want the House to join me in congratulating the students and their dedicated teachers.

Mr. Speaker, it gives me a real personal pleasure to.... I want to acknowledge the ninetieth birthday of my dad. This past Saturday, May 15, my dad turned 90. My dad has been my mentor and friend forever. He has always encouraged me to strive to be the best I could, to do what I wanted to do and to follow my dreams. I can say that I've challenged my dad on some of my decisions, and he has challenged me back, but he has always encouraged me and stood behind me. This past Saturday I was joined by my brother Randy and his family, my sister Debbie and her husband, Dean, my family and other relatives to celebrate my dad's birthday.

I wanted to say happy birthday, Dad. I love you.

Hon. G. Plant: Resisting the urge to break out in song, I call second reading debate of Bill 56.

Debate Continued

ADMINISTRATIVE TRIBUNALS ACT

Hon. G. Plant: Mr. Speaker, I move that the bill be now read a second time.

Bill 56 is the second and last major component of the legislative reform that government has initiated to modernize British Columbia's administrative justice system. This bill provides a consistent and comprehensive approach to statutory powers for 24 administrative tribunals. It furthers the government's interrelated goals of decision-making independence and public accountability, and it provides a firm foundation for future public policy decisions about new administrative institutions and their essential powers and procedures.

Administrative tribunals provide an informal and efficient alternative to the courts. They resolve disputes and make decisions with less expense than the courts. They do so from a framework of developed public policy expertise in a range of areas that this assembly has decided should be decided by and the responsibility of agencies in the first instance rather than the courts.

Administrative tribunals are also intended to be more accessible to people who may be unfamiliar with judicial proceedings or who are unrepresented by legal counsel. This administrative justice system we have in British Columbia has grown on an ad hoc basis, one tribunal at a time, over the course of many decades. As a consequence, it has often developed without a comprehensive or consistent policy framework. The bill that we are debating this morning acknowledges the importance of this part of our justice system and moves us forward by providing a wide array of statutory powers for administrative tribunals that are based upon well-thought-out principles and expressed in clear and consistent legislative language.

[1105]

Last fall I had the privilege to stand in this House and table the Administrative Tribunals Appointment and Administration Act, which was the first step in the government's program of legislative reform in this area. That act introduced the principle of merit for appointments to British Columbia's administrative tribunals, and it established clear accountability to the government for tribunal chairs in the management and operation of their tribunals. The provisions in that act, the Administrative Tribunals Appointment and Administration Act, are incorporated into the bill we are considering today so that if this bill passes, we will have one comprehensive piece of legislation addressing administrative tribunal appointments, administration, powers and procedures.

The bill before us today also culminates work that began last summer with the release of a widely circulated paper entitled *Model Statutory Powers Provisions for Administrative Tribunals*. That paper in turn built on work going back to the White Paper, which was an important part of the early stages of the administrative justice project. The *Model Statutory Powers* paper examined the operations and processes that are currently in use by individual tribunals in our province. It describes how the complexities of the administrative justice system's statutory powers have caused unnecessary challenges and questions for the courts. It makes comprehensive recommendations for changes to the system to better serve the people of British Columbia.

For the benefit of the House and for the people of British Columbia who are interested in this issue, I want to look closely at some of the key aspects of this bill. I intend to spend some time talking about how this legislation codifies the common law and introduces consistent standards and practices for the benefit of all tribunals, especially small and medium-sized tribunals with part-time members and perhaps few in-house resources to address the many varied and complex procedural issues that arise during the course of tribunal proceedings.

I want to speak about how the bill introduces other modernizing initiatives such as alternative dispute resolution, and I want to talk about the innovative steps we're taking to address some difficult legal questions — for example, the need to clarify the role of the courts in their review of tribunal decisions and, secondly, to address the authority of individual tribunals to consider questions of constitutional law. These are important matters of government policy where legislative intent is much in need of clarification.

Moving to the first theme, the theme of consistency through codification. In the exercise of their powers, administrative tribunals are generally bound by the authority granted to them in their enabling statutes. Accordingly, if a tribunal's legislation is silent or unclear, the courts may or may not imply certain powers so that the tribunal can discharge its mandate effectively. Much of the bill that we are considering today codifies powers that the courts have recognized. Codification means we're expressing in legislation things that the courts have found to be principled or part of the common law. The list of each tribunal's powers will be set out here in this bill expressly in common form in one place for all to see. This will provide greater certainty and clarity for the people who use individual tribunals and will make the administrative justice system as a whole more transparent, accessible and understandable.

I'd like to offer a few examples to illustrate how the bill will work. First, under the heading of statutory powers, tribunals need clear statutory powers to carry out their mandates effectively. These powers allow tribunals to maintain order in their proceedings, to require the attendance of witnesses and to order the production of relevant documents. Statutory powers also address the conduct of hearings by the tribunal and the respective roles of parties, witnesses and any authorized interveners.

The bill we are considering today establishes clear expectations for tribunals. There are new requirements that a tribunal set out in practice directives how long each step in a proceeding is expected to take. There are also new legislative standards for tribunal decisions. Decisions must be given in writing with reasons, and subject to certain limitations protecting vulnerable people, decisions must be accessible to the public.

[1110]

The bill also places limits on the enforcement powers of tribunals. In exceptional circumstances where a tribunal is unable to maintain order in its own proceed-

ings, either by excluding parties or by dismissing a matter before it, the tribunal may call a peace officer for assistance. In addition, if the conduct of a participant is contemptuous, the tribunal may ask a court to intervene by imposing either a fine or a term of imprisonment.

This approach is balanced and proportional. It allows tribunals to control and manage their own processes in a way that's respectful of the rights of the parties. It also gives the tribunals the authority they need to call for outside assistance in exceptional circumstances where there may be serious issues of misconduct or contempt.

The next subject is rules governing practice and procedure. In addition to statutory powers, most tribunals make rules setting out in greater detail what the participants are expected to do, what steps the parties must take and when certain events must take place. Rules like these are critical to the effective and efficient management of tribunal processes and resources. This bill provides a more transparent and principled approach to the establishment of practice and procedural rules. It gives express authority to tribunals to make rules on a comprehensive list of enumerated subject matters. It also gives tribunals the flexibility to waive or modify those rules in exceptional circumstances. Finally, the bill provides that all tribunal rules must be accessible to the public.

The next topic is alternative dispute resolution. This bill introduces express authority for tribunals to engage in alternative dispute resolution processes. Under the provisions of this bill, most tribunals will have the power to develop and offer innovative approaches so that disputes are resolved earlier and with less expense.

The move to encourage alternative dispute resolution is an important part of rethinking the justice system, and administrative tribunals have an opportunity to show leadership in this regard. What citizens want more often than not is an outcome and a result rather than a process. They want their problems solved. They want the relationship improved, they want the benefit they believe they're entitled to, and they want government to stop doing what it is that is harming them.

Anything we can do to move forward dispute resolution so that it happens sooner is, in my view, a step in the right direction, and we are doing a lot as government to try to encourage alternative dispute resolution not just in the administrative justice system but across the justice system as a whole. In fact, part of rethinking justice involves rethinking the idea of alternative dispute resolution so that it is no longer alternative but, rather, so that mediation, settlement, conciliation and settlement conferences are all part of the basic tools of all dispute resolution so that litigants can in fact have their problems solved as early, efficiently, affordably and — yes — also as fairly as possible.

There are also, however, some important protections that need to be put in place to ensure that these alternatives to traditional adjudication are nurtured and that the litigants who participate in them are pro-

tected. Like proceedings before the courts, most tribunal proceedings are open to the public, but many dispute resolution processes depend for their success on their confidential nature. This bill will protect the confidential character of settlement negotiations. It also ensures the effectiveness and transparency of the settlement process by allowing parties to file and enforce settlement agreements as orders of the tribunal if the settlement terms are consistent with the provisions of the tribunal's enabling legislation.

[1115]

The next subject is known as standards of review. One of the most innovative changes in this bill is the clarification it will provide to questions about the standard a court must apply when it is asked to review tribunal decisions. Superior courts have an inherent supervisory jurisdiction over decisions of provincial administrative tribunals. In legal terms, this oversight is referred to as "judicial review," and through the judicial review process the courts ensure that tribunals are subject to supervision by the courts if they act outside their statutory mandates or if they operate unfairly or violate basic principles of natural justice.

While the authority of the courts to oversee the work of administrative tribunals is vital and unquestioned, there has been a huge amount of debate and uncertainty about what standard of review should be applied by the courts in reviewing tribunal decisions. There is a large body of jurisprudence that tries to make sense of this area of the law, but unfortunately, as the jurisprudence has developed, it has tended to create confusion rather than certainty.

The question of what the standard of review should be on a case-by-case basis is often interpreted by the courts as a search for legislative intent. The words "legislative intent" are, in fact, the words that you see in the judicial decisions. What the courts are trying to do is find out what the intention of the Legislature was around the role of the courts in supervising decisions of administrative tribunals. Frankly, the Legislature does not always do as good a job as it should in making its intent clear. Accordingly, searching for that intent tends to be a time-consuming, expensive and sometimes disruptive exercise.

Really, in practical terms, what often happens is that when there is a challenge made to a decision of a tribunal, particularly a tribunal that is newly constituted, then a significant amount of time and money must be spent by lawyers on constructing the argument about what the standard of review is before the parties get to argue the merits of the case.

Absent express legislation — that is, in cases where there is not a clear statement of the legislative intent in this area — what the courts have done is develop standards of review on a case-by-case basis within the factual context of individual decisions and according to some basic principles of approach. But the result is that there are a number of different standards, and the standards are sometimes confusing. The variety of standards in itself is a source of confusion. Sometimes the standards conflict with each other, and they are

often difficult to apply when questions are raised in other contexts and circumstances.

In some situations the courts are willing to give significant deference to tribunal decisions, particularly if a tribunal has — relative to the courts — a substantial amount of subject matter expertise. In the case of an expert tribunal, such as the Workers Compensation Appeal Tribunal, a court will not substitute its own view about a decision in a proceeding unless the tribunal's decision is extremely unreasonable.

In other situations the courts show less deference to tribunal decisions, preferring instead to determine whether the tribunal has made the right decision. For tribunals like the Human Rights Tribunal, for example, the courts generally review decisions using a standard of correctness. That really is what the standard of correctness is about. It is asking the question of whether the tribunal got it right, whereas in situations where the courts are willing to give more deference to a tribunal where the test may be a higher test, it's possible for the tribunal to make a mistake. So long as the mistake is not egregious, then the courts will not intervene.

These are ways of starting to add text and flesh to the bones of this general challenge of finding out or determining what the standard is that ought to be applied when someone seeks judicial review of a tribunal decision.

[1120]

In the bill before us today, this government is for the first time taking up the challenge of defining legislative intent by simplifying and codifying the standards of review that we want courts to apply in their review of tribunal decisions. For tribunals with specialized expertise, like the Farm Industry Review Board and the Employment Standards Tribunal, this bill generally provides that a court must defer to a tribunal's decision unless the decision is patently unreasonable or the tribunal has acted unfairly. For other tribunals — including, for example, the mental health review panels — the bill provides that with limited exceptions, a court must adopt a standard of correctness in reviewing the tribunal's decisions.

In addition, the government is providing in this bill, for the first time, a statutory time limit of 60 days for filing applications for judicial review. Until now there was no time limit, and accordingly, judicial review applications could be filed many months or sometimes even years after the tribunal's decision. This new time limit will end the uncertainty, and it brings judicial review applications into line with other appellate or review practices. The provisions in this bill that codify the standards of review will shift the focus from what has been largely a scholarly debate about fine points of law to matters of greater immediate concern to the parties in tribunal proceedings. I believe these provisions offer the promise of greater certainty and finality to those British Columbians who want tribunals to help them on the matters that concern their health, their jobs and their futures.

This leads me to the next major question, which is the role of tribunals in dealing with questions of consti-

tutional law that come before them. There has been a great deal of litigation in recent years over this question too. There have been recent decisions from the Supreme Court of Canada that have brought this issue to the forefront and have, in my view, invited a legislative response. This bill responds to that invitation.

The courts have said that in the absence of express legislation, an administrative tribunal with jurisdiction to decide questions of law has jurisdiction to decide questions of constitutional law, including questions about the division of powers between federal and provincial governments, questions about aboriginal rights and title, and questions about individual rights under the Charter of Rights and Freedoms. Again, the courts have moved in this direction, in part because they have searched for the intent of the Legislature in relation to these questions and have not found much helpful guidance. The intent behind this bill is, in fact, to provide that guidance.

The kinds of questions that we're talking about, the kinds of questions I referred to a minute ago — questions about the division of powers, questions about aboriginal rights and title, questions about Charter rights — are inevitably complex questions. They involve a wide-ranging consideration of a great number of legal issues, and they have far-reaching implications. The expertise required to decide these issues often goes well beyond the specialized expertise of most tribunals. There is no doubt that most tribunal members have quite a bit of expertise in the areas they are asked to make decisions about. That is why they are appointed to become tribunal members, but that expertise may be in areas that are quite a long way away from the core questions that arise in constitutional disputes.

Expertise in science, medicine, finance, social policy, forestry or engineering may not necessarily be expertise in these questions of constitutional law. In fact, in many of these tribunals, our hope as government is to appoint tribunal members who have that subject matter expertise but don't necessarily have to be people with legal training at all. It's that subject matter expertise that tribunals need in order to come to good decisions within their statutory mandates.

Constitutional litigation is a highly specialized discipline within the more generalized practice of law. There is specific legislation in place that recognizes the importance of constitutional questions by requiring that notice be given to the Attorney General whenever a constitutional issue is raised in the course of an administrative or judicial proceeding.

[1125]

This notice procedure, which is found in the Constitutional Question Act, is by its nature a time-consuming and expensive undertaking. It may involve notice being given not just to the provincial Attorney General but also to Attorneys General in federal or other provincial jurisdictions. The resolution of these questions is neither simple nor easy. They inevitably involve an extensive commitment of public resources and a highly developed institutional capacity if they are to be dealt with in an effective way.

As I've said earlier, the consequences of constitutional decisions can have far-reaching public policy implications for institutions of parliamentary democracy and for the government's legislation, programs and resources. These implications themselves are generally beyond the specialized expertise of most administrative tribunals and their members. We hope that for most administrative tribunals, parties can appear before them to have their issues resolved without the need to hire legal counsel.

As a general rule, lay litigants are not well equipped to respond to complex constitutional arguments. In a constitutional matter this works to the disadvantage of both the lay litigant and the tribunal by delaying decisions, increasing the costs and complexity of the decision-making process, and undermining the fundamental goals of the administrative justice system in providing an accessible, effective and speedy dispute resolution process.

The courts have stated clearly that when an inferior administrative tribunal — and that's not intended as a value statement, just as a hierarchical statement — makes a decision on constitutional questions, that decision is always subject to review by the courts on a standard of correctness. In other words, the tribunal has to get it right. However, unlike court decisions that establish precedent in future matters involving similar questions, a tribunal decision in a specific case is not binding in other cases before the same or a similar tribunal. Furthermore, because tribunals are not courts, they do not have the institutional competence to grant constitutional remedies like declaratory relief.

As Attorney General, I have an obligation to ensure that constitutional litigation is carried out responsibly and in an accountable manner and that scarce public resources are not allocated to repetitive constitutional proceedings addressing the same issues with inconsistent, inconclusive or ineffective results. Yet that is what can happen with the status quo. You can go before a tribunal, argue a constitutional point and then find that while that constitutional point is resolved in a way that assists you in the matter that you brought it forward, the view about the constitutional issue does not govern the next meeting or hearing of the tribunal on another matter. You could end up with a series of tribunal decisions on constitutional issues that go in different directions.

It's also possible that that not be the case, but in fact that risk exists. That risk adds to the range of reasons I'm trying to develop here to illustrate why it is, in a way, fundamentally inconsistent with the basic objectives of an administrative justice system that we allow tribunals to divert significant amounts of resources, time and effort — usually at the expense of the parties — towards a consideration of complex questions of common constitutional law. Really, what we want tribunals to do is problem-solve. If there are complex constitutional law questions raised, those are questions for courts.

We place a high value on the underlying goals of the administrative justice system. That's why over the

last three years we have undertaken a broad program of law reform and review. Given the complexity of constitutional litigation, given the lack of constitutional expertise possessed by most administrative tribunals, given the lack of deference the courts will extend to tribunals on constitutional questions and given the fact that tribunal decisions are not binding in subsequent proceedings, the bill we are considering today provides another course, another route. It provides an express legislated process for resolving most constitutional questions through the courts.

[1130]

With a few limited exceptions that I will come to in a minute, these provisions will apply to all administrative tribunals and to all constitutional questions that arise in the course of proceedings before them.

The provisions in the bill in this regard are innovative and unique. They build on the existing mechanisms for resolving constitutional questions. They draw a clear distinction between the specialized jurisdiction of a tribunal over non-constitutional questions and the role of the courts in deciding fundamental issues of constitutional law. The provisions in the bill allow tribunals to focus resources on their areas of specialized expertise so they can continue to provide high-quality services to the people of British Columbia. The provisions in the bill also recognize that the courts are the most appropriate forum for the determination of most constitutional questions.

I said that there are limited exceptions to this general policy. In this respect, the courts have indicated that the Labour Relations Board and the Securities Commission have the expertise necessary to address constitutional questions in the course of their proceedings. The deference that the courts are willing to accord to these tribunals is reflected in the bill. In addition, these two tribunals are given authority to refer constitutional questions to the courts by way of a stated case at the request of the parties on their own motion or if directed to do so by the Attorney General.

I want to say this editorially. We have recognized that the courts have afforded this deference to the Labour Relations Board and the Securities Commission. I do so with a certain measure of reluctance because even in those tribunals, I think we find that the people who staff those tribunals are there because they have expertise in labour relations. They're there because they have expertise in securities regulation. They're not there because they are constitutional law scholars.

When we introduce constitutional law questions, even into those proceedings, there are significant risks that the real issues will be taken away from the parties in a distraction, so I am going to continue to monitor and watch the process put into place by this bill. I would say that to the extent that my views are relevant, I would encourage the tribunals I've mentioned — the Securities Commission and the Labour Relations Board — to, where appropriate, use the authority to refer constitutional questions by way of stated case as the preferred way of dealing with constitutional questions.

There are some other exceptions. Three other tribunals — the Employment Standards Tribunal, the Farm Industry Review Board and the Human Rights Tribunal — are each given limited constitutional jurisdiction to consider questions about the division of powers between federal and provincial governments. These questions can arise in the course of tribunal proceedings, and the tribunals' expertise in resolving them has been acknowledged by the courts.

These three tribunals will also be given authority to refer division-of-powers questions to the courts by way of a stated case at the request of the parties on their own motion or if directed to do so by the Attorney General. Here I would like to make this exception practical by illustrating how it might operate. There are many people who believe they have a human rights complaint, who will phone the Human Rights Tribunal because they want to file a complaint. In fact, their complaint concerns a matter which has arisen within federal legislative jurisdiction. They may have a human rights complaint, but they should take it to the Canadian Human Rights Commission, not to the B.C. Human Rights Tribunal. In part, the provisions in this bill are intended to reflect that very practical reality and that very practical need to ensure that the Human Rights Tribunal has the authority to reject complaints which are not brought to them within their constitutional jurisdiction.

That summarizes what the bill does. I do want to spend a minute or two explaining how the bill works.

First, Bill 68 from last fall, the Administrative Tribunals Appointment and Administration Act, will be repealed. The first ten sections of that act will become the first ten sections of the new legislation we are considering today. The remaining sections of Bill 68 are spent, as they have become part of the legislation amended by it.

[1135]

Then we have sections 11 to 61 of the bill before us today. Those sections provide a code of statutory powers for administrative tribunals. I've already covered the majority of the subject matters of that code, but in addition to the topics I have discussed, these sections address issues like notice requirements; public access to rules; the details around orders, decisions and tribunal proceedings; the service of documents; time limits for decisions; fees, costs and appeals.

Now, these sections are either adopted by reference or through direct amendment in each tribunal's enabling legislation. Not all of the sections will apply to each tribunal, and there are some variations in language reflected in provisions enacted directly in a tribunal's home statute. In general, the policy reflected in the bill applies to the provisions amended and enacted directly in the individual statutes. We have created a code, but we are applying it in a way that is responsive to the flexible needs and circumstances of individual tribunals. To use the time-honoured language, we recognize that one-size-fits-all solutions don't always fit, so we've adopted a somewhat flexible approach.

The third part of the bill is from section 62 to the end of the bill, and those are consequential amendments to the enabling statutes for the 24 administrative tribunals that are affected by this legislation. There are a few tribunals like the Environmental Appeal Board and the Forest Appeals Commission that are currently the subject of other reviews, and the principles set out in this bill today will inform those reviews and establish principles for any future legislative changes not only for those tribunals but also for new administrative tribunals, processes and procedures.

If I can just elaborate on that. Really, the goal here is to move past this tradition of ad hoc approaches to these issues into a place where we have a consistent and principled, comprehensive and disciplined approach to this. The hope is that this framework of principles and rules and powers will be used by government as the framework that should apply to any tribunals that are created down the road so that we won't end up going off this path we've worked so hard to create.

Let me conclude by saying that I think this bill is important for many reasons. As I have said at the outset, the model that we have developed provides a firm foundation for future public policy decisions about the administrative justice system and its institutions. Systemwide reforms on the issues of standard-of-review and constitutional questions address the most current and critical areas of government policy with respect to administrative tribunals, and these are issues that are both current and of critical interest in the legal community.

I think the codification of common-law principles will increase the efficiency of administrative justice and will also make it more transparent and effective. The focus in the consequential amendments on small and medium-sized tribunals brings consistency of approach to tribunal powers and rules where it is needed most. In essence, these reforms modernize the administrative justice system by making its processes more transparent, more consistent and more predictable, and by making the system itself more comprehensible to the public it serves.

Finally, I want to close by acknowledging the many people who have helped make all this possible. I wish to thank, in particular, the circle of chairs — the British Columbia Council of Administrative Tribunals, the Law Society of British Columbia and the B.C. branch of the Canadian Bar Association — who have supported and been involved in this work since its outset.

I want to thank the individual tribunal members and practitioners who have participated actively and positively in what has been a strong, open and very collaborative process. Their hard work and commitment to the values we have embraced is reflected in the bill that you see today. I want also to express my appreciation to the administrative justice project and to all of the people inside government who have worked so hard to bring us to this important point of reform.

[1140]

Motion approved.

Hon. G. Plant: I move that the bill be referred to a Committee of the Whole House for consideration at the next sitting of the House after today.

Bill 56, Administrative Tribunals Act, read a second time and referred to a Committee of the Whole House for consideration at the next sitting of the House after today.

L. Stephens: I request leave to make an introduction.

Leave granted.

Introductions by Members

L. Stephens: In the House today we have upwards of 60 students from my riding in Langley. They are from Blacklock Elementary School. They are joined by their teachers, Ms. Anderson and Ms. Kelly. There are about ten or so parents with them here today as well. They've been up since 4:30 this morning to catch the ferry for Victoria. They've so far had a very good tour of the buildings, are impressed with our buildings and certainly have had an opportunity to see what we do in this chamber today. Would the House please make them all very welcome.

Debate Continued

Hon. G. Plant: I call committee stage debate on Bill 55.

Committee of the Whole House

TEACHING PROFESSION AMENDMENT ACT, 2004

The House in Committee of the Whole (Section B) on Bill 55; J. Weisbeck in the chair.

The committee met at 11:42 a.m.

Sections 1 to 22 inclusive approved.

Title approved.

Hon. T. Christensen: I move that the committee rise and report the bill complete without amendment.

Motion approved.

The committee rose at 11:43 a.m.

The House resumed; Mr. Speaker in the chair.

**Report and
Third Reading of Bills**

Bill 55, Teaching Profession Amendment Act, 2004, reported complete without amendment, read a third time and passed.

Hon. G. Plant: Well, having failed to excite any controversy about the Administrative Tribunals Act... Oh, sorry — different subject.

Mr. Speaker, I move that the House do now adjourn.

Hon. G. Plant moved adjournment of the House.

Motion approved.

Mr. Speaker: The House stands adjourned until 2 o'clock this afternoon.

The House adjourned at 11:44 a.m.